

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

File No. 1552 Docket No. 05.0009.1260

DATE RECEIVED 12/16/88 ADOPTED W/O HEARING Y

REVIEW DATE 12/28/88 EMERGENCY RULE

DUE DATE 12/30/88 REVISOR APPROVED

APPROVED 12.27.88 mjc REVISOR DISAPPROVED

DISAPPROVED ✓ FILED W/SEC. OF STATE

WITHDRAWN RETURNED TO AGENCY

✓ 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~~

~~Date adopted~~

✓ Proposed Rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

144.05 (b)+(c), 144.122(a), 327.16 sub 3

157.03+144.12 Statutory Authority

yes Small Business Statement

yes Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness (if applicable)

yes Small Business Statement

yes Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

9/29/88 Date (30)/25 days before adoption

OK Notice attached

~~Copy of rule or summary attached~~

✓ Publication in State Register

10/3/88 Date (30)/25 days before adoption

180-day deadline from:

11/2/88 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

12/16/88 Date

~~Written requests, submissions or comments~~

✓ Declaration of attorney

Paul Zerby Name of SAAG representing agency

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

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

ATTORNEY GENERAL - Health

December 16, 1988

RECEIVED
DEC 16 88
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

Martha J. Casserly
Special Assistant
Attorney General

Paul G. Zerby
Special Assistant
Attorney General

341-7272

In the Matter of the Proposed Adoption of the Rules Amendments of the Department of Health Rules Relating to Initial and Renewal License Fees for Food and Beverage and Lodging Establishments

Enclosed for your review, pursuant to Minn. Stat. § 14.26 (1986) and Minn. Rules pt. 2010.0300 (1987), are the following documents to support the above-referenced rules amendments:

1. Rule as proposed with a certificate of approval as to form by the Revisor of Statutes attached;

2. Notice of Intent to Adopt a Rules Amendments Without a Public Hearing, Notice of Intent to Adopt a Rules Amendments With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing (as mailed);

3. Statement of Need and Reasonableness;

4. Affidavit of Mailing the Notice of Intent to Adopt a Rules Amendments Without a Public Hearing, Notice of Intent to Adopt a Rules Amendments With a Public Hearing If 25 or More Persons Request Hearing, and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing;

5. Notice of Intent to Adopt a Rules Amendments Without a Public Hearing, Notice of Intent to Adopt a Rules Amendments With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing (as published in the State Register);

6. Rule as adopted (original and three copies);

7. Findings of Fact, Conclusions, and Order Adopting Rules Amendments Without a Public Hearing;

8. Declaration of Counsel;

PGZ:dsc

Enclosures

ATTORNEY GENERAL

December 27, 1988

PAUL ZERBY
Special Assistant
Attorney General

MARTHA J. CASSERLY
Special Assistant
Attorney General

6-6839

In the Matter of the Adopted Rule Relating to
Fees for Food, Beverage, and Lodging Establishments

The above-referenced rule has been approved as to its legality by the Attorney General on December 27, 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
Enclosures

cc: William Brown
Maryanne Hruby

Department of Health

Adopted Permanent Rules Relating to Fees for Food, Beverage, and Lodging Establishments

Rules as Adopted

4625.2300 INITIAL AND RENEWAL LICENSE FEES, LICENSE EXPIRATION DATES.

Subpart 1. **Fee schedule.** License applications for lodging establishments as defined in part 4625.0100 shall be accompanied by a fee of $67 plus $2.70 per room, up to a maximum total fee of $337.50.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Penalty fee.** A penalty fee of $20 shall be added to the amount of the license fee if the application has not reached the office of the commissioner of health before January 31, or in the case of a new business, 30 days after opening the business.

Subp. 5. [Unchanged.]

4625.5000 INITIAL AND RENEWAL LICENSE FEES, LICENSE EXPIRATION DATES.

Subpart 1. **Fee schedule.** Initial and renewal license applications for food and beverage establishments as defined in part 4625.2400 shall be accompanied by the applicable fee as determined from the schedule below. The average number of employees shall be computed in accordance with Minnesota Statutes, section 157.03.

A. one to four employees, $70.35;

B. five to 18, $120.60;

C. 19 to 28, $180.90;

D. 29 to 35, $251.25;

E. 36 and over, $301.50; and

F. limited food or beverage establishments that sell only prepackaged foods that receive heat treatment and are served in the package, mobile units, or itinerant and special

event stands serving food or beverages for 14 days or less in any single location, $50.25.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Penalty fee.** A penalty fee of $20 shall be added to the amount of the license fee if the license renewal application has not reached the commissioner of health before January 31 of the year for which the license is to be issued, or in the case of a new business, 30 days after the opening the business.

Subp. 5. [Unchanged.]

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 27 1988

APPROVED AS TO FORM AND LEGALITY.

December 27 1988

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

DEC 27 1988

11:04 A.M.

Department of Health

Proposed Permanent Rules Relating to Fees for Food, Beverage, and Lodging Establishments

Rules as Proposed

4625.2300 INITIAL AND RENEWAL LICENSE FEES, LICENSE EXPIRATION DATES.

Subpart 1. **Fee schedule.** License applications for lodging establishments as defined in part 4625.0100 shall be accompanied by a fee of ~~$50~~ $67 plus ~~$2~~ $2.70 per room, up to a maximum total fee of ~~$250~~ $337.50.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Penalty fee.** A penalty fee of ~~$10~~ $20 shall be added to the amount of the license fee if the application has not reached the office of the commissioner of health before January 31, or in the case of a new business, 30 days after ~~the~~ opening ~~of such~~ the business.

Subp. 5. [Unchanged.]

4625.5000 INITIAL AND RENEWAL LICENSE FEES, LICENSE EXPIRATION DATES.

Subpart 1. **Fee schedule.** Initial and renewal license applications for food and beverage establishments as defined in part 4625.2400 shall be accompanied by the applicable fee as determined from the schedule below. The average number of employees shall be computed in accordance with Minnesota Statutes, section 157.03.

A. one to four employees, ~~$52.50~~ $70.35;

B. five to 18, ~~$90~~ $120.60;

C. 19 to 28, ~~$135~~ $180.90;

D. 29 to 35, ~~$187.50~~ $251.25;

E. 36 and over, ~~$225~~ $301.50; and

F. limited ~~or temporary~~ food ~~service~~ or beverage establishments that sell only prepackaged foods that receive heat treatment and are served in the package, mobile units, or

Approved by Revisor KMT

itinerant and special event stands serving food or beverages for 14 days or less in any single location, ~~$37.50~~ $50.25.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Penalty fee.** A penalty fee of ~~$10~~ $20 shall be added to the amount of the license fee if the license renewal application has not reached the commissioner of health before January 31 of the year for which the license is to be issued, or in the case of a new business, 30 days after the opening ~~of such~~ the business.

Subp. 5. [Unchanged.]

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Fees for Food, Beverage, and Lodging Establishments

AGENCY: Department of Health

MINNESOTA RULES: Chapter 4625

The attached rules are approved for publication
in the State Register

Kathleen M. Traxler
Assistant Revisor

Office of the Revisor of Statutes
Administrative Rules

Kathleen M. Traxler
Assistant Revisor
296-0956

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

October 4, 1988

Charles B. Schneider
Department of Health
717 Delaware St. S.E. Box 9441
Minneapolis, Minnesota 55440

RE: AR1376 Fees for Food, Beverage and Lodging Establishments

Dear Mr. Schneider:

Enclosed is a stripped copy of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

If your emergency rules or rules adopted without public hearing are adopted without modification, please submit the required number of copies of this document to the Attorney General for final approval. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will then input the changes, approve the document as to form, and provide you with copies to submit to the Attorney General.

If your rules are adopted after public hearing without modification, please submit one copy of this document to our office for final approval as to form. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will input the changes, approve the document as to form, and provide you with copies.

Very truly yours,

Kathleen M. Traxler
nk

Kathleen M. Traxler

KMT/nm
Encl.

09-16-88

STATE OF MINNESOTA BEFORE THE MINNESOTA

COUNTY OF HENNEPIN COMMISSIONER OF HEALTH

IN THE MATTER OF AMENDMENT TO RULES RELATING TO LICENSE FEES CHARGED TO OPERATE FOOD, BEVERAGE AND LODGING ESTABLISHMENTS.

STATEMENT OF NEED AND REASONABLENESS

Amendments to Minnesota Rules, Chapter 4625 are being proposed to increase the license fees to cover the costs of the licensing and inspection programs mandated by Minn. Stats., Section 157.03 (1986).

LEGAL BASIS -

State law requires that fees charged for services cover the costs for providing those services (Minn. Stats., Section 16A.128 [1986]). The Section of Environmental Field Services in the Minnesota Department of Health (MDH) inspects all food beverage and lodging establishments which are not under the licensing and inspection control of a Community Health Services (CHS) agency (local health agency composed of one or more cities, or one or more counties). The purpose of the proposed fee increase is to assure that the state's program costs will be covered by the revenues generated from the license fees. The fees were last increased by an average of 25% beginning in 1986.

Program demands have expanded and operating costs have continued to rise during the three year period since the last increase, resulting in costs exceeding current revenue estimates.

BACKGROUND -

Minnesota law mandates that the costs of programs which set and collect fees be covered by the revenues generated from those fees (Minn. Stats., Section 16A.128 [1986]). For the past

several years, the food, beverage and lodging establishment inspection program has run at an increasing deficit.

In 1987, the State Legislature mandated an inspection frequency for each establishment that is based upon public health risk (Minn. Stats., Section 157.04, 1987 Supp.). Since the MDH was unable to meet the new statutory inspection frequency, the 1988 Legislature authorized five new public health sanitarian positions and one half-time clerical position to meet inspection frequency requirements and program clerical needs (Minnesota Laws, Chapter 689, Section 247 [1988]). The new staff positions were specifically designated for licensing, inspection and enforcement activities for food, beverage or lodging establishments and manufactured home parks or recreational camping areas. The Legislature also authorized the commissioner of health to increase license fees charged for food, beverage and lodging establishments in order to cover the portion of expenses incurred from the new 5.5 positions for this program activity.

It is estimated that the new staff will spend 88% of their time on food, beverage and lodging program activities, and the remaining 12% in manufactured home parks and recreational camping areas.

The program deficit is rising sharply in FY89 due to increasing costs for existing staff (averaging 4% annually) and the need to support newly hired staff and their related travel expenses. In addition, as counties with larger numbers of licenseable establishments assume responsibility for this program activity, the state is left with establishments which are generally smaller and located in more isolated areas, resulting

in increased travel expenses. The following illustrates the rise in mileage for inspections over the last few years.

MILES DRIVEN PER LICENSED ESTABLISHMENT

Calendar Year						
1978	1980	1982	1984	1985	1986	1987
14.1	14.2	16.2	16.0	19.2	24.1	23.1

In addition to mileage costs, other travel expenses for such things as meals and lodging are necessary as staff are responsible for larger territories.

These factors when combined necessitate that the food, beverage and lodging license fees be increased, starting in 1989, by a factor of 34%. Additional detail is provided in Table 1, footnote 3. Since the cost increase is due, in part, to more frequent inspections, facilities will enjoy an improved level of service, which will inure to the benefit of all clients who visit these establishments by providing a higher level of public health protection.

COST OF IMPLEMENTATION -

Provisions of the Administrative Procedures Act require that certain costs of implementation of proposed rules be considered and addressed (Minn. Stats., Sections 14.11 and 14.115 [1986]). The costs to be considered are those which might be incurred by local units of government and small businesses.

COSTS OF IMPLEMENTATION TO LOCAL GOVERNMENT -

If the adoption of a rule by an agency will require the expenditure of public monies by local public bodies, Minn. Stats., Section 14.11, subdivision 1 (1986), requires the agency

to give a reasonable estimate of total costs to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rules, if the estimated cost exceeds $100,000 in either of the two years. The following is the Department's estimate of costs to local units of government for implementation of the proposed rules.

In Minnesota, local units of government may enter into a delegation of authority agreement with the MDH (Minn. Stats., Chapter 145A, 1987 Supp.). Under these agreements, the MDH delegates certain licensing, inspection and enforcement responsibilities to local health agencies. As a part of this delegation agreement, a local health agency may determine that it wants to adopt a license fee schedule similar to the state's fee scheule. Many CHS agencies have always charged the same fee as that charged by the state and they may now be able to increase their fees with less local opposition if they can use the new state fee structure as a guide.

Similar to the state, a local health agency may increase its own license fees taking into account any costs that would be incurred by administrative procedures necessary to raise the fees. If a local unit of government incurs some administrative costs for increasing its license fees, these costs will be incurred as a result of their decision to raise the fees and not a result of the proposed amendments. Since the proposed amendments are not mandatory for local health agencies, local units of government will not incur costs attributable to the proposed amendments which would exceed $100,000 per year.

SMALL BUSINESS CONSIDERATIONS -

Minn. Stats., Section 14.115 (1986), requires that an agency consider five factors for reducing the impact of proposed rules on small businesses. Small business is defined as "...a business entity, including its affiliates that (a) is independently owned and operated; (b) is not dominant in its field; and (c) employs fewer than 50 full time employees or has gross annual sales of less than 4 million dollars...." Many of the establishments governed by Chapter 157 (Minn. Stats. 1986) would come under the definition of small business. The MDH has considered each of the five factors as follows:

1. The establishment of less stringent compliance or reporting requirements. The proposed amendments do not impose more stringent standards than those already in effect for operating these types of establishments.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements. The proposed amendments do not impose any new reporting requirements upon operators of food, beverage and lodging establishments.

3. The consolidation or simplification of compliance on reporting requirements. Since there are no reporting requirements under these proposed rules, there is no opportunity for consolidation or simplification.

4. The establishment of design standards for small businesses. The proposed amendments do not affect the regulations governing the operation of food, beverage and lodging establishments. Therefore, it is not relevant to establish

design standards for small businesses in order to comply with the proposed amendments.

5. The exemption of small businesses from the rules. State law (Minn. Stats., Section 157.03 [1986]) already establishes that license fees must cover program costs. The legislature has determined that all food, beverage and lodging establishments shall pay a license fee and did not provide for the exemption of small businesses. The Department would violate the legislative intent if it were to exempt small businesses.

OUTLINE OF PROPOSED CHANGES -

Minn. Rules, part 4625.2300, Subpart 1. Lodging Establishment Fees.

The existing lodging establishment fee schedule is a $50.00 base fee plus a $2.00 fee per room/cabin/unit up to 100 rooms/cabins/units. The proposed increases raise both the base fee and the individual room/cabin/unit fee by 34%. The MDH proposes to increase state license fees for lodging establishments as follows:

Proposed Base Fee	+	Proposed Unit Fee	@	No. of Units	Present Fee	Proposed Fee
$67.00		$2.70		5	$ 60.00	$ 80.50
				20	$ 90.00	$121.00
				50	$150.00	$202.00
				55	$160.00	$215.50
				70	$190.00	$256.00
				85	$220.00	$296.50
				100	$250.00	$337.00

Minn. Rules, part 4625.2300 Subp. 4. Lodging Establishment Late Fee.

The MDH proposes to increase the late fee for lodging establishment licenses from $10 to $20. This increase is proposed to cover the increase in costs for the effort to handle late payments, which may include several follow-up letters and an on-site visit to see if the establishment is still in operation. In FY87 the MDH collected 665 penalty fees on food, beverage and lodging establishments totaling $6,650. During FY88, 566 penalties were collected totaling $5,660. The fee has not been changed since the late 1970's.

Minn. Rules, part 4625.500 Subpart 1. Food and Beverage Establishment Fees.

The MDH proposes to increase state license fees for food and beverage establishments by 34%, as follows:

No. of Employees	Current Fee	Proposed Fee
1 - 4	$ 52.50	$ 70.35
5 - 18	$ 90.00	$120.60
19 - 28	$135.00	$180.90
29 - 35	$187.50	$251.25
36 and over	$225.00	$301.50

Limited food or beverage establishments (places that sell only prepackaged foods which receive heat treatment and are served in the package, mobile units, itinerent and special event stands serving food or beverages for 14 days or less in any single location) shall be raised from:

$ 37.50 $ 50.25

Minn. Rules, part 4625.5000 Subp. 4. Food and Beverage Establishment Late Fee.

See justification above for rule part 4625.2300, Subp. 4.

The recent cost/revenue history for the licensing, inspection and enforcement service along with the estimated cost/revenue for FY89 - FY91 is listed in Table 1. This table shows program costs, deficits and revenues that are necessary to cover anticipated program costs.

Table 1

COSTS AND REVENUES FOR FOOD, BEVERAGE AND LODGING PROGRAM

	Actual		Estimated		
	FY87	FY88	FY89	FY90	FY91
Revenue	$590.2[1]	584.7	751.3[2]	751.3	751.3
Costs	$599.6[3]	576.5[4]	666.0	772.8[5]	811.4[6]
Difference	(9.4)	8.2	85.3	(21.5)	(60.1)
Accumulated Difference		(1.2)	84.1	62.6	2.5
Number Paying Fee	6,672	6,801	6,559	6,559[7]	6,559

1. Dollars in thousands ($137,787 = 137.8)

2. Estimated revenue is based on fees being increased by 34% starting January 1989. Delegation of licensing to Beltrami County results in a loss of $24,000 from the 1988 revenue amount.

3. Costs for inspection and licensing of food, beverage and lodging establishments are calculated on the basis of the percentage of staff time spent on the activity. The percentage is obtained from daily reports which are kept by all professional staff in the Section who are responsible for more than a single activity. Time reports are recorded at 5-minute intervals to show a complete day's effort. The costs include salary, supplies and expenses, travel and indirect costs. As of 01/01/89, the Legislature authorized five additional public health sanitarians and one half-time clerical position. Costs for FY89 reflect the new staff position expenses that will be incurred during the last six months of FY89 in which they will be employed. Eighty-eight percent (88%) of their time will be spent on FB&L program activities.

4. Cost reduction reflects reassignment of higher salaried staff to other programs.

5. Costs include 4% (inflation) increase over 1989 costs, purchase of new computer and replacement of outdated or failing field testing equipment.

6. Cost increase includes annual maintenance of new equipment + 4% (inflation) increase over 1990 costs.

7. Estimated number of licenses is shown as not changing because of the uncertainty about new facilities becoming licensed vs. existing facilities being licensed by local units of government.

CONCLUSION -

This statement has addressed the legal basis for promulgating these amendments as well as the necessary consideration for local governments and small businesses. It also addresses, on an individual basis, each proposed amendment and the reasoning behind it.

It is our opinion that these proposed changes are both necessary and reasonable. They are necessary in that the Legislature has mandated that the commissioner of health determine and assess the necessary fees to cover food, beverage and lodging establishment licensing, inspection and enforcement program costs.

The proposed rules are reasonable in that the increase is calculated to generate that amount of revenue which will equal costs through 1991, thus eliminating the need for another fee increase within the next three fiscal years.

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : Budget Operations
Department of Finance

DATE : September 15, 1988

TO : Bruce Reddeman, Director

FROM : David Hovet, Director
Financial Management

PHONE : 623-5072

SUBJECT : Fee Approval

Please find attached a statement of need and reasonableness for increasing the Food Beverage and Lodging Licenses Fees and the Manufactured Home Park and Recreational Camping Area license fees for your review and approval. We are planning to send these rules revision to the State Register on Monday so we need your preliminary approval by then. If you should have any questions, please contact me.

Upon review of the attached supporting information justifying the reasonablesness of the proposed fees and pursuant to the authority vested in the Department of Finance under Minnesota Statues 16A.128 (1987) the fees set forth in the proposal of the Department of Health are hereby approved.

Sept. 19, 1988
Date

Bruce Reddeman, Director
Budget Operations and Support

Permit record copy

September 19, 1988

The Honorable Gene Merriam, Chair
Senate Finance Committee
122 Capitol
St. Paul, Minnesota 55155

Dear Senator Merriam:

Enclosed for your information is a copy of a notice of rulemaking which proposes an increase in various license fees. The notice is scheduled to appear in the State Register of October 3, 1988.

Sincerely yours,

Sister Mary Madonna Ashton
Commissioner of Health

SMMA/PMB:pjb
Enclosure
bc: E.O. (Dee)

September 19, 1988

The Honorable Glen H. Anderson, Chair
House Appropriations Committee
365 State Office Building
St. Paul, Minnesota 55155

Dear Representative Anderson:

Enclosed for your information is a copy of a notice of rulemaking which proposes an increase in various license fees. The notice is scheduled to appear in the State Register of October 3, 1988.

Sincerely yours,

Sister Mary Madonna Ashton
Commissioner of Health

SMMA/PMB:pjb
Enclosure
bc: E.O. (Dee)

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of the Rules Amendments of the Department of Health Rules Relating to Initial and Renewal License Fees for Food and Beverage Establishments, Mobile Home Parks and Recreational Camping Areas, and Lodging Establishments

ALTERNATIVE NOTICES

NOTICES OF INTENT TO ADOPT RULES AMENDMENTS WITHOUT PUBLIC HEARINGS, NOTICES OF INTENT TO ADOPT RULES AMENDMENTS WITH A PUBLIC HEARING ON THE PROPOSED AMENDMENTS TO A RULE IF 25 OR MORE PERSONS REQUEST A HEARING WITH RESPECT TO PROPOSED AMENDMENTS TO THAT RULE, AND NOTICES OF INTENT TO CANCEL HEARING ON THE PROPOSED AMENDMENTS TO A RULE IF FEWER THAN 25 PERSONS REQUEST A HEARING WITH RESPECT TO THE PROPOSED AMENDMENTS TO THAT RULE

I.

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (hereinafter "Department") hereby gives notice of its intent to adopt rules amendments without public hearings under the noncontroversial rulemaking procedure of Minn. Stat. §§ 14.22 to 14.28 (1986). However, in case 25 or more persons request a hearing with respect to the proposed amendments to a rule thus necessitating that one be held pursuant to Minn. Stat. § 14.25 (1986), and in order to expedite the rulemaking process should that occur, the Department is at the same time hereby giving notice of hearing on the proposed rule amendments pursuant to Minn. Stat. §§ 14.131 to 14.20 (1986). The hearing on the proposed amendments to a rule will, of course, be cancelled if 25 or more people do not request that one be held with respect to the proposed amendments to that rule. With the comment period closing on November 2, 1988, there will be four days before the scheduled hearing date. This four-day period will give interested persons time to contact the Department to find out whether the hearing will be cancelled.

II.

NOTICES OF INTENT TO ADOPT RULES AMENDMENTS WITHOUT PUBLIC HEARINGS

NOTICE is HEREBY GIVEN that the Minnesota Department of Health (hereinafter "Department") proposes to adopt the above-captioned rules amendments without public hearings unless 25 or more persons submit written requests for a public hearing with respect to the proposed amendments to a rule. The Department has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22 to 14.28 (1986).

Interested persons shall have 30 days from the date this notice is published in the State Register to submit comments in support of or in opposition to the proposed rules amendments. The 30 days will expire on November 2, 1988. Comment is encouraged. Each comment should identify the portions of the proposed rules amendments being addressed, the reason for the comment, and any change proposed to the rules amendments by the comment. The proposed rules amendments 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 in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules amendments. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portions of the proposed rules amendments addressed, the reason for the request, and any changes they want made to the proposed rules amendments. If a person desires that a hearing be held on only a portion of the proposed rules amendments, it is requested that the Department be informed of the specific portion of the amendments on which a hearing is being requested at the time that the hearing request is made. This will enable the Department to limit the hearing, if one is held, to the specific issues of concern. A

public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed amendments to a rule or a portion thereof by November 2, 1988, thus necessitating that one be held with respect to the proposed amendments to that rule. If a hearing is required, it will be held in accordance with the provisions of Minn. Stat. §§ 14.131 to 14.20 (1986) and the hearing notice provided below.

Comments or written requests for a public hearing should be submitted to:

Charles B. Schneider, R.S., Chief
Environmental Field Services
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, Minnesota 55440
Telephone: (612) 623-5337

The statutory authority of the Department to adopt the proposed rules amendments is as follows:

Proposed Rule Amendments	Statutory Authority
Minn. Rules pt. 4625.5000 (1987) (food and beverage establishments)	Minn. Stat. §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987)
Minn. Rules pt. 4630.2000 (1987) (mobile home park or recreational camping area)	Minn. Stat. §§ 144.05 (b) and (c), 144.12 and 327.16, subd. 3 (1986) and 144.122(a) (Supp. 1987)
Minn. Rules pt. 4625.2300 (lodging establishments)	Minn. Stat. §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987)

The proposed amendments to Minn. Rules pt. 4625.2300 (1987) would increase initial and renewal license application fees and penalty fees for late applications by lodging establishments as follows:

	Current Fee	Increased Fee
Initial and renewal fees	$50 plus $2 per room up to a maximum total fee of $250	$67 plus $2.70 per room up to a maximum total fee of $337.50

Penalty fee for late application	$10	$20

The Proposed amendments to Minn. Rules pt. 4625.5000 (1987) would increase initial and renewal licensee application fees and penalty fees for late applications by food and beverage establishments as follows:

Establishments with:	Current Fee	Increased Fees
One to four employees	$ 52.50	$ 70.35
Five to eighteen	90	120.60
Nineteen to twenty-eight	135	180.90
Twenty-nine to thirty-five	187.50	251.25
Thirty-six and over	225	301.50
Limited establishments	37.50	50.25
Penalty fee for late application	10	20

The proposed amendments to Minn. Rules pt. 4630.2000 (1987) would increase initial and renewal license application fees and increase fees for late applications by mobile home park or recreational camping area operators as follows:

	Current Fee	Increased Fee
Initial fees:		
for each 50 sites or fraction thereof	$75	$200
for each 50 additional sites or fraction thereof	$75	$200
Renewal fees for year-round establishments:		
for each 10 sites or fraction thereof with	$15	$40
a maximum fee of (except for increased fee for late filing)	$300	$800
Renewal fee for seasonal establishments	$11.25	$30
with a maximum fee of (except for increased fee for late filing)	$225	$600
Increased fees for late filing		
year-round establishments	$10	$20
seasonal establishments	$10	$20

The fees proposed in the proposed amendments were approved by the Commissioner of Finance as required by Minnesota Statutes §616A.128 (1986) and said approval is attached to the Statement of Need and Reasonableness. Copies of the Notice of Intent to Adopt Rules and the proposed rules were also sent to the chairs of the House Appropriations Committee and Senate Finance Committee.

The proposed rules amendments will be published in the State Register issue of October 3, 1988, and a free copy of the rules amendments may be obtained from the Department by writing or telephoning Charles B. Schneider at the address or telephone number listed above.

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules amendments and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Department by writing or telephoning Charles B. Schneider at the address or telephone number listed above.

Promulgation of the proposed rules amendments will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under Minn. Stat § 14.11 (1986).

The Department is subject to Minn. Stat. § 14.115 (1986) regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in Minn. Stat. § 14.115, subd. 2 (1986), for reducing the impact of the proposed rules amendments are addressed in the statement of need and reasonableness.

Upon completion of proposed amendments to a rule without a public hearing, the rule amendments as proposed, this notice, the statement of need and reasonableness, all written comments received, the rule amendments as adopted, and a

statement explaining any differences between the rule amendments as proposed and 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 amendments as adopted should submit a written request to Charles B. Schneider at the address listed above.

III.

NOTICES OF INTENT TO ADOPT RULES AMENDMENTS WITH PUBLIC HEARINGS ON THE PROPOSED AMENDMENTS TO A RULE IF 25 OR MORE PERSONS REQUEST A HEARING WITH RESPECT TO PROPOSED AMENDMENTS TO THAT RULE

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE PROPOSED AMENDMENTS TO ONE OF THE ABOVE-CAPTIONED RULES WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON NOVEMBER 7, 1988, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to Minn. Stat §§ 14.131 to 14.20 (1986), in Room 250, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, on November 7, 1988, commencing as follows:

1:00 p.m. on the proposed amendments to Minn. Rules pt. 4625.5000 (1987) (increases in fees for initial and renewal license applications for food and beverage establishments)

2:00 p.m. on the proposed amendments to Minn. Rules pt. 4630.2000 (1987) (increases in fees for primary (initial) licenses or renewals thereof to operate a mobile home park or recreational camping area)

3:00 p.m. on the proposed amendments to Minn. Rules pt. 4625.2300 (1987) (increases in fees for licenses for lodging establishments and penalty fees for late applications)

The hearing will continue, if necessary, at additional times and places determined during the hearing by the Administrative Law Judge.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Howard L. Kaibel, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7608. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by Minn. Stat. §§ 14.131 to 14.20 (1986) and by Minn. Rules pts. 1400.0200 to 1400.1200 (1986). Questions about procedure may be directed to the administrative law judge.

If adopted, the proposed amendments to Minn. Rules pt. 4625.2300 (1987) would increase initial and renewal license application fees and penalty fees for late applications by loging establishments as follows:

	Current Fee	Increased Fee
Initial and renewal fees	$50 plus $2 per room up to a maximum total fee of $250	$67 plus $2.70 per room up to a maximum total fee of $337.50
Penalty fee for late application	$10	$20

The Proposed amendments to Minn. Rules pt. 4625.5000 (1987) would increase initial and renewal licensee application fees and penalty fees for late applications by food and beverage establishments as follows:

Establishments with:	Current Fee	Increased Fees
One to four employees	$ 52.50	$ 70.35
Five to eighteen	90	120.60
Nineteen to twenty-eight	135	180.90
Twenty-nine to thirty-five	187.50	251.25
Thirty-six and over	225	301.50
Limited establishments	37.50	50.25
Penalty fee for late application	10	20

The proposed amendments to Minn. Rules pt. 4630.2000 (1987) would increase initial and renewal license application fees and increase fees for late applications by mobile home park or recreational camping area operators as follows:

	Current Fee	Increased Fee
Initial fees:		
for each 50 sites or fraction thereof	$75	$200
for each 50 additional sites or fraction thereof	$75	$200
Renewal fees for year-round establishments:		
for each 10 sites or fraction thereof with	$15	$40
a maximum fee of (except for increased fee for late filing)	$300	$800
Renewal fee for seasonal establishments	$11.25	$30
with a maximum fee of (except for increased fee for late filing)	$225	$600
Increased fees for late filing		
year-round establishments	$10	$20
seasonal establishments	$10	$20

The proposed rules amendments will be published in the State Register issue of October 3, 1988, and a free copy of the rules amendments may be obtained

from the Department by writing or telephoning Charles B. Schneider at the address and telephone number listed above in Part II of this notice.

The statutory authority of the Department to adopt the proposed rules amendments is as follows:

Proposed Rule Amendments	Statutory Authority
Minn. Rules pt. 4625.5000 (1987) (food and beverage establishments)	Minn. Stat. §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987)
Minn. Rules pt. 4630.2000 (1987) (mobile home park or recreational camping area)	Minn. Stat. §§ 144.05 (b) and (c), 144.12 and 327.16, subd. 3 (1986) and 144.122(a) (Supp. 1987)
Minn. Rules pt. 4625.2300 (lodging establishments)	Minn. Stat. §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987)

The fees proposed in the proposed amendments were approved by the Commissioner of Finance as required by Minnesota Statutes §616A.128 (1986) and said approval is attached to the Statement of Need and Reasonableness.[12] Copies of the Notice of Intent to Adopt Rules and the proposed rules were also sent to the chairs of the House Appropriations Committee and Senate Finance Committee.

The proposed rules amendments may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules amendments are therefore advised to participate in the process.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as any individual:

> (a) 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, 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

(b) Who spends more than $250, 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 public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone: (612) 296-5148.

Notice is hereby given that a statement of need and reasonableness is now available for review at the Department and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules amendments. Copies of the statement of need and reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Department may not take any final action on the rules amendments for a period of five working days. 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 administrative law judge. Any person may request notification of the date on which any rules amendments were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules amendments are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules amendments with the Secretary of State.

Promulgation of the proposed rules amendments will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under Minn. Stat. § 14.11 (1986).

The Department is subject to Minn. Stat. § 14.115 (1986) regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in Minn. Stat. § 14.115, subd. 2 (1986), for reducing the impact of the proposed rules amendments are addressed in the statement of need and reasonableness.

IV.

NOTICES OF INTENT TO CANCEL HEARINGS WITH RESPECT TO A RULE IF FEWER THAN 25 PERSONS REQUEST A HEARING WITH RESPECT TO THE PROPOSED AMENDMENTS TO THAT RULE

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED WITH RESPECT TO THE PROPOSED AMENDMENTS TO A RULE IF FEWER THAN 25 PERSONS REQUEST A HEARING WITH RESPECT TO THE PROPOSED AMENDMENTS TO THAT RULE IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To be informed whether a hearing noticed in Part III above will be held, please call or write Charles B. Schneider at the address or telephone number listed above before November 2, 1988, and leave your name, address, and telephone number. You will be notified after November 2, 1988, if the hearing has been cancelled. You may also call Mr. Schneider at (612) 673-5337 after November 2, 1988, for oral confirmation regarding the scheduled hearing.

Dated: September 19, 1988

Sister Mary Madonna Ashton
Commissioner of Health

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the
Proposed Adoption of the
Rules Amendments of the
Department of Health
Rules Relating to Initial
and Renewal License Fees for
Food and Beverage Establishments
and Lodging Establishments

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULES AMENDMENTS WITHOUT PUBLIC HEARINGS AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Mary J. Thompson, being duly sworn says:

That on the 29th day of September, 1988, at the City of Minneapolis, County of Hennepin, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Amendments Without Public Hearings by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations on the attached certified mailing list.

Mary J. Thompson

MARY J. THOMPSON
Health Program Representative

Subscribed and sworn to before me this

15 day of December, 1988.

Louise Kaniuk

LOUISE KANIUK
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSON EXPIRES FEBRUARY 22, 1991

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

IN THE MATTER OF THE PROPOSED
ADOPTION OF RULES RELATING TO
LICENSE FEE INCREASES FOR
FOOD, BEVERAGE AND LODGING
ESTABLISHMENTS AND
MANUFACTURED HOME PARKS AND
RECREATIONAL CAMPING AREAS

CERTIFICATION

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a, that their names be placed on file with, and maintained, by the Minnesota Department of Health for the purpose of receiving notice of rule hearings, is accurate and complete as of

4:00 p.m., this 29th day of September, 1988.

Dee H. Woodard

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : HEALTH

DATE : 9/21/88

TO : Mary

FROM : Executive Office

PHONE : 5460

SUBJECT : Rulemaking Notice Mailing List

A total of 324 (always make a few extras) copies of notices are needed.

There are approximately 123 interested persons listed, however, because we are required to provide this information to all legislators, an additional 201 copies are needed.

Labels for the 123 will be provided by the Executive Office. Also, 67 copies are to be sent inter-office to Senate, Room B40 State Capitol. Attach a note saying: "Please distribute to all Senators." 134 copies are to be sent to: House, Room 50 State Office Building. Attach a note saying: "Please distribute to all Representatives."

Before the envelopes are sent, sort out all those being sent internally to MDH staff. They can be sent through intra-Department mail, however, the rest of the mailing must be sent through U.S. Mail. Please notify the Shipping Room of this or they will sort the envelopes according to inter-office, inter-Campus, etc., and that is not in compliance with statute.

Virgil H. Lee, R.Ph.
St. Mary's Hospital Pharmacy
1216 Second St. Southwest
Rochester, MN 55902

Karen Lenander
Northern States Power Company
A. S. King Plant
210 North Tenth Avenue
Bayport, MN 55003

David Lurie, Commissioner of Health
City of Minneapolis
250 South Fourth Street
Minneapolis, MN 55415

The Residence, Inc.
2499 North Rice Street #220
Roseville, MN 55113

Karen Knepper
North Memorial Medical Center
3300 North Oakdale
Robbinsdale, MN 55422

POST Board
333 Sibley Street, Suite 495
St. Paul, MN 55101

Michael J. Duffy, Director
Community Health Services Board
325 Lake Avenue South/Suite 604
Duluth, MN 55802

Bob Kent
Lakeland Drilling
Rt. 1, Box 67-C
Wrenshall, MN 55797

Marjorie L. Ross
1145 Quentin Avenue South
Lakeland, MN 55043

Clark Gunin
Southwestern Mental Health Center
2 Round Wind Road
Luverne, MN 56156

Patsy A. Randell
Public Affairs Department
Honeywell
P.O. Box 524
Minneapolis, MN 55440

Minnesota Nurses Association
Governmental Affairs Department
1821 University Avenue
St. Paul, MN 55104

Bergerson-Caswell
5115 Industrial Street
Maple Plain, MN 55359

Larry Mosow
5620 Wycliffe Road
Edina, MN 55436

James Jack
Department of Recreation,
Parks and Leisure Services
Mankato State University
Mankato, MN 56001

Susan M. Voigt
Care Providers of Minnesota
2850 Metro Drive #200
Bloominton, MN 55425

Paul W. Abramowitz
Pharmacy Department
University of Minnesota Hospital
Box 611
Minneapolis, MN 55455

John E. Drawz
LeFevere, Lefler, et al.
2000 First Bank Place West
120 S. Sixth Street
Minneapolis, MN 55402

Mantyla Well Drilling, Inc.
P.O. Box 797
Lakeland, MN 55043

Terry Hoffman
Suite 840
386 North Wabasha
St. Paul, MN 55102

Walter A. Baldus
Woodvale
P.O. 1047
Austin, MN 55912

Mary Joe Dolan, Administrator
Northeast Residence, Inc.
4680 Bald Eagle Avenue
White Bear Lake, MN 55110

Joan M. Archer - MMHA
222 E. Little Canada Road
#222
St. Paul, MN 55434

Tobey Lapakko
Minnesota AFL-CIO
175 Aurora Avenue
St. Paul, MN 55103

Anoka County Health Department
Env. Serv.
Courthouse - Fourth Floor
Anoka, MN 55303

Roger Cooper
Box 485
Bird Island, MN 55310

Michael J. Steffl
8370 Highway 23 Northeast
Willmar, MN 56201

Martha Ballou
155 S. Wabasha
St. Paul, MN 55107

Dr. Frank Perendy
5415 W. Broadway
Crystal, MN 55428

Keith A. Horton, M.D.
3141 Dean Court
#C1101
Minneapolis, MN 55416

Iris Freeman
Minnesota Alliance for Health
Care Consumers
3231 First Avenue South
Minneapolis, MN 55408

Bruce Kuritzky
2111 Hartford Avenue
St. Paul, MN 55116

Anne Lutterman
Director of Nursing
Shalom Home
1554 Midway Parkway
St. Paul, MN 55108

Kathryn Selseth-Kill
Presbyterian Family Foundation
901 Memorial Parkway
Willmar, MN 56201

Karen L. Nelson, Director
Wadena County Health Department
415 South Jefferson
Wadena, MN 56482

Scott Mayer
Minnesota Chiropractic Association
2353 Rice Street #125
St. Paul, MN 55113

Dorothy J. Opheim
Box 179
Cass County Public Health Services
Walker, MN 56484

Michael Maus
Box 1047
Austin, MN 55912

Mary Ann Blade
808 Southeast Third Street
Little Falls, MN 56345

Sue Kvendru
Metro Senior Federation
1885 University Avenue
St. Paul, MN 55105

Dominic J. Sposeto
2824 Irving Avenue South
Minneapolis, MN 55408

Shelly Stevens
Region 5 Development Commission
611 Iowa Avenue
Staples, MN 56479

Julie Krause
Todd County Public Health
119 Third Street
Long Prairie, MN 56347

Barbara W. Kaufman
Minnesota Association of Voluntary
Social Services Agencies (MAVSSA)
306 N. Griggs-Midway Building
1821 University Avenue West
St. Paul, MN 55104

David Ray Kiely, CEO
c/o Association of Residential
Resources/Minnesota
245 East Sixth Street
#705
St. Paul, MN 55101

Toni Nesheim
Region 9 Development Commission
P.O. Box 3367
Mankato, MN 56001

Sherri Viland, Executive Director
Dakota Mental Health Center
744 - 19th Avenue North
South St. Paul, MN 55075

Jean Searles
Resa, Inc.
38 Seventh Avenue North
Hopkins, MN 55343

Kent E. Eklund
Ebenezer Society
2500 Park Avenue
Minneapolis, MN 55404

Broeker, Geer, Fletcher
and LaFond, Limited
8500 Normandale Lake Boulevard
Suite 1510
Bloomington, MN 55437

Alan W. Ingram
Executive Director
NASW Minnesota Chapter
614 Portland
St. Paul, MN 55102

Gail Trenholm
14600 Minnetonka Boulevard
Minnetonka, MN 55345

Mt. Olivet Rolling Acres
7200 Rolling Acres Road
Excelsior, MN 54431

Koep Group Homes, Inc.
P.O. Box 764
Fergus Falls, MN 56537

Les Block
Public Health Administration
School of Public Health - U of M
Box 197 Mayo
Minneapolis, MN 55455

Bob Fitzgerald, D.C.
133-W Lake South
Minneapolis, MN 55408

Kathleen Welte
Ramsey County Medical Society
215 Lowry Medical Arts Building
St. Paul, MN 55102

Ernest K. Lehmann and Associates, Inc.
Suite 790, Kickernick Building
430 First Avenue North
Minneapolis, MN 55401

Paul Martodam
1730 Seventh Avenue South
St. Cloud, MN 56301

D. Bill Olson
Habilitative Services, Inc.
P.O. Box 123
Windom, MN 56101

John Dorn
1021 Orchard Road
Mankato, MN 56001

Carol Fielders, R.N., M.P.H.
Public Health Nursing Director
St. Louis County Health Department
1001 East First Street
Duluth, MN 55805

Jim Koesling
Capitol Supply Company
600 Lafayette Road
St. Paul, MN 55101

Carol Lee
Director HMC
P.O. Box 302
Mankato, MN 56001

Association for Retarded Citizens
of Olmsted County
903 West Center
Rochester, MN 55902

Heartland Homes, Inc.
Box 214
Park Rapids, MN 56470

Mary Martin and Associates
1551 Livingston
Suite 102
West St. Paul, MN 55118

Mary Luth
Washington County Public Health
14900 North 61st Street
Stillwater, MN 55082

Mary Kay McJilton
People, Incorporated
379 University Avenue #204
St. Paul, MN 55103

City Manager
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113

Torgerson Well Co., Inc.
6855 Dogwood Street
Rockford, MN 55373

David Velde
Edina Health Department
4801 West 50th Street
Edina, MN 55424

David Felske
Pine Ridge Homes, Inc.
915 - 18th St.
Cloquet, MN 55720

Vicki Kunerth
3337 - 38th Avenue South
Minneapolis, MN 55406

Josette C. Nordmark
Health Care Coordinator
Polk County Group Homes, Inc.
P.O. Box 707
Crookston, MN 56716

Goodhue-Wabasha CHS
426 West Avenue
Red Wing, MN 55066

Alfred Ross
6356 Ware Road
Lino Lakes, MN 55014

Phillip C. Newberg
Room 104
2700 University Avenue West
St. Paul, MN 55114

Philip D. Brick
Room 1703
1100 Superior Avenue
Cleveland, OH 44114

Sam Ruhle
Fifth Floor
Flour Exchange Building
310 Fourth Avenue South
Minneapolis, MN 55415

William E. Bond
MN State Pharmaceutical Association
2221 University Avenue Southeast
Minneapolis, MN 55414

South Center Manor
508 Park Island
Center City, MN 55012

Bill Conley
114 Mackubin
St. Paul, MN 55102

James Auron
Mental Health Association
328 East Hennepin
Minneapolis, MN 55414

Sharon Kannenberg
Home and Community Option
252 W. Wabasha Street
Winona, MN 55987

Becky A. Comstock
2200 First Bank Place East
Minneapolis, MN 55402

Robert A. Harder
Minnesota Dental Association
2236 Marshall Avenue
St. Paul, MN 55104

Minnesota Board of Nursing
2700 University Ave. W. #108
St. Paul, MN 55114

Hope Residence, Inc.
Box 63
Waterville, MN 56096

Harriet McPherson
2398 Stagecoach Trail N.
Stillwater, MN 55082

Herbert Anderson
418 Eighth St. S.
Virginia, MN 55792

Miller Friesen, C.E.O.
Range Mental Health Center
P.O. Box 1188
Virginia, MN 55792

Michael J. Ahern
Moss & Barnett
1200 Pillsbury Center
Minneapolis, MN 55402

Merlin A. Wilbur
100 Sibley Street
Hastings, MN 55033

Donald C. Willeke
Willeke & Daniels
Suite 330
1201 Marquette Avenue
Minneapolis, MN 55403-2455

Brian Huling
Community Health Department
Fourth Floor McGill Building
501 Park Avenue
Minneapolis, MN 55415

Jane Cavanaugh
Share Development Corporation
3600 West 80th Street
Bloomington, MN 55431

Pine River Group Home
Box 96
Pine River, MN 56474

David Ewald
Ewald Consulting Group
245 East Sixth Street
St. Paul, MN 55101

M. Timothy Burkett
Community Involvement Programs
2217 Nicollet Avenue South
Minneapolis, MN 55404

Jerry Gross
c/o Community Living, Inc.
Box 130
Victoria, MN 55386

Jan Cuccia
Local 113
3001 University Avenue Southeast
Minneapolis, MN 55414

Charles A. Kroeger
P.O. Box 838
Faribault, MN 55021

Kathleen Pine
400 West Marie Avenue
West St. Paul, MN 55118

H. A. Swift
5165 North St. Albans
St. Paul, MN 55126

Mark Wiger
801 Center Street
New Ulm, MN 56073

Colleen Wieck
State Planning Agency
300 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Thomas L. Heenan
Supervising Sanitarian
Crystal, Brooklyn Center,
Brooklyn Park Health Department
4141 Douglas Drive
Crystal, MN 55422

Donna M. Anderson, Director
Dakota County Public Health
33 East Wentworth Ave. #345
West St. Paul, MN 55118

Gaynold Jensen, R.D.
111 West 107th St.
Minneapolis, MN 55420

Sharon Hoefs
Assisi Residences, Inc.
Box 353
Blue Earth, MN 56013

Brian Van Beusekom
Ingleside Engineering and
Construction, Inc.
4920 Highway 55
Rockford, MN 55373

Byron Laher
United Way
404 South Eighth Street
Minneapolis, MN 55404

Georgeanne Lowney
609 West First Street
Waconia, MN 55387

Jim Temple
Chrestomathy Center
310 East 38th Street
Minneapolis, MN 55409

Neil A. Rowland
901 South Main Street
Chatfield, MN 55923

Donald Olson
Olson Well Service
Halstad, MN 56548

Judith S. Douglas
The Phoenix Residence, Inc.
135 Colorado Street East
St. Paul, MN 55107

Charles B. Hoffman
Pickands, Mather and Company
Suite 811-200 West Superior St.
Duluth, MN 55802

James L. Glasoe
Homeward Bound Inc.
4741 Zealand Avenue North
New Hope, MN 55428

Stephen D. Lee
Box G
Fulda, MN 56131

Neil Boyum
Range Center, Inc.
1008 N.W. Eighth Avenue
Chisholm, MN 55719

Ginny Gadbois Green
2344 Nicollet Avenue South
#370
Minneapolis, MN 55415

board project budget must be discussed with the applicant and be approved by the board when an application is accepted. The applicant must remit 25 percent of the approved board project budget within 14 days of acceptance of the application. The unpaid balance shall be billed in periodic installments, due upon receipt of an invoice from the board. Expenses in excess of the approved budget must be certified by the board and upon certification constitute prima facie evidence that the expenses are reasonable and necessary and shall be charged to the applicant. The applicant may review all actual costs associated with processing an application and present objections to the board. The application fees paid by the applicant under this part shall not exceed the sum of the costs incurred to process the application, construction permit compliance activities, administrative overhead, and legal expenses. All application fees received by the board must be paid to a special revenue fund.

4415.0215 GENERAL RESPONSIBILITIES.

The board shall monitor the effectiveness of this chapter and shall take appropriate measures to modify and improve their effectiveness. The board shall assist governmental units and interested persons in understanding the rules.

Department of Health

Proposed Permanent Rules Relating to Fees for Food, Beverage, and Lodging Establishments

Proposed Permanent Rules Relating to Fees for Manufactured Home Parks and Recreational Camping Areas

Notices of Intent to Adopt Rules Amendments Without Public Hearings, Notices of Intent to Adopt Rules Amendments With a Public Hearing on the Proposed Amendments to a Rule If 25 or More Persons Request a Hearing With Respect to Proposed Amendments to That Rule, and Notices of Intent to Cancel Hearing on the Proposed Amendments to a Rule If Fewer Than 25 Persons Request a Hearing With Respect to the Proposed Amendments to That Rule

I. EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (hereinafter "Department") hereby gives notice of its intent to adopt rules amendments without public hearings under the noncontroversial rulemaking procedure of *Minnesota Statutes* §§ 14.22 to 14.28 (1986). However, in case 25 or more persons request a hearing with respect to the proposed amendments to a rule thus necessitating that one be held pursuant to *Minnesota Statutes* § 14.25 (1986), and in order to expedite the rulemaking process should that occur, the Department is at the same time hereby giving notice of hearing on the proposed rule amendments pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986). The hearing on the proposed amendments to a rule will, of course, be cancelled if 25 or more people do not request that one be held with respect to the proposed amendments to that rule. With the comment period closing on November 2, 1988, there will be four days before the scheduled hearing date. This four-day period will give interested persons time to contact the Department to find out whether the hearing will be cancelled.

II. NOTICES OF INTENT TO ADOPT RULES AMENDMENTS WITHOUT PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health (hereinafter "Department") proposes to adopt the above-captioned rules amendments without public hearings unless 25 or more persons submit written requests for a public hearing with respect to the proposed amendments to a rule. The Department has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* §§ 14.22 to 14.28 (1986).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules amendments. The 30 days will expire on November 2, 1988. Comment is encouraged. Each comment should identify the portions of the proposed rules amendments being addressed, the reason for the comment, and any change proposed to the rules amendments by the comment. The proposed rules amendments 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 in the proposed language.

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.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules amendments. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portions of the proposed rules amendments addressed, the reason for the request, and any changes they want made to the proposed rules amendments. If a person desires that a hearing be held on only a portion of the proposed rules amendments, it is requested that the Department be informed of the specific portion of the amendments on which a hearing is being requested at the time that the hearing request is made. This will enable the Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed amendments to a rule or a portion thereof by November 2, 1988, thus necessitating that one be held with respect to the proposed amendments to that rule. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* §§ 14.131 to 14.20 (1986) and the hearing notice provided below.

Comments or written requests for a public hearing should be submitted to:

Charles B. Schneider, R.S., Chief
Environmental Field Services
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, Minnesota 55440
Telephone: (612) 623-5337

The statutory authority of the Department to adopt the proposed rules amendments is as follows:

Proposed Rule Amendments	Statutory Authority
Minnesota Rules pt. 4625.5000 (1987) (food and beverage establishments)	*Minnesota Statutes* §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987)
Minnesota Rules pt. 4630.2000 (1987) (mobile home park or recreational camping area)	*Minnesota Statutes* §§ 144.05 (b) and (c), 144.12 and 327.16, subd. 3 (1986) and 144.122(a) (Supp. 1987)
Minnesota Rules pt. 4625.2300 (lodging establishments)	*Minnesota Statutes* §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987)

The proposed amendments to *Minnesota Rules* pt. 4625.2300 (1987) would increase initial and renewal license application fees and penalty fees for late applications by lodging establishments as follows:

	Current Fee	Increased Fee
Initial and renewal fees	\$50 plus \$2 per room up to a maximum total fee of \$250	\$67 plus \$2.70 per room up to a maximum total fee of \$337.50
Penalty fee for late application	\$10	\$20

The Proposed amendments to *Minnesota Rules* pt. 4625.5000 (1987) would increase initial and renewal licensee application fees and penalty fees for late applications by food and beverage establishments as follows:

	Current Fee	Increased Fee
Establishments with:		
One to four employees	\$ 52.50	\$ 70.35
Five to eighteen	90	120.60
Nineteen to twenty-eight	135	180.90
Twenty-nine to thirty-five	187.50	251.25
Thirty-six and over	225	301.50
Limited establishments	37.50	50.25
Penalty fee for late application	10	20

The proposed amendments to *Minnesota Rules* pt. 4630.2000 (1987) would increase initial and renewal license application fees and increase fees for late applications by mobile home park or recreational camping area operators as follows:

	Current Fee	Increased Fee
Initial fees:		
for each 50 sites or fraction thereof	$75	$200
for each 50 additional sites or fraction thereof	$75	$200
Renewal fees for year-round establishments:		
for each 10 sites or fraction thereof with	$15	$40
a maximum fee of (except for increased fee for late filing)	$300	$800
Renewal fee for seasonal establishments	$11.25	$30
with a maximum fee of (except for increased fee for late filing)	$225	$600
Increased fees for late filing		
year-round establishments	$10	$20
seasonal establishments	$10	$20

The fees proposed in the proposed amendments were approved by the Commissioner of Finance as required by *Minnesota Statutes* § 616A.128 (1986) and said approval is attached to the Statement of Need and Reasonableness. Copies of the Notice of Intent to Adopt Rules and the proposed rules were also sent to the chairs of the House Appropriations Committee and Senate Finance Committee.

The proposed rules amendments will be published in the *State Register* issue of October 3, 1988, and a free copy of the rules amendments may be obtained from the Department by writing or telephoning Charles B. Schneider at the address or telephone number listed above.

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules amendments and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Department by writing or telephoning Charles B. Schneider at the address or telephone number listed above.

Promulgation of the proposed rules amendments will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* § 14.11 (1986).

The Department is subject to *Minnesota Statutes* § 14.115 (1986) regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes* § 14.115, subd. 2 (1986), for reducing the impact of the proposed rules amendments are addressed in the statement of need and reasonableness.

Upon completion of proposed amendments to a rule without a public hearing, the rule amendments as proposed, this notice, the statement of need and reasonableness, all written comments received, the rule amendments as adopted, and a statement explaining any differences between the rule amendments as proposed and 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 amendments as adopted should submit a written request to Charles B. Schneider at the address listed above.

III. NOTICES OF INTENT TO ADOPT RULES AMENDMENTS WITH PUBLIC HEARINGS ON THE PROPOSED AMENDMENTS TO A RULE IF 25 OR MORE PERSONS REQUEST A HEARING WITH RESPECT TO PROPOSED AMENDMENTS TO THAT RULE

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE PROPOSED AMENDMENTS TO ONE OF THE ABOVE-CAPTIONED RULES WITHIN THE 30-DAY COMMENT

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.

PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON NOVEMBER 7, 1988, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986), in Room 250, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, on November 7, 1988, commencing as follows:

1:00 p.m. on the proposed amendments to *Minnesota Rules* pt. 4625.5000 (1987) (increases in fees for initial and renewal license applications for food and beverage establishments)

2:00 p.m. on the proposed amendments to *Minnesota Rules* pt. 4630.2000 (1987) (increases in fees for primary (initial) licenses or renewals thereof to operate a mobile home park or recreational camping area)

3:00 p.m. on the proposed amendments to *Minnesota Rules* pt. 4625.2300 (1987) (increases in fees for licenses for lodging establishments and penalty fees for late applications)

The hearing will continue, if necessary, at additional times and places determined during the hearing by the Administrative Law Judge.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Howard L. Kaibel, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7608. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three day period. This rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1986) and by *Minnesota Rules* pts. 1400.0200 to 1400.1200 (1986). Questions about procedure may be directed to the administrative law judge.

If adopted, the proposed amendments to *Minnesota Rules* pt. 4625.2300 (1987) would increase initial and renewal license application fees and penalty fees for late applications by lodging establishments as follows:

	Current Fee	Increased Fee
Initial and renewal fees	$50 plus $2 per room up to a maximum total fee of $250	$67 plus $2.70 per room up to a maximum total fee of $337.50
Penalty fee for late application	$10	$20

The Proposed amendments to *Minnesota Rules* pt. 4625.5000 (1987) would increase initial and renewal licensee application fees and penalty fees for late applications by food and beverage establishments as follows:

	Current Fee	Increased Fee
Establishments with:		
One to four employees	$ 52.50	$ 70.35
Five to eighteen	90	120.60
Nineteen to twenty-eight	135	180.90
Twenty-nine to thirty-five	187.50	251.25
Thirty-six and over	225	301.50
Limited establishments	37.50	50.25
Penalty fee for late application	10	20

The proposed amendments to *Minnesota Rules* pt. 4630.2000 (1987) would increase initial and renewal license application fees and increase fees for late applications by mobile home park or recreational camping area operators as follows:

	Current Fee	Increased Fee
Initial fees:		
for each 50 sites or fraction thereof	$75	$200
for each 50 additional sites or fraction thereof	$75	$200
Renewal fees for year-round establishments:		
for each 10 sites or fraction thereof with	$15	$40
a maximum fee of (except for increased fee for late filing)	$300	$800
Renewal fee for seasonal establishments	$11.25	$30
with a maximum fee of (except for increased fee for late filing)	$225	$600
Increased fees for late filing		
year-round establishments	$10	$20
seasonal establishments	$10	$20

The proposed rules amendments will be published in the *State Register* issue of October 3, 1988, and a free copy of the rules amendments may be obtained from the Department by writing or telephoning Charles B. Schneider at the address and telephone number listed above in Part II of this notice.

The statutory authority of the Department to adopt the proposed rules amendments is as follows:

Proposed Rule Amendments	Statutory Authority
Minnesota Rules pt. 4625.5000 (1987) (food and beverage establishments)	*Minnesota Statutes* §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987)
Minnesota Rules pt. 4630.2000 (1987) (mobile home park or recreational camping area)	*Minnesota Statutes* §§ 144.05 (b) and (c), 144.12 and 327.16, subd. 3 (1986) and 144.122(a) (Supp. 1987)
Minnesota Rules pt. 4625.2300 (lodging establishments)	*Minnesota Statutes* §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987)

The fees proposed in the proposed amendments were approved by the Commissioner of Finance as required by *Minnesota Statutes* § 616A.128 (1986) and said approval is attached to the Statement of Need and Reasonableness. Copies of the Notice of Intent to Adopt Rules and the proposed rules were also sent to the chairs of the House Appropriations Committee and Senate Finance Committee.

The proposed rules amendments may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules amendments are therefore advised to participate in the process.

Minnesota Statutes ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 as any individual:

(a) 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, 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

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(b) Who spends more than $250, 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 public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone: (612) 296-5148.

NOTICE IS HEREBY GIVEN that a statement of need and reasonableness is now available for review at the Department and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules amendments. Copies of the statement of need and reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

PLEASE NOTE that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Department may not take any final action on the rules amendments for a period of five working days. 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 administrative law judge. Any person may request notification of the date on which any rules amendments were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules amendments are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules amendments with the Secretary of State.

Promulgation of the proposed rules amendments will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* § 14.11 (1986).

The Department is subject to *Minnesota Statutes* § 14.115 (1986) regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes* § 14.115, subd. 2 (1986), for reducing the impact of the proposed rules amendments are addressed in the statement of need and reasonableness.

IV. NOTICES OF INTENT TO CANCEL HEARINGS WITH RESPECT TO A RULE IF FEWER THAN 25 PERSONS REQUEST A HEARING WITH RESPECT TO THE PROPOSED AMENDMENTS TO THAT RULE

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED WITH RESPECT TO THE PROPOSED AMENDMENTS TO A RULE IF FEWER THAN 25 PERSONS REQUEST A HEARING WITH RESPECT TO THE PROPOSED AMENDMENTS TO THAT RULE IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To be informed whether a hearing noticed in Part III above will be held, please call or write Charles B. Schneider at the address or telephone number listed above before November 2, 1988, and leave your name, address, and telephone number. You will be notified after November 2, 1988, if the hearing has been cancelled. You may also call Mr. Schneider at (612) 673-5337 after November 2, 1988, for oral confirmation regarding the scheduled hearing.

Dated: 19 September 1988

Sister Mary Madonna Ashton
Commissioner of Health

Order for Hearings

IT IS HEREBY ORDERED this 19th day of September, 1988, that public hearings on the proposed rules amendments in the above-entitled matter be held in Room 250, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, on the 7th day of November, 1988, commencing as follows:

1:00 p.m. on the proposed amendments to *Minnesota Rules* pt. 4625.5000 (1987) (increases in fees for initial and renewal license applications for food and beverage establishments)

2:00 p.m. on the proposed amendments to *Minnesota Rules* pt. 4630.2000 (1987) (increases in fees for primary (initial) licenses or renewals thereof to operate a mobile home park or recreational camping area)

3:00 p.m. on the proposed amendments to *Minnesota Rules* pt. 4625.2300 (1987) (increases in fees for licenses for lodging establishments and penalty fees for late applications)

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 hearings be given to all persons who have registered their names with the Department of Health for that purpose and be published in the *State Register.*

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed

4625.2300 INITIAL AND RENEWAL LICENSE FEES, LICENSE EXPIRATION DATES.

Subpart 1. **Fee schedule.** License applications for lodging establishments as defined in part 4625.0100 shall be accompanied by a fee of ~~$50~~ $67 plus ~~$2~~ $2.70 per room, up to a maximum total fee of ~~$250~~ $337.50.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Penalty fee.** A penalty fee of ~~$10~~ $20 shall be added to the amount of the license fee if the application has not reached the office of the commissioner of health before January 31, or in the case of a new business, 30 days after ~~the~~ opening ~~of such~~ the business.

Subp. 5. [Unchanged.]

4625.5000 INITIAL AND RENEWAL LICENSE FEES, LICENSE EXPIRATION DATES.

Subpart 1. **Fee schedule.** Initial and renewal license applications for food and beverage establishments as defined in part 4625.2400 shall be accompanied by the applicable fee as determined from the schedule below. The average number of employees shall be computed in accordance with Minnesota Statutes, section 157.03.

A. one to four employees, ~~$52.50~~ $70.35;

B. five to 18, ~~$90~~ $120.60;

C. 19 to 28, ~~$135~~ $180.90;

D. 29 to 35, ~~$187.50~~ $251.25;

E. 36 and over, ~~$225~~ $301.50; and

F. limited ~~or temporary~~ food ~~service~~ or beverage establishments that sell only prepackaged foods that receive heat treatment and are served in the package, mobile units, or itinerant and special event stands serving food or beverages for 14 days or less in any single location. ~~$37.50~~ $50.25.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Penalty fee.** A penalty fee of ~~$10~~ $20 shall be added to the amount of the license fee if the license renewal application has not reached the commissioner of health before January 31 of the year for which the license is to be issued, or in the case of a new business, 30 days after the opening ~~of such~~ the business.

Subp. 5. [Unchanged.]

Rules as Proposed

4630.2000 FEE SCHEDULE FOR LICENSES.

The application for a primary license, or a renewal thereof, to operate a mobile home park or recreational camping area, as defined in Minnesota Statutes, section 327.14, shall be accompanied by the following fees:

A. Primary (initial) license fee: ~~$75~~ $200 for each 50 sites or fraction thereof. The fee for additional sites proposed after a primary license has been issued shall be ~~$75~~ $200 for each 50 sites or fraction thereof.

B. Renewal fee for year-round establishments: ~~$15~~ $40 for each ten sites or fraction thereof with a maximum fee of ~~$300~~ $800 except as provided for in item D.

C. Renewal fee for seasonal establishments: the renewal fee for any mobile home park or recreational camping area which operates for a continuous period of six months (183 days) or less during a calendar year shall pay 75 percent of the fee as computed pursuant to item B with a maximum fee of ~~$225~~ $600 except as provided for in item D.

D. Increased fee: for year-round operations, the fee will be increased by ~~$10~~ $20 if the renewal application and fee are not submitted by January 15 of the year for which application for license is made. For seasonal operations the fee will be increased ~~$10~~ $20 if the renewal application and fee are not submitted within 15 calendar days after the establishment opens.

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STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the
Proposed Adoption of the
Rules Amendments of the
Department of Health
Rules Relating to Initial
and Renewal License Fees for
Food and Beverage Establishments
and Lodging Establishments

FINDINGS OF FACT,
CONCLUSIONS, AND ORDER
ADOPTING RULES AMENDMENTS
WITHOUT PUBLIC HEARINGS

Notice of the Department of Health's (hereinafter "Department") intent to adopt the above-entitled rules amendments was published in the State Register on October 3, 1988, and was sent by United States mail to all persons on the list maintained by the Department pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 on September 29, 1988. The statement of need and reasonableness was prepared before the notice of intent to adopt rules amendments without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public. Before the notice was submitted to the State Register, a copy of the notice of intent to adopt rules amendments without public hearings and the proposed rules amendments was sent to the chairs of the house appropriations committee and senate finance committee.

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

No submissions or comments on the rules amendments were received by the Department. No requests for notice of submission to the Attorney General were received by the Department.

Based on the comments and evidence in the record before the Department, including the statement of need and reasonableness which is incorporated herein as the

Department's findings, the Department concludes that the above-captioned rules amendment are both needed and reasonable.

NOW, THEREFORE, IT IS HEREBY ORDERED that the rules amendments identified as the Department of Health Rules Relating to the Initial and Renewal License Fees for Food and Beverage Establishments and Lodging Establishments are adopted this 16 day of December, 1988, pursuant to authority vested in the Department by Minn. Stat. §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987).

Sr. Mary Madonna Ashton

SISTER MARY MADONNA ASHTON
Commissioner of Health

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the
Proposed Adoption of the
Rules Amendments of the
Department of Health
Rules Relating to Initial
and Renewal License Fees for
Food and Beverage Establishments
and Lodging Establishments

DECLARATION OF COUNSEL

I, Paul G. Zerby, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules amendments and the supporting rulemaking record and that, based on my examination, the Administrative Procedure Act and Minn. Rules ch. 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 50.5X85.1260.

Dated: December 16, 1988

PAUL G. ZERBY
Special Assistant
Attorney General