

**STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY**

In the Matter of the Proposed Amendment
to Minnesota Rules Chapter 5226 Governing
Elevator Fees

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The Elevator Inspection Unit (Unit) of Code Administration and Inspection Services (CAIS) of the Department of Labor and Industry (Department) regulates elevators in Minnesota. The purpose of CAIS is to ensure public safety in the operation of boilers, elevators, boats carrying passengers for hire, and high pressure piping. CAIS promotes public safety by developing and enforcing regulations in these areas, performing inspections of matters under its jurisdiction, and licensing persons to operate, install, alter, and inspect machinery under CAIS' jurisdiction.

The Unit receives its budget from the CAIS operating budget. CAIS will undergo a five percent (5%) actual cut of in its overall budget in fiscal year 1994-1995 (\$9,300 for the elevator inspection activity). Along with that cut the Unit will also undergo an additional cut of \$5,700 in fiscal year 1994. Further, there will be no increase in the Unit's budget for inflation. Thus, the Unit's resources will be considerably reduced for fiscal year 1994-1995.

The Unit's operating expenses include wages, supplies and expenses, allocated legal fees, statewide indirect costs, and allocated indirect costs. The unit's revenues currently are generated by collecting fees for permits to install or alter elevators and inspection fees.

II. STATUTORY AUTHORITY

Minnesota Statutes §183.358 authorizes the Commissioner of the Department to adopt rules to set fees for processing permit and contractor applications and to set fees to cover the cost of elevator inspections. Minnesota Statutes, section 183.357, subdivision 1, requires a person, firm, or corporation to obtain a permit and pay the appropriate fee prior to installing or altering an elevator. Minnesota Statutes, section 183.357, subdivision 4, requires fees received by the Department to be deposited in the state treasury and credited to the special revenue fund.

Under Minnesota Statutes, section 16A.128, subdivision 1a, the general policy regarding setting and adjusting fees is that the total fees are to nearly equal the sum of the appropriation for the account plus the unit's general support costs, statewide indirect costs, and attorney general costs attributable to the fee function. This means the unit should charge fees to cover all of its operating costs including fees to cover the cost of processing applications and permits as well as all costs the Unit incurs from performing inspections.

III. THE ELEVATOR UNIT

There are more than 30,000 elevators and escalators in Minnesota. The city of Minneapolis has two elevator inspectors to conduct inspections of new and altered elevators and

routine inspections of approximately 3700 elevators. The city of St. Paul has two elevator inspectors to conduct inspections of new and altered elevators and routine inspections of approximately 2200 elevators.

The elevator unit of Code Administration and Inspection Services has two elevator inspectors, a support person, and a chief inspector. The elevator unit is responsible for inspecting approximately 24,000 elevators in Minnesota as well as 240 elevators at the University of Minnesota and all state-owned buildings. Currently the Unit conducts approximately 750 inspections annually on new and altered elevators. Approximately 20 existing elevators are inspected each year as a result of accident investigations or registered safety complaints. Routine inspections of the existing 24,000 elevators are required at least semi-annually under the standard set out at American Society of Mechanical Engineers, A17.1, Section X, Rule 1001.1 (1991).

IV. STATEMENT OF NEED

The Unit currently has greater demands on its resources than it is receiving in revenues. It is necessary to increase the fees assessed for unit functions in order to overcome the disparity between the Unit's revenues and its costs designated under Minnesota Statutes, section 16A.128. The disparity problem is compounded by the anticipated budget cut.

The financial information for the Unit's function of CAIS is described in Exhibit B, which is part of the Minnesota Department of Finance Departmental Earnings Report for 1994-95 (see attached). The Unit's current and anticipated income is enumerated under "Total Resources Available" of Exhibit B. "Direct expenditures" reflect the Unit's appropriations, including the Attorney General's costs which are paid directly to the Attorney General's office. "Indirect Expenditures" reflect the Unit's general support and statewide indirect costs. Together they comprise the "Total Expenditures" category. The total expenses should nearly equal the appropriations per Minnesota Statutes, section 16A.128.

As a review of Exhibit B reveals, disparities of \$65,000 or \$64,000 are anticipated for the Unit in each of fiscal years 1993, 1994, and 1995 under the current fee assessments. By 1995 annual disparities will have resulted in a cumulative disparity of \$265,000. Each unit of the Department is encouraged by the State Department of Finance to alleviate its cumulative deficit.

The proposed fee amendments will solve the annual disparity problem by 1994 and make significant progress at alleviating the cumulative deficit by 1995. The estimated cumulative deficit for 1995 is \$265,000 without a fee increase. The estimated cumulative deficit for 1995 will be \$83,000 if the proposed fee increase is implemented.

Although, the figures reflect the budget cuts they do not provide for an increase in spending by the unit in subsequent years, even though such spending will inevitably increase because of inflation.

V. SMALL BUSINESS IMPACT OF THESE RULES

Small business may potentially be impacted by the proposed fee increases. Employers which employ fewer than 50 full-time employees or have gross annual sales less than \$4,000,000

and are not dominant in the field are considered small businesses. Small elevator contractors are the most likely to be affected by the proposed amendments to the rules.

It is important to note, however, that while there will be minimal increase in the cost of performing elevator work the impact on small business of not implementing these rules may be significantly detrimental. A cut back in unit staff may occur if a fee increase is not implemented. A decrease in the unit's inspectors will result in delays in inspecting permitted work. Delays in inspections will result in elevators not operating. Elevator and general contractors, and potentially building owners could lose money if permitted elevator work is not promptly inspected. Elevator contractors cannot be paid for completed permit work until the work is inspected and approved. General contractors constructing new buildings are anxious to have elevators installed and operating to assure prompt payment. Building owners are under pressure to meet deadlines for the grand opening of new buildings. Timely inspection of elevator permit work is vital to many small businesses.

Although building owners with elevators in their buildings do not fall within the definition of small business, building owners could potentially be affected by the proposed fee increase because the increased fees charged to elevator contractors would be passed on to the building owner. Buildings of four or fewer units in which the owner resides are exempt from Department's elevator regulation.

The proposed amendments to the rules have no affect on small business compliance and reporting requirements; has no affect on small business schedules or deadlines for compliance reporting; does not consolidate or simplify compliance or reporting; does not create any new performance standards; and is not appropriate for any small business exemptions.

VI. AGRICULTURE IMPACT OF THESE RULES

The proposed fee increase would have no direct impact on agricultural land.

VII. LOCAL GOVERNMENT IMPACT OF THESE RULES

The impact on local government entities to implement the proposed rules will be less than \$100,000 in each of the two fiscal years subsequent to the adoption of these rules.

VIII. RATIONALE FOR PROPOSED RULES

The proposed fee increases are reasonable. If CAIS does not increase fees, the alternatives are to cut back on the services it provides or operate at a greater fiscal disparity. Neither of these alternatives is feasible nor desirable. If CAIS reduces the services it provides, public safety would be placed at great risk. CAIS would be forced to reduce its staff, resulting in fewer inspections of elevators. Presently, the Unit only has two inspectors performing inspections of elevators under CAIS' jurisdiction. Cutting back on staff would mean a heavier inspection load for the remaining staff, resulting in less than adequate review on inspections. In addition, fewer inspections would be performed. Fewer inspections would result in allowing dangerous elevators to operate undetected placing public safety at an increased risk.

For the Unit to operate status quo is not an acceptable alternative either. The unit could operate with the same number of staff, charge the present fees, and operate at an increased disparity. However, as Minnesota Statutes, section 16A.128 indicates, it is important for CAIS to be self-supporting and not operate at a disparity. Minnesota Statutes require CAIS to set its fees "nearly equal" to its designated expenses. The only meaningful way to deal with the Unit's budget deficit is to increase fees.

Part 5226.0100 PERMITS AND FEES FOR INSTALLATIONS AND ALTERATIONS.

The proposed amendment to this part requires a permit applicant to submit plans of the permitted work along with the application. It is necessary to submit plans of the proposed permit work so the Unit can review the plans to ensure that they comply with safety standards. It is reasonable to require that plans be submitted prior to obtaining a permit because that will enable the applicant to correct mistakes before costly work is initiated. The result is efficient use of resources for all.

Another proposed amendment to this part provides that permits issued by the Unit will only validate work which is commenced within one year of issuance and finished within two years of issuance. It is necessary to put a time restriction on permitted work to ensure that the work is performed while the codes applied are effective and the review applied is still timely. It is reasonable to place a time restriction on permitted work because there is no project so large that it could not be performed within two years of issuance of the permit. The time restriction provides a practical goal for elevator contractors to attain.

Presently, the fee for a permit application is \$50. The proposed amendment would raise the fee to \$100. It is necessary to increase the permit fee to address the Unit's fiscal disparity and the anticipated budget cut. The proposed permit fee increase is reasonable because it is not excessive and it enables CAIS to make the Unit's fee income nearly equal to its costs as mandated by Minnesota Statutes, section 16A.128.

The present fee for initiating work prior to filing a permit application with the Unit is \$200. The proposed fee increase, item A., raises the fee to \$500. In addition to alleviating the fiscal disparity, this fee operates as a disincentive to begin work prior to obtaining a permit. It is important for the Unit to review plans prior to the work beginning to ensure that the work will be done correctly. It is reasonable to discourage initiation of non permitted work because it can result in unsafe installation and alterations of elevators.

The present inspection fee for new installations or alterations is one percent of the cost of the project. The proposed fee increase, item B., raises inspection fees to one and one-half percent of the cost of the project. It is necessary to increase these inspection fees to address the fiscal situation and budget cuts of the Unit. It is reasonable to increase inspection fees by one-half of a percent because it is not overly burdensome to small business and it fulfills the purpose of Minnesota Statutes, section 16A.128.

Finally, the proposed amendment to item C. states that the Unit will issue an operating permit for an elevator that successfully completes inspection and the payment of the appropriate fee. It is necessary for the Unit to issue an operating permit because it is mandated by

Minnesota Statutes, section 183.357. It is reasonable to issue an operating permit because it will replace the letter of approval now issued by the Unit and more closely follow the intent of the authorizing statute, Minnesota Statutes, section 183.357, subdivision 1.

Part 5228.0200 FEES.

Subpart 1. Inspection fees. This proposed subpart increases fees for routine inspection of existing elevators. It is necessary to increase fees for routine inspections to address the disparity previously described.

Under the present fee structure, charges for routine inspection are: \$50 for up to five-level elevators; \$60 for six to ten-level elevators; \$70 for 11 to 20-level elevators; \$80 for 21-or-more-level elevators; and \$50 for accessibility elevators, dumbwaiters, escalators and all other elevating devices. The proposed amendments change the fee and the structure of charging a fee. The proposed fee structure is a \$50 fee for two-stop elevators, \$75 for three-stop elevators, \$100 for four-stop elevators, \$125 for five-stop elevators, \$150 for six-or-more-stop elevators, and \$100 for escalators and moving walks.

It is necessary to change the fee structure to increase revenues for routine inspections. The proposed fee structure will generate more revenue because it charges a greater fee for fewer stops inspected on an existing elevator of up to six stops. Finer discrimination in fees for elevators of fewer stops is reasonable because the vast majority of elevators in Minnesota have few stops. Eighty percent of the existing elevators inspected by the Unit are two-stop elevators. Less discrimination among fee rates for elevators of more stops is reasonable because only 7% of the existing elevators inspected by the Unit are four or more stops. The new fee structure will better cover the unit costs in those inspections. It is reasonable to charge the building owner or elevator contractor a fee to meet the Unit's inspection expenses.

Subpart 2. Exceptions. This proposed subpart excludes certain elevators from routine inspection performed by the Unit. It is reasonable to exclude these elevators from routine inspection because the Minnesota Department of Labor and Industry Occupational Safety and Health Services (OSHS) performs routine inspections of these types of elevators when they are used on employer premises. The Unit performs inspections of new installations and alterations of these types of elevators and, thereafter, OSHS performs further inspections. If a complaint or accident occurs on one of these elevators, the Unit conducts an elevator investigation.

Subpart 3. Elevator inspector application and renewal fees. This proposed subpart imposes a fee for review and processing of an elevator inspector application. It is necessary to charge an application fee to cover the costs incurred by the Unit as required by Minnesota Statutes, section 16A.128. It is reasonable to charge a fee for processing inspector applications because it is a cost incurred by the Unit because of inspections. It is in the interest of the constituency as well as the Department to see that this oversight is adequately funded. The Department has statutory authority to charge fees for inspections under Minnesota Statutes, section 183.358.

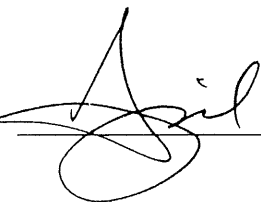
Part 5228.0300 CONTRACTOR LICENSE FEE.

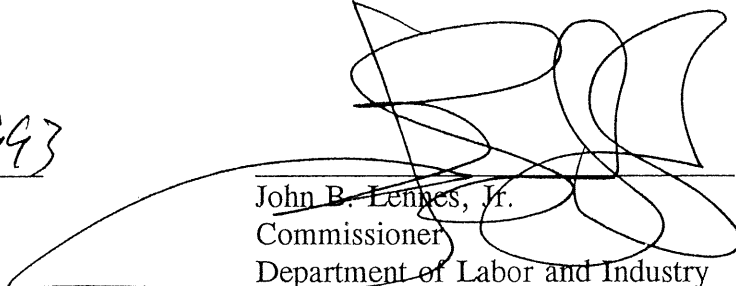
This proposed part increases the fee for review and processing of an elevator contractor license application. It is necessary to increase the contractor license fee as part of the ultimate goal of assuring that revenues meet appropriations plus designated costs. There will be an initial fee of \$500 for an elevator contractor license. The \$500 license fee is for the privilege of engaging in the elevator contracting business. Practicing elevator contractors are operating businesses of substantial safety risk to the public and it is crucial that those persons are qualified to do so. It is reasonable to increase contractor license fees to ensure that the Unit only receives applications from those who are serious enough about pursuing an elevator contracting business to meet the qualifications necessary to ensure the safety of the public.

The renewal fee will be \$125. The renewal fee will cover the designated costs for the annual updating of a contractor license. A one time fee and, thereafter, a renewal fee will not be overly burdensome for persons interested in legally engaging in the business of an elevator contractor.

The approval of the Commissioner of Finance for the fee amendments is attached to this statement.

Dated:

 April 30, 1993


John B. Lennes, Jr.
Commissioner
Department of Labor and Industry

Office Memorandum

Department: of Finance

Date: April 29, 1993

To: Kathy Smith, Administrator
Code Admin. and Inspection Services
Department of Labor and Industry

From: Bruce J. Reddemann, Director *BJR*
Budget Operations

Phone: 296-5188

Subject: Proposed Rule to Increase fees for Elevator Inspection, Permits and Licensing of Inspectors and Contractors

The proposed fee increases as submitted for elevator inspection, permits and licensing of inspectors and contractors on a memorandum dated April 28, 1993, with supporting proposed revisor's rule draft dated April 22, 1993 and departmental Earnings report have been reviewed and are hereby approved per M.S. 16A.128.

The approved fees for fiscal years 1994 and 1995 as supported in the Governor's budget are as follows:

- A. Permit fee to install or alter an elevator..... \$100.00
- A1. Permit fee to install or alter an elevator, if
work requiring permit is started without permit.. \$500.00
- B. Inspection fee for installation and alteration of
permitted elevator work (% of labor & materials). 1-1/2%
- C. Inspection fees (routine and periodic of
existing elevators)
 - (1) two stop elevators..... \$50.00
 - (2) three stop elevators..... \$75.00
 - (3) four stop elevators..... \$100.00
 - (4) five stop elevators..... \$125.00
 - (5) six or more stop elevators..... \$150.00
 - (6) escalators and moving walks..... \$100.00
- D. Elevator Inspector application and renewal fees:
 - (1) elevator inspection application..... \$50.00
 - (2) inspector's certificate (annual renewal) \$25.00
 - (3) inspector's certificate renewal
(past 30 days of the expiration date) \$50.00

April 29, 1993

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Kathy Smith, Administrator

E. Contractor's license fee:

(1) initial application & initial license	\$500.00
(2) license renewal.....	\$125.00

cc: Jim King
Charlie Bieleck
Anina Bearrood

Exhibit B:

CODE SERVICES - ELEVATOR INSPECTION
1994-95 DEPARTMENTAL EARNINGS REPORT

MN DEPARTMENT OF FINANCE
Fi-00395-01

Collecting Agency Name: Department of Labor and Industry	Sec./Seq.: 573	Earnings Group: Elevator Inspection
Brief Description of Item or Group of Items Reported Below: These revenues are for the issuing of elevator permits and installation contractor licenses as well as for elevator inspection fees. The law under which these fees are collected includes (in addition to elevators) escalators, dumb waiters, special purpose personnel hoists, accessibility lifts, vertical reciprocating conveyors, and material hoists. This agency is responsible for all lift devices in the state with the exception of those located in St. Paul and Minneapolis. Each of these cities are responsible for their own elevator safety inspections to assure that they are in compliance with all applicable codes.		
Fee set by Statute _____ or Agency <u>X</u>	Legal Citation: M.S. 183.358	Date Prepared: 01-Dec-92
Purpose: The purpose of the fees collected is to cover the costs of licensing, regulating, and inspecting all aspects of the installation of any lift devices which may be used by either the general public or persons employed on the site of such a device.		
_____ Dedicated or <u>X</u> Non-dedicated	APID: 21400:99-10 Labor and Industry Receipts	Revenue Code(s): 302, 310, 310

Fiscal Information Section

(\$1,000,000 = 1,000)

				Current Law		Agency Plan		Recommended	
	ACT. <u>1991</u>	ACT. <u>1992</u>	EST. <u>1993</u>	EST. <u>1994</u>	EST. <u>1995</u>	EST. <u>1994</u>	EST. <u>1995</u>	EST. <u>1994</u>	EST. <u>1995</u>
Actual and Estimated Resources									
Accumulated balance forward	0	0	(71)	(136)	(201)	(136)	(134)		
Type of Departmental Income									
1. User/Service Charge	0	0	0	0	0	0	0		
2. Occupational Licensure Charges	7	154	150	150	151	150	151		
3. Business/Industrial Regulatory Charges	2	3	3	3	3	78	78		
4. Special Taxes and Assessments	0	0	0	0	0	0	0		
5. Other (Specify)	0	0	0	0	0	0	0		
Less Refunds:	0	(3)	(2)	(2)	(2)	(2)	(2)		
Plus Earnings transferred from Other APIDs	0	0	0	0	0	0	0		
Total Resources Available	9	154	151	151	152	226	227		
Transfers Out:									
	0	0	0	0	0	0	0		
Actual and Est. Expenditures (Specify APID)									
21400:07-10 Code Enforcement (F.Y. 91)									
21400:08-10 Workplace Reg. (eff F.Y. 92)									
Direct Expenditure	*	196	186	186	186	193	152		
Indirect Expenditure	*	29	30	30	30	31	24		
Total Expenditures:	*	225	216	216	216	224	176		
Current Difference:	*	(71)	(65)	(65)	(64)	2	51		
Accumulated Ending Balance	0	(71)	(136)	(201)	(265)	(134)	(83)		

* Not applicable - Prior to F.Y. 1992 these expenditures were not separated from the expenditures of the activity as a whole.