

**DEPARTMENT OF LABOR AND INDUSTRY  
LABOR STANDARDS UNIT**

**May 1, 2012**

**NOTICE OF CERTIFICATION OF TRUCK RENTAL RATES AND EFFECTIVE  
DATE PURSUANT TO MINNESOTA RULES, PART 5200.1105**

On May 1, 2012, the Commissioner of the Department of Labor and Industry (“DLI”) certified the minimum truck rental rates for highway projects in the state’s ten highway and heavy construction areas for trucks and drivers operating “four or more axle units, straight body trucks,” “three axle units,” “tractor only” and “tractor trailers.” The certification followed publication of the Notice of Determination of Truck Rental Rates in the *State Register* on March 12, 2012, and the informal conference held pursuant to Minnesota Rules, part 5200.1105 on April 4, 2012.

According to Minnesota Rules, part 5200.1105, the purpose of the informal conference is for DLI to obtain further input regarding the proposed rates before the rates are certified. Approximately 18 individuals attended the informal conference. Many of the attendees voiced strong concerns regarding the inadequacy of the proposed rates. Among the concerns raised was the fact that the proposed rates were based on 2010 costs, including the 2010 price of fuel. Speakers indicated that because of the dramatic increase in the price of diesel in recent months, the published rates were far below the operators’ current costs. As stated by some attendees:

“This year, right now yesterday we were paying \$4.10...I know when fuel went up that last time, a lot of us had to eat the cost because there was no way of recouping it.”

Testimony of Colleen Donovan, Transcript of Informal Conference, pp. 13, 14.

Ms. Donovan provided DLI written information that her 2010 average cost for fuel was \$2.99 per gallon.

“And, like the price of fuel, \$4.25, \$4.30. That’s what it is down by my place, anyway.”

Testimony of Bob Dornsbach, Transcript of Informal Conference, p. 32.

Mr. Bob Dornsbach provided DLI written information that in October 2010 his fuel cost was \$3.15 per gallon.

In response to the informal conference Jim Lloyd provided written information that his 2010 fuel cost was close to \$3.00 per gallon and “now is at \$4.00 plus and it does not look like it is going to decrease.”

After the informal conference, Tom Barnes provided written information that his fuel costs in March 2010 were \$2.82 per gallon and that his fuel costs for March 2012 were \$4.07 per gallon.

Following the informal conference, DLI staff obtained data from the United States Department of Energy (“DOE”) regarding the price of diesel during 2010 as compared to current costs.<sup>1</sup> That data, available at [www.eia.doe.gov](http://www.eia.doe.gov), show that the average price of diesel during 2010 was \$2.964 per gallon. The average price of diesel during January, February, and March 2012 was \$3.862 per gallon. Consequently, the average price of diesel for the first three months of this year was 30.4% higher than the average cost of diesel during 2010.

The purpose of Minnesota Rules, part 5200.1105, as stated in its Statement of Need and Reasonableness, is to “provide equitable compensation” to independent truck operators. The commissioner finds that in order to carry out the purpose of the rule, it is appropriate to consider the concerns expressed at the informal conference<sup>2</sup> and to use average 2012 diesel costs in computing and certifying 2012 truck rental rates. Specifically, the commissioner finds that the extreme disparity between 2010 and current fuel costs warrants this adjustment in order for truck operators to be equitably compensated.<sup>3</sup>

Construction truck operating costs were initially determined by survey on a statewide basis and were the subject of further input by interested parties attending the informal conference pursuant to Minnesota Rules, part 5200.1105 on April 4, 2012 and further data on fuel prices from the DOE for 2010 and 2012. In light of the discussion above, fuel costs stated in the surveys were adjusted upward by 30.4% to determine statewide operating costs. As a result of this adjustment, the operating cost for “four axle units, straight body trucks” is determined to be \$51.58 per hour; the operating cost for “three axle units” is determined to be \$37.35 per hour; the operating cost for “tractor only” is determined to be \$41.43 per hour; and the operating cost for “tractor trailers” is determined to be \$52.89 per hour.

Adding the prevailing wage for drivers of these four types of trucks from each of the State’s ten highway and heavy construction areas to the operating costs, the minimum

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<sup>1</sup> U.S. Energy Information Administration Midwest No. 2 Retail Prices (Dollars per Gallon)

<sup>2</sup> The DLI has historically used input from the informal conferences to establish certified rates. For example, truck rental rates certified in 2009 varied from the proposed rates based on information gathered at the informal conference.

<sup>3</sup> The commissioner notes that the Minnesota Department of Transportation incorporates a fuel adjustment clause in certain of its contracts to accommodate the fluctuating price of fuel. That clause generally provides for the adjustment of contract payments when the cost of fuel increases or decreases by more than 15% from an indexed rate during the term of the contract. By using 2012 fuel costs in certifying 2012 truck rental rates, the commissioner is not intending to adopt or establish a similar fuel adjustment mechanism. Rather, he is taking this action to effectuate the purpose of Part 5200.1105 in light of the concerns raised at the informal conference and the dramatic increase in the price of diesel between 2010 and effective date of 2012 truck rental rates.

hourly truck rental rate for the four types of trucks in each area is certified to be as follows:

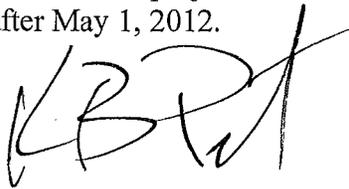
|           |                | 3 Axle Units    |                |                   |
|-----------|----------------|-----------------|----------------|-------------------|
|           | Effective Date | 607 Driver Rate | Operating Cost | Truck Rental Rate |
| Region 1  | May 1, 2012    | 40.10           | 37.35          | 77.45             |
| Region 2  | May 1, 2012    | 33.76           | 37.35          | 71.11             |
| Region 3  | May 1, 2012    | 25.40           | 37.35          | 62.75             |
| Region 4  | May 1, 2012    | 33.76           | 37.35          | 71.11             |
| Region 5  | May 1, 2012    | 40.50           | 37.35          | 77.85             |
| Region 6  | May 1, 2012    | 38.30           | 37.35          | 75.65             |
| Region 7  | May 1, 2012    | 33.76           | 37.35          | 71.11             |
| Region 8  | May 1, 2012    | 33.76           | 37.35          | 71.11             |
| Region 9  | May 1, 2012    | 40.50           | 37.35          | 77.85             |
| Region 10 | May 1, 2012    | 13.22           | 37.35          | 50.57             |

|           |                | 4 or more Axle Units |                |                   |
|-----------|----------------|----------------------|----------------|-------------------|
|           | Effective Date | 604 Driver Rate      | Operating Cost | Truck Rental Rate |
| Region 1  | May 1, 2012    | 40.20                | 51.58          | 91.78             |
| Region 2  | May 1, 2012    | 33.91                | 51.58          | 85.49             |
| Region 3  | May 1, 2012    | 24.71                | 51.58          | 76.29             |
| Region 4  | May 1, 2012    | 33.91                | 51.58          | 85.49             |
| Region 5  | May 1, 2012    | 26.34                | 51.58          | 77.92             |
| Region 6  | May 1, 2012    | 38.40                | 51.58          | 89.98             |
| Region 7  | May 1, 2012    | 20.87                | 51.58          | 72.45             |
| Region 8  | May 1, 2012    | 20.87                | 51.58          | 72.45             |
| Region 9  | May 1, 2012    | 40.60                | 51.58          | 92.18             |
| Region 10 | May 1, 2012    | 32.91                | 51.58          | 84.49             |

|           |                | Tractor         |                |                                   |                                |                              |
|-----------|----------------|-----------------|----------------|-----------------------------------|--------------------------------|------------------------------|
|           | Effective Date | 602 Driver Rate | Operating Cost | Tractor Only<br>Truck Rental Rate | Plus Trailer<br>Operating Cost | Tractor Trail<br>Rental Rate |
| Region 1  | May 1, 2012    | 40.75           | 41.43          | 82.18                             | 11.46                          | 93.64                        |
| Region 2  | May 1, 2012    | 34.42           | 41.43          | 75.85                             | 11.46                          | 87.31                        |
| Region 3  | May 1, 2012    | 22.37           | 41.43          | 63.80                             | 11.46                          | 75.26                        |
| Region 4  | May 1, 2012    | 34.42           | 41.43          | 75.85                             | 11.46                          | 87.31                        |
| Region 5  | May 1, 2012    | 21.38           | 41.43          | 62.81                             | 11.46                          | 74.27                        |
| Region 6  | May 1, 2012    | 37.95           | 41.43          | 79.38                             | 11.46                          | 90.84                        |
| Region 7  | May 1, 2012    | 25.85           | 41.43          | 67.28                             | 11.46                          | 78.74                        |
| Region 8  | May 1, 2012    | 34.42           | 41.43          | 75.85                             | 11.46                          | 87.31                        |
| Region 9  | May 1, 2012    | 41.15           | 41.43          | 82.58                             | 11.46                          | 94.04                        |
| Region 10 | May 1, 2012    | 33.42           | 41.43          | 74.85                             | 11.46                          | 86.31                        |

The operating costs, including the average truck broker fees paid by those survey respondents who reported paying truck broker fees, and the truck rental rates may also be reviewed by accessing DLI's website at [www.dli.mn.gov](http://www.dli.mn.gov). Questions regarding the operational costs and truck rental rates can be answered by calling (651) 284-5091.

The minimum truck rental rates certified for these four types of trucks in the state's ten highway and heavy construction areas will be effective for all highway and heavy construction projects financed in whole or part with state funds advertised for bid on or after May 1, 2012.



KEN B. PETERSON  
COMMISSIONER