

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1015

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 3-7-84
DATE FOR REVIEW 3-19-84
DATE DUE 3-27-84

Adopted w/a hearing ✓
Adopted w/o hearing
Temporary rule

Approved 3-26-84 Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State Revisor approved 3/7/84 disapproved

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✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 3.6.84 Date

Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
12.2.83 date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notices of rulemaking for 12.2.83 + continuation on 2.14.83 for small b13.
✓ Sufficiency

✓ Affidavits of Mailing Notice or rulemaking
10.19.83 At least 30 days prior to hearing/~~adoption~~
12.30.83 for small b13

✓ Mailing list Certificates — 10.10.83 + 12.20.83

✓ Publication in State Register
10.24.83 At least 30/~~20~~ days prior to hearing/~~adoption~~
1.9.84

✓ Hearing Examiner's Report

N/A Chief Hearing Examiner's Report(s)
Approving H.E.'s Report
✓ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness
Amendment to SONR — Supplementary SONR

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT LABOR AND INDUSTRY
Prevailing Wage Division

TO: Mike Miles, Assistant Attorney General
204 Administration Building
50 Sherburne Avenue

DATE: March 7, 1984

FROM: Don Jackman, Director
Prevailing Wage Division

PHONE: 296-6452

Don Jackman

SUBJECT: Adoption of Rules of the Department of Labor and Industry Governing Prevailing Wage Determinations

Attached please find a complete hearing record relating to the adoption of the above-mentioned rules and all necessary documents submitted for your approval.

If you have questions or require further information on these matters, please call at the above number.

Thank you.

DJ/cp

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO STEVE KEEFE
Commissioner of Labor & Industry
Attn: KATHLEEN L. WINTERS
Special Assistant/Attorney General

DATE: 3/26/84

FROM : MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: Adopted Amendments to Rules Relating to the Establishment of Prevailing Wages

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

MJC:sa

AG copy

Department of Labor and Industry

Prevailing Wage Division

Adopted Amendments to Rules Relating to the Establishment of Prevailing Wages

Rules as Adopted

8 MCAR S 1.8003 Prevailing wage determinations.

A. Highway and heavy construction. The department shall, at least once each calendar year, determine and certify prevailing wage rates applicable to state projects which are similar in nature to highway and heavy construction projects.

B. Commercial type construction. The department shall, upon the request of any state agency that is contemplating the advertisement for bids on a state project which is similar in nature to commercial construction projects, determine and certify prevailing wage rates applicable to said state project if a certification has not been made within the 6-month period prior to the request.

C. Information required for certification request. Minnesota Statutes, section 177.43, subdivision 4, provides that the prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay for all trades and occupations required in any contemplated project shall be ascertained before the state asks for bids. A request to establish prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay for all trades and occupations required in the contemplated project must be sent to the department and shall include the:

1. Popular or descriptive name of project;

2. Project number;

3. Exact location of project by county and city, village, or township;

4. Estimated costs of the total construction contracts to be awarded;

5. Anticipated date for soliciting or advertising for bids;

6. Anticipated date for awarding of contracts;

7. Proposed date for commencement of work on project;

8. Estimated date of completion of project;

9. General description of the type of facility and facilities which will constitute the completed contracts. For example, two-story brick and concrete building about 200 feet by 400 feet with concrete floor, wood roof deck on wood laminated beams, and includes plumbing, heating, and electrical work. Outside work includes excavating, blacktopping, grading, sidewalks, fencing, driveways, parking areas, and miscellaneous areas;

10. Desired date of receipt of prevailing wage rate schedule; and

11. Statement as to whether the federal government or any of its agencies will furnish by loan or grant any part of the funds used in this contract or prescribe a schedule of prevailing wage rates.

The department must be notified about ensuing projects as far in advance as possible. A request to determine or ascertain prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay for all trades and occupations required on any contemplated project must be made ~~between 50 and~~ not less than 60 days before soliciting bids. } HE 9.

D. Residential type construction. Prevailing wage rates applicable to state projects which are similar in nature to residential construction projects will be made upon request of a governmental official involved in the bidding process for a state project who desires such rates for insertion in a specific contract proposal.

E. Survey data; recent. Each wage survey shall be based upon work performed in the 12 months preceding the date the survey is commenced and the resulting wage determinations will be certified following the close of the survey.

F. Survey procedure. Except as provided in G., all prevailing wage determinations shall be based upon the survey procedures contained in these rules.

G. Public hearing. The department shall, pursuant to Minnesota Statutes, sections 177.43, subdivision 4, and 177.44, subdivision 3, conduct public hearings when necessary to determine county wage rate determinations. Such hearings shall be conducted within the county for which wage rates are being determined and shall be conducted as contested cases by a hearing examiner from the Office of Administrative Hearings.

8 MCAR S 1.8004 Basis for each determination.

A. County and labor class basis. Individual prevailing wage rates shall be made on a county by county basis and each prevailing wage rate shall be based upon work performed solely within the applicable class of labor.

B. Labor classes. For each county surveyed, the department shall issue wage determinations for:

1. highway and heavy construction projects for all classes of labor commonly or customarily used in those construction projects; and

2. state projects other than highway and heavy construction for all classes of labor expected to be used in the contemplated project for which the prevailing wage rate is being determined.

C. Projects to be surveyed, criteria. From information on file and submitted by interested persons, the department shall select projects of a character similar to the project for which the prevailing wage rate is being determined. The selections shall be made from projects on which construction work was done in the 12 months preceding the survey and which are located in the county in which the contemplated project is located, or, if necessary, from adjacent counties.

1. If two or more projects of a character similar to the project contemplated have been performed in the county in which the project is to be located, and if this group of projects provides wage rate data for the major classes of labor to be used in the project for which the prevailing wage is being determined, the wage determination for those classes of labor shall be based solely upon that work.

2. Where classes of labor expected to be utilized in the contemplated project for which the prevailing wage determination is being made are not all represented in the projects in 1., but work was performed in those classes of labor in two or more projects in any county physically adjacent to the county being surveyed, the department shall establish the wage determination for those classes of labor based solely upon those adjacent county projects.

3. Where no work was performed in a class of labor either in the county being surveyed or in any adjacent Minnesota county, no wage rate will be determined for that class of labor.

4. In determining a wage rate for a class of labor based upon work performed in adjacent counties, all workers in a class of labor in all adjacent counties shall be totaled and the wage rates shall be based upon the wage rate paid to the largest number as determined in accordance with 8 MCAR SS 1.8003-1.8007.

D. Frequency of determination. Following certification of wage rates for a county, no wage rates for additional classifications of labor shall be made for that county until such time that a subsequent survey of the county is required pursuant to Minnesota Statutes, section 177.43, subdivision 4 or 177.44, subdivision 4.

8 MCAR S 1.8006 Survey procedures.

A. Scope. The purpose of each county survey is to develop a data base upon which to determine prevailing wage rates for those classes of labor expected to be used on contemplated state projects based upon wage rates paid to the same classes of labor on similar projects in the area. In establishing the data, the procedural steps in B.-H. shall be taken.

B. Wage reports. The department shall regularly request from contractors, contractor organizations, labor organizations, and any other interested person, on forms available from or approved by the department, reports of construction wage rates paid by contractors on various types of projects. The reports must be kept on file by the department according to the county in which the project for which the report is received was

performed. The reports must list the name and address of the contractor, the name of the project, the location of the project, a description of the project, a description of the work performed on the project, the approximate dollar cost of the project, the names of employees who worked on the project, together with the class of labor for each employee, the wage rate paid each employee on the project, and the hourly cost of fringe benefits for health and welfare, pension, vacation, ~~and~~ apprenticeship or training, and any other economic benefits paid for each employee. The forms shall be signed and dated by the organization or individual providing the information attesting that the information provided is true and correct.

C. Union wage reports. The department shall also keep local union wage and employment reports, on forms provided or approved by the department. The reports must set forth the classes of labor, trade, or occupation covered, the effective date of the contract, wage and fringe benefits paid under the contract, the duration of the contract, the dates of all adjustments to wages and fringe benefits together with the amount of the adjustments on each date, the geographic area where the contract is effective, the number of members employed within the geographic area covered by the contract, the type of projects covered by the contract, and a list of all contractors or employer associations signatory to the contract. The local union wage reports are to be signed and dated by a representative from the local union attesting that the information provided is true and correct.

D. Mailing lists. The department shall also keep and maintain a mailing list of governmental officials, district, county, and city engineers, city clerks, administrators, and zoning officials for each county. The department shall also keep and maintain a mailing list of contractors, contractor associations, labor organizations, and other individuals who have requested to be on a mailing list to be notified when any county survey is about to be taken.

E. Notification of survey. Upon initiation of a wage

survey, the department must notify the county engineer and all city engineers, city clerks, administrators, and zoning officials in the county to be surveyed~~,-and-all~~. The notice will request local officials to submit reports of construction in the county in the preceding 12 months. The report shall include the names of the contractors and their addresses. The department must also notify all contractors, contractor associations, labor organizations, and other individuals who have requested to be notified when a survey for any county is about to be taken. ~~The~~ That notice will request that interested individuals submit reports on forms available from or approved by the department concerning construction performed in the county during the preceding 12 months. The notice shall state that all reports of construction in the county must be returned to the department no later than 33 days following the date upon which the notice of the survey is mailed by the department. Information not timely received by the department shall not be used in establishing the prevailing wage rate for any class of labor. ~~All-reports-of-construction-in-a-county-which-do-not report-the-names-of-workers,-classes-of-labor,-wage-rates-and fringe-benefits-paid,-description-of-the-project,-type-of construction-and-location-of-the-project-must-not-be-used-in making-wage-determinations.~~ Any unsigned or incomplete forms received prior to the final date for receipt of the forms shall be returned to the individual, contractor, or labor organization, to the extent the individual, contractor, or labor organization can be identified, with a request that the form be properly completed. The department may use incomplete reports where the entity completing the form has provided all the information it has. If that form is not received by the department within 15 days from the date it is returned by mail to the individual, contractor, or labor organization, it shall be excluded from the survey. In no event shall information on unsigned reports of construction in the county be utilized in making wage determinations. All reports must be signed and dated by the organization or individual making the report

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attesting that the information provided is true and correct.

F. Reports, attestations. Reports of construction wage rates and local union wage and employment reports shall specify that the individual signing the report attests that the information on the report is true and correct. The form shall specify that willful falsification of any information on the report may result in civil or criminal prosecution.

G. On-site visits. In addition to receiving and compiling the information described in B.-F., the department shall make on-site visits to the offices of contractors or governmental representatives for the purposes of collecting project data and for auditing payrolls when necessary for the determination of prevailing wage rates.

H. County abstract. The number of workers in each class of labor and their respective wage rates shall be determined and reflected on a county abstract.

8 MCAR S 1.8007 Determining largest number of workers and prevailing wage rate.

A. Policy. Each wage rate determination shall be based upon the actual wage rates paid to the largest number of workers within each labor classification reported in the survey.

B. Procedure. For purposes of determining the largest number of workers, each worker within a class of labor and his total hourly rate paid shall be tabulated.

1. Total hourly rate includes the hourly rate plus the hourly contribution for all wage and fringe benefits.

2. The largest number of workers with identical rates of pay within each classification shall determine the specific prevailing wage rate.

3. When determining the prevailing wage rate and there is an equal number of workers (which represent the greatest number of workers) with differing hourly wage rates, the prevailing wage rate shall be the highest wage rate paid to those workers.

Example:

four workers at $7 per hour

four workers at $8 per hour

two workers at $8.50 per hour

The prevailing wage rate will be determined as $8 per hour.

4. Where a worker performs work on more than one project within the county, he shall be counted only once in the class of labor and at the wage rate paid on the most recent project within the time period of the survey.

C. Collectively bargained rate. If the prevailing wage rate determined for any given class of labor represents a collectively bargained rate, then the comparable current collectively bargained rate for the class of labor in the county where the project covered by the prevailing wage determination is located shall be the prevailing wage rate.

D. Noncollectively bargained rate. If the prevailing wage rate determined represents a rate other than a collectively bargained rate for any given class of labor, the rate so determined shall be the prevailing wage rate.

E. Change in rate due to contractual changes. If the prevailing wage rate for any given class of labor represents a collectively bargained rate, and the collectively bargained rate for that class of labor will change during the 12 months immediately following the date upon which the wage rate is determined according to the terms of the collective bargaining contract by which the rate is established, the department shall certify that the rate for that class of labor shall also change accordingly on the effective date of the change pursuant to the collective bargaining contract.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 2 6 1984
Joan Anderson Growe
Secretary of State
9:45 AM

APPROVED AS TO FORM AND LEGALITY
March 26 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Matthew J Cassely
SPECIAL ASSISTANT ATTORNEY GENERAL

Rules as Proposed

8 MCAR S 1.8003 Prevailing wage determinations.

A. Highway and heavy construction. The department shall, at least once each calendar year, determine and certify prevailing wage rates applicable to state projects which are similar in nature to highway and heavy construction projects.

B. Commercial type construction. The department shall, upon the request of any state agency that is contemplating the advertisement for bids on a state project which is similar in nature to commercial construction projects, determine and certify prevailing wage rates applicable to said state project if a certification has not been made within the ~~twelve-month~~ 6-month period prior to the request.

C. Information required for certification request. Minnesota Statutes, section 177.43, subdivision 4, provides that the prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay for all trades and occupations required in any contemplated project shall be ascertained before the state asks for bids. A request to establish prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay for all trades and occupations required in the contemplated project must be sent to the department and shall include the:

1. Popular or descriptive name of project;

2. Project number;

3. Exact location of project by county and city, village, or township;

4. Estimated costs of the total construction contracts to be awarded;

5. Anticipated date for soliciting or advertising for bids;

6. Anticipated date for awarding of contracts;

7. Proposed date for commencement of work on project;

8. Estimated date of completion of project;

9. General description of the type of facility and facilities which will constitute the completed contracts. For example, two-story brick and concrete building about 200 feet by

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400 feet with concrete floor, wood roof deck on wood laminated beams, and includes plumbing, heating, and electrical work. Outside work includes excavating, blacktopping, grading, sidewalks, fencing, driveways, parking areas, and miscellaneous areas;

10. Desired date of receipt of prevailing wage rate schedule; and

11. Statement as to whether the federal government or any of its agencies will furnish by loan or grant any part of the funds used in this contract or prescribe a schedule of prevailing wage rates.

The department must be notified about ensuing projects as far in advance as possible. A request to determine or ascertain prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay for all trades and occupations required on any contemplated project must be made between 50 and 60 days before soliciting bids.

D. Residential type construction. Prevailing wage rates applicable to state projects which are similar in nature to residential construction projects will be made upon request of a governmental official involved in the bidding process for a state project who desires such rates for insertion in a specific contract proposal.

~~D.~~ E. Survey data; recent. Each wage survey shall be based upon work performed in the 12 months preceding ~~calendar-year~~ the date the survey is commenced and the resulting wage determinations will be certified following the close of the survey.

~~E.~~ F. Survey procedure. Except as provided in ~~subpart F herein~~ G., all prevailing wage determinations shall be based upon the survey procedures contained in these rules.

~~F.~~ G. Public hearing. The department shall, pursuant to Minnesota Statutes, sections 177.43, subdivision 4, and 177.44, subdivision 3, conduct public hearings when necessary to determine county wage rate determinations. Such hearings shall be conducted within the county for which wage rates are being

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determined and shall be conducted as contested cases by a hearing examiner from the State Office of ~~Hearing Examiners~~ Administrative Hearings.

8 MCAR S 1.8004 Basis for each determination.

A. County and labor class basis. Individual prevailing wage rates shall be made on a county by county basis and each prevailing wage rate shall be based upon work performed solely within the applicable class of labor.

B. Labor classes. For each county ~~survey~~ surveyed, the department shall issue wage determinations for ~~all classes of labor commonly or customarily used in similar construction projects:~~

~~1. Where work has been performed in a class of labor in the county during the time period of the survey, the wage determination for that class of labor shall be based solely upon that work.~~

~~2. Where work was performed in any other classes of labor in two or more of the Minnesota counties physically adjacent to the county being surveyed, the department shall consider those classes of labor as ones which are customarily or commonly used in construction projects and determine wage rates for those classes in accordance with paragraphs 4 and 5 herein.~~

~~3. Where no work was performed in a class of labor either in the county being surveyed or in two or more of the adjacent Minnesota counties, no wage rate will be determined for that class of labor.~~

~~4. In looking to adjacent counties for determining additional classes of labor for which prevailing wage rates should be made, only those adjacent Minnesota counties for which surveys are either in progress or for which wage rates have been determined by survey within the preceding 12 months shall be utilized.~~

~~5. In determining a wage rate for a class of labor based upon work performed in adjacent counties, all workers in the class of labor in all the adjacent counties shall be totaled and the wage rate shall be based upon the wage rate paid to the~~

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~~largest-number-as-determined-in-accordance-with-these-rules.~~

1. highway and heavy construction projects for all classes of labor commonly or customarily used in those construction projects; and

2. state projects other than highway and heavy construction for all classes of labor expected to be used in the contemplated project for which the prevailing wage rate is being determined.

C. Projects to be surveyed, criteria. From information on file and submitted by interested persons, the department shall select projects of a character similar to the project for which the prevailing wage rate is being determined. The selections shall be made from projects on which construction work was done in the 12 months preceding the survey and which are located in the county in which the contemplated project is located, or, if necessary, from adjacent counties.

1. If two or more projects of a character similar to the project contemplated have been performed in the county in which the project is to be located, and if this group of projects provides wage rate data for the major classes of labor to be used in the project for which the prevailing wage is being determined, the wage determination for those classes of labor shall be based solely upon that work.

2. Where classes of labor expected to be utilized in the contemplated project for which the prevailing wage determination is being made are not all represented in the projects in 1., but work was performed in those classes of labor in two or more projects in any county physically adjacent to the county being surveyed, the department shall establish the wage determination for those classes of labor based solely upon those adjacent county projects.

3. Where no work was performed in a class of labor either in the county being surveyed or in any adjacent Minnesota county, no wage rate will be determined for that class of labor.

4. In determining a wage rate for a class of labor based upon work performed in adjacent counties, all workers in a class

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of labor in all adjacent counties shall be totaled and the wage rates shall be based upon the wage rate paid to the largest number as determined in accordance with 8 MCAR SS 1.8003-1.8007.

~~C.~~ D. Frequency of determination. Following certification of wage rates for a county, no wage rates for additional classifications of labor shall be made for that county until such time that a subsequent survey of the county ~~demonstrates utilization of those additional classes of labor~~ is required pursuant to Minnesota Statutes, section 177.43, subdivision 4 or 177.44, subdivision 4.

8 MCAR S 1.8006 Survey procedures.

A. Scope. The purpose of each county survey is to develop a data base upon which to determine prevailing wage rates ~~which are reasonably comparable to these~~ for those classes of labor expected to be used on contemplated state projects based upon wage rates paid to the same classes of labor on similar projects in the area. In establishing the data, the ~~following~~ procedural steps in B.-H. shall be taken ~~in each wage survey:~~.

~~1. For each survey,~~ B. Wage reports. The department shall ~~identify contractors who performed projects during the previous calendar year~~ regularly request from contractors, contractor organizations, labor organizations, and any other interested person, on forms available from or approved by the department, reports of construction wage rates paid by contractors on various types of projects. The reports must be kept on file by the department according to the county in which the project for which the report is received was performed. The reports must list the name and address of the contractor, the name of the project, the location of the project, a description of the project, a description of the work performed on the project, the dollar cost of the project, the names of employees who worked on the project, together with the class of labor for each employee, the wage rate paid each employee on the project, and the hourly cost of fringe benefits for health and welfare, pension, vacation, and apprenticeship or training for each employee. The forms shall be signed and dated by the organization or

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individual providing the information attesting that the information provided is true and correct.

~~2.--For the purpose of identifying contractors who performed work on projects in each county,~~ C. Union wage reports. The department shall also keep ~~and maintain a mailing list of governmental officials, district, county and city engineers, city clerks, administrators and zoning officials and those contractor associations and labor organizations who have requested to be on the mailing list~~ local union wage and employment reports, on forms provided or approved by the department. The reports must set forth the classes of labor, trade, or occupation covered, the effective date of the contract, wage and fringe benefits paid under the contract, the duration of the contract, the dates of all adjustments to wages and fringe benefits together with the amount of the adjustments on each date, the geographic area where the contract is effective, the number of members employed within the geographic area covered by the contract, the type of projects covered by the contract, and a list of all contractors or employer associations signatory to the contract. The local union wage reports are to be signed and dated by a representative from the local union attesting that the information provided is true and correct.

~~3.~~ D. Mailing lists. The department shall also keep and maintain ~~lists of contractors for each county which lists shall be kept updated through applicable telephone directories, trade publications and through previous wage survey contacts. Any contractor may request that its name be added to any county list~~ a mailing list of governmental officials, district, county, and city engineers, city clerks, administrators, and zoning officials for each county. The department shall also keep and maintain a mailing list of contractors, contractor associations, labor organizations, and other individuals who have requested to be on a mailing list to be notified when any county survey is about to be taken.

~~4.~~ E. Notification of survey. Upon initiation of a wage

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survey, the department ~~will issue a form request for project identification to those entities referred to in paragraph 2, above. The request shall indicate the nature of the projects and the time period for which information is requested, and shall request the government official to identify contractors and their addresses who performed work during the survey time period. Such forms shall be completed and returned to the department within 33 days~~ must notify the county engineer and all city engineers, city clerks, administrators, and zoning officials in the county to be surveyed, and all contractor associations, labor organizations, and other individuals who have requested to be notified when a survey for any county is about to be taken. The notice will request that interested individuals submit reports on forms available from or approved by the department concerning construction performed in the county during the preceding 12 months. The notice shall state that all reports of construction in the county must be returned to the department no later than 33 days following the date upon which the notice of the survey is mailed by the department. Information not timely received by the department shall not be used in establishing the prevailing wage rate for any class of labor. All reports of construction in a county which do not report the names of workers, classes of labor, wage rates and fringe benefits paid, description of the project, type of construction and location of the project must not be used in making wage determinations. Any unsigned or incomplete forms received prior to the final date for receipt of the forms shall be returned to the individual, contractor, or labor organization, to the extent the individual, contractor, or labor organization can be identified, with a request that the form be properly completed. If that form is not received by the department within 15 days from the date it is returned by mail to the individual, contractor, or labor organization, it shall be excluded from the survey. In no event shall information on unsigned reports of construction in the county be utilized in making wage determinations. All reports must be signed and

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dated by the organization or individual making the report attesting that the information provided is true and correct.

~~5.-The-department-shall-send-to-all-those-contractors identified-as-having-performed-work-in-the-county-through-the forms-returned-from-those-entities-referred-to-in-paragraph-2, above,-and-to-all-those-contractors-whose-names-appear-on-the applicable-county-lists-compiled-under-paragraph-3,-above,-a request-for-project-information-and-a-request-for-the identification-of-sub-contractors-who-worked-on-these-projects. Enclosed-with-the-request-shall-be-copies-of-the-department's Contractor-Reporting-Form.~~

~~a.-For-each-project-upon-which-the-contractor-performed work-within-the-county-during-the-time-period-of-the-survey,-the contractor-shall-complete-a-separate-Contractor-Reporting-Form and-provide-the-following-information:~~

~~(1)-description-of-project;~~

~~(2)-dollar-cost-of-the-project;~~

~~(3)-list-of-the-employees-who-worked-on-the-project;~~

~~(4)-class-of-labor-for-each-employee;~~

~~(5)-wage-rate-paid-each-employee-on-the-project-and-the hourly-cost-of-fringe-benefit-for-H-&-W,-Pension,-Vacation, Training-for-each-employee.~~

~~b.-All-Contractor-Reporting-Forms-and-forms-identifying sub-contractors-who-worked-on-the-projects-shall-be-signed-and dated-by-the-contractor-or-its-representative-attesting-that-the information-provided-is-a-true-and-correct-summary-of-the information-contained-in-the-contractor's-payroll-and-business records.~~

~~c.-The-Contractor-Reporting-Forms-and-forms-identifying sub-contractors-shall-be-returned-to-the-department-within-30 days-following-the-receipt-of-the-request-for-information.~~

~~d.-Information-which-is-not-received-by-the-department within-33-days-following-the-date-upon-which-the-request-was mailed-by-the-department-shall-not-be-used-in-making determinations.~~

~~e.-Contractor-Reporting-Forms-which-do-not-report-the~~

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~~names or workers, classes of labor, wage rates paid, description of project, type of construction and location of project will not be utilized in making wage determinations. Any unsigned or incomplete forms which are received within the 33 day time period shall be returned to the contractor with a request that the form be properly completed. If that form is not returned to the department within 15 days from the date of mailing, it shall be excluded from the survey. In no event shall information on unsigned Contractor Reporting Forms be utilized in making determinations.~~

~~6. Upon learning the identification of sub contractors who performed work on projects within the county, the department shall proceed with the procedures provided in paragraph 5, above, and the sub contractors so contacted shall be subject to the same requirements provided under paragraph 5.~~

~~7. In addition to the mail procedures described in paragraph 5, above, the department shall make on site visits to the offices of contractors or governmental representatives for the purposes of collecting project data and for auditing payrolls when necessary for the determination of prevailing wage rates.~~

~~a. Information so collected, either through a review of the contractor's payrolls or copies of payrolls provided by contractors to government offices, will be utilized in making determinations provided that such information is compiled on an Investigator's Project Worksheet and is signed by the investigator who compiled the information.~~

F. Reports, attestations. Reports of construction wage rates and local union wage and employment reports shall specify that the individual signing the report attests that the information on the report is true and correct. The form shall specify that willful falsification of any information on the report may result in civil or criminal prosecution.

G. On-site visits. In addition to receiving and compiling the information described in B.-F., the department shall make on-site visits to the offices of contractors or governmental representatives for the purposes of collecting project data and

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for auditing payrolls when necessary for the determination of prevailing wage rates.

8. H. County abstract. The number of workers in each class of labor and their respective wage rates shall be determined and reflected on a "county abstract".

8 MCAR S 1.8007 Determining the largest number of workers and prevailing wage rate.

A. Policy. Each wage rate determination shall be based upon the actual wage rates paid to the largest number of workers within each labor classification reported in the survey.

B. Procedure. For purposes of determining the largest number of workers, each worker within a class of labor and his total hourly rate paid shall be tabulated.

1. Total hourly rate includes the hourly rate plus the hourly contribution for all wage and fringe benefits.

2. The largest number of workers with identical rates of pay within each classification shall determine the specific prevailing wage rate.

3. When determining the prevailing wage rate and there is an equal number of workers (which represent the greatest number of workers) with differing hourly wage rates, the prevailing wage rate shall be the highest wage rate paid to those workers.

Example:

4 four workers @ at $7.00 $7 per hour

4 four workers @ at $8.00 $8 per hour

2 two workers @ at $8.50 per hour

The prevailing wage rate will be determined as $8.00 $8 per hour.

4. Where a worker performs work on more than one project within the county, he shall be counted only once in the class of labor and at the wage rate paid on the most recent project within the time period of the survey.

See Minn Statutes 177.44 subd 4

C. Collectively bargained rate. If the prevailing wage rate determined for any given class of labor represents a collectively bargained rate, then the comparable current collectively bargained rate for the class of labor in the county

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where the project covered by the prevailing wage determination is located shall be the prevailing wage rate.

D. Noncollectively bargained rate. If the prevailing wage rate determined represents a rate other than a collectively bargained rate for any given class of labor, the rate so determined shall be the prevailing wage rate.

E. Change in rate due to contractual changes. If the prevailing wage rate for any given class of labor represents a collectively bargained rate, and the collectively bargained rate for that class of labor will change during the 12 months immediately following the date upon which the wage rate is determined according to the terms of the collective bargaining contract by which the rate is established, the department shall certify that the rate for that class of labor shall also change accordingly on the effective date of the change pursuant to the collective bargaining contract.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD394

Agency: Department of Labor and Industry

Division:

Agency Contact: Jay Y. Benanav

Rule Numbers: 8 MCAR SS 1.8003; 1.8004; 1.8006; 1.8007

Title: Rules Governing Fair Labor Standards; Prevailing Wage Rates

Type of Rules: Permanent

Incorporations by Reference: None
Rule Number: Material Incorporated:

Duplication of Statutory Language: None
Rule Number: Statutory Section Duplicated:

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

John C. Fuller
Assistant Deputy Revisor
Phone: 296-0955
Date: September 30, 1983

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption of Rules of the Minnesota Department of Labor and Industry Governing Prevailing Wage Determinations

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before Hearing Examiner Peter Erickson on the 2nd day of December, 1983, at 8:30 a.m., in the State Office Building Auditorium, St. Paul, Minnesota and on the 14th day of February, 1984, at 8:30 a.m. in Conference Rooms A and B on the 6th Floor of the Space Center Building, St. Paul, Minnesota after proper notice required by Minnesota Statutes Section 14.13 was served upon all persons, associations, and other interested groups registered with the Department of Labor and Industry for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and arguments, hearing all of the testimony, considering all of the evidence adduced and upon the records, files, and proceedings herein and applicable statutory standards or criteria, and confirming the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as the Rules Relating to the Establishment of Prevailing Wages are adopted this 6th day of March, 1984, pursuant to authority vested in me by Minnesota Statutes Section SS 177.41 through 177.44.

STATE OF MINNESOTA

Steve Keefe

Commissioner of Labor and Industry

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ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing the Establishment of Prevailing Wages

ORDER FOR HEARING

IT IS ORDERED this 11th day of October, 1983 that a public hearing on the proposed rules captioned above be held in the State Office Building, Room 83, Saint Paul, Minnesota on Friday, December 2, 1983 commencing at 8:30 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all persons who have registered their names with the State of Minnesota for that purpose and be published in the State Register.

STATE OF MINNESOTA

Charles E. Lennon

Assistant Commissioner
Department of Labor and Industry

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ADMINISTRATIVE HEARINGS

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State of Minnesota

Department of Labor and Industry
Division of Prevailing Wage

In the Matter of Proposed Amendments to the Rules Relating to the Establishment of Prevailing Wages

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above-entitled matter will be held, pursuant to Minnesota Statutes Section 14.14, Subdivision 1, in Room 83 of the State Office Building, Saint Paul, Minnesota on Friday, December 2, 1983 commencing at 8:30 a.m. and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard concerning adoption of the proposed amendments captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing. The hearing attendance is estimated at 100 and is expected to last one day.

The Commissioner of Labor and Industry has been provided the statutory authority to promulgate rules governing the establishment of prevailing wages of laborers, workers and mechanics engaged in state projects. The intent of the proposed amendments to the rules are:

to allow the Department to collect data from a time frame more reasonable to the time of the survey;

to expand the sources of information from whom data may be collected;

to provide options to the formula for determining the prevailing rates for classes of labor including the right, in some cases, to certify a collectively bargained rate as the prevailing rate.

The promulgation of these rules is authorized by Minnesota Statutes § 175.171 Subdivision 2 and requisites of Minnesota Statute § 14.06.

One (1) free copy of the Proposed Amendments may be obtained by contacting:

Don Jackman, Director
Division of Prevailing Wage
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

Additional copies will be available at the door on the date of the hearing.

Notice is also hereby given that twenty-five (25) days prior to the hearing a statement of need and reasonableness will be available for review at the address given above of the Department of Labor and Industry and at the Office of Administrative Hearings. The statement of need and reasonableness will include a summary of all of the evidence and argument which the department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed amendments. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The proposed amendments are subject to change as a result of the rule hearing process. The Department of Labor and Industry strongly urges those who are potentially affected by these proposed amendments to participate in the rule hearing process.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed amendments. Statements may be made orally and written material may be submitted at the hearing. The Department of Labor and Industry hereby requests those submitting written statements to provide a copy of said materials to the department address given previously, if possible. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Peter Erickson, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7606, either before the hearing or within five (5) working days after the close of the hearing. If so ordered by the hearing examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become a part of the record for this proceeding. The rule hearing procedure is governed by Minnesota Statutes §§ 14.13 to 14.20 as well as by 9 MCAR §§ 2.101 to 2.112 (Minnesota Code of Agency Rules). If you have any questions about this procedure, call or write the hearing examiner.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Department of Labor and Industry may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department of Labor and Industry. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report) or department (in the case of the department's submission or resubmission to the Attorney General). It is not anticipated that adoption of the proposed amendments will result in the expenditure of public monies by local bodies of government to implement the rules for the two years immediately following its adoption within the meaning of Minnesota Statute § 14.11.

Please be advised that Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes Section 10A.01, Subdivision 11 as any individual:

1. Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, but not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

2. Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with the public officials.

The statute provides certain exception. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint, Paul, Minnesota 55155, telephone (612) 296-5615.

Steve Keefe
Commissioner

Dated this 10th Day of October, 1983

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ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY
Division of Prevailing Wage

In the Matter of Proposed Amendments to the Rules Relating to the Establishment of Prevailing Wages

NOTICE OF HEARING

Notice is hereby given that a second public hearing in the above-entitled matter will be held, for the purpose of receiving additional evidence concerning the proposed rule amendments and the provisions of Chapter 188, Small Business Consideration in Rulemaking, Minn. Stat. 14.115. The second public hearing will be held in conference rooms A and B on the 6th Floor of the Space Center Building, 444 Lafayette Road, St. Paul, Minnesota on Tuesday, February 14, 1984 commencing at 8:30 a.m. and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard concerning adoption of the proposed amendments captioned above by submitting either oral or written data, statements or arguments. The entire record of the first public hearing conducted on December 2, 1983 will be incorporated into the record of the second public hearing. Consequently, there is no need to duplicate evidence submitted at the first public hearing. Statements or briefs may be submitted without appearing at the hearing. The hearing attendance is estimated at 50 and is expected to last one-half a day.

The Commissioner of Labor and Industry has been provided the statutory authority to promulgate rules governing the establishment of prevailing wages of laborers, workers and mechanics engaged in state projects. The intent of the proposed amendments to the rules are:

to allow the Department to collect data from a time frame more reasonable to the time of the survey;

to expand the sources of information from whom data may be collected;

to provide options to the formula for determining the prevailing rates for classes of labor including the right, in some cases, to certify a collectively bargained rate as the prevailing rate.

As compared with the existing rules, the impact of the proposed rules on small businesses has not changed significantly in either quantity or quality. The existing rules as well as the proposed rules require small businesses (as defined in Minn. Stat. 14.115, subd. 1) to submit information on forms provided or approved by the Department concerning wage rates paid on construction projects in Minnesota.

The promulgation of these rules is authorized by Minnesota Statutes § 175.171, subdivision 2 and requisites of Minnesota Statute § 14.06.

One (1) free copy of the Proposed Amendments may be obtained by contacting:

Don Jackman, Director
Division of Prevailing Wage
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

Additional copies will be available at the door on the date of the hearing.

Notice is also hereby given that twenty-five (25) days prior to the hearing an amended statement of need and reasonableness will be available for review at the address given above of the Department of Labor and Industry and at the Office of Administrative Hearings. The statement of need and reasonableness will include a summary of all of the evidence and argument which the department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed amendments. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The proposed amendments are subject to change as a result of the rule hearing process. The Department of Labor and Industry strongly urges those who are potentially affected by these proposed amendments to participate in the rule hearing process.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed amendments. Statements may be made orally and written material may be submitted at the hearing. The Department of Labor and Industry hereby requests those submitting written statements to provide a copy of said materials to the department address given previously, if possible. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Peter Erickson, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7606, either before the hearing or within five (5) working days after the

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ADMINISTRATIVE HEARINGS

close of the hearing. If so ordered by the hearing examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become part of the record for this proceeding. The rule hearing procedure is governed by Minnesota Statutes §§ 14.13 to 14.20 as well as by 9 MCAR §§ 2.101 to 2.112 (Minnesota Code of Agency Rules). If you have any questions about this procedure, call or write the hearing examiner.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Department of Labor and Industry may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department of Labor and Industry. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report) or department (in the case of the department's submission or resubmission to the Attorney General). It is not anticipated that adoption of the proposed amendments will result in the expenditure of public monies by local bodies of government to implement the rules for the two years immediately following its adoption within the meaning of Minnesota Statute § 14.11.

Please be advised that Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes Section 10A.01, subdivision 11 as any individual:

1. Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, but not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

2. Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with the public officials.

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.

The rules as proposed were previously published in the State Register, October 24, 1983, Vol. 8, No. 17, at 725-30.

Steve Keefe
Commissioner

Dated this 23rd Day of December, 1983

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ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of the Rules of the State Department of Labor and Industry Governing the Establishment of Prevailing Wages

State of Minnesota

AFFIDAVIT OF ADDITIONAL NOTICE

County of Ramsey

Catherine M. Peterson, being first duly sworn deposes and says:

That on the 29th day of October, 1983 at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on persons and associations who have responded to our last survey, notice of the proposed adoption of the rules by this Division of Prevailing Wage, pursuant to Minn. Stat. § 14.115, titled: Small Business Consideration in Rulemaking.

Catherine M. Peterson

Subscribed and sworn to before me this 7th day of November, 1983

Cheryl J. Schaar

CHERYL J. SCHAAR
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES SEPTEMBER 21, 1988

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
444 LAFAYETTE ROAD
SAINT PAUL 55101

TELEPHONE:
(612) 296-6107

IN REPLY REFER TO

PHONE

October 21, 1983

Dear Contractor:

Your reply to our recent Prevailing Wage Survey indicates your interest in the rules of the Prevailing Wage Act. We therefore call your attention to the following:

NOTICE OF HEARING: A hearing has been set in the matter of proposed amendments to the rules relating to the establishment of Prevailing Wages, as ordered by the Prevailing Wage Division of the Department of Labor and Industry, to be held in Room 83 of the State Office Building on Friday, December 2, 1983 commencing at 8:30 a.m.

The proposed amendments will affect the methods by which prevailing wages are certified.

Interested parties may obtain further information on these matters by contacting:

Don Jackman, Director
Prevailing Wage Division
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

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ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of the Rules of the State Department of Labor and Industry Governing the Establishment of Prevailing Wages

State of Minnesota

County of Ramsey

AFFIDAVIT OF ADDITIONAL NOTICE

Catherine M. Peterson, being first duly sworn deposes and says:

That between the 12th day of October, 1983 and the 17th day of October, 1983 at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached letters requesting publication of attached Notice of Hearing in their monthly newsletters by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, notice of the proposed adoption of the rules by this Division of Prevailing Wage, pursuant to Minn. Stat. § 14.115, titled: Small Business Consideration in Rulemaking.

Catherine M. Peterson

Subscribed and sworn to before me this 7th day of November, 1983

Cheryl J. Schaar

CHERYL J. SCHAAR
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES SEPTEMBER 21, 1988

October 12, 1983

T.C.R.B.L.A.
Attn: Don Manguson
766 Transfer Road
St. Paul, MN 55114

Dear Mr. Manguson:

As per our telephone conversation, we respectfully request that the enclosed Notice of Hearing be announced in any newsletter or bulletin that may be published through your office sometime near the date of November 2, 1983.

Thank you for your consideration in this matter.

Respectfully,

Don Jackman, Director
Division of Prevailing Wage

DJ/cp
Enclosure

October 17, 1983

Minneapolis Home Builders Association
7325 Wayzata Boulevard
Minneapolis, MN 55426

Attention: C.M. McGlennen

As per our telephone conversation, we respectfully request that the enclosed Notice of Hearing be announced in any newsletter or bulletin that may be published through your office sometime near the date of November 2, 1983.

Thank you for your consideration in this matter.

Respectfully,

Don Jackman, Director
Prevailing Wage Division

DJ/cp
Enclosure

October 13, 1983

Associated Builders & Contractors
Minnesota Chapter, Inc.
Attention: Dan Foth
6300 Walker
Minneapolis, MN 55416

Dear Mr. Foth:

As per our telephone conver ation, we respectfully request that the enclosed Notice of Hearing be announced in any newsletter or bulletin that may be published through your office sometime near the date of November 2, 1983.

Thank you for your consideration in this matter.

Respectfully,

Don Jackman, Director
Prevailing Wage Division

DJ/cp
Enclosure

October 17, 1983

St. Paul Area Builders Association
666 Transfer Road
St. Paul, MN 55114

Attention: Bob Hanson

As per our telephone conversation, we respectfully request that the enclosed Notice of Hearing be announced in any newsletter or bulletin that may be published through your office sometime near the date of November 2, 1983.

Thank you for your consideration in this matter.

Respectfully,

Don Jackman, Director
Prevailing Wage Division

DJ/cp
Enclosure

(612) 296-4474

October 12, 1983

RCCE
R.C.C.E.
Attn: Matt Winkle
766 Transfer Road
St. Paul, MN 55114

Dear Mr. Winkle:

As per our telephone conversation, we respectfully request that the enclosed Notice of Hearing be announced in any newsletter or bulletin that may be published through your office sometime near the date of November 2, 1983.

Thank you for your consideration in this matter.

Respectfully,

Don Jackman, Director
Prevailing Wage Division

DJ/cp
Enclosure

297-4474

October 12, 1983

Associated General Contractors
of Minnesota, Inc.
Attention: William Gary
111 East Kellogg Boulevard
St. Paul, MN 55101

Dear Mr. Gary:

As per our telephone conversation, we respectfully request that the enclosed Notice of Hearing be announced in any newsletter or bulletin that may be published through your office sometime near the date of November 2, 1983.

Thank you for your consideration in this matter.

Respectfully,

Don Jackman, Director
Prevailing Wage Division

DJ/cp
Enclosure

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
444 LAFAYETTE ROAD
SAINT PAUL 55101

TELEPHONE:
(612) 296-6107

IN REPLY REFER TO

PHONE

NOTICE OF HEARING: A hearing has been set in the matter of proposed amendments to the rules relating to the establishment of Prevailing Wages, as ordered by the Prevailing Wage Division of the Department of Labor and Industry, to be held in Room 83 of the State Office Building on Friday, December 2, 1983 commencing at 8:30 a.m.

The proposed amendments will affect the methods by which prevailing wages are certified.

Interested parties may obtain further information on these matters by contacting:

Don Jackman, Director
Prevailing Wage Division
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

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ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of the Rules of the State Department of Labor and Industry Governing the Establishment of Prevailing Wages

State of Minnesota

AFFIDAVIT OF MAILING NOTICE

County of Ramsey

Catherine M. Peterson, being first duly sworn deposes and says:

That on the 19th day of October, 1983 at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Department of Labor and Industry for the purpose of receiving notice of the proposed adoption of rules by this Division of Prevailing Wage.

Catherine M. Peterson

Subscribed and sworn to before me this 27th day of October, 1983

Gregory A. Johnson

GREGORY A. JOHNSON
NOTARY PUBLIC—MINNESOTA
DAKOTA COUNTY
My Commission Expires Oct. 12, 1984.

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
444 LAFAYETTE ROAD
SAINT PAUL 55101

TELEPHONE:
(612) 296-6107

IN REPLY REFER TO

PHONE

NOTICE OF HEARING: A hearing has been set in the matter of proposed amendments to the rules relating to the establishment of Prevailing Wages, as ordered by the Prevailing Wage Division of the Department of Labor and Industry, to be held in Room 83 of the State Office Building on Friday, December 2, 1983 commencing at 8:30 a.m.

The proposed amendments will affect the methods by which prevailing wages are certified.

Interested parties may obtain further information on these matters by contacting:

Don Jackman, Director
Prevailing Wage Division
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

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ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of the Rules of the State Department of Labor and Industry Governing the Establishment of Prevailing Wages

State of Minnesota

AFFIDAVIT OF MAILING NOTICE

County of Ramsey

Catherine M. Peterson, being first duly sworn deposes and says:

That on the 30th day of December, 1983 at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Department of Labor and Industry for the purpose of receiving notice of the proposed adoption of rules by this Division of Prevailing Wage.

GREGORY A. JOHNSON
NOTARY PUBLIC—MINNESOTA
DAKOTA COUNTY
My Commission Expires Oct. 12, 1984.

Catherine M. Peterson

Subscribed and sworn to before me this 3rd day of January, 1984.

Gregory A. Johnson

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JAN 13 1984
ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of the Rules of the State Department of Labor and Industry Governing the Establishment of Prevailing Wages

State of Minnesota

AFFIDAVIT OF ADDITIONAL NOTICE

County of Ramsey

Catherine M. Peterson, being first duly sworn deposes and says:

That on the 20th day of December, 1983 at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on persons and associations who have responded to the Division's last prevailing wage survey, notice of the proposed adoption of the rules by this Division of Prevailing Wage, pursuant to Minn. Stat. § 14.115, titled: Small Business Consideration in Rulemaking.

GREGORY A. JOHNSON
NOTARY PUBLIC—MINNESOTA
DAKOTA COUNTY
My Commission Expires Oct. 12, 1984.

Catherine M. Peterson

Subscribed and sworn to before me this 10th day of January, 1984.

Gregory A. Johnson

RECEIVED
JAN 13 1984
ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of the Rules of the State Department of Labor and Industry Governing the Establishment of Prevailing Wages

State of Minnesota

AFFIDAVIT OF ADDITIONAL NOTICE

County of Ramsey

Catherine M. Peterson, being first duly sworn deposes and says:

That on the 30th day of December, 1983 at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached letters requesting publication of attached Notice of Hearing in Minnesota contracting organizations monthly newsletters by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, notice of the proposed adoption of the rules by this Division of Prevailing Wage, pursuant to Minn. Stat. § 14.115, titled: Small Business Consideration in Rulemaking.

GREGORY A. JOHNSON
NOTARY PUBLIC—MINNESOTA
DAKOTA COUNTY
My Commission Expires Oct. 12, 1984.

Catherine M. Peterson

Subscribed and sworn to before me this 3rd day of January, 1984.

Gregory A. Johnson

RECEIVED
JAN 13 1984
ADMINISTRATIVE HEARINGS

December 29, 1983

R.C.C.E.
766 Transfer Road
St. Paul, MN 55114

Attention: Matt Winkle

Thank you for agreeing to publish a notice in your organization's newsletter concerning the second hearing on the proposed amendments to the rules and their possible impact on small business.

Enclosed is a cppy of the official Notice of Hearing and a suggested notice that you may wish to use. Feel free, however, to rework the printed notice in any manner you choose.

Thanks again,

Don Jackman, Director
Prevailing Wage Division

DJ/cmp
Enclosures

December 29, 1983

Minneapolis Home Builders Association
7325 Wayzata Boulevard
Minneapolis, MN 55426

Attention: C. M. McGlennen

Thank you for agreeing to publish a notice in your organization's newsletter concerning the second hearing on the proposed amendments to the rules and their possible impact on small business.

Enclosed is a copy of the official Notice of Hearing and a suggested notice that you may wish to use. Feel free, however, to reward the printed notice in any manner you choose.

Thanks Again,

Don Jackman, Director
Prevailing Wage Division

DJ/cmp
Enclosures

296-6452

December 29, 1983

N.E.C.A.
200 South Robert St.
St. Paul, MN 55107

Attention: Frank Frison

Thank you for agreeing to publish a notice in your organization's newsletter concerning the second hearing on the proposed amendments to the rules and their possible impact on small business.

Enclosed is a copy of the official Notice of Hearing and a suggested notice that you may wish to use. Feel free, however, to reword the printed notice in any manner you choose.

Thanks again,

Don Jackman, Director
Prevailing Wage Division

DJ/cp
Enclosures

296-6452

December 29, 1983

S.M.A.R.C.A.
1518 New Brighton Blvd. N.E.
Minneapolis, MN 55413

Attention: Jim Bigham

Thank you for agreeing to publish a notice in your organization's newsletter concerning the second hearing on the proposed amendments to the rules and their possible impact on small business.

Enclosed is a copy of the official Notice of Hearing and a suggested notice that you may wish to use. Feel free, however, to reword the printed notice in any manner you choose.

Thanks again,

Don Jackman, Director
Prevailing Wage Division

DJ/cp
Enclosures

296-6452

December 29, 1983

St. Paul Area Builders Association
866 Transfer Road
St. Paul, MN 55114

Attention: Bob Hanson

Thank you for agreeing to publish a notice in your organization's newsletter concerning the second hearing on the proposed amendments to the rules and their possible impact on small business.

Enclosed is a copy of the official Notice of Hearing and a suggested notice that you may wish to use. Feel free, however, to reword the printed notice in anymmanner you choose.

Thanks again,

Don Jackman, Director
Prevailing Wage Division

DJ/cmp
Enclosures

296-6452

December 29, 1983

Associated Builders & Contractors
Minnesota Chapter, Inc.
6300 Walker
Minneapolis, MN 55416

Attention: Dan Foth

Thank you for agreeing to publish a notice in your organization's newsletter concerning the second hearing on the proposed amendments to the rules and their possible impact on small business.

Enclosed is a copy of the official Notice of Hearing and a suggested notice that you may wish to use. Feel free, however, to reword the printed notice in any manner you choose.

Thanks again,

Don Jackman, Director
Prevailing Wage Division

DJ/cp
Enclosures

December 29, 1983

Associated General Contractors
of Minnesota, Inc.
111 East Kellogg Boulevard
St. Paul, MN 55101

Attention: Jerry O'Brien

Thank you for agreeing to publish a notice in your organization's newsletter concerning the second hearing on the proposed amendments to the rules and their possible impact on small business.

Enclosed is a copy of the official Notice of Hearing and a suggested notice that you may wish to use. Feel free, however, to reword the printed notice in any manner you choose.

Thanks again,

Don Jackman, Director
Prevailing Wage Division

DJ/cp
Enclosures

T.C.R.B.L.A.
766 Transfer Road
St. Paul, MN 55114

Attention: Don Manguson

Thank you for agreeing to publish a notice in your organization's newsletter concerning the second hearing on the proposed amendments to the rules and their possible impact on small business.

Enclosed is a copy of the official Notice of Hearing and a suggested notice that you may wish to use. Feel free, however, to reword the printed notice in any manner you choose.

Thanks again,

Don Jackman, Director
Prevailing Wage Division

DJ/cp
Enclosures

The Department of Labor and Industry, Division of Prevailing Wage will hold a second public hearing to receive additional evidence concerning proposed rule amendments and the provisions of Chapter 188, Small Business Consideration in Rulemaking, Minn. Stat. 14.115.

The hearing will be held in conference rooms A and B on the 6th Floor of the Space Center Building, 444 Lafayette Road, St. Paul, Minnesota on Tuesday, February 14, 1984 at 8:30 a.m.

For a free copy of the proposed amendments and a copy of the official Notice, please contact:

Don Jackman, Director
Prevailing Wage Division
Department of Labor and Industry
444 Lafayette Road
St. Paul, MN 55101

M

RECEIVED
JAN 13 1984
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing Prevailing Wages

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statute S 14.14, subdivision 1, that their names be placed on file with and maintained by the State of Minnesota for the Purpose of receiving notice of the proposed adoption of rules by this Prevailing Wage Division is accurate and complete as of 12:00 p.m. this 20th day of December, 1983.

Abby Stuart

LIE

RECEIVED
NOV 7 1983
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing Prevailing Wage

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statute S 14.14, Subdivision 1, that their names be placed on file with and maintained by the State of Minnesota for the purpose of receiving notice of the proposed adoption of rules by this Prevailing Wage Division is accurate and complete as of 12:00 p.m. this 19th day of October, 1983.

Jane Brice

PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Labor and Industry
Division of Prevailing Wage

Proposed Amendments to the Rules Relating to the Establishment of Prevailing Wages

Notice of Hearing

Notice is hereby given that a second public hearing in the above-entitled matter will be held, for the purpose of receiving additional evidence concerning the proposed rule amendments and the provisions of Chapter 188, Small Business Consideration in Rulemaking, Minn. Stat. 14.115. The second public hearing will be held in conference rooms A and B on the 6th Floor of the Space Center Building, 444 Lafayette Road, St. Paul, Minnesota on Tuesday, February 14, 1984 commencing at 8:30 a.m. and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard concerning adoption of the proposed amendments captioned above by submitting either oral or written data, statements or arguments. The entire record of the first public hearing conducted on December 2, 1983 will be incorporated into the record of the second public hearing. Consequently, there is no need to duplicate evidence submitted at the first public hearing. Statements or briefs may be submitted without appearing at the hearing. The hearing attendance is estimated at 50 and is expected to last one-half day.

The Commissioner of Labor and Industry has been provided the statutory authority to promulgate rules governing the establishment of prevailing wages of laborers, workers and mechanics engaged in state projects. The intent of the proposed amendments to the rules are:

to allow the Department to collect data from a time frame more reasonable to the time of the survey;

to expand the sources of information from whom data may be collected;

to provide options to the formula for determining the prevailing rates for classes of labor including the right, in some cases, to certify a collectively bargained rate as the prevailing rate.

As compared with the existing rules, the impact of the proposed rules on small businesses has not changed significantly in either quantity or quality. The existing rules as well as the proposed rules require small businesses (as defined in Minn. Stat. 14.115, subd. 1) to submit information on forms provided or approved by the Department concerning wage rates paid on construction projects in Minnesota.

The promulgation of these rules is authorized by Minnesota Statutes § 175.171, subdivision 2 and requisites of Minnesota Statute § 14.06.

One (1) free copy of the Proposed Amendments may be obtained by contacting:

Don Jackman, Director
Division of Prevailing Wage
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

Additional copies will be available at the door on the date of the hearing.

Notice is also hereby given that twenty-five (25) days prior to the hearing an amended statement of need and reasonableness will be available for review at the address given above of the Department of Labor and Industry and at the Office of Administrative Hearings. The statement of need and reasonableness will include a summary of all of the evidence and argument which the department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed amendments. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The proposed amendments are subject to change as a result of the rule hearing process. The Department of Labor and Industry strongly urges those who are potentially affected by these proposed amendments to participate in the rule hearing process.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed amendments. Statements may be made orally and written material may be submitted at the hearing. The Department of Labor and Industry hereby requests those submitting written statements to provide a copy of said materials to the department address given previously, if possible. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Peter Erickson, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7606, either before the hearing or within five (5) working days after the close of the hearing. If so ordered by the hearing examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become part of the record for this proceeding. The rule hearing procedure is governed by Minnesota Statutes §§ 14.13 to 14.20 as well as by 9 MCAR §§ 2.101 to 2.112 (Minnesota Code of Agency Rules). If you have any questions about this procedure, call or write the hearing examiner.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Department of Labor and Industry may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department of Labor and Industry. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report) or department (in the case of the department's submission or resubmission to the Attorney General). It is not anticipated that adoption of the proposed amendments will result in the expenditure of public monies by local bodies of government to implement the rules for the two years immediately following its adoption within the meaning of Minnesota Statute § 14.11.

Please be advised that Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes Section 10A.01, subdivision 11 as any individual:

1. Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, but not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

2. Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with the public officials.

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.

The rules as proposed were previously published in the *State Register*, October 24, 1983, Vol. 8, No. 17, at 725-30.

December 23, 1983

Steve Keefe
Commissioner

WHEREAS, it is desirable that the state assume a position of strong leadership in peat development issues;

NOW, THEREFORE, I order:

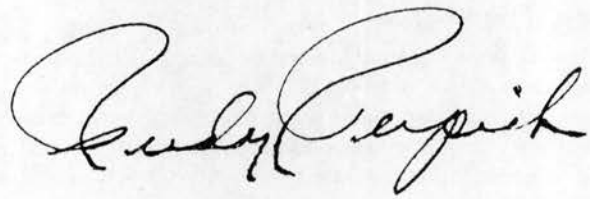
1. The establishment of an inter-agency task force to determine priorities for peat research and development; and further, that this inter-agency task force implement and carry out peat-related activities through the appropriate member agencies.

2. The members of said task force shall be the Commissioners of the Departments of Natural Resources, Agriculture, Commerce, and Energy and Economic Development; the Directors of the Pollution Control Agency and the Iron Range Resources and Rehabilitation Board, a representative of the Governor's Office, and four (4) public members.

3. The member commissioners may appoint technical advisory committees to provide the task force with information and support for task force decision-making.

Pursuant to Minnesota Statutes 1982, Section 4.035, this Order shall be effective 15 days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I hereunto set my hand this 28th day of September, 1983.



PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Labor and Industry Prevailing Wage Division

Proposed Amendments to Rules Relating to the Establishment of Prevailing Wages

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held, pursuant to Minnesota Statutes section 14.14, subdivision 1, in Room 83 of the State Office Building, Saint Paul, Minnesota on Friday, December 2, 1983 commencing at 8:30 a.m. and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard concerning adoption of the proposed amendments captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing. The hearing attendance is estimated at 100 and is expected to last one day.

The Commissioner of Labor and Industry has been provided the statutory authority to promulgate rules governing the establishment of prevailing wages of laborers, workers and mechanics engaged in state projects. The intent of the proposed amendments to the rules are:

to allow the Department to collect data from a time frame more reasonable to the time of the survey;

to expand the sources of information from whom data may be collected;

to provide options to the formula for determining the prevailing rates for classes of labor including the right, in some cases, to certify a collectively bargained rate as the prevailing rate.

The promulgation of these rules is authorized by Minnesota Statutes § 175.171, subdivision 2, and requisites of Minnesota Statute § 14.06.

One (1) free copy of the Proposed Amendments may be obtained by contacting:

Don Jackman, Director
Division of Prevailing Wage
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

Additional copies will be available at the door on the date of the hearing.

Notice is also hereby given that twenty-five (25) days prior to the hearing a statement of need and reasonableness will be available for review at the address given above of the Department of Labor and Industry and at the Office of Administrative Hearings. The statement of need and reasonableness will include a summary of all of the evidence and argument which the department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed amendments. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The proposed amendments are subject to change as a result of the rule hearing process. The Department of Labor and

Industry strongly urges those who are potentially affected by these proposed amendments to participate in the rule hearing process.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed amendments. Statements may be made orally and written material may be submitted at the hearing. The Department of Labor and Industry hereby requests those submitting written statements to provide a copy of said materials to the department address given previously, if possible. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Peter Erickson, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7606, either before the hearing or within five (5) working days after the close of the hearing. If so ordered by the hearing examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become a part of the record for this proceeding. The rule hearing procedure is governed by Minnesota Statutes §§ 14.13 to 14.20 as well as by 9 MCAR §§ 2.101 to 2.112 (Minnesota Code of Agency Rules). If you have any questions about this procedure, call or write the hearing examiner.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Department of Labor and Industry may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department of Labor and Industry. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report) or department (in the case of the department's submission or resubmission to the Attorney General). It is not anticipated that adoption of the proposed amendments will result in the expenditures of public monies by local bodies of government to implement the rules for the two years immediately following its adoption within the meaning of Minnesota Statute § 14.11.

Please be advised that Minnesota Statutes, chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11 as any individual:

1. Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, but not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

2. Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with the public officials.

The statute provides certain exception. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Dated this 10th Day of October, 1983

Steve Keefe
Commissioner of Labor and Industry

Rules as Proposed

8 MCAR § 1.8003 Prevailing wage determinations.

A. Highway and heavy construction. The department shall, at least once each calendar year, determine and certify prevailing wage rates applicable to state projects which are similar in nature to highway and heavy construction projects.

B. Commercial type construction. The department shall, upon the request of any state agency that is contemplating the advertisement for bids on a state project which is similar in nature to commercial construction projects, determine and certify prevailing wage rates applicable to said state project if a certification has not been made within the ~~twelve month~~ 6-month period prior to the request.

C. Information required for certification request. Minnesota Statutes, section 177.43, subdivision 4, provides that the prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay for all trades and occupations required in any contemplated project shall be ascertained before the state asks for bids. A request to establish prevailing wage rates, prevailing

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

hours of labor, and hourly basic rates of pay for all trades and occupations required in the contemplated project must be sent to the department and shall include the :

1. Popular or descriptive name of project;

1. Project number;

3. Exact location of project by county and city, village, or township;

4. Estimated costs of the total construction contracts to be awarded;

5. Anticipated date for soliciting or advertising for bids;

6. Anticipated date for awarding of contracts;

7. Proposed date for commencement of work on project;

8. Estimated date of completion of project;

9. General description of the type of facility and facilities which will constitute the completed contracts. For example, two-story brick and concrete building about 200 feet by 400 feet with concrete floor, wood roof deck on wood laminated beams, and includes plumbing, heating, and electrical work. Outside work includes excavating, blacktopping, grading, sidewalks, fencing, driveways, parking areas, and miscellaneous areas;

10. Desired date of receipt of prevailing wage rate schedule; and

11. Statement as to whether the federal government or any of its agencies will furnish by loan or grant any part of the funds used in this contract or prescribe a schedule of prevailing wage rates.

The department must be notified about ensuing projects as far in advance as possible. A request to determine or ascertain prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay for all trades and occupations required on any contemplated project must be made between 50 and 60 days before soliciting bids.

D. Residential type construction. Prevailing wage rates applicable to state projects which are similar in nature to residential construction projects will be made upon request of a governmental official involved in the bidding process for a state project who desires such rates for insertion in a specific contract proposal.

~~D.~~ E. Survey data; recent. Each wage survey shall be based upon work performed in the 12 months preceding ~~calendar year~~ the date the survey is commenced and the resulting wage determinations will be certified following the close of the survey.

~~E.~~ F. Survey procedure. Except as provided in ~~subpart F herein~~ G., all prevailing wage determinations shall be based upon the survey procedures contained in these rules.

~~F.~~ G. Public hearing. The department shall, pursuant to Minnesota Statutes, sections 177.43, subdivision 4, and 177.44, subdivision 3, conduct public hearings when necessary to determine county wage rate determinations. Such hearings shall be conducted within the county for which wage rates are being determined and shall be conducted as contested cases by a hearing examiner from the ~~State~~ Office of ~~Hearing Examiners~~ Administrative Hearings.

8 MCAR § 1.8004 Basis for each determination.

A. County and labor class basis. Individual prevailing wage rates shall be made on a county by county basis and each prevailing wage rate shall be based upon work performed solely within the applicable class of labor.

B. Labor classes. For each county ~~survey~~ surveyed, the department shall issue wage determinations for ~~all classes of labor commonly or customarily used in similar construction projects.~~:

~~1. Where work has been performed in a class of labor in the county during the time period of the survey, the wage determination for that class of labor shall be based solely upon that work.~~

~~2. Where work was performed in any other classes of labor in two or more of the Minnesota counties physically adjacent to the county being surveyed, the department shall consider those classes of labor as ones which are customarily or commonly used in construction projects and determine wage rates for those classes in accordance with paragraphs 4 and 5 herein.~~

~~3. Where no work was performed in a class of labor either in the county being surveyed or in two or more of the adjacent Minnesota counties, no wage rate will be determined for that class of labor.~~

~~4. In looking to adjacent counties for determining additional classes of labor for which prevailing wage rates should be made, only those adjacent Minnesota counties for which surveys are either in progress or for which wage rates have been determined by survey within the preceding 12 months shall be utilized.~~

~~5. In determining a wage rate for a class of labor based upon work performed in adjacent counties, all workers in the class of labor in all the adjacent counties shall be totaled and the wage rate shall be based upon the wage rate paid to the largest number as determined in accordance with these rules.~~

1. highway and heavy construction projects for all classes of labor commonly or customarily used in those construction projects; and

2. state projects other than highway and heavy construction for all classes of labor expected to be used in the contemplated project for which the prevailing wage rate is being determined.

C. Projects to be surveyed, criteria. From information on file and submitted by interested persons, the department shall select projects of a character similar to the project for which the prevailing wage rate is being determined. The selections shall be made from projects on which construction work was done in the 12 months preceding the survey and which are located in the county in which the contemplated project is located, or, if necessary, from adjacent counties.

1. If two or more projects of a character similar to the project contemplated have been performed in the county in which the project is to be located, and if this group of projects provides wage rate data for the major classes of labor to be used in the project for which the prevailing wage is being determined, the wage determination for those classes of labor shall be based solely upon that work.

2. Where classes of labor expected to be utilized in the contemplated project for which the prevailing wage determination is being made are not all represented in the projects in 1., but work was performed in those classes of labor in two or more projects in any county physically adjacent to the county being surveyed, the department shall establish the wage determination for those classes of labor based solely upon those adjacent county projects.

3. Where no work was performed in a class of labor either in the county being surveyed or in any adjacent Minnesota county, no wage rate will be determined for that class of labor.

4. In determining a wage rate for a class of labor based upon work performed in adjacent counties, all workers in a class of labor in all adjacent counties shall be totaled and the wage rates shall be based upon the wage rate paid to the largest number as determined in accordance with 8 MCAR §§ 1.8003-1.8007.

~~C.~~ D. Frequency of determination. Following certification of wage rates for a county, no wage rates for additional classifications of labor shall be made for that county until such time that a subsequent survey of the county ~~demonstrates utilization of those additional classes of labor~~ is required pursuant to Minnesota Statutes, section 177.43, subdivision 4 or 177.44, subdivision 4.

8 MCAR § 1.8006 Survey procedures.

A. Scope. The purpose of each county survey is to develop a data base upon which to determine prevailing wage rates ~~which are reasonably comparable to those~~ for those classes of labor expected to be used on contemplated state projects based upon wage rates paid to the same classes of labor on similar projects in the area. In establishing the data, the ~~following~~ procedural steps in B.-H. shall be taken ~~in each wage survey:~~.

~~1. For each survey,~~ B. Wage reports. The department shall ~~identify contractors who performed projects during the previous calendar year~~ regularly request from contractors, contractor organizations, labor organizations, and any other interested persons, on forms available from or approved by the department, reports of construction wage rates paid by contractors on various types of projects. The reports must be kept on file by the department according to the county in which the project for which the report is received was performed. The reports must list the name and address of the contractor, the name of the project, the location of the project, a description of the project, a description of the work performed on the project, the dollar cost of the project, the names of employees who worked on the project, together with the class of labor for each employee, the wage rate paid each employee on the project, and the hourly cost of fringe benefits for health and welfare, pension, vacation,

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and apprenticeship or training for each employee. The forms shall be signed and dated by the organization or individual providing the information attesting that the information provided is true and correct.

~~2. For the purpose of identifying contractors who performed work on projects in each county,~~ C. Union wage reports. The department shall also keep ~~and maintain a mailing list of governmental officials, district, county and city engineers, city clerks, administrators and zoning officials and those contractor associations and labor organizations who have requested to be on the mailing list~~ local union wage and employment reports, on forms provided or approved by the department. The reports must set forth the classes of labor, trade, or occupation covered, the effective date of the contract, wage and fringe benefits paid under the contract, the duration of the contract, the dates of all adjustments to wages and fringe benefits together with the amount of the adjustments on each date, the geographic area where the contract is effective, the number of members employed within the geographic area covered by the contract, the type of projects covered by the contract, and a list of all contractors or employer associations signatory to the contract. The local union wage reports are to be signed and dated by a representative from the local union attesting that the information provided is true and correct.

~~3.~~ D. Mailing lists. The department shall also keep and maintain ~~lists of contractors for each county which lists shall be kept updated through applicable telephone directories, trade publications and through previous wage survey contacts. Any contractor may request that its name be added to any county list~~ a mailing list of governmental officials, district, county, and city engineers, city clerks, administrators, and zoning officials for each county. The department shall also keep and maintain a mailing list of contractors, contractor associations, labor organizations, and other individuals who have requested to be on a mailing list to be notified when any county survey is about to be taken.

~~4.~~ E. Notification of survey. Upon initiation of a wage survey, the department ~~will issue a form request for project identification to those entities referred to in paragraph 2, above. The request shall indicate the nature of the projects and the time period for which information is requested, and shall request the government official to identify contractors and their addresses who performed work during the survey time period. Such forms shall be completed and returned to the department within 33 days~~ must notify the county engineer and all city engineers, city clerks, administrators, and zoning officials in the county to be surveyed, and all contractor associations, labor organizations, and other individuals who have requested to be notified when a survey for any county is about to be taken. The notice will request that interested individuals submit reports on forms available from or approved by the department concerning construction performed in the county during the preceding 12 months. The notice shall state that all reports of construction in the county must be returned to the department no later than 33 days following the date upon which the notice of the survey is mailed by the department. Information not timely received by the department shall not be used in establishing the prevailing wage rate for any class of labor. All reports of construction in a county which do not report the names of workers, classes of labor, wage rates and fringe benefits paid, description of the project, type of construction and location of the project must not be used in making wage determinations. Any unsigned or incomplete forms received prior to the final date for receipt of the forms shall be returned to the individual, contractor, or labor organization, to the extent the individual, contractor, or labor organization can be identified, with a request that the form be properly completed. If that form is not received by the department within 15 days from the date it is returned by mail to the individual, contractor, or labor organization, it shall be excluded from the survey. In no event shall information on unsigned reports of construction in the county be utilized in making wage determinations. All reports must be signed and dated by the organization or individual making the report attesting that the information provided is true and correct.

~~5. The department shall send to all those contractors identified as having performed work in the county through the forms returned from those entities referred to in paragraph 2, above, and to all those contractors whose names appear on the applicable county lists compiled under paragraph 3, above, a request for project information and a request for the identification of sub-contractors who worked on those projects. Enclosed with the request shall be copies of the department's Contractor Reporting Form.~~

~~a. For each project upon which the contractor performed work within the county during the time period of the survey, the contractor shall complete a separate Contractor Reporting Form and provide the following information:~~

~~(1) description of project;~~

~~(2) dollar cost of the project;~~

~~(3) list of the employees who worked on the project;~~

~~(4) class of labor for each employee;~~

~~(5) wage rate paid each employee on the project and the hourly cost of fringe benefit for H & W, Pension, Vacation, Training for each employee.~~

~~b. All Contractor Reporting Forms and forms identifying sub-contractors who worked on the projects shall be~~

~~signed and dated by the contractor or its representative attesting that the information provided is a true and correct summary of the information contained in the contractor's payroll and business records.~~

~~c. The Contractor Reporting Forms and forms identifying sub-contractors shall be returned to the department within 30 days following the receipt of the request for information.~~

~~d. Information which is not received by the department within 33 days following the date upon which the request was mailed by the department shall not be used in making determinations.~~

~~e. Contractor Reporting Forms which do not report the names or workers, classes of labor, wage rates paid, description of project, type of construction and location of project will not be utilized in making wage determinations. Any unsigned or incomplete forms which are received within the 33 day time period shall be returned to the contractor with a request that the form be properly completed. If that form is not returned to the department within 15 days from the date of mailing, it shall be excluded from the survey. In no event shall information on unsigned Contractor Reporting Forms be utilized in making determinations.~~

~~6. Upon learning the identification of sub-contractors who performed work on projects within the county, the department shall proceed with the procedures provided in paragraph 5, above, and the sub-constractors so contacted shall be subject to the same requirements provided under paragraph 5.~~

~~7. In addition to the mail procedures described in paragraph 5, above, the department shall make on-site visits to the offices of contractors or governmental representatives for the purposes of collecting project data and for auditing payrolls when necessary for the determination of prevailing wage rates.~~

~~a. Information so collected, either through a review of the contractor's payrolls or copies of payrolls provided by contractors to government offices, will be utilized in making determinations provided that such information is compiled on an Investigator's Project Worksheet and is signed by the investigator who compiled the information.~~

F. Reports, attestations. Reports of construction wage rates and local union wage and employment reports shall specify that the individual signing the report attests that the information on the report is true and correct. The form shall specify that willful falsification of any information on the report may result in civil or criminal prosecution.

G. On-site visits. In addition to receiving and compiling the information described in B.-F., the department shall make on-site visits to the offices of contractors or governmental representatives for the purposes of collecting project data and for auditing payrolls when necessary for the determination of prevailing wage rates.

~~8.~~ H. County abstract. The number of workers in each class of labor and their respective wage rates shall be determined and reflected on a ~~"~~county abstract~~"~~.

8 MCAR § 1.8007 Determining the largest number of workers and prevailing wage rate.

A. Policy. Each wage rate determination shall be based upon the actual wage rates paid to the largest number of workers within each labor classification reported in the survey.

B. Procedure. For purposes of determining the largest number of workers, each worker within a class of labor and his total hourly rate paid shall be tabulated.

1. Total hourly rate includes the hourly rate plus the hourly contribution for all wage and fringe benefits.

2. The largest number of workers with identical rates of pay within each classification shall determine the specific prevailing wage rate.

3. When determining the prevailing wage rate and there is an equal number of workers (which represent the greatest number of workers) with differing hourly wage rates, the prevailing wage rate shall be the highest wage rate paid to those workers.

Example:

~~4~~ four workers @ at ~~$7.00~~ $7 per hour

~~4~~ four workers @ at ~~$8.00~~ $8 per hour

~~2~~ two workers @ at $8.50 per hour

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

The prevailing wage rate will be determined as ~~$8.00~~ $8 per hour.

4. Where a worker performs work on more than one project within the county, he shall be counted only once in the class of labor and at the wage rate paid on the most recent project within the time period of the survey.

C. Collectively bargained rate. If the prevailing wage rate determined for any given class of labor represents a collectively bargained rate, then the comparable current collectively bargained rate for the class of labor in the county where the project covered by the prevailing wage determination is located shall be the prevailing wage rate.

D. Noncollectively bargained rate. If the prevailing wage rate determined represents a rate other than a collectively bargained rate for any given class of labor, the rate so determined shall be the prevailing wage rate.

E. Change in rate due to contractual changes. If the prevailing wage rate for any given class of labor represents a collectively bargained rate, and the collectively bargained rate for that class of labor will change during the 12 months immediately following the date upon which the wage rate is determined according to the terms of the collective bargaining contract by which the rate is established, the department shall certify that the rate for that class of labor shall also change accordingly on the effective date of the change pursuant to the collective bargaining contract.

Department of Public Safety
Liquor Control Division

Proposed Rules Governing Liquor Control, Delivery and Transportation, Vehicle Permits

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. sections 14.21 through 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. sections 14.13 through 14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

Diane Dybevik
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155

The department's authority to adopt the proposed rules is contained in Minnesota Statutes section 299A.02 and chapter 340. A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Department of Public Safety upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. section 10A.01, subdivision 11 defines a lobbyist as any individual:

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
400 SUMMIT BANK BUILDING
310 SOUTH FOURTH AVENUE
MINNEAPOLIS, MINNESOTA 55415
(612) 341-7600

February 27, 1984

Steve Keefe, Commissioner
Department of Labor and Industry
Prevailing Wage Division
5th Floor, Space Center Building
444 Lafayette Road
St. Paul, MN 55101

RE: In the Matter of the Proposed Amendment of Rules of the Department of Labor and Industry Governing Prevailing Wage Determinations; OAH Docket No. LI-84-005-PE.

Dear Commissioner:

Enclosed and served upon you by mail, please find the Report of the Hearing Examiner in the above-entitled matter. I also enclose the official record, and I am closing our file in this matter.

Yours very truly,

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

Telephone: 612/341-7606

PCE:dld
Encl.
cc: Kathleen L. Winters, Esq.
Donald G. Jackman

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

LI-84-005-PE

AFFIDAVIT OF SERVICE BY U.S. MAIL

Donna L. Day, being first duly sworn, hereby deposes and says that on the 27th day of February, 1984, at the City of Minneapolis, county and state aforementioned, she served the attached REPORT OF THE HEARING EXAMINER

OAH Docket No. LI-84-005-PE

by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to the individuals named on the attached mailing list.

Donna L. Day
(Signature)

Subscribed and sworn to before me
this 27th day of February, 1984.

Sandra A. Haven
(Notary)

SANDRA A. HAVEN
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES AUGUST 21, 1990

HG-00059-01

SERVICE LIST

LI-84-005-PE

Steve Keefe, Commissioner
Department of Labor and Industry
Prevailing Wage Division
5th Floor, Space Center Building
444 Lafayette Road
St. Paul, MN 55101

Ms. Kathleen L. Winters
Special Assistant Attorney General
550 Space Center Building
444 Lafayette Road
St. Paul, MN 55101

Mr. Donald G. Jackman
Director, Prevailing Wage Division
Department of Labor and Industry
5th Floor, Space Center Building
444 Lafayette Road
St. Paul, MN 55101

LI-84-005-PE

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF LABOR AND INDUSTRY
PREVAILING WAGE DIVISION

In the Matter of the Proposed Amendment of Rules of the Department of Labor and Industry Governing Prevailing Wage Determinations.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Administrative Hearings at 8:30 a.m. on Tuesday, February 14, 1984 in Conference Rooms A and B on the Sixth Floor of the Space Center Building, 444 Lafayette Road, St. Paul, Minnesota. This matter was initially heard on December 2, 1983, however, the Department of Labor and Industry (hereinafter "Department") determined that a second hearing was necessary. The entire record of the first proceeding was incorporated into the record of the second hearing.

Kathleen L. Winters, Special Assistant Attorney General, 550 Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101, appeared as counsel on behalf of the Department. Donald G. Jackman, Director of the Prevailing Wage Division of the Department, appeared and testified in support of the proposed rules.

This Report shall be available for review to all affected individuals upon request for at least five working days before the agency takes any further action on the rule(s). Pursuant to Minn. Stat. § 14.16 (1982), the Commissioner shall, if he proposes to adopt the rule as recommended herein, submit the rule, together with the complete hearing record to the Attorney General and shall be responsible for notifying persons who have indicated that they wish to be notified of such filing. If the Commissioner makes changes in the rule other than those recommended herein, he shall submit the rule with the complete hearing record to the Chief Hearing Examiner for a review of the changes prior to submitting it to the Attorney General for review.

Based upon all the testimony, exhibits, and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

1. On December 29, 1983, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On January 9, 1984, a Notice of Hearing and a copy of the proposed rules were published at 8 State Register, p. 1657.

3. On December 30, 1983, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Department for the purpose of receiving such notice.

4. On January 13, 1984, the Department filed the following documents with the Hearing Examiner:

(a) The Notice of Hearing as mailed.
(b) The Agency's certification that its mailing list was accurate and complete.
(c) The Affidavit of Mailing the Notice to all persons on the Agency's list.
(d) The Statement of Need and Reasonableness.
(e) The names of Department personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.
(f) A copy of the State Register containing the proposed rules.
(g) Two Affidavits of Additional Notice.

The documents were available for inspection at the Office of Administrative Hearings from the date of filing to the date of the hearing.

5. The record remained open through February 22, 1984, for the receipt of written comments and statements.

6. Statutory authority to promulgate the proposed rules is contained in Minn. Stat. § 175.171(2)(1982).

7. The proposed rules are amendments to existing rules of the Department of Labor and Industry governing prevailing wage determinations which implement Minn. Stat. §§ 177.41 through 177.44 (1982). The existing rules were initially adopted in April of 1977 and amended in March of 1980.

Since the 1980 amendments were adopted, several deficiencies in the rules have become apparent. Wage rate determinations are often-times based on outdated information. The rules also permit the prevailing rate for a class of labor for an entire county to be determined by the wage rate paid to one employee. The rules do not provide a method for consideration of adjustments to prevailing rates during the period of certification.

The amendments proposed are intended to correct the above-described deficiencies by expanding the sources of information from which data may be gathered and providing more current information to be used in determining pre-

vailing rates. The amendments also give the Department, in some instances, the ability to recognize collectively bargained rates as the prevailing rate.

8. Many comments were submitted which generally oppose the prevailing wage concept, especially as it affects the wage structure in rural Minnesota counties. However, the Minnesota Legislature has made the policy decision that it is in the public interest that public buildings and other public works be constructed by employers who are mandated to pay their employees prevailing wage rates as determined by the Commissioner of Labor and Industry. See, Minn. Stat. §§ 177.41-177.44 (1982). Consequently, neither those general comments nor comments which belabor the past difficulties of the Department in implementing the prevailing wage law will be addressed in this Report. Rather, only comments which raise specific issues of need, reasonableness, and statutory authority will be discussed herein. Except as specifically set forth below, the Hearing Examiner finds that the need for and reasonableness of each section of the proposed amendments has been demonstrated by an affirmative presentation of facts in the record.

9. Subsequent to the initial hearing on this matter, the Department acceded to two requested amendments to the proposed rules. The first is found in Section 1.8003 C.11. which is amended to read, ". . . any contemplated project must be made not less than 60 days before soliciting bids." The second is found in Section 1.8006 B. which is amended to read, ". . . the approximate dollar cost of the project . . . ." Both of these amendments are made for purposes of clarification and are found to be both needed and reasonable.

Additionally, at the second hearing, the Department amended 8 MCAR § 1.8006 E. to more clearly reflect what is the intent of the proposed survey procedures. That amendment reads as follows:

> ". . . must notify the county engineer and all city engineers, city clerks, administrators, and zoning officials in the county to be surveyed ~~and~~. The notice will request local officials to submit reports of construction in the county in the preceding twelve months. The report shall include the names of the contractor(s) and their addresses. The department must also notify all contractors, contractor associations, labor organizations, and other individuals who have requested to be notified when a survey for any county is about to be taken. ~~The~~ That notice will request that interested individuals submit reports on forms available from or approved by the department concerning construction performed in the county during the preceding 12 months. The notices shall state that all reports of construction in the county must be returned to the department no later than 33 days following the date upon which the notice of the survey is mailed by the department. Information not timely received by the department shall not be used in establishing the prevailing wage rate for any class of labor. ~~All reports of construction in a county which do not report the names of workers, classes of labor, wage rates and fringe benefits paid, description of the~~

project, type of construction and location of the project must not be used in making wage determinations. Any unsigned or incomplete forms received prior to the final date for receipt of the forms shall be returned to the individual, contractor, or labor organization, to the extent the individual, contractor, or labor organization can be identified, with a request that the form be properly completed. The department may use incomplete reports where the entity completing the form has provided all the information it has. If that form is not received by the department within 15 days from the date it is returned by mail to the individual, contractor, or labor organization, it shall be excluded from the survey. In no event shall information on unsigned reports of construction in the county be utilized in making wage determinations. All reports must be signed and . . ."

This amendment clarifies the procedures for obtaining the information needed to establish prevailing wage rates. Hearing Examiner finds that it has been shown to be both needed and reasonable and is not a substantial change from the rules as published.

10. The Associated General Contractors of Minnesota (AGC) and the Minnesota Chapter of Associated Builders and Contractors (MABC) both argue that the proposed rules, specifically 8 MCAR §§ 1.8003 C.9. and 1.8004 C., will enable the Department to selectively pick the projects that are "similar in character" to proposed projects which will skew the prevailing wage rate. The AGC and MABC both contend that "similar" projects should only be classified by the broad definitions of "highway and heavy construction", "commercial construction" and "residential/agricultural construction" set forth in 8 MCAR § 1.8002.

The Department contends that a complete description of the proposed project will enable it to determine wage rates only for the classifications of workers necessary for the project, thus, expediting the survey process. Additionally, Minn. Stat. § 177.41 states clearly that the wages paid workers on state projects "should be comparable to wages paid for similar work . . ." (Emphasis added.).

Although the rules do not enumerate which factors will be utilized to determine whether projects are "similar in character", such a determination is subjective and can be based on many variables. The statute gives no direction on this issue. The Department has asserted that its need for project descriptions is for the purpose of certifying wage rates for the appropriate classes of workers. The Hearing Examiner finds that the methodology proposed by the Department has been shown to be both needed and reasonable and is not in excess of statutory authority.

11. The MABC points out that the wage information required in 8 MCAR § 1.8006 B. does not conform to the definition of prevailing wage rate contained in Minn. Stat. § 177.42, subd. 6. MABC suggests that "any other

economic benefits paid" be added to the rule to conform to the statute. The Hearing Examiner agrees that this addition would clarify the intent of the rule and comply with the statutory directive that all benefits paid be considered in determining the prevailing wage rate. The Hearing Examiner suggests this amendment as a means of clarification, not as a means to correct a negative finding.

12. The MABC argues that 8 MCAR § 1.8007 E. which provides that contractual adjustments to collectively bargained rates will similarly affect the prevailing wage rate is beyond statutory authority. Minn. Stat. § 177.42, subd. 6 defines prevailing wage rate as "the hourly basic rate of pay plus [fringes] . . . paid . . .". Minn. Stat. § 177.44, subd. 4 states specifically that prevailing wage rate determinations may "include future hours and rates when such hours and rates can be determined . . .". The proposed rules would mandate prevailing wage rate adjustment only if the initial rate certified is a collectively bargained rate. Consequently, the actual rate which will be paid can be determined by the contract. The Hearing Examiner finds that the proposed rule is within the statutory authority of the Department.

13. Mr. R. Mathiowetz commented that the proposed rules do not contain any provision for a lesser than prevailing rate for trainees who are unexperienced workers. The Hearing Examiner points out that 8 MCAR § 1.8008 specifically exempts apprentices from coverage by the prevailing wage rate determinations. It was the specific intent of this rule to only apply to certified or registered apprentice, thus not allowing an employer to hire a large number of "learners" to work for less than the prevailing wage rate.

14. Several persons commented that the Commissioner should be empowered to adjust prevailing wage rates when it becomes apparent that an inequity has or will result from the rate determination made. This authorization is already contained in Minn. Stat. § 177.44, subd. 4 pertaining to the prevailing rates for highway construction work. However, there is no such authority regarding the rates determined for other state projects. The Hearing Examiner recommends that the Department consider this proposal either as part of new legislation or future rule amendments.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Department gave proper notice of the hearing in this matter.

2. That the Department has fulfilled the procedural requirements of Minn. Stat. § 14.14, subds. 1, 1a and 2 (1982), as amended by Minn. Laws 1983, Ch. 210, § 4 and Ch. 301, § 64, and all other procedural requirements of law or rule.

3. That the Department has documented its statutory authority to adopt the proposed rules, and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 14.05, subd. 1, 14.15, subd. 3, as amended by Minn. Laws 1983, Ch. 210, § 6, and 14.50 (i) and (ii) (1982).

4. That the Department has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts in the record within the meaning of Minn. Stat. §§ 14.14, subd. 2 and 14.50 (iii) (1982).

5. That the additions and amendments to the proposed rules which were suggested by the Department after publication of the proposed rules in the State Register do not result in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. § 14.15, subd. 3 (1982), as amended by Minn. Laws 1983, Ch. 210, § 6, and 9 MCAR §§ 2.110 A. and 2.111 (1980 Ed.).

6. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

7. That a finding or conclusion of need and reasonableness in regard to any particular rule subsection does not preclude and should not discourage the Department from further modification of the rules based upon an examination of the public comments, provided that no substantial change is made from the proposed rules as originally published, and provided that the rule finally adopted is based upon facts appearing in this rule hearing record.

8. That the Department has complied with the requirements of Minn. Stat. § 14.115 (1983 Supp.).

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted consistent with the Findings and Conclusions made above.

Dated this 27th day of February, 1984.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
PREVAILING WAGE DIVISION

In the Matter of the Proposed
Amendment of Rules of the
Department of Labor and Industry
Governing Prevailing Wage
Determinations.

FINDINGS OF FACT
AND CONCLUSIONS

The above-entitled matter came on for hearing before a Hearing Examiner Peter C. Erickson on December 2, 1983 in Room 83 of the State Office Building, St. Paul, Minnesota, and on February 14, 1984 in Conference Rooms A and B on the sixth floor of the Space Center Building, 444 Lafayette Road, St. Paul, Minnesota. Proper notice required by Minn. Stat. § 14.13 and 9 MCAR § 2.102C was served upon all persons, associations, and other interested groups registered with the State Department of Labor and Industry for that purpose. Additional notice was sent to organizations and publications serving specifically the smaller employers in the construction industry pursuant to the notice requirements of Minn. Stat. § 14.115 (Supp. 1983).

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 upon the records, files, and proceedings herein, I find the following:

1. The commissioner adopts hearing examiner Peter C. Erickson's Findings of Fact dated February 27, 1984, 1-8 and 10-14.

2. Finding of Fact No. 9 contains a typographical error. The second paragraph of Finding of Fact No. 9 refers to a clarification of 8 MCAR § 1.8006 E made by the department at the February 14, 1984 hearing. The amendment as printed in the hearing examiner's report contains a typographical error. The amendment should read as follows:

> "...must notify the county engineer and all city engineers, city clerks, administrators, and zoning officials in the county to be surveyed ~~and~~. The notice will request local officials to submit reports of construction in the county in the preceding twelve months. The report shall include the names of the contractor(s) and their addresses. The department must also notify all contractors, contractor associations, labor organizations, and other individuals who have requested to be notified when a survey for any county is about to be taken. ~~The~~ That notice will request that interested individuals submit reports on forms available from or approved by the department concerning construction performed in the county during the preceding 12 months. The notices shall state that all reports of construction in the county must be returned to the department no later than 33 days following the date upon which the notice of the survey is mailed by the department. Information not timely received by the department shall not be used in establishing the prevailing wage rate for any class of labor. ~~All reports of construction in a county which do not report the names of workers, classes of labor, wage rates and fringe benefits paid, description of the project, type of construction and location of the project must not be used in making wage determinations.~~ Any unsigned or incomplete forms received prior to the final date for receipt of the forms shall be returned to the individual, contractor, or labor organization, to the extent the individual, contractor, or labor organization can be identified, with a request that the form be properly completed. The department may use incomplete reports where the entity completing the form has provided all the information it has. If that form is not received by the department within 15 days from the date it is returned by mail to the individual, contractor, or labor organization, it shall be excluded from the survey. In no event shall information on unsigned reports of construction in the county be utilized in making wage determinations. All reports must be signed and ..."

CONCLUSIONS

1. The Department of Labor and Industry adopts the recommended modification noted in Finding 11 of the hearing examiner's report for purposes of clarification only and not to correct a negative finding.

2. The Department of Labor and Industry accepts the recommendation made by the hearing examiner that the proposed rules be adopted consistent with his Findings and Conclusion.

Dated: March 6, 1984.

STATE OF MINNESOTA

Steve Keefe

STEVE KEEFE, Commissioner
Department of Labor and Industry

STATE OF MINNESOTA
Department of Labor and Industry
Prevailing Wage Division

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ADMINISTRATIVE
HEARINGS

In the Matter of the
Proposed Amendment of Rules
of the Department of Labor
and Industry Governing
Prevailing Wage Determinations

AMENDMENT TO THE
STATEMENT OF NEED
AND REASONABLENESS

Minnesota Laws 1983, Chapter 188 required an agency to fulfill several requirements when promulgating which have an impact on small business. Subdivision 2 required the agency to consider five methods of lessening the adverse impact on small business. The Department has considered all five but must reject implementation of any of them because to do so would violate the underlying statute, which required all involved employers to participate in the prevailing wage surveys. Subdivision 3 recognizes that implementation of the methods in Subdivision 2 may not be possible.

Donald G. Jackman

DONALD G. JACKMAN, Director
Prevailing Wage Division
Minnesota Department of
Labor and Industry

STATE OF MINNESOTA
Department of Labor and Industry
Prevailing Wage Division

In the Matter of the
Proposed Amendment of Rules
of the Department of Labor
and Industry Governing
Prevailing Wage Determinations

SUPPLEMENTAL
STATEMENT OF NEED
AND REASONABLENESS

This Statement is submitted as a supplement to the Statement of Need and Reasonableness submitted to Hearing Examiner Peter Erickson on November 7, 1983 in preparation for the hearing held on December 2, 1983.

Minnesota Laws 1983 Chapter 188 require an agency to fulfill several requirements when promulgating rules which may affect small business.

Subdivision 1 permits an agency to include more employees than the 50 stated in Item C if necessary to adapt the rule to the needs and problems of small business. The department reviewed the rules and declines this option as none of the rules are dependent on the number of employees a company has on its payroll.

Subdivision 2 requires an agency to consider five methods of listing the adverse impact on small business. The department has considered each of the five methods and has reached the following conclusions:

A. Establishing less stringent compliance or reporting requirements. The department's position is that since the majority of contractors meet the definitions of small business and since contractors are only required to fill out a report when a survey is taken, less stringent requirements would be contrary to the statutory objectives because the department would not receive the information needed for its determinations of prevailing wage rates.

B. Less stringent schedules or deadlines for compliance or reporting requirements. The rules call for reports to be filed within 33 days of the date mailed. The 33-day requirement allows more than enough time for all employers to respond. Longer reporting times for small business would delay the certifications needed by other agencies when the object of the rules is to provide timely certifications.

C. Consolidation or simplification of compliance or reporting requirements. The department's position is that there is nothing contained in the rules on reporting or compliance requirements that can be consolidated or simplified. The reporting form itself is a one-page document requesting only the information needed to compile the data needed for determinations of prevailing wages.

D. Establishment of performance standards to replace design or operational standards. This method does not apply as there are no design or operational standards contained in the rules.

E. The exemption of small business from any or all requirements. This method is clearly contrary to the statutory objectives that are the basis of the proposed amendments to the rules.

Donald G. Jackman

DONALD G. JACKMAN, DIRECTOR
Prevailing Wage Division
Minnesota Department of
Labor and Industry

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STATE OF MINNESOTA
Department of Labor and Industry
Prevailing Wage Division

In the Matter of the
Proposed Amendment of Rules
of the Department of Labor
and Industry Governing
Prevailing Wage Determinations

STATEMENT OF NEED
AND REASONABLENESS

These proposed rules are amendments to existing rules of the Department of Labor and Industry governing Prevailing Wage Determinations. The overall need and authority to adopt rules of procedure for making prevailing wage determinations arises under the Commissioner's duties and responsibilities contained in Minnesota Statute §§ 177.41 through 177.44 (1978), The existing rules were originally adopted in April of 1977 and amended in March of 1980.

The 1980 amendments were adopted to provide clarification to the 1977 rules. A need was recognized for concise, consistent guidelines and rules of operation to govern all prevailing wage determinations, for specific steps to be taken in all surveys, and for a practical approach to wage determinations.

Since the 1980 amendments were adopted, several deficiencies have become apparent. Restrictions within the rules include wage rate determinations being based on outdated information. The rules also permit the prevailing rate for a class of labor for an entire county to be determined on the wage rate paid to one employee.

Additionally, the rules do not provide a method for consideration of adjustments to prevailing rates during the period of certification.

The amendments proposed at this time are intended to correct these deficiences by expanding the sources of information from which data may be gathered and permitting reasonably current information to be used in determining prevailing rates. The amendments also give the department, in some instances, the ability to recognize collectively bargained rates.

The proposed amendments include titles to subparagraphs. The titles are housekeeping in nature and are intended to clarify the rules.

8 MCAR 1.8003 Paragraph B Commercial Type Construction

The amendment proposed in paragraph B would prohibit the department from issuing commercial wage certifications that are over six months old. The current rules specify a twelve-month certification period.

The rule is needed because the twelve-month restriction is too long a period of time to expect the certifications to remain valid. The proposed rule permits the department to certify wage rates that more accurately reflect changes in the construction labor market since the date of the last determination..

Certification of wage rates for commercial projects are made upon the request of a state agency. It is therefore reasonable that the department provide that agency with wage rates that are currently prevailing in the area.

8 MCAR 1.8003 Paragraph C Information Required for Certification Request

Paragraph C is a new rule that requires a state agency to furnish the department eleven items of information when requesting wage rates for a contemplated project.

In order to carry out the duty of providing wage rates for "contemplated projects" (8 MCAR 1.8003), the department must be informed of the type of project the agency contemplates and its exact location to survey the appropriate area. Information on the cost of the project and its general description will provide a basis on which the department will select similar projects for comparison and the classes of labor for which wage rates are to be determined (8 MCAR 1.8004).

Information concerning the start of construction and completion of the project must be ascertained to establish the time frame for which the certified rate will be in effect and to determine future adjustments to the certified rates as provided by 8 MCAR 1.8007. The rule further prescribes the length of time advance notice must be given by an agency to allow the department sufficient time to make determinations.

The rule is needed to implement the amendments proposed in 8 MCAR 1.8004 through 1.8007 and is essential to the determination of accurate prevailing wage rates. It is reasonable because the information

is readily available to the state agency. Additionally, the rule is modeled on a rule used successfully by the State of Wisconsin since 1967.

8 MCAR 1.8003 Paragraph E Survey Data Recent

The amendment proposed in paragraph E changes the time frame from which wage information is collected. The proposed language allows the department to base its surveys on work performed in the twelve months preceding the date the survey is commenced.

The rule is needed and reasonable to meet the objectives of Minn. Stat. § 177.41 which states that wages on state financed projects should be comparable to wages paid for similar work in the community as a whole. The present rule restricts the department to the use of information concerning wages paid in the previous calendar year. When the information collected from a previous calendar year is compiled near the end of the current year, it is probable that the rates determined in this manner are nearly two years out of date. To issue such rates as prevailing for a project that may not be constructed until the next year clearly contravenes the intent of Minn. Stat. § 177.41.

Wage rates determined by the proposed rule would better reflect wages being paid for similar work in the community as a whole because the

information is no more than twelve months old regardless of the date the survey is commenced. Although this change may increase the department's day-to-day workload, access to data processing equipment will greatly assist the department in managing the incoming information.

8 MCAR 1.8003 Paragraph G Public Hearing

The proposed amendment deletes the words "State Office of Hearing Examiners" and replaces them with "Office of Administrative Hearings" to reflect a change in the title of the department.

8 MCAR 1.8004 Paragraph B Labor Classes

The proposed amendments to paragraph B are intended to separate the two types of certifications that will be issued by the department. For Highway and Heavy projects, the department will issue wage determinations for all classes of labor commonly and customarily used on those projects. For projects other than Highway and Heavy, the department will issue, when requested, wage determinations for the classes of labor expected to be used on the contemplated project.

The rule is reasonable because it closely follows the language of Minn. Stat. §§ 177.44, subd. 3 and 177.43, subd. 4. The rule is needed to eliminate the unnecessary amount of time and effort spent on surveying areas in which projects other than Highway and Heavy are not being con-

templated and in issuing wage determinations for classes that are not expected to be used.

8 MCAR 1.8004 Paragraph C Projects to be Surveyed, Criteria

The amendment proposed in paragraph C identifies the criteria to be used in the determination of wage rates for state construction projects. The rule requires the department to select projects of a character similar to the project for which the prevailing wage rate is being determined. The term "character similar" refers to the nature of the project and the major classes of laborers utilized in its construction. As proposed by 8 MCAR 1.8004 C and supported by 8 MCAR 1.8002 the department shall, for survey purposes, categorize projects into either Highway and Heavy, Commercial, or Residential/Agricultural.

The rule requires determinations to be based on two or more projects. In selecting projects of a character similar to the contemplated state project, all projects of a character similar will be used to provide wage rate data, but in no event will determinations be based on less than two projects.

Paragraphs 3 and 4 of this rule are similar to paragraphs 3 and 5 of the current rules. They retain a prohibition against certifying wage rates for a class of labor where no work was performed in

the area surveyed. They also retain the requirement that when projects from adjacent counties are used, all workers in the sought after class of labor in all of the adjacent counties be totaled and used in the determinations.

The rule is needed and reasonable because the requirement of using at least two similar projects for purposes of determinations will eliminate a weakness in the present rule. The present rule allows rates to be certified as prevailing with data taken from a single project. Wage rates certified as prevailing should be measured on a comparative basis. A single rate on one employee provides no information other than what that person was paid. It provides no information as to the wage paid to the largest number of workers.

8 MCAR 1.8004 Paragraph D Frequency of Determination

The amendment proposed to paragraph B is needed to permit the department to certify wage rates for additional classes of labor within the six month limitation placed on certifications proposed by 8 MCAR 1.8003 paragraph B.

Proposed rule 8 MCAR 1.8004 allows the department to certify rates for only those classes of labor expected to be used on a project. Should the need arise for wage rates for additional classes of labor not previously certified, the department must be able to certify rates for those additional classes and not be in conflict with rule 1.8003 B.

8 MCAR 1.8006
Paragraph A
Survey Procedures
Scope

The proposed amendment to this rule is housekeeping in nature and is intended to parallel the rules proposed in 8 MCAR 1.8004.

8 MCAR 1.8006
Paragraph B
Wage Reports

The amendments proposed in paragraph B allows the department to regularly request from contractor organizations, labor organizations or other interested persons, on forms available from or approved by the department, reports of construction wage rates paid by contractors, and other information. The forms must be signed by the organization or individual attesting that the information submitted is true and correct.

The purpose of the department's prevailing wage rules is to determine prevailing wage rates for state agencies contemplating projects. In order to provide accurate determinations, it is imperative that the department be allowed to collect as much data as possible. The last determinations of prevailing wage rates made by the department were based on information supplied by only 10 percent of the employers contacted for the commercial survey, and less than 15 percent of the employers contacted for the Highway and Heavy survey. Although the department may audit payroll records for the purpose of collecting wage data, the size of the department's budget and time constraints on providing rates preclude any serious attempt to collect information in that manner.

Since all sections of the construction industry are affected by the department's actions, a rule to allow all sections of the construction industry to participate in providing the necessary information is both needed and reasonable. This rule is similar to the Federal method of wage information gathering, "As a rule, the interested parties who must be contacted (for a survey) are those who might be affected by the determinations," Section II, subd. D, titled, "Survey Contacts" of the Federal Construction Wage Determinations Manual of Operations.

8 MCAR 1.8006 Paragraph C Union Wage Reports

Paragraph C is a new rule that requires the department to collect information concerning construction union labor agreements and the number of members working within the area covered by the agreements.

The rule is needed to certify collectively bargained rates and future rate adjustments to those rates if the requirements of 8 MCAR 1.8007 paragraphs C and E are met. The rule is reasonable as the information is readily available and it provides accurate information on wage and fringe benefit rates, the number of workers, and the names of contractors working within the geographic areas of the agreement.

The information acquired is to be used as reference material only and will not be used for wage rate determinations.

8 MCAR 1.8006 Paragraph D Mailing Lists

The amendments to paragraph D set forth the mailing lists the department is required to keep and maintain. The rule is similar in nature to the rule presently in effect. It is amended to parallel the change in rule 8 MCAR 1.8006 paragraph C.

8 MCAR 1.8006 Paragraph E Notification of Survey

The proposed amendments to paragraph E set forth the notice procedures to be followed by the department when conducting a survey.

The proposed amendment specifies the people to be notified, the length of time allowed for reply to the request for information, and the information to be provided. It further specifies that incomplete or unsigned forms, or reports not timely received by the department shall not be used in making wage determinations.

The rule is needed to provide clear and concise guidelines for the department to use when conducting surveys. It also provides clear notice to those surveyed of the requirement they must meet in order to have their input considered.

The requirements are reasonable because they require only necessary information and provide ample time for reply.

8 MCAR 1.8006 Paragraph F Report and Attestations

The amendment proposed in paragraph F provides civil or criminal prosecution for willful falsification of information required in wage and employment reports.

The amendment is needed to insure proper enforcement of the rules by providing an effective method of processing untrue and incorrect reports.

The rule is reasonable because the amount of state funds expended on construction projects is significant and requires a data base that contains factual information.

8 MCAR 1.8006 Paragraph G On-Site Vists

The amendment proposed in paragraph G replaces the current wording of the first sentence "In addition to the mail procedures described in paragraph 5" with "In addition to receiving and compiling the information described in B through F." In all other respects, the language of rule F is the same as the current rule 7. The amendment is needed and reasonable to bring the rule into conformity with the amendments proposed in B through F, and to provide continuity to the rules.

8 MCAR 1.8007 Paragraph B Procedure

The proposed amendments to paragraph B replaces some of the numbers and symbols with words. The amendment is housekeeping in nature and does not change the intent of the paragraph.

8 MCAR 1.8007 Paragraph C Collectively Bargained Rate

The amendment proposed in paragraph C would permit the department under certain conditions to recognize a collectively bargained wage rate as the prevailing wage rate. This rule is modeled on a similar rule used with success by the State of Wisconsin since 1967.

In order to certify a collectively bargained rate, the prevailing rate for a class of labor must first be determined according to the rules prescribed in paragraphs A and B of 8 MCAR 1.8007. The rules require the prevailing rate for a class of labor to be determined by the wage paid to the largest number of workers.

After determinations have been made but before a rate is certified, the department will review all union agreements in the area covering the sought after class of labor. If the rate determined is listed in an agreement, the current rate contained in the agreement would be certified as the prevailing rate.

The rule is similar to the Federal method of certifying union contract rates that have been determined to prevail in an area. Section II

subd. 48 titled Negotiated Rates in Wage Decisions, Page 29A states in part, "When a determination has been made that negotiated rates prevail, collective bargaining agreements are used as a resource to ensure that the rates are accurately reflected in the wage decisions."

The rule is needed to permit the department to recognize collectively bargained rates when they prevail. The rule is reasonable because the ability to recognize a contract rate will ensure that the prevailing rate certified will be the rate paid for similar work when the state project is constructed.

8 MCAR 1.8007 Paragraph D Noncollective Bargained Rate

The amendment proposed in Paragraph D is a clarification of the intent of paragraphs C and E of this rule. The rule is needed and reasonable to state in clear language that if the rates determined by the department (under the applicable statutes and rules) is a noncollectively bargained rate, then that is the rate that will be certified.

8 MCAR 1.8007 Paragraph E Change in Rate

The amendment proposed in paragraph E permits the certification of future adjustments to prevailing rates. The rule recognizes changes in wage rates due to collective bargaining agreements that occur in the twelve-month period following the

date of certification. The rule applies only to those classes of labor, whose rates have been certified, as proposed in 8 MCAR 1.8007, as collectively bargained.

Since a survey of the area has already established that the prevailing rate for the area is a collectively bargained rate, then is is needed and reasonable to recognize any future adjustments to those rates as they occur during the twelve-month period following certification. If the adjustments to wage rates are not taken into account, the wage rates determined for the state project would no longer be comparable. Minn. Stat. § 177.44, subd. 4 mandates that in addition to current wage rates, the certifications shall include future rates when they can be determined. Collectively bargained agreements are negotiated for a definite period of time, and clearly define the dates and amounts of future adjustments. By recognizing these changes at the time of certification, the department will carry out its obligations as prescribed in the Statutes.

This rule is modeled after a similar rule that has been successfully used by the State of Wisconsin since 1967. It is also similar to the Federal method of wage certification as outlined in the Federal Construction Manual of Operations, Section II, subd. 42, titled, "Keeping Determinations Current."

This completes the Department's Statement of Need and Reasonableness. In summary, the new rules and amendments to existing rules proposed for adoption are necessary to fulfill the department's obligations and duties under the provisions of the Prevailing Wage Law and to assure that the wages of laborers engaged in state projects are comparable to the wages paid for similar work in the community as a whole. The proposed rules are similar to both Federal and the State of Wisconsin rules which are being used effectively. It is the opinion of the department that failure to adopt these rules will prevent the accurate determination of current prevailing wages.

Donald G. Jackman

Donald G. Jackman, Director
Prevailing Wage Division
Minnesota Department of
Labor and Industry

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
PREVAILING WAGE DIVISION

In the Matter of the Proposed Amendment of Rules of the Department of Labor and Industry Governing Prevailing Wage Determinations.

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, KATHLEEN L. WINTERS, Special Assistant Attorney General, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familarity with the applicable procedures, the administrative procedure act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed.

Dated: March 6, 1984

KATHLEEN L. WINTERS
Special Assistant
Attorney General

444 Lafayette Road
St. Paul, Minnesota 55101
Telephone: (612) 297-4393

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption of Rules of the Minnesota Department of Labor and Industry, Governing Prevailing Wage Determinations

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

Catherine M. Peterson being first duly sworn, deposes and says:

That on the 7th day of March, 1984, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and groups who requested notice that the rules in the above-captioned matter have been submitted to the Attorney General.

GREGORY A. JOHNSON
NOTARY PUBLIC—MINNESOTA
DAKOTA COUNTY
My Commission Expires Oct. 12, 1984.

Catherine M. Peterson

Subscribed and sworn to before me this 7th day of March, 1984.

Gregory A. Johnson

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption of Rules of the Minnesota Department of Labor and Industry Governing Prevailing Wage Determinations

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this Date, March 7, 1984, for review as to legality and form as it relates to legality pursuant to Minn. Stat. S 14.16; 14.26; 14.32 (1982). The Attorney General will not approve the rules for at least ten calendar days after receipt to allow interested persons or groups time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, 204 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, telephone (612) 296-1288. Please note that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after Volume 8, Number 17 in the State Register and before submission to the Attorney General, you may contact me by writing to 444 Lafayette Road, St. Paul, Minnesota 55101 or calling (612) 296-2342.

STATE OF MINNESOTA

Steve Keefe

Steve Keefe, Commissioner
Department of Labor and Industry