

STATEMENT OF NEED AND REASONABLENESS

FOR THE PROPOSED MN RULES CHAPTER 5230 GOVERNING HIGH PRESSURE PIPING

INTRODUCTION

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

Minnesota Statutes, 326.48 requires a person, firm, or corporation to obtain a license from the Department before engaging in the work of a contractor pipefitter or a journeyman pipefitter. The Department has statutory authority to set and adjust fees for issuing licenses under Minnesota Statutes, 362.50.

It is necessary to increase contractor and journeyman high pressure piping license fees at this time to address fiscal problems facing the high pressure piping unit (unit) of CAIS. It is reasonable to increase license fees at this time because it is the most viable solution to deal with the unit's fiscal problems and because the unit's fee income should more closely balance its operating expenses.

The high pressure piping unit of CAIS receives a share of funds from the CAIS operating budget. It is anticipated that CAIS will undergo a five percent (5%) cut in its overall budget in fiscal year 1994. If this occurs, the unit's budget would also decrease in fiscal year 1994 by five percent. This will further compound the unit's fiscal problems because it already operates at a deficit.

The unit's operating expenses include personal services, supplies and expenses, allocated legal fees, statewide indirect costs, and allocated indirect costs. The unit's revenues are generated by charging fees for licensing pipefitters, issuing permits to construct or install high pressure piping, and fees charged for inspecting permitted work.

Under Minnesota Statutes, 16A.128, the general policy regarding setting and adjusting fees is that the total fees nearly equal the sum of the appropriation for the accounts plus the unit's

general support costs, statewide indirect costs, and attorney general costs attributable to the fee function. The unit should charge fees to cover nearly all of its operating costs.

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It is necessary to increase the license fees for pipefitters at this time to overcome the unit's operating deficit and the anticipated budget cut. It is estimated that the unit is operating at a deficit of approximately \$219,000 in fiscal year 1993. The estimated deficit for the unit in fiscal year 1994 will be \$357,000 if the proposed fee increase is not adopted. Whereas, the 1994 deficit will be \$287,000 if the proposed fee increase is adopted.

The anticipated deficit becomes more dramatic for fiscal year 1995. The deficit is expected to be \$495,000 for fiscal year 1995 without a fee increase. The anticipated deficit will be \$285,000 if the proposed fee increase is adopted. The adoption of the proposed fee increases is expected to reduce the deficit by \$210,000 for fiscal year 1995. These figures do not reflect the anticipated budget cut of five percent, which, if included in the figures, would increase the deficit figures. These figures also reflect no increase in spending by the unit in subsequent years.

It is reasonable for pipefitters' license fees to be increased and not permit and inspection fees. High pressure piping permit and inspection fees were doubled two years ago, in May, 1991. Permit application fees increased from \$25 to \$50. Inspection fees increased from one percent to two percent of the cost of constructing or installing the high pressure piping system. Further, the scope of inspections was broadened in the fall of 1992 to include ammonia refrigeration systems. Thus, building owners must now pay an inspection fee of two percent of the cost of constructing or installing high pressure piping, or ammonia refrigeration systems. Conversely, pipefitter license fees were increased five years ago, in November 1987. It is equitable to increase license fees and not permit and inspections fees at this time to spread the cost evenly among participants in the high pressure piping industry.

If CAIS does not increase license fees, the alternatives are to cut back on the services it provides, operate at a greater deficit, or increase permit and inspection fees again. None of the alternatives are feasible.

Decreasing license fees will also have a greater effect upon the reduction of the unit's deficit than a second increase in permit fees. In fiscal year 1993, 2734 persons paid high pressure piping license fees while 323 fees were paid for high pressure piping permits.

If CAIS reduces the services it provides, public safety may be placed at risk. CAIS would be forced to reduce its staff, resulting in fewer inspections of high pressure piping. Fewer inspections may result in dangerous high pressure piping systems operating undetected. The unit already is operating with one less inspector than it did two years ago. The addition of inspections for ammonia refrigeration systems means that the unit will have to do more inspections with fewer staff. The resulting burden on high pressure piping inspectors would mean performing fewer inspections and increased risk to the public.

Operation in the status quo is not an acceptable alternative either. The unit could operate with the same number of staff, charge the same license fee, and operate at an increased deficit. It is important for CAIS to be more self-supporting and not operate at a deficit. Minnesota Statutes, 16A.128 suggests that CAIS should set its fees "nearly equal" to its expenses. Thus, CAIS needs to increase fees to more closely cover its operating costs.

The proposed license fee doubles the present fee charged for issuing new and renewed contractor and journeyman pipefitter licenses. The present license fees are minimal. A journeyman application for a new license is \$50 and renewal is \$30. A contractor application for a new license is \$125 and renewal is \$110. A 100% increase in fees is reasonable and not excessive. For example, the proposed fee for a journeyman pipefitter is \$100, and the proposed renewal fee is \$60. On the average a journeyman earns from \$13.00 to \$22.00 per hour. A one time fee of \$100, and thereafter a yearly fee of \$60 is affordable relative to a journeyman's wages. Based on even a modest income, the proposed license increase is not overly burdensome for pipefitters.

The proposed rule increases the fee charged to process pipefitter contractor bonds and liability insurance. It is necessary to increase the fee charged for processing these forms to aid in the reduction of the unit's operating deficit. It is reasonable to increase this fee because it is not overly burdensome to pipefitter contractors, relative to their wage or salary and because the unit's fee income should be nearly equal to its costs. In addition, because the fee is a necessary cost of doing business, the contractor may deduct the fee from the contractor's taxable income.

The proposed rule raises late fees for delinquent renewal of a pipefitter license. A pipefitter license that is not renewed within 30 days of its expiration date is expired and cannot be renewed unless the applicant pays the late fee. The late fee is equal to the initial application fee. It is necessary to augment the late fee to equal the increased application fee to encourage license holders to renew their license in a timely manner. A person performing the duties of a pipefitter with an expired

license is guilty of a misdemeanor under Minnesota Statutes, 326.48. Increasing the delinquent renewal fee also helps to fulfill the purpose of Minnesota Statutes, 16A.128.

Increasing pipefitter license fees is the best available alternative to address the fiscal problems of the unit. The increase is fair because it spreads the cost of regulating the high pressure piping industry evenly among participants as employees, employers, and building owners with high pressure piping systems.

If the proposed rule proceeds to a hearing, the Department intends to introduce evidence of the need for a fee increase as outlined in this statement and other accounting and financial records of the Department. Witnesses would include Department personnel having knowledge of high pressure piping regulation, licensing, and costs. The Commissioner of Finance approval of the proposed rule is attached to this Statement.

SMALL BUSINESS IMPACT OF THESE RULES

Small businesses potentially impacted by the proposed fee increase are businesses which use high pressure piping as part of their operations. The impact to small business because of the proposed rule is minimal. The proposed fee increases would have an indirect impact on small business if pipefitter contractors were to charge more for their services because of an increase in their license fees. However, this is unlikely since the greatest proposed fee increase is only \$125 for a new contractor license. Contractors are unlikely to increase their charge for services rendered on a particular job because of an increase in expense of \$110 per year.

The impact on small business may be detrimental if the proposed fee increase is not adopted. A cut back in staff may occur without an increase in fees. A decrease of the unit's inspectors will cause delays in inspecting permitted work. Delays in inspections will result in down time for operating the high pressure system. Thus, the building owner will lose income if the building or plant cannot operate because the high pressure piping system is down.

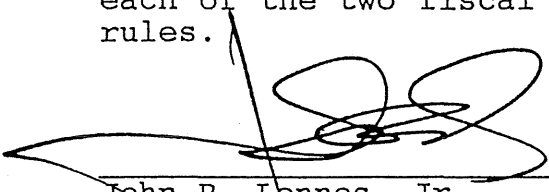
The proposed rule has no effect on small business compliance and reporting requirements; has no effect on small business schedules or deadlines for compliance reporting; does not consolidate or simplify compliance or reporting; does not create any new performance standards; and is not appropriate for any small business exemptions.

AGRICULTURE IMPACT OF THESE RULES

There would be no direct impact on agricultural land because of the proposed fee increase.

LOCAL GOVERNMENT IMPACT OF THESE RULES

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



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

Dated: April 16, 1993