

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1088

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 10-8-84 11-5-84
DATE FOR REVIEW 10-17-84
DATE DUE 10-22-84 11-15-84

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

Approved 11-8-84 Disapproved 10-22-84 mjc Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 11-9-84 Revisor approved 10.15.84 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed see SR

✓ Order Adopting 10.4.84 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
2 Sufficiency no small biz statement

✓ Affidavit of Mailing Notice or rulemaking
8.27.84 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
8.27.84 At least 30/~~20~~ days prior to ~~hearing~~/adoption
misprint in statutory citation

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

Agency's Findings of Fact

LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness contains small biz

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

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

TO : RAY BOHN, Director
Department of Public Service

DATE: 11/8/84

ATTN: CHRISTOPHER K. SANDBERG
Special Assistant Attorney General

FROM :

MARTHA J. CASSERLY
Special Assistant Atorney General

PHONE: 296-4692

SUBJECT:

RULES OF THE MINNESOTA DEPARTMENT OF PUBLIC SERVICE GOVERNING INSPECTION FEES, MINN. RULES PT. 7650.0100

On October 22, 1984 the above-captioned rules were not aproved by the Attorney General's Office based on non-compliance with Minn. Stat. § 14.115, subd. 4 (1983). Subsequent to the disapproval, additional information was submitted which led to reconsideration of the rules. Upon reconsideration, the Attorney General's Office concludes that these rules have satisfied the notice requirement of the Small Business Considerations in Rulemaking Section 14.115, subd. 4.

Upon your resubmission of the rules on November 6, 1984 these rules have been approved by the Attorney General and filed with the Secretary of State. Enclosed herewith are the rules you submitted. 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.

MJC:dw

cc: Duane Harves
Kathy Burek

AG copy

Department of Public Service
Weights and Measures Division

Adopted Rule Governing Licensing Fees for Weights and Measures Inspectors

Rule as Adopted

7650.0100 INSPECTION FEES.

Subpart 1. **Generally.** The Weights and Measures Division of the Department of Public Service shall charge the following fees for all regular and special inspections as required by Minnesota Statutes, sections 239.10 and 239.52:

A. For small scales classified by capacity;

(1) $11 for scales up to and including 250 pounds capacity;

(2) $18 for scales of 251 pounds capacity up to and including 1,000 pounds capacity; and

(3) $45 for scales of 1,001 pounds capacity up to and including 4,000 pounds capacity.

B. For specific classes of scales;

(1) $120 for a two section vehicle scale;

(2) $150 for a three section vehicle scale;

(3) $165 for a four section vehicle scale;

(4) $175 for a five section vehicle scale;

(5) $250 for a railroad track scale;

(6) $180 for a heavy capacity hopper scale located at a terminal grain elevator;

(7) $100 for a fertilizer, grain, or other hopper scale;

(8) $100 for a livestock scale;

(9) $60 for a wheel load weigher used for law enforcement purposes; and

(10) $50 for a jeweler's, pharmaceutical, or analytical balance.

C. For liquid measuring devices;

(1) $13 for a petroleum product pump;

(2) $40 for a vehicle tank meter or bulk meter; and

(3) $50 for a liquified petroleum gas meter or stationary dispenser of liquified petroleum gas.

D. For a linear measuring machine, $15.

E. For issuance or renewal of a placing-in-service permit, $40. This fee includes administrative costs, supplies to registered agents, and 20 minutes of equipment calibration time. Where calibration costs exceed this limit, the regular laboratory calibration rate will be charged.

Subp. 2. **Other rates.** The fees in subpart 1 are based on the average amount of time required for an individual inspection and test. This average includes travel, equipment, and administrative costs. For a nonroutine inspection and test, or when a device is not specified in subpart 1, the inspector shall calculate the total charge based on the following hourly rates:

A. $45 for one inspector and appropriate test equipment designated for light capacity scale and volumetric equipment testing;

B. $60 for one inspector and appropriate test equipment designated for heavy capacity scale testing; and

C. $75 for laboratory calibration time.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV - 9 1984
Joan Anderson Growe
Secretary of State
9:20 AM

APPROVED AS TO FORM AND LEGALITY
November 8 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

ADDRESS REPLY TO:
1100 BREMER TOWER
SEVENTH PL. AND MINNESOTA ST.
ST. PAUL, MN 55101
TELEPHONE: (612) 296-9412

November 1, 1984

Ms. Martha J. Casserly
Special Assistant Attorney General
Office of Attorney General
204 Administration Building
St. Paul, Minnesota 55155

Re: DEPARTMENT OF PUBLIC SERVICE, WEIGHTS & MEASURES DIVISION
RULES GOVERNING INSPECTION FEES, MINN. RULES PT. 7650.0100

Dear Ms. Casserly:

Based upon our telephone conversation today, the Department of Public Service hereby resubmits for your review the above-captioned proposed rules.

I understand that your office has retained all the materials associated with the rules, and will be able to review the resubmission on the basis of the materials presently at your disposal. Please let me know if you need anything else.

Sincerely,

CHRISTOPHER K. SANDBERG
Special Assistant Attorney General

Telephone: (612) 296-8115

Attorney For The Department of Public Service

CKS:JC

RECEIVED
NOV 05 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : RAY BOHN, Director
Department of Public Service

DATE: 10/22/84

ATTN: CHRISTOPHER K. SANDBERG
Special Assistant Attorney General

FROM :

PHONE:

MARTHA J. CASSERLY
Special Assistant Atorney General

296-4692

SUBJECT:

RULES OF THE MINNESOTA DEPARTMENT OF PUBLIC SERVICE GOVERNING INSPECTION FEES, MINN. RULES PT. 7650.0100

The above-referenced rules have not been approved by this office due to non-compliance with Minn. Stat. § 14.115, subd. 4 (Supp. 1983), the small business participation in rulemaking statute.

Minn. Stat. § 14.115, subd. 4 requires that an agency provide opportunity for small businesses to participate in the rulemaking process by utilizing at least one of the four specified notices. One of the alternative notices, subd. 4(c), requires "the direct notification of any small business that may be affected by this rule" (emphasis added). In an attempt to satisfy subd. 4(c), the agency mailed a copy of the Notice of Intent to Adopt Rules Without a Public Hearing to a list of associations which represent the businesses subject to the proposed rules. However, notice to the associations of the affected businesses, rather than the businesses themselves, is indirect notice to small businesses. Thus, the requirement of direct notification to small businesses has not been met.

To overcome this notice deficiency, direct notification must be made to any affected small businesses, or one of the other alternatives in subd. 4 of Minn. Stat. § 14.115 must be utilized.

After consideration of the above comments and agency action, if any, these rules may be resubmitted for our review. Upon resubmission, please include a new or supplemental Order Adopting, evidence of compliance with Minn. Stat. § 14.115, subd. 4 and four copies of the new Rule as Adopted. Also, please include a memorandum specifying that the rules are being resubmitted so that we may obtain our initial file in this matter.

If you have any questions concerning the issues raised in this memoranum, please do not hesitate to call me.

MJC:dw

cc: Duane Harves
Kathy Burek
Paul Marinac

SF-00009-02

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT

TO : Mary

DATE:

FROM : Chris Lindsey

PHONE:

SUBJECT: Ice Rules

Here's the list of groups/associations the W+M division used.

RECEIVED
OCT 30 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

DEPARTMENT OF PUBLIC SERVICE
WEIGHTS AND MEASURES DIVISION

July 26, 1984

ADOPTION OF FEES BY RULE

SERVICE LIST

PETROLEUM PRODUCTS

Northwest Petroleum Association
2345 Rice Street
St. Paul, MN 55113

Minnesota Petroleum Council
1025 Northern Federal Building
St. Paul, MN 55102

Minnesota Service Station Association
2700 Rice Street
St. Paul, MN 55113

National LP Gas Association
7515 Wayzata Blvd.
Minneapolis, MN 55426

RETAILERS

Minnesota Food Retailers Association
555 Wabasha N
St. Paul, MN 55102

Minnesota-Dakota Retail Hardware Assn.
3033 Excelsior Blvd.
Minneapolis, MN 55416

Minnesota Retail Merchants Association
Metro Square Building
St. Paul, MN 55101

GRAIN AND FERTILIZER

Minneapolis Grain Exchange
400 S 4th Street
Minneapolis, MN 55415
Attn: Horton Brooks

Minnesota Plant Food & Chemicals Assn.
1821 University Av.
St. Paul, MN 55104

Minnesota Association of Cooperatives
Hanover Building
St. Paul, MN

Farmers Elevator Association
400 S 4th Street
Minneapolis, MN 55415

Grain Elevator & Processing Society
400 S 4th Street
Minneapolis, MN 55415

Northwest Country Elevator Assn.
400 S 4th Street
Minneapolis, MN 55415

Northwest Terminal Elevator Association
400 S 4th Street
Minneapolis, MN 55415

Terminal Grain Merchants Association
400 S 4th Street
Minneapolis, MN 55415

(continued)

TRANSPORTATION

Minnesota Department of Transportation
Finance and Administration Division
Transportation Building
St. Paul, MN 55155

Minnesota Railroads Association
480 Cedar Av.
St. Paul, MN 55101

Department of Public Safety
State Patrol Division
Transportation Building
St. Paul, MN 55155

RECEIVED
OCT 30 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

ADDRESS REPLY TO:
1100 BREMER TOWER
SEVENTH PL. AND MINNESOTA ST.
ST. PAUL, MN 55101
TELEPHONE: (612) 296-9412

October 5, 1984

M. Michael Miles, Esq.
Assistant Attorney General
Attorney General's Office
204 Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155

Re: Proposed Rules of the Minnesota Department of Public Service Governing Inspection Fees Minn. Rules pt. 7650.0100 (1984)

Dear Mr. Miles:

Enclosed for your review under Minn. Stat. § 14.26 (1984 Supp.) are the following documents regarding the above-captioned rules:

- the rules as adopted - original and three copies (no changes have been made to the rules as proposed);
- the order adopting the rules;
- the order for notice of intent to adopt without public hearing;
- the notice of intent to adopt without public hearing;
- the affidavit of mailing of notice;
- the mailing list certificate;
- the rules as proposed - a copy of the relevant pages of the State Register is provided;
- the statement of need and reasonableness;
- the comments on the rules received by the agency;
- the certificate of compliance with rulemaking procedures.

J. Michael Miles, Esq.
Assistant Attorney General
Re: Minn. Rules pt. 7650.0100 (1984)

The following documents are not included, for the reasons stated with each:

- a certificate of board's adopting resolution - no board is involved;
- a notice of intent to solicit outside opinion - no outside opinion was sought;
- a certificate of board's authorizing resolution - no board is involved;
- any findings of fact and conclusions supporting changes to the proposed rules - no changes were made to the proposed rules;
- a petition for adoption - no petition was received by the agency;
- an affidavit of mailing notice of submission to the Attorney General or the notice of submission - no requests for notification were received by the agency.

Please feel free to contact me with any questions.

Sincerely,

CHRISTOPHER K. SANDBERG
Special Assistant
Attorney General

Telephone: (612) 296-8115

CKS:ddj

Enc.

cc: Mr. Michael Blacik
Regional Supervisor
Weights and Measures Division

RECEIVED
OCT 08 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Subp. 3. Contents. The panel or board's decision must include:

A. the date and location of the hearing and the names of the panel or board members who heard the case;

B. appearances by parties or their representatives, with the full name and mailing address of each;

C. the date the record of the hearing was closed;

D. a notice of the right of parties to appeal and how the appeal can be perfected;

E. findings, made pursuant to part 5217.0210, subpart 7, describing all facts relied upon in the decision, including those made under part 5217.0210, subpart 6;

F. an order containing a determination of each contested issue of fact or law; and

G. a memorandum explaining the reasons for the decision.

5217.0260 SUSPENSION OF RULES.

Upon a clear showing of extraordinary circumstances not contemplated by parts 5217.0010 to 5217.0270, the panel or board may, upon petition of a party, or upon its own petition five days after serving notice on the parties, suspend any requirements of parts 5217.0010 to 5217.0270. Parts 5217.0030, subpart 2; and 5217.0220, subpart 4, and other rules implementing requirements imposed by law, shall not be suspended even upon a clear showing of extraordinary circumstances.

5217.0270 SEVERABILITY.

If any provision of parts 5217.0010 to 5217.0270 is held to conflict with a governing statute, applicable provisions of the Minnesota Administrative Procedure Act, or other relevant law; to exceed the statutory authority conferred; to lack a reasonable relationship to statutory purposes or to be unconstitutional, arbitrary, or unreasonable; or to be valid or unenforceable for any other reason; the validity and enforceability of the remaining provisions of the part shall in no manner be affected.

EFFECTIVE DATE. Parts 5217.0010 to 5217.0270 are effective on the date specified in Minnesota Statutes, chapter 14, and govern all proceedings pending or commenced on or after that date.

Department of Public Service Weights and Measures Division

Proposed Rule Governing Licensing Fees for Weights and Measures Inspectors

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Department of Public Service proposes to adopt the above-entitled rules without a public hearing. The Director of the Department has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 14.21 to 14.28 (1983 Supp.), except that pursuant to Minnesota Statutes section 16A.128, subd. 2(a) (1984 Supp.), no public hearing will be held.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Persons submitting comments should identify the portion of the rule addressed, the reason for the comment, and any change proposed.

Persons who wish to submit comments should submit such comments to:

Michael Blacik
Regional Supervisor
Department of Public Service
Weights and Measures Division
Minneapolis, Minnesota 55403
Telephone: (612) 341-7200

Authority for the adoption of these rules is contained in Minnesota Statutes section 239.10 (1984 Supp.). Additionally, 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 Mr. Blacik 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. The Attorney General will also determine whether the Department has the authority to adopt the rules, and whether the record demonstrates a rational basis for the need for and reasonableness of the rules. 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 statement of such request to Mr. Blacik.

A copy of the proposed rules is attached to this notice.

The rules will not require the expenditure of moneys by local public bodies.

Copies of this notice and the proposed rules are available and may be obtained by contacting Mr. Blacik.

Ray Bohn, Director
Department of Public Service

Rule as Proposed (all new material)

7650.0100 INSPECTION FEES.

Subpart 1. Generally. The Weights and Measures Division of the Department of Public Service shall charge the following fees for all regular and special inspections as required by Minnesota Statutes, sections 239.10 and 239.52:

A. For small scales classified by capacity;

(1) $11 for scales up to and including 250 pounds capacity;

(2) $18 for scales of 251 pounds capacity up to and including 1,000 pounds capacity; and

(3) $45 for scales of 1,001 pounds capacity up to and including 4,000 pounds capacity.

B. For specific classes of scales;

(1) $120 for a two section vehicle scale;

(2) $150 for a three section vehicle scale;

(3) $165 for a four section vehicle scale;

(4) $175 for a five section vehicle scale;

(5) $250 for a railroad track scale;

(6) $180 for a heavy capacity hopper scale located at a terminal grain elevator;

(7) $100 for a fertilizer, grain, or other hopper scale;

(8) $100 for a livestock scale;

(9) $60 for a wheel load weigher used for law enforcement purposes; and

(10) $50 for a jeweler's, pharmaceutical, or analytical balance.

C. For liquid measuring devices;

(1) $13 for a petroleum product pump;

(2) $40 for a vehicle tank meter or bulk meter; and

(3) $50 for a liquified petroleum gas meter or stationary dispenser of liquified petroleum gas.

D. For a linear measuring machine, $15.

E. For issuance or renewal of a placing-in-service permit, $40. This fee includes administrative costs, supplies to registered agents, and 20 minutes of equipment calibration time. Where calibration costs exceed this limit, the regular laboratory calibration rate will be charged.

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.

Subp. 2. Other rates. The fees in subpart 1 are based on the average amount of time required for an individual inspection and test. This average includes travel, equipment, and administrative costs. For a nonroutine inspection and test, or when a device is not specified in subpart 1, the inspector shall calculate the total charge based on the following hourly rates:

A. $45 for one inspector and appropriate test equipment designated for light capacity scale and volumetric equipment testing;

B. $60 for one inspector and appropriate test equipment designated for heavy capacity scale testing; and

C. $75 for laboratory calibration time.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Economic Security

Adopted Rule Relating to Opportunities Industrialization Centers; Job Training

The rule proposed and published at *State Register*, Volume 8, Number 50, pages 2647-2648, June 11, 1984 (8 S.R. 2647) is adopted as proposed.

Pollution Control Agency

Adopted Emergency Amendments to Rules and Adopted Emergency Rules Governing Water Pollution Control Fund and Federal Grants

The rules proposed and published at *State Register*, Volume 8, Number 51, pages 2698-2712, June 18, 1984 (8 S.R. 2698) are adopted with the following modifications:

Emergency Amendments to Rules as Adopted

7075.0409 MUNICIPAL PROJECT LIST.

Subp. 2. Submissions by municipality. A municipality that requests project placement on the municipal project list shall submit to the agency by July 1 prior to the beginning of the fiscal year for which the municipal project list is prepared, an approvable facilities plan if the grant sought is a Step 2+3 grant, and approvable plans and specifications based on a facilities plan previously certified by this agency if the grant sought is a Step 3 grant. Each municipality requesting placement on the municipal project list shall also indicate its preferred funding source, if it has one. No municipality may be listed on the municipal project list unless the municipality has submitted the necessary facilities plan or plans and specifications.

7075.0419 ADVANCES OF ALLOWANCE.

Subp. 2. Advance of allowance. A municipality on the municipal needs list with a population in the service area of less than 10,000 people is eligible to apply for an advance of allowance. The application shall be submitted ~~by July 1 prior to the beginning of the federal fiscal year for which the municipal project list will be prepared~~ within 60 days after the date on which the agency informs the city in writing of its intent to offer an advance.

Subp. 3a. Submittal of facilities plan. In order to receive a Step 2 advance, a city must submit, by July 1 prior to the fiscal year in which the advance is awarded, an approvable facilities plan. The facilities plan must be approved before the advance will be awarded.

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed Adoption of Rules of the State Department of Public Service Governing Inspection Fees

ORDER ADOPTING RULES

Notice of the Department's intent to adopt the above-entitled rules without a public hearing was published in the State Register on August 27, 1984. No persons have registered their names with the Department for the purpose of receiving notice of proposed rules pursuant to Minn. Stat. § 14.14, subd. 1a (1984 Supp.). In lieu thereof, notice was sent by United States mail to those associations which are most likely to have an interest in the proposed rules on August 27, 1984.

After affording interested persons an opportunity to submit comments for 30 days after notice, receiving fewer than 25 requests for public hearing within the 30-day period, reviewing and considering the comments received, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules of the State Department of Public Service Governing Inspection Fees, Minn. Rules pt. 7650.0100 (1984), are adopted this 4th day of October, 1984 pursuant to authority vested in me by Minn. Stat. § 239.10 (1983 Supp.).

STATE OF MINNESOTA

RAY BOHN, Director
MINNESOTA DEPARTMENT OF PUBLIC SERVICE

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed Adoption of Rules of the State Department of Public Service Governing Inspection Fees	ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 8 day of August, 1984 that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Public Service, Weights and Measures Division for that purpose and be published in the State Register.

STATE OF MINNESOTA

RAY BOHN, Director of the
MINNESOTA DEPARTMENT OF PUBLIC
SERVICE

Department of Public Service
Weights and Measures Division

In the Matter of the Proposed Adoption of Rules of the State Department of Public Service Governing Inspection Fees.

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the State Department of Public Service proposes to adopt the above-entitled rules without a public hearing. The Director of the Department has determined that the proposed adoption of these rules will be noncontroverial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 14.21 to 14.28 (1983 Supp.), except that pursuant to Minnesota Statutes section 16A.128, subd. 2(a) (1984 Supp.), no public hearing will be held.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Persons submitting comments should identify the portion of the rule addressed, the reason for the comment, and any change proposed.

Persons who wish to submit comments should submit such comments to:

Michael Blacik
Regional Supervisor
Department of Public Service
Weights and Measures Division
Minneapolis, Minnesota 55403
Telephone: (612) 341-7200

Authority for the adoption of these rules is contained in Minnesota Statutes section 239.10 (1984 Supp.). Additionally, 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 Mr. Blacik 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. The Attorney General will also determine whether the Department has the authority to adopt the rules, and whether the record demonstrates a rational basis for the need for and reasonableness of the rules. 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 statement of such request to Mr. Blacik.

A copy of the proposed rules is attached to this Notice.

The rules will not require the expenditure of moneys by local public bodies.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Mr. Blacik.

State of Minnesota

RAY BOHN, Director of the Minnesota Department of Public Service

In the Matter of the Proposed
Adoption of Rules of the State
Department of Public Service
Governing Inspection Fees

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss:
COUNTY OF HENNEPIN)

Michael Blacik, being first duly sworn, deposes and says as follows:

1. That he is a Regional Supervisor of the Minnesota Department of Public Service, Division of Weights and Measures.

2. That he is responsible for the preparation of rules governing inspection fees for the Department.

3. That no persons or associations have registered their names with the Department for the purpose of receiving notice of the proposed adoption of rules by the Division of Weights and Measures.

4. That because no persons or associations have registered, it is impossible to send notice in that fashion.

5. That in order to provide effective notice, he has compiled a list of associations which represent the businesses subject to the proposed rules, and has attached a copy of that list hereto.

6. That he believes the attached list of associations fairly and adequately represents those groups most likely to have an interest in the proposed rules, and to be able to communicate with and for affected businesses.

7. That on the 27th day of August, 1984, at the City of Minneapolis, County of Hennepin, State of Minnesota, he served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the United States mail at said City of Minneapolis, a copy thereof, postage prepaid, on all the persons on the attached list.

Michael J. Blacik
MICHAEL BLACIK

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

Elizabeth L. Woodhouse
Notary Public

Elizabeth L. Woodhouse
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires Mar. 1, 1987

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of the Proposed
Adoption of Rules of the State
Department of Public Service
Governing Inspection Fees

CERTIFICATE

I hereby certify that no persons, associations, or other interested groups have requested, pursuant to Minn. Stat. § 14.14, subd. 1a, that their names be placed on file and maintained by the State Department of Public Service for the purpose of receiving notice of the proposed adoption of rules by the Department, and that as a result, there is no such list of persons, associations, or other interested groups as of 10:00 A.M., this 27th day of August, 1984.

I further certify that I have compiled a list of associations which represent persons, associations, and other interested individuals, and that that list is accurate and complete to the best of my knowledge as of 10:00 A.M., this 27th day of August, 1984.

Michael Blacik

MICHAEL BLACIK

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed
Adoption of Rules of the State
Department of Public Service
Governing Inspection Fees

STATEMENT OF NEED
AND REASONABLENESS

The Department of Public Service is required by Minnesota Statutes, Sections 239.10 and 239.52, to recover the full direct and indirect costs of all weights and measures related inspection and testing operations, except petroleum quality testing, checkweighing, certain complaint investigations and court appearances on behalf of other government agencies. The rules proposed by the Department in this rulemaking are designed to implement the Legislature's directives.

The Department proposes a system of flat rate fees, rather than straight hourly rates, to avoid the problems of miscalculation and misapplication inherent in the latter type of system. Each flat rate closely reflects the actual average cost of performing an individual inspection and test. The fees include the direct cost of the inspection plus a proportional amount of administrative, equipment and travel costs, and a proportion of the cost of monitoring the repair of weighing and measuring devices. The fees do not include any of the costs specifically excluded by statute. The total amount to be recovered in fiscal year 1985 will not exceed the actual cost of providing inspection and testing services. The fees have been approved by the Commissioner of Finance. A copy of that approval is attached.

As required by Minnesota Statutes, Section 14.115, the Department has considered the impact of these proposed fees on small businesses. The consideration of each of the required methods of reducing the impact is as follows:

(A) ESTABLISHMENT OF LESS STRINGENT COMPLIANCE OR REPORTING REQUIREMENTS:
Each flat rate fee is based on the average cost of performing an inspection. This structure benefits small businesses which generally have fewer devices at an individual site. In these cases the actual cost of the inspection is higher because time required for travel, equipment set-up and report writing does not vary in proportion to the number of devices at a business location. Therefore, the indirect cost per device test is higher at a small business. The test fee, however, remains at the same level regardless of the size of the business;

(B) ESTABLISHMENT OF LESS STRINGENT SCHEDULES OR DEADLINES FOR COMPLIANCE OR REPORTING REQUIREMENTS:
All fees are payable in thirty days. However, the Department does not charge interest or assess penalties for late payment of fees;

(C) CONSOLIDATION OR SIMPLIFICATION OF COMPLIANCE OR REPORTING REQUIREMENTS:
This method of reducing the impact of the rule is not applicable to the type of fee system proposed by the Department;

(D) ESTABLISHMENT OF PERFORMANCE STANDARDS TO REPLACE DESIGN OR OPERATIONAL STANDARDS REQUIRED IN THE RULE:
This method of reducing the impact of the rule does not apply to a system of fees;

(E) EXEMPTION OF SMALL BUSINESSES FROM ANY OR ALL REQUIREMENTS OF THE RULE:
Minnesota Statutes, Section 239.10, do not provide for any exemptions.

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT of Finance

Office Memorandum

TO : Michael Black
Weights and Measures Division
Department of Public Service

DATE: July 25, 1984

FROM : Allen A. Yozamp, Director
Budget Operations and Support

PHONE: 6-5188

SUBJECT: Inspection Fee Schedule

The June 12, 1984 proposed fee schedule is approved as submitted. This fee schedule can become effective when all the necessary rule making procedures have been accomplished and the revised schedule is published in the State Register.

AAY:jms

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed Adoption of Rules of the State Department of Public Service Governing Inspection Fees

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Christopher K. Sandberg, do hereby declare that I have examined the rules and all related documents and that, based upon my examination and my personal familiarity 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. Any exceptions are noted below.

Dated: October 5, 1984.

CHRISTOPHER K. SANDBERG
Special Assistant Attorney General