

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: January 14, 1991

TO: B. JAMES BERG
Director
Code Enforcement Division

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Elevator Permit and Fee Requirement

The above-referenced rule has been approved as to its legality by the Attorney General on January 9, 1991.

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:sc

cc: Gilbert Buffington
William Brown, Chief Judge
MaryAnn Hruby

MJC

RULE REVIEW CHECKLIST

File No. 1777
DATE RECEIVED 12-31-90
REVIEW DATE 12-31-90 1-9-91
DUE DATE 1-14-91
(DIS)APPROVED 1-9-91
WITHDRAWN _____

Docket No. 05,0039.0602
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 1-3-91
REVISOR (DIS)APPROVED 1-8-91
FILED W/SEC. OF STATE 1-11-91
RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies) not 4 copies of the rules

_____ Notice to Solicit Outside Information/Opinion (if applicable)
_____ Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

_____ Board's Authorizing Resolution
_____ Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
183.358 Statutory Authority
✓ Small Business Statement
N/A Expenditure of public money statement
_____ Signature

✓ Statement of Need and Reasonableness (if applicable)
✓ Small Business Statement
✓ Fees - § 16A.128 submitted letters to Senate Finance and House appropriations

✓ Affidavit of Mailing Notice of Intent to Adopt Rule Permission from Finance Dept.
August 17, 1990 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
August 20, 1990 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply may not mandatory
_____ 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
November 15, 1990 Date

_____ Written Requests, Submissions or Comments

_____ Declaration of Attorney
Gilbert Buffington Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

Department of Labor and Industry

Adopted Permanent Rules Relating to Elevator Permit and Fee Requirement

Rules as Adopted

5226.0100 PERMIT TO CONSTRUCT OR INSTALL ELEVATORS AND ESCALATORS.

A person, firm, or corporation that constructs, installs, or performs alterations to elevators or escalators, pursuant to the American Society of Mechanical Engineers/American National Standards Institute A17.1 Safety Code for Elevators and Escalators, shall file an application for a permit with the Department of Labor and Industry, or with a municipality that is authorized by law to issue a permit, before beginning construction, installation, or alteration. The department's fees for a permit to construct or install elevators or escalators are:

A. Filing fee (application for permit), $50; and $200 if the application is received after construction has been initiated.

B. Inspection fee; 0.01 (one percent) of the total cost of the project for labor and materials for construction and installation of the elevator or escalator including related electrical and mechanical equipment. The total inspection fee shall not exceed $1,000 per unit. The costs of special decorative fixtures may be deducted from the cost of the project up to a maximum of five percent of the total cost of the project upon approval of the commissioner.

C. Filing fee (application for permit), $50; and inspection fee $50 for each altered unit.

D. Vertical reciprocating conveyors, (American Society of Mechanical Engineers/American National Standards Institute Standard B20.1) are subject to filing and inspection fees for new and altered installations, but are exempt from

routine inspection by an elevator inspector.

5226.0200 FEE FOR ROUTINE INSPECTION OF ELEVATORS AND ESCALATORS.

The inspection fee for existing hydraulic and traction elevators, escalators, endless belt lifts, and similar devices:

A. up to five floors or levels served, $50;

B. six to ten floors or levels served, $60;

C. 11 to 20 floors or levels served, $70;

D. 21 or more floors or levels served, $80; and

E. wheelchair and related accessibility lifts, dumbwaiters, escalators (each direction or individual unit), docklifts, handpowered elevators, and moving walks (each direction or individual unit) and other related equipment not otherwise specified in this part, $50.

5226.0300 CONTRACTOR LICENSE FEE.

The fee for examination and license of an elevator contractor is $125 for a new license and $110 for a renewal license. The contractor is responsible for carrying all appropriate insurance, meeting all bonding requirements, and meeting all federal, state, and local law and code requirements.

APPROVED AS TO FORM AND LEGALITY

January 9 1991

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 11 1991

Joan Anderson Growe
Secretary of State

Stat. Authority

183.358 The commissioner may adopt rules for the following purposes:

(1) to set a fee under section 16A.128 for processing a construction or installation permit or elevator contractor license application

(2) to set a fee under section 16A.128 to cover the cost of elevator inspection

183.357 subd 1

No person, firm, or corporation may construct or install an elevator without first filing ...

Subd 2

The commissioner may establish criteria for the qualifications of elevator contractors and issue licenses based upon proof of the applicants qualifications.

Findings of Fact

missing - R (7) if the agency received no requests for a hearing, or received no submissions ...

did not receive rqsts so N/A

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY

In the matter of the Proposed Rules Relating to Elevator Permit and Fee Requirements

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above-entitled rules was published in the **State Register** on August 20, 1990 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, Sections 14.14, subdivision 1a and 14.22 on August 17, 1990. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt rules 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. (3) The proposed fees were approved by the Commissioner of the Department of Finance, and a copy of the notice of intent to adopt rules without a public hearing and the proposed rules were sent to the Chairs of the House Appropriations and Senate Finance committees.

(4) All persons were given the opportunity to submit comments on the rules for 30 days after notice of proposed rulemaking. (5) The agency received one request for a public hearing. Therefore the agency did not receive requests for a public hearing from 25 or more persons. Three parties submitted comments which did not require revision of the proposed rules.

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

1. That the Department has complied with all the procedural requirements of law or rule in adopting the proposed rules.

2. That the Department has acted within its statutory authority in adopting the proposed rules.

3. That the above-captioned rules are needed and reasonable. (8)

NOW, THEREFORE, IT IS ORDERED that the rules identified as Minnesota Rules Chapter 5226, Sections .0100, .0200 and .0300 are adopted this 15th day of November, 1990, pursuant to the authority vested in me by Minnesota Statutes, Section 183.358.

(9)

Ken Peterson
Commissioner

KP/BJB/rb

STATEMENT OF NEEDS AND REASONABLENESS

STATEMENT OF NEED AND REASONABLENESS:
ELEVATOR INSPECTION FEES August, 1990

The authority to establish the amount of fees charged by Code Enforcement, Department of Labor and Industry (hereinafter referred to as **Code**), is found in M.S. 16A.128. This section requires that the fees charged by the agency must be equal to, or greater, than the amount appropriated to the organization plus the agency support and indirect costs attributable to Code operations. The fees presented in the proposed amendments are needed to comply with the requirements of the statute.

In fiscal year 1989 Code had $ 1,513,500 in receipts and expenses of $ 1,489,000 In fiscal year 1990 receipts were less than the amount required for unit operations. Without an increase of fees, the revenues for 1991 will again not equal revenues. The authority for establishment of fees related to elevators is found in M.S. 183.357, Subdivision 1.

SMALL BUSINESS IMPACT OF THESE RULES

Small business enterprises frequently are involved in elevator projects. Typical projects include: apartment buildings, small office buildings and small manufacturing facilities that require an elevator if the facility has more than one level (i.e. a ground level and a main entry level or a main entry and an upper story). The cost of the proposed permit and inspection fees would increase the cost of a building project by approximately $300 to $500 for a two level structure with a typical elevator which is intended for passenger use and to provide accessibility to both levels of the structure.

Routine inspection fees would be less than $75 per year for most small businesses.

Contractor license fees will have an effect on less than 10 individuals as most elevator installation firms are large businesses.

AGRICULTURE IMPACT OF THESE RULES

The proposed fees for elevator inspection would not directly impact on agricultural enterprises.

LOCAL GOVERNMENT IMPACT OF THESE RULES

The proposed fee increases would affect units of local government and school districts as elevator installations are part of capital budgeting for new construction projects. The additional costs would be passed through from the contractor as part of the cost of the project. These fees could increase the cost of a new school or city office building by $250 to $2,500. In addition, routine inspection would cost smaller school districts and local government units less than $250 per year. Larger school districts and communities would be subject to additional charges of up to $1,000 per year depending on the number and size of equipment.

5226.0100 **Permit to construct or install elevators and escalators.**

This rule requires a permit for installation of elevators or escalators, sets a fee for the permit application, sets a fee for inspection of elevators and escalators, sets a minimum fee for inspection, and clarifies inspection requirements from this office for vertical reciprocating conveyors.

Fees are established pursuant to the commissioner of labor and industry authority under M.S. 183.358 and the requirements of M.S. 16A.128 for this activity to provide sufficient revenue to defray the costs of the operation, including allocated indirect costs. The permit fee is needed to provide revenues sufficient to cover the costs of monitoring the project including data entry and retrieval and issuance of a permit.

The inspection fee is required to cover the costs of responding to inquiries regarding the installation and inspection of elevators and escalators, reviewing planning documents as necessary and to inspect the installation. Also included in this fee is the cost of routine re-inspections. A complex installation may require one or two pre-installation inspections and two, three and perhaps four installation inspections. The requirement for a minimum fee is to assure that even smaller projects will provide sufficient revenue to cover the cost of inspection.

The clarification of inspection of vertical reciprocating conveyors is to assure that installation inspection is made by staff knowledgeable in the standards for installation of this type equipment. Vertical reciprocating conveyors are basically materials handling devices, and once installed, do not present the same concerns for public safety as would an elevator. However, safety concerns for workers using the equipment requires visual inspection on an infrequent basis to assure that personnel are not endangered.

5226.0200. Fee for routine inspection of elevators and escalators.

Provides a fee for inspection of routine inspection of existing elevators and escalators.

The fee for routine inspection is needed to defray the costs of inspection including allocated indirect costs. Fees are established pursuant to the commissioner of labor and industry authority under M.S. 183.358 and the requirements of M.S. 16A.128 for this activity to provide sufficient revenue to defray the costs of the operation including allocated indirect costs.

5226.0300 Contractor License Fee.

Provides a fee for the examination and licensure of elevator contractors. Provides contractors be responsible for carrying appropriate insurance, meet bonding requirements and comply with all laws, rules and applicable codes.

This fee is needed to cover the costs of evaluating the experience of the applicant and preparing the necessary documents required for issuance of the license. The other requirements are reiteration of general compliance requirements of all business.

Minnesota
Department of Labor and Industry

Code Enforcement
Labor and Industry Building
443 Lafayette Road
St. Paul, Minnesota 55155-4304
(612) 296-6107
(612) 296-4530 Boiler Inspection
(612) 296-2193 High Pressure Piping
(612) 296-1189 Elevator Inspection
(612) 297-1329 Fax

December 28, 1990

Office of the Attorney General
Public Finance Division
525 Park Street
St. Paul, Minnesota 55103

Attached for review and approval is the rulemaking record for elevator permit and inspection fees (Minnesota Rules Parts 5226.0100, 5226.0200 and 5226.0300).

The following documents are included:

1. Four copies of the proposed rule with Certificate of Approval of the Revisor's Office **Exhibit 1**,

2. Notice of Intent to Adopt a Rule Without a Public Hearing as mailed **Exhibit 2**,

3. A copy of the Statement of Need and Reasonableness **Exhibit 3**,

4. Copies of Public Comment Received (4 letters), including one requesting a public hearing **Exhibit 4**,

5. Affidavit of Mailing and Certificate of Mailing List **Exhibit 5**,

6. Findings of Fact, Conclusions, and Order Adopting Rules without Public Hearing **Exhibit 6**,

7. Declaration of Counsel **Exhibit 7**,

8. A copy of the proposed rule as printed in the **State Register** on Monday August 20, 1990 **Exhibit 8**,

9. Letters to the Chairs of Senate Finance and House Appropriations indicating provision of copies of the proposed rules to the committees **Exhibit 9**, and

10. Memorandum to Peter Hutchinson requesting Department of Finance approval with Approval by Bruce Reddeman, Budget Operations Director **Exhibit 10**.

A copy of the Statement of Need and Reasonableness was provided to the Legislative Committee to Review Administrative Rules without a cover letter.

The comments from the four constituents were reviewed and determined to require no change in the proposed rules.

If you have any questions please contact me at your convenience. My direct number is 297-1727.

Sincerely,

B. James Berg, Director
Code Enforcement

cc: Don Jackman, Assistant Commissioner
Steve Buffington, Special Assistant Attorney General
Mary Miller, Departmental Counsel
Chuck Sullivan, Chief Elevator Inspector

BJB:rb

EXHIBIT 2

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption of the Rule of the State Department of Labor and Industry, Code Enforcement Division, Governing Elevator Permit and Fee Requirement

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the State Department of Labor and Industry intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing at Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is found at M.S. § 183.358 as well as M.S. § 16A.128 and 183.357, subd. 1 and 2.

(2) All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Public comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) 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. (6) Any person requesting a public 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. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(5) Comments or written requests for a public hearing must be submitted to:

B. James Berg, Director
Code Enforcement Division
Department of Labor and Industry
443 Lafayette Road 4th Floor
St. Paul, MN 55155-4304
Telephone No.: 617-297-1727

(8) The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(11) A copy of the proposed rule is attached to this notice.

(12) 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 rule has been prepared and is available from the Department of Labor and Industry upon request.

(9) 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 B. James Berg, Director, Code Enforcement Division, Department of Labor and Industry, 443 Lafayette Road 4th Floor, St. Paul, Minnesota, 55155-4304.

Aug 3, 1990
Date

Commissioner

EXHIBIT 1

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Elevator Permit and Fee Requirement

AGENCY: Department of Labor and Industry

MINNESOTA RULES: Chapter 5226

The attached rules are approved for publication in the State Register

Paul M. Marinac
Assistant Deputy Revisor

Department of Labor and Industry

Proposed Permanent Rules Relating to Elevator Permit and Fee Requirement

Rules as Proposed (all new material)

5226.0100 PERMIT TO CONSTRUCT OR INSTALL ELEVATORS AND ESCALATORS.

A person, firm, or corporation that constructs, installs, or performs alterations to elevators or escalators, pursuant to the American Society of Mechanical Engineers/American National Standards Institute A17.1 Safety Code for Elevators and Escalators, shall file an application for a permit with the Department of Labor and Industry, or with a municipality that is authorized by law to issue a permit, before beginning construction, installation, or alteration. The department's fees for a permit to construct or install elevators or escalators are:

A. Filing fee (application for permit), $50; and $200 if the application is received after construction has been initiated.

B. Inspection fee; 0.01 (one percent) of the total cost of the project for labor and materials for construction and installation of the elevator or escalator including related electrical and mechanical equipment. The total inspection fee shall not exceed $1,000 per unit. The costs of special decorative fixtures may be deducted from the cost of the project up to a maximum of five percent of the total cost of the project upon approval of the commissioner.

C. Filing fee (application for permit), $50; and inspection fee $50 for each altered unit.

D. Vertical reciprocating conveyors, (American Society of Mechanical Engineers/American National Standards Institute Standard B20.1) are subject to filing and inspection fees for new and altered installations, but are exempt from

Approved by Revisor PMM

routine inspection by an elevator inspector.

5226.0200 FEE FOR ROUTINE INSPECTION OF ELEVATORS AND ESCALATORS.

The inspection fee for existing hydraulic and traction elevators, escalators, endless belt lifts, and similar devices:

A. up to five floors or levels served, $50;

B. six to ten floors or levels served, $60;

C. 11 to 20 floors or levels served, $70;

D. 21 or more floors or levels served, $80; and

E. wheelchair and related accessibility lifts, dumbwaiters, escalators (each direction or individual unit), docklifts, handpowered elevators, and moving walks (each direction or individual unit) and other related equipment not otherwise specified in this part, $50.

5226.0300 CONTRACTOR LICENSE FEE.

The fee for examination and license of an elevator contractor is $125 for a new license and $110 for a renewal license. The contractor is responsible for carrying all appropriate insurance, meeting all bonding requirements, and meeting all federal, state, and local law and code requirements.

EXHIBIT 4

BLACK & ASSOCIATES

ELEVATOR CONSULTANTS
TECHNICAL SERVICES

1320 23RD STREET SOUTH • FARGO, ND 58103 • 701-232-0030 • FAX 701-232-2276

AUGUST 28, 1990

DEPARTMENT OF LABOR AND INDUSTRY
443 LAFAYETTE ROAD 4TH FLOOR
ST. PAUL, MINNESOTA 55155-4304

ATTN: MR. B. JAMES BERG
DIRECTOR CODE ENFORCEMENT DIVISION

RE: ELEVATOR CONSULTING SERVICES

Dear Mr. Berg:

We are in receipt of your letter dated August 3, 1990 but did not receive you letter in our office until August 24, 1990.

Your letter states that we must respond in 30 days but due to the mailing and postal department there have been some serious delays.

We seriously object to this proposed rule as we feel that it places an undue hardship on the project, owner, contractor and others.

As we interpret the rule proposed we foresee that there could be a double fee required to cities that at the present time already have a fee schedule to follow.

We request that a formal hearing be held with all elevator contractors, consultants, architects, cities and state authorities so that they have the opportunity to be involved in the decisions.

Thank you for your cooperation.

RESPECTFULLY,

BLACK & ASSOCIATES

Leonard F Black

LEONARD F. BLACK
PRESIDENT AND GENERAL MANAGER

LFB/jmc

Minnesota Elevator, Inc.

Main Office and
Manufacturing Plant
P.O. Box 443
Mankato, MN 56002
(507) 245-3060
FAX 507-245-3956

Branch Offices
Minneapolis, MN
(612) 571-8169
Willmar, MN
(612) 231-1567

EEO/AA Contractor

• NEW INSTALLATIONS
• MODERNIZATIONS
• MAINTENANCE
• MANUFACTURING SALES
•

September 12, 1990

Mr. B. James Berg, Director
Code Enforcement
Dept of Labor & Industry
443 Lafayette Road
St. Paul, MN 55155

RE: Proposed Permanent Rules Relating to
Elevator Permit and Free Requirement

Dear Mr. Berg:

We have reviewed the subject rules noted above and find ourselves in agreement with the stated intent and with the verbal representations and interpretations you have made throughout this complicated process.

If you are willing and able to agree to the establishment of a formal dialogue with representatives of our industry on matters of rule definitions and enforcement, we will not request a public hearing on this issue.

You are to be commended on the high professional standards you have displayed throughout this process. I feel that the unique partnership existing between the elevator industry and it's regulators can be a model for others to follow.

If I can be of service to you in the future, please contact me at 688-7818.

Sincerely,

MINNESOTA ELEVATOR, INC.

Rick Bertz

taa
cc: N. Holmstrom; Schindler Elevator

Millar Elevator Service Co.
2200 University Avenue
Suite 110
St. Paul, Minnesota 55114-1818

Tel 612 646 8822
Fax 612 644 2628

millar

September 6, 1990

Mr. B. James Berg
Director, Code Enforcement Division
Dept. of Labor and Industry
443 Lafayette Road, 4th Floor
St. Paul, MN 55155-4304

Re: Rule Adoption, Elevator Permit and Fee Requirements

Dear Jim,

In reading the proposed rule dated 7/13/90, I felt that a few minor changes would make it clearer, as to what fees should be paid.

Please consider the following changes:

Sub-title - NEW CONSTRUCTION AND INSTALLATION
located between lines 18 and 19

Sub-title - ALTERATION
located between lines 29 and 30
A. Filing fee (application for permit), $50.00 per bldg., and inspection fee $50.00 for each altered unit.

Sub-title - VERTICAL RECIPROCATING CONVEYORS
located between lines 31 and 32

Should you have any questions, please call me at 646-8822.

Sincerely,

Kevin Whaley

Kevin Whaley
Service/Modernization Superintendent

KW/bg

cc: D. Brantley

League of Minnesota Cities
183 University Ave. East
St. Paul, MN 55101-2526
(612) 227-5600 (FAX: 221-0986)

August 23, 1990

Mr. B. James Berg, Director
Code Enforcement
Minnesota Department of Labor and Industry
443 Lafayette Road
St. Paul, MN 55155

RE: Elevator Permit and Fee Requirements/
Proposed Rules

Dear Mr. Berg:

Thank you for your letter dated August 9th informing me of the proposed rules for elevator inspections following passage of Chapter 303, 1989 Session Laws.

Since Minneapolis and St. Paul will continue to have an inspection program both for new and existing elevators and since M.S. 183.357, subdivision 3 seeks to somewhat specify the interrelationship between the department and cities, I would suggest that section 5226.0100 of the proposed rules be amended to address the question of agency fees when a city has an approved program. If my assumption that no state filing or inspection fee is required when a city is administering an approved program, then I believe the following sentence would provide clarity:

> No state permit or fee is required if a permit is obtained from a municipality authorized by law to issue elevator permits.

This sentence could be inserted after the period on line 16 of page one of the proposed rule. You may want to preface the next sentence with the following phrase, "In the absence of an approved municipal inspection and permit system," inserted before "The department's fees for a permit ..."

With or without these changes, I do not see any major problem with the proposed rule. Again, thank you for soliciting our input. If I may be of further assistance, please contact me.

Sincerely,

Joel J. Jamnik
Legislative Counsel

JJJ:mjd

EXHIBIT 5

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the matter of the Proposed Adoption of the Rule of the State Department of Labor and Industry Code Enforcement Division Governing Elevator Permit and Fee Requirement

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Kathy Smith, being sworn says:

I hereby certify that the list of persons and associations who have requested , pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the state Department of Labor and Industry, Code Enforcement Division rulemaking mailing list is accurate, complete, and current as of this 17th day of August, 1990.

That on the 17th day of August, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt A Rule Without a Public Hearing by depositing in the [State of Minnesota Central Mail System for United States mailing] [United States mail] a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Kathy Smith, Office Supv
[Name]
[Title] Code Enforcement

Subscribed and sworn to before me
this 17 day of August, 1990.

Donald R. Seidler

DONALD R. SEIDLER
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES DECEMBER 4, 1990

EXHIBIT 7

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Rules Relating to Elevator Permit and Fee Requirements

DECLARATION OF COUNSEL

I, Gilbert S. Buffington, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedures Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below.

For Attorney General billing purposes, the four-digit docket client code is .0602.

Special Assistant
Attorney General

Dated: Dec 26, 1970

Department of Labor and Industry

Proposed Permanent Rules Relating to Elevator Permit and Fee Requirement

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Labor and Industry intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing at *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is found at *Minnesota Statutes* § 183.358 as well as *Minnesota Statutes* § 16A.128 and 183.357, subd. 1 and 2.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Public comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule 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 public 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 agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

B. James Berg, Director
Code Enforcement Division
Department of Labor and Industry
443 Lafayette Road 4th Floor
St. Paul, MN 55155-4304
Telephone No.: 617-297-1727

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

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

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 rule has been prepared and is available from the Department of Labor and Industry upon request.

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 B. James Berg, Director, Code Enforcement Division, Department of Labor and Industry, 443 Lafayette Road 4th Floor, St. Paul, Minnesota, 55155-4304.

Dated: 3 August 1990

Kenneth B. Peterson
Commissioner

Rules as Proposed (all new material)

5226.0100 PERMIT TO CONSTRUCT OR INSTALL ELEVATORS AND ESCALATORS.

A person, firm, or corporation that constructs, installs, or performs alterations to elevators or escalators, pursuant to the American Society of Mechanical Engineers/American National Standards Institute A17.1 Safety Code for Elevators and Escalators, shall file an application for a permit with the Department of Labor and Industry, or with a municipality that is authorized by law to issue a permit, before beginning construction, installation, or alteration. The department's fees for a permit to construct or install elevators or escalators are:

A. Filing fee (application for permit), $50; and $200 if the application is received after construction has been initiated.

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.

B. Inspection fee; 0.01 (one percent) of the total cost of the project for labor and materials for construction and installation of the elevator or escalator including related electrical and mechanical equipment. The total inspection fee shall not exceed $1,000 per unit. The costs of special decorative fixtures may be deducted from the cost of the project up to a maximum of five percent of the total cost of the project upon approval of the commissioner.

C. Filing fee (application for permit), $50; and inspection fee $50 for each altered unit.

D. Vertical reciprocating conveyors, (American Society of Mechanical Engineers/American National Standards Institute Standard B20.1) are subject to filing and inspection fees for new and altered installations, but are exempt from routine inspection by an elevator inspector.

5226.0200 FEE FOR ROUTINE INSPECTION OF ELEVATORS AND ESCALATORS.

The inspection fee for existing hydraulic and traction elevators, escalators, endless belt lifts, and similar devices:

A. up to five floors or levels served, $50;

B. six to ten floors or levels served, $60;

C. 11 to 20 floors or levels served, $70;

D. 21 or more floors or levels served, $80; and

E. wheelchair and related accessibility lifts, dumbwaiters, escalators (each direction or individual unit), docklifts, handpowered elevators, and moving walks (each direction or individual unit) and other related equipment not otherwise specified in this part, $50.

5226.0300 CONTRACTOR LICENSE FEE.

The fee for examination and license of an elevator contractor is $125 for a new license and $110 for a renewal license. The contractor is responsible for carrying all appropriate insurance, meeting all bonding requirements, and meeting all federal, state, and local law and code requirements.

EXHIBIT 9

Minnesota
Department of Labor and Industry

443 Lafayette Road
St. Paul, Minnesota 55155
(612) 296-6107

Telecommunication Device
for the Deaf (612) 297-4198

FAX (612) 297-1329

August 9, 1990

The Honorable Gene Merriam
Chairman
Senate Finance Committee
122 State Capitol Building
St. Paul, Minnesota 55155

Dear Senator Merriam:

We are submitting to you pursuant to M. S. § 16A.128, Proposed Permanent Rules Relating to Elevator Permit and Fee Requirement, and Proposed Permanent Rules Relating to Power Piping Systems.

Sincerely,

Mary Miller
Attorney

MM/cb

Enclosure

Minnesota
Department of Labor and Industry

443 Lafayette Road
St. Paul, Minnesota 55155
(612) 296-6107

Telecommunication Device
for the Deaf (612) 297-4198

FAX (612) 297-1329

August 9, 1990

The Honorable Wayne Simoneau
Chairman
House Appropriations Committee
Room 335 State Office Building
St. Paul, Minnesota 55155

Dear Representative Simoneau:

We are submitting to you pursuant to M. S. § 16A.128, Proposed Permanent Rules Relating to Elevator Permit and Fee Requirement, and Proposed Permanent Rules Relating to Power Piping Systems.

Sincerely,

Mary Miller
Attorney

MM/cb

Enclosure

EXHIBIT 10

SF-00008-05 (4/85)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : LABOR AND INDUSTRY

DATE : July 11, 1990

TO : Peter Hutchinson
Department of Finance

FROM : Jim Berg

PHONE : 7-1727

SUBJECT : Proposed Increase of Fees

Elevator Permit and Fee Requirement

The Department of Labor and Industry is responsible for generating revenue sufficient to cover the direct and indirect cost of operation of the Code Enforcement Program. The fees charged to clientele are based on the estimated cost of delivery of services and is reflected in the department's biennial budget request.

The projected revenue will cover estimated cost and is needed and reasonable. The proposed fee increases have been presented to key representatives of the effected clientele groups and no objections have been received to the proposed increases, it is our opinion that the increase will not adversely effect program clientele.

Pursuant to the provisions of M. S. 16A.128, Subdivision 1a approval of the proposed increase in fees is requested.

Approved [signature]
Name
Budget Operations Director
Title
8-1-90
Date

RECEIVED
DEC 31 1990
Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103