

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1504

DATE RECEIVED 7/26/88

REVIEW DATE 8/4/88

DUE DATE 8/9/88

APPROVED 8.8.88mjc

DISAPPROVED _____

WITHDRAWN _____

Docket No. 20009-~~7800~~ 0142

ADOPTED W/O HEARING _____

EMERGENCY RULE _____

REVISOR APPROVED _____

REVISOR DISAPPROVED _____

FILED W/SEC. OF STATE 8/8/88

RETURNED TO AGENCY 8/9/88

✓ Rule as adopted (4 copies)

_____ Notice to Solicit Outside Information/Opinion (if applicable)

_____ Date published in State Register
_____ Comments

_____ ~~Petition for Adoption of a Rule (if applicable)~~

✓ Board's Authorizing Resolution

5/13/88 Date adopted

✓ Proposed Rule

Yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

115C.07 Statutory Authority
~~Yes~~ Small Business Statement
~~no~~ Expenditure of public money statement
~~Yes~~ Signature

✓ Statement of Need and Reasonableness (if applicable)

~~Yes~~ Small Business Statement
~~no~~ Fees - § 16A.128

✓ Affidavit of ~~no~~ Mailing Notice of Intent to Adopt Rule

5/13/88 Date (30)/25 days before adoption
_____ Notice attached
_____ Copy of rule or summary attached

✓ Publication in State Register

~~6/12/88~~ 5-30-88 Date (30)/25 days before adoption

✓ 180-day deadline from:

6/12/88 end of comment period (§ 14.26) (rules without hearing)
_____ ~~effective date of statutory authority~~ (§ ~~14.29~~) (emergency rules)

~~✓ Resolution Adopting~~

~~_____ Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting

7.29.88 Date

_____ Written requests, submissions or comments

✓ Declaration of attorney

Louis Hoffman Name of SAAG representing agency

_____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

ATTORNEY GENERAL

FILE COPY

August 8, 1988

Louis Hoffman
Special Assistant Attorney General
Commerce Div., 1100 Bremer Tower

Martha J. Casserly
Special Assistant Attorney General
Public Finance Div., 515 DOT

6-9421

In the Matter of the Adopted Rules Relating to
Petroleum Tank Release Compensation Board.

The above-referenced rule has been approved as to its legality by the Attorney General on August 8, 1988.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:bbl
Enclosure
cc: Maryanne Hruby
Duane Harves

Department of Commerce

Adopted Permanent Rules Relating to Petroleum Tank Release Compensation Board

Rules as Adopted

2890.0010 DEFINITIONS.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Responsible person.** "Responsible person" means a person who is an owner or operator of a tank at any time during or after the release, except as provided in Minnesota Statutes, section 115C.021, subdivision 2.

2890.0060 REIMBURSEMENT OF COSTS.

Subpart 1. **Generally.** Each responsible person who has taken corrective action and incurred costs after June 4, 1987, in response to a release may apply to the board for partial reimbursement of eligible costs.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Eligibility of other persons.** Notwithstanding Minnesota Statutes, section 115.09, subdivisions 1 to 3, the board shall provide full reimbursement to a person who has taken corrective action if the board determines that:

A. the person took the corrective action in response to a request or order of the commissioner made under Minnesota Statutes, chapter 115C;

B. the commissioner has determined that the person was not a responsible person under Minnesota Statutes, section 115C.02; and

C. the costs for which reimbursement is requested were actually incurred and were reasonable.

2890.0130 ACTION ON NOTICE OF LIEN FILING.

In accordance with Minnesota Statutes, section 514.673, the commissioner shall send written notice of intent to file an environmental lien notice to each board member. If a regular

Approved by Revisor _____

meeting of the board is to be held within 30 days of receipt of the commissioner's notice, the approval of the lien filing must be considered at the next regular meeting. If no regular meeting is scheduled within the 30-day period, a special meeting to consider approval of the lien filing shall be scheduled at the request of at least one board member. If the board takes no action on the matter within the 30-day period, the commissioner may file the lien notice.

Approved
by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 8 1988
3:05PM
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
August 8 1988
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M.J. Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

CERTIFICATE OF THE
PETROLEUM TANK RELEASE COMPENSATION BOARD
AUTHORIZING RESOLUTION

I, F.P. TROUTWINE do hereby certify that I am a member and the chair of the Petroleum Tank Release Compensation Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the board duly and properly called and held on the 26th day of April 1988, that a quoram was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that Heidi Almquist, the executive director of the board, is hereby granted the authority and directed to sign and give the Notice of the Board's Intent to Adopt A Rule Without A Public Hearing governing the structure and operation of the Board and the claims administration process to all persons who have registered their names with the Board for that purpose and publish the Notice and Rule in the State Register, and to perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 13th day of May, 1988.

F. P. Troutwine
F. P. Troutwine
Chair

Mary Kay Troutwine
Attest by

Department of Commerce

Proposed Permanent Rules Relating to Petroleum Tank Release Compensation Board

Rules as Proposed

2890.0010 DEFINITIONS.

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Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Petroleum Tank Release Compensation Board

AGENCY: Department of Commerce

MINNESOTA RULES: Chapter 2890

The attached rules are approved for publication
in the State Register

Paul M. Marinac
Assistant Deputy Revisor

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of Rules Relating to Petroleum Tank Release Compensation Board

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in Minnesota Statutes, section 14.22-14.28. Authority for the adoption of these rules is contained in Minnesota Statutes, 115C.07 subd. 3. The sole purpose of these amendments is to conform to Minnesota Statutes 115C and Minnesota Statutes, section 514.673.

All persons have 30 days to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the department will proceed pursuant to Minnesota Statutes, sections 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to:

Heidi Almquist
Executive Director
Petroleum Tank Release
Compensation Board
Department of Commerce
500 Metro Square Building
St. Paul, MN 55101
(612) 296-3238

STATE OF MINNESOTA
MAY 16 1988
DEPARTMENT OF COMMERCE

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Heidi Almquist.

Pursuant to Minnesota Statutes Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Heidi Almquist.

F. P. Troutwine

F. P. Troutwine
Chair

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Petroleum Tank Release Compensation Board	ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 13th day of May 1988 that 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 Department of Commerce for that purpose and that said Notice be published in the State Register.

F. P. Troutwine
Chair

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to Petroleum Tank Release Compensation Board

STATEMENT OF NEED AND REASONABLENESS

Background

Chapter 389, Laws of Minnesota 1987 created Chapter 115C of Minnesota Statutes, commonly known as the Petroleum Tank Release Clean-up Act. The purpose of the act was to create a mechanism to take corrective action in regard to petroleum tank releases and to provide for a means of compensation for a portion of the cost of the corrective action. Chapter 389 created the Petroleum Tank Release Compensation Board to administer the Clean-up Fund. The 1988 Minnesota State Legislature amended Chapter 115C thus making it necessary that the Petroleum Tank Release Compensation Board amend its rules in order to conform to statute.

Rules

2890.0010 Definitions

Subp. 6. Responsible Person

The definition of "responsible person" has been changed to conform to the statutory definition.

2890.0060 Reimbursement of Cost

Subp. 1. Generally

The date of eligiblity for releases has been amended to reflect the statutory change.

Subp. 4. Eligibility of Other Persons

This subpart repeats the new statutory language regarding full reimbursement for innocent landowners who have incurred corrective action costs.

2890.0130 Action on Notice of Lien Filing

Minnesota Statutes 514.673 requires the Petroleum Tank Release Compensation Board approve lien filings to be made by the commissioner of the pollution control agency. This section establishes a process by which lien filings may be considered.

The process requires automatic consideration of a lien notice filing at the next regular meeting if the next regular meeting falls within the statutory time frame of 30 days. If not, a special meeting to consider the lien notice may be called by any one board member rather than the otherwise required three board members.

Small Business Consideration

Minnesota Statutes 14.115 requires that the impact of the rules upon small businesses be considered in regard to any rulemaking procedure. The effect of the first three amendments given above is to expand the pool of eligible persons. Therefore those amendments in fact have a positive impact on businesses, large and small.

In regard to the fourth amendment concerning board review of lien filing, the process established is designed to ensure every land/business owner have a fair hearing before a lien may be filed against his or her property. The rule provides for a special meeting to consider a lien filing notice to be held at the request of any one board member rather than the customary three. Therefore, the process gives due consideration to small and large businesses alike.

Proposed Rules

Pursuant to Minn. Stat. of 1982, §§ 14.22, 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 25 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 the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 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 §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce

Proposed Permanent Rules Relating to Petroleum Tank Release Compensation Board

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes,* 115C.07 subd. 3. The sole purpose of these amendments is to conform to *Minnesota Statutes* 115C and *Minnesota Statutes*, section 514.673.

All persons have 30 days to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the department will proceed pursuant to *Minnesota Statutes*, sections 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to:

Heidi Almquist
Executive Director
Petroleum Tank Release Compensation Board
Department of Commerce
500 Metro Square Building
St. Paul, MN 55101
(612) 296-3238

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Heidi Almquist.

Pursuant to *Minnesota Statutes* Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Heidi Almquist.

F. P. Troutwine
Chair

Rules as Proposed

2890.0010 DEFINITIONS.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Responsible person.** "Responsible person" means a person who is an owner or operator of a tank at any time during or after the release, except as provided in *Minnesota Statutes*, section 115C.021, subdivision 2.

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Subpart 1. **Generally.** Each responsible person who has taken corrective action and incurred costs after June 4, 1987, in response to a release ~~reported on or after June 4, 1987,~~ may apply to the board for partial reimbursement of eligible costs.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Eligibility of other persons.** Notwithstanding *Minnesota Statutes*, section 115.09, subdivisions 1 to 3, the board shall provide full reimbursement to a person who has taken corrective action if the board determines that:

A. the person took the corrective action in response to a request or order of the commissioner made under *Minnesota Statutes*, chapter 115C;

B. the commissioner has determined that the person was not a responsible person under *Minnesota Statutes*, section 115C.02; and

C. the costs for which reimbursement is requested were actually incurred and were reasonable.

2890.0130 ACTION ON NOTICE OF LIEN FILING.

In accordance with *Minnesota Statutes*, section 514.673, the commissioner shall send written notice of intent to file an environmental lien notice to each board member. If a regular meeting of the board is to be held within 30 days of receipt of the commissioner's notice, the approval of the lien filing must be considered at the next regular meeting. If no regular meeting is scheduled within the 30-day period, a special meeting to consider approval of the lien filing shall be scheduled at the request of at least one board member. If the board takes no action on the matter within the 30-day period, the commissioner may file the lien notice.

Department of Jobs and Training

Proposed Permanent Rules Relating to Unemployment Compensation; Employer Taxes

Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing If Twenty-Five or More Persons Request a Hearing

Notice is hereby given that the State Department of Jobs and Training proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28.

The proposed rules interpret those parts of *Minnesota Statutes*, section 268.03 to 268.24, which impose taxes on employers for purposes of the Unemployment Compensation Program. These rules have been developed as authorized by *Minnesota Statutes*, section 268.021, which permits the Commissioner of the Department of Jobs and Training to adopt rules governing programs the Commissioner administers under *Minnesota Statutes*, chapter 268.

Persons interested in these rules will have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules and comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON JULY 22, 1988, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS

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.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules of the Petroleum Tank Release Compensation Board

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT A PUBLIC HEARING

Notice of the Board's intent to adopt the above-entitled rule was published in the State Register on May 30, 1988. No persons have requested that their names be maintained on a list maintained by the board pursuant to Minnesota Statutes, section 14.4, subdivision 1a and 14.22. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was published and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the board.

Based on the comments and evidence in the record before the board, I find the following:

No comments were received and no evidence presented in the record regarding changes to the rules as published.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rules identified as Rules of the Petroleum Tank Release Compensation Board as modified as adopted this 29th of July pursuant to the authority vested in the Board by Minnesota Statutes, section 115C.07, subd. 3.

F.P. Troutwine
Chair

Dated this 29th day of
July, 1988

STATE OF MINNESOTA
COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the Petroleum Tank Release Compensation Board

Affidavit of
Heidi Almquist

Heidi Almquist, being first duly sworn, does hereby state and avow that she is the Executive Director of the Petroleum Tank Release Compensation Board. That of this date no persons have requested notice of any rule proceeding and therefore there is no list of such people pursuant to Minnesota Statute 14.14, Subd. 1a and therefore no mailing was made regarding this rule proceeding.

Heidi Almquist
Heidi Almquist

Subscribed and sworn to before me this
21st day of July 1988.

Cynthia Claason
Notary Public

CYNTHIA L. CLAASON
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES FEBRUARY 11, 1992

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

In the Matter of the Proposed
Rules Relating to the
Petroleum Tank Release
Compensation Board

DECLARATION OF COUNSEL

I, Louis Hoffman, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedures Act and Minnesota Rules part 2010 have been complied with. For Attorney General billing purposes, the four-digit docket client code is 0142.

LOUIS HOFFMAN
Special Assistant
Attorney General

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : July 25, 1988

RECEIVED
JUL 26 88
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

TO : MARTHA J. CASSERLY
Special Assistant
Attorney General

FROM :
LOUIS HOFFMAN
Special Assistant
Attorney General

PHONE :

SUBJECT : 296-9418

In the Matter of the Proposed Rules Relating to the Petroleum Tank Release Compensation Board.

Attached are the following materials relating to the above-captioned Proposed Rules:

1. Certificate of the Petroleum Tank Release Compensation Board Authorizing Resolution
2. Proposed Rules with Revisor's Certificate
3. Notice of Intent to Adopt Rules Without a Public Hearing
4. Order for Notice of Intent to Adopt Rules Without a Public Hearing
5. Statement of Need and Reasonableness
6. Four copies of Rule as Adopted
7. Affidavit of Heidi Almquist
8. Declaration of Counsel

LH/pas
Attachments
cc: Heidi Almquist