

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 889

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2-15-83
DATE FOR REVIEW 2-28-83
DATE DUE 3-7-83

Adopted w/a hearing ✓
Adopted w/o hearing
Temporary rule

Approved 3-7-83 Disapproved Returned to Agency 3/11/83

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State 3/10/83 Revisor approved 3.8.83 disapproved

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✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 1.25.83 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 5580

✓ Order for rulemaking
10.28.82 date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
9.24.82 At least 30 days prior to hearing/~~adoption~~

✓ Mailing list Certificate

✓ Publication in State Register
9.27.82 At least 30/~~20~~ days prior to hearing/~~adoption~~

references 8.9.82

✓ Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
Approving H.E.'s Report
✓ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

Record (includes transcript not submitted or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)
other material not submitted.

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Paul J. Tschida, Commissioner of Public Safety DATE: 3/7/83

Attn: JIM EARLY, Special Assistant Attorney General

FROM : LARRY D. STARNS
Special Assistant
Attorney General PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Amendments to the Uniform Fire Code.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.
LS/las
cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Public Safety

State Fire Marshal Division

RECEIVED
JAN 28 1983
ADMINISTRATIVE HEARINGS

Adopted Rules Governing Amendments to the Uniform Fire Code

Rules as Adopted

11 MCAR S 1.5101 Purpose.

The purpose of 11 MCAR SS 1.5101-~~1.5154~~ 1.5156 is to adopt uniform fire safety standards governing the maintenance of buildings and premises; regulate the storage, use, and handling of dangerous and hazardous materials, substances, and processes; and regulate the maintenance of adequate egress facilities.

11 MCAR S 1.5102 Scope.

The scope of 11 MCAR SS 1.5101-~~1.5154~~ 1.5156 is intended to be consistent with Minn. Stat. S 299F.011.

11 MCAR S 1.5103 Rules and standards adopted by reference.

The Uniform Fire Code, as promulgated by the International Conference of Building Officials and the Western Fire Chiefs Association (Whittier, California, 1982) is incorporated by reference and hereby made part of Minnesota rules pursuant to statutory authority, subject to the alterations and amendments in 11 MCAR SS 1.5104-~~1.5154~~ 1.5156.

11 MCAR S 1.5104 Sec. 1.101 of the Uniform Fire Code.

Sec. 1.101 of the Uniform Fire Code is amended to read:

Sec. 1.101. This code shall be known as the MINNESOTA UNIFORM FIRE CODE, may be cited as such, and will be referred to herein as "this code."

11 MCAR S 1.5105 Sec. 1.102 of the Uniform Fire Code.

Sec. 1.102 of the Uniform Fire Code is amended by adding a paragraph to read:

Sec. 1.102(d) Whenever in this code reference is made to the Uniform Fire Code Standards, the provisions in the Uniform Fire Code Standards shall not apply unless specifically adopted.

11 MCAR S 1.5106 Sec. 2.101 of the Uniform Fire Code.

Sec. 2.101 of the Uniform Fire Code is amended to read:

Sec. 2.101. The state fire marshal may, and the chief of any jurisdiction adopting this code shall, administer and enforce this code and all laws of the state pertaining to:

(a) The prevention of fires.

(b) The suppression or extinguishing of dangerous or hazardous fires.

(c) The storage, use and handling of explosive, flammable, combustible, toxic, corrosive and other hazardous gaseous, solid and liquid materials.

(d) The installation and maintenance of automatic, manual and other private fire alarm systems and fire-extinguishing equipmment.

(e) The maintenance and regulation of fire escapes.

(f) The maintenance of fire protection and elimination of fire hazards on land and in buildings, structures, and other property, including those under construction.

(g) The means and adequacy of each exit in the event of fire, from factories, schools, hotels, lodging houses, institutions, hospitals, class B supervised living facilities, churches, halls, theaters, amphitheaters, and all other places in which people work, live, or congregate from time to time for any purpose.

(h) The investigation of the cause, origin and circumstances of fire.

11 MCAR S 1.5107 Sec. 2.102 of the Uniform Fire Code.

Sec. 2.102 of the Uniform Fire Code is deleted and replaced with the following:

Sec. 2.102. (a) Any jurisdiction which adopts this code is authorized to make amendments, by ordinance, to Article 2 hereof to provide for a system of enforcement and administration within the jurisdiction. These amendments shall be in the form of additions only, and none of the existing provisions of Article 2 shall be changed nor shall any amendment be made which interferes with the intent of the existing provisions nor the

state fire marshal's duties and powers thereunder.

(b) Any jurisdiction which adopts this code is authorized to adopt, by ordinance, rules for the prevention and control of fires and fire hazards as may be necessary from time to time, to carry out the intent of this code, and which may be more restrictive than this code when the rules are necessary to protect life or property in the community. The governing body may adopt this code by ordinance. One certified copy of the ordinance containing the rules shall be filed with the clerk of the jurisdiction and shall be in effect immediately thereafter, and additional copies shall be kept in the office of the fire department for distribution to the public.

(c) Wherever the term "state fire marshal" appears in Article 2, it shall also include the chief of any jurisdiction adopting this code.

(d) Wherever the term "chief" appears in Articles 2-86 or in the Appendix of this code, it shall mean state fire marshal except that it shall also include the chief of any jurisdiction adopting this code.

11 MCAR S 1.5108 Sec. 2.103 of the Uniform Fire Code.

Sec. 2.103 of the Uniform Fire Code is deleted in its entirety.

11 MCAR S 1.5109 Sec. 2.104 of the Uniform Fire Code.

Sec. 2.104 of the Uniform Fire Code is deleted in its entirety.

11 MCAR S 1.5110 Sec. 2.105 of the Uniform Fire Code.

Sec. 2.105 of the Uniform Fire Code is deleted in its entirety.

11 MCAR S 1.5111 Sec. 2.202 of the Uniform Fire Code.

Sec. 2.202 of the Uniform Fire Code is amended to read:

Sec. 2.202. (a) The fire department of any jurisdiction adopting this code shall investigate promptly the cause, origin and circumstances of each and every fire occurring in the municipality involving loss of life or injury to person or

destruction or damage to property, and if it appears to the members of the fire department making the investigation that such fire is of suspicious origin, they shall then take immediate charge of all physical evidence relating to the cause of fire, shall notify the proper authorities designated by law to pursue the investigation of such matters, and shall cooperate with the authorities in the collection of evidence and in the prosecution of the case. The chief shall make a report in writing to the state fire marshal of all facts and findings relative to each investigation.

(b) The police department may assist the fire department in its investigation whenever requested to do so.

11 MCAR S 1.5112 Sec. 2.205 of the Uniform Fire Code.

Sec. 2.205 of the Uniform Fire Code is amended to read:

Sec. 2.205. Any order or notice authorized or required by this code shall be given or served upon the owner, operator, occupant or other person responsible for the condition or violation either by oral notification, personal service, or by delivering the same to and leaving it with some person of suitable age and discretion upon the premises; or, if no such person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises and by mailing a copy thereof to such person by mail to his last known address. Orders or notices given orally shall be confirmed by service in writing as herein provided.

11 MCAR S 1.5113 Sec. 2.302 of the Uniform Fire Code.

Sec. 2.302 of the Uniform Fire Code is deleted in its entirety.

11 MCAR S 1.5114 Sec. 2.303 of the Uniform Fire Code.

Sec. 2.303 of the Uniform Fire Code is deleted and replaced with the following:

Sec. 2.303. Whenever the Uniform Fire Code, as amended by 11 MCAR SS 1.5101-1.5154, is silent on any subject, for any reason, in any situation, the provision of protection shall be in accordance with the National Fire Codes, 1982 issued by the

National Fire Protection Association (Quincy, Massachusetts, 1982) which are adopted by reference as part of this code as though set forth herein in their entireties.

11 MCAR S 1.5115 Article 4 of the Uniform Fire Code.

Article 4 of the Uniform Fire Code is deleted in its entirety.

11 MCAR S 1.5116 Sec. 9.103 of the Uniform Fire Code; authority having jurisdiction defined.

In Sec. 9.103 of the Uniform Fire Code the following definition is added:

Sec. 9.103. AUTHORITY HAVING JURISDICTION shall mean any municipal fire code official or the state fire marshal or any of their authorized representatives.

11 MCAR S 1.5117 Sec. 9.104 of the Uniform Fire Code; building code definition amended.

In Sec. 9.104 of the Uniform Fire Code the definition of Building Code is amended to read:

Sec. 9.104. BUILDING CODE shall mean the Minnesota State Building Code.

11 MCAR S 1.5118 Sec. 9.108 of the Uniform Fire Code; fireman defined.

In Sec. 9.108 of the Uniform Fire Code the following definition is added:

Sec. 9.108. FIREMAN, as used throughout this code, shall be construed to mean firefighters.

11 MCAR S 1.5119 Sec. 9.109 of the Uniform Fire Code; guest room defined.

In Sec. 9.109 of the Uniform Fire Code the following definition is added:

Sec. 9.109. GUEST ROOM shall mean a room used exclusively for living or sleeping purposes excluding storage rooms, laundry rooms, furnace rooms and similar common areas.

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11 MCAR S ~~1.5119~~ 1.5120 Sec. 9.115 of the Uniform Fire Code;

mechanical code definition amended.

In Sec. 9.115 of the Uniform Fire Code the definition of mechanical code is amended to read:

Sec. 9.115. MECHANICAL CODE shall mean the Minnesota Heating, Ventilation, Air Conditioning, and Refrigeration Code, rules SBC 7101-8505 of the Department of Administration.

11 MCAR S ~~1.5120~~ 1.5121 Sec. 9.115 of the Uniform Fire Code; municipality defined.

In Sec. 9.115 of the Uniform Fire Code the following definition is added:

Sec. 9.115. MUNICIPALITY shall mean any city, county, or town meeting the requirements of Minn. Stat. S 368.01, subd. 1, or the University of Minnesota.

11 MCAR S ~~1.5121~~ 1.5122 Sec. 9.117 of the Uniform Fire Code; Group I Occupancies defined.

In Sec. 9.117 of the Uniform Fire Code the definition of Group I Occupancies is amended to read:

Sec. 9.117. Group I Occupancies:

Division 1. Nurseries for the full-time care of children under the age of six (each accomodating more than four persons). Hospitals, sanitariums, nursing homes and similar buildings (each accomodating more than four persons).

Division 2. Detoxification centers, homes for children six years of age or over, supervised living facilities Class B as defined for the mentally retarded, mentally ill or the physically handicapped (each accomodating more than four persons).

Division 3. Mental hospitals, mental sanitariums, jails, prisons, reformatories and buildings where personal liberties of inmates are similarly restrained.

Exception: Group I Occupancies shall not include buildings used only for private residential purposes or for a family group.

11 MCAR S ~~1.5122~~ 1.5123 Sec. 9.117 of the Uniform Fire Code; Group R Occupancies defined.

In Sec. 9.117 of the Uniform Fire Code the definition of Group R Occupancies is amended to read:

Sec. 9.117 Group R Occupancies:

Division 1. Hotels and apartment houses. Convents and monasteries (each accomodating more than ten persons), Supervised living facilities Class A-2 as defined in Sec. 9.121 for the mentally retarded, mentally ill, chemically dependent, and the physically handicapped (each accomodating more than four persons). Physically handicapped persons shall be housed at street level.

Exception: Supervised living facilities Class A-2 as defined in Sec. 9.121 having more than six but not more than 15 ambulatory or mobile disabled persons, duly licensed prior to the adoption of this code, and complying with the requirements for lodging and rooming houses as set forth in Standard 101, in the National Fire Codes, 1973, issued by the National Fire Protection Association (Boston, Massachusetts, 1973), shall be classified as Group R, Division 3 occupancies.

Division 2. Not used.

Division 3. Dwellings and lodging houses, supervised living facilities Class A-1 as defined in Sec. 9.121.

11 MCAR S ~~1.5123~~ 1.5124 Sec. 9.121 of the Uniform Fire Code; state fire marshal defined.

In Sec. 9.121 of the Uniform Fire Code the following definition is added:

Sec. 9.121. STATE FIRE MARSHAL shall mean the Minnesota state fire marshal or any of his or her authorized representatives.

11 MCAR S ~~1.5124~~ 1.5125 Sec. 9.121 of the Uniform Fire Code; supervised living facility defined.

In Sec. 9.121 of the Uniform Fire Code the following definition is added:

Sec. 9.121. SUPERVISED LIVING FACILITY means a facility in which there is provided supervision, lodging, meals, and, in accordance with the provisions of rules of the Department of

Public Welfare and/or the Department of Health, counseling and developmental habilitative or rehabilitative services to five or more persons who are mentally retarded, chemically dependent, adult mentally ill or physically handicapped.

CLASS A SUPERVISED LIVING FACILITY means a Supervised Living Facility for ambulatory and mobile persons who are capable of taking appropriate action for self-preservation under emergency conditions as determined by program licensure provisions.

CLASS A-1 supervised living facilities shall include homes providing boarding and lodging for six or fewer ambulatory or mobile disabled persons.

CLASS A-2 supervised living facilities shall include homes providing boarding and lodging for more than six ambulatory or mobile disabled persons.

CLASS B SUPERVISED LIVING FACILITY means a Supervised Living Facility for ambulatory, nonambulatory, mobile or nonmobile persons who are not mentally or physically capable of taking appropriate action for self-preservation under emergency conditions as determined by program licensure provisions.

11 MCAR S ~~1.5125~~ 1.5126 Sec. 10.207 of the Uniform Fire Code.

Sec. 10.207 of the Uniform Fire Code is amended by adding paragraphs to read:

Sec. 10.207. (g) The marking of fire lanes on private and public property shall be designated and approved by the chief and the chief of police.

(h) Parking of motor vehicles in, or otherwise obstructing, fire lanes shall be prohibited at all times.

11 MCAR S ~~1.5126~~ 1.5127 Sec. 10.301 of the Uniform Fire Code.

Sec. 10.301, paragraph (e), of the Uniform Fire Code is amended to read:

Sec. 10.301. (e) All fire alarm systems, fire hydrant systems, fire-extinguishing systems (including automatic sprinklers), wet and dry standpipes, basement inlet pipes, and other fire-protection systems and pertinents thereto shall meet

the approval of the chief as to installation and location and shall be subject to such periodic tests as required by the chief. Plans and specifications shall be submitted to the chief for review and approval prior to issuance of a building permit.

11 MCAR S 1.5128 Sec. 10.307 of the Uniform Fire Code.

Sec. 10.307, paragraph (a), of the Uniform Fire Code is amended to read:

Sec. 10.307. (a) Apartments and Hotels. An approved automatic fire alarm system shall be installed in the following occupancies:

1. Apartment houses three or more stories in height or containing more than 15 apartments.

2. Hotels either three stories or more in height or containing 20 or more guest rooms.

EXCEPTION: An alarm need not be installed in buildings not over two stories in height when all individual dwelling units are separated by at least one-hour fire-resistive occupancy separations, including attics and crawl spaces, and each individual dwelling unit has direct exit to a yard or public way.

The alarm system shall include provisions for smoke detection and manual operation in interior corridors and automatic detection in storage rooms, laundry rooms, furnace rooms and similar common areas.

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11 MCAR S ~~1.5127~~ 1.5129 Sec. 10.309(g) of the Uniform Fire Code.

Sec. 10.309(g) of the Uniform Fire Code is deleted in its entirety.

11 MCAR S ~~1.5128~~ 1.5130 Sec. 10.312 of the Uniform Fire Code.

Sec. 10.312, paragraph (b), of the Uniform Fire Code is amended to read:

Sec. 10.312. (b) Where Required.

1. Standpipe systems shall be provided as set forth in table no. 10.312 and shall have a constant water supply and pressure.

EXCEPTION: Dry standpipes may be installed with prior approval of the chief.

2. Standpipe systems shall comply with Standard 14, in the National Fire Codes, 1982, issued by the National Fire Protection Association (Quincy, Massachusetts, 1982).

11 MCAR S ~~1.5129~~ 1.5131 Table No. 10.312 of the Uniform Fire Code.

Table No. 10.312 of the Uniform Fire Code is amended by changing Section 2, "Occupancy" column to read:

Section 2, "Occupancy" column: Occupancies 3 stories or more but less than 150 feet in height, except Group R, Division 3. Class II standpipes are not required in Group E or Group R-1 occupancies.

11 MCAR S ~~1.5130~~ 1.5132 Sec. 11.204 of the Uniform Fire Code.

Sec. 11.204 of the Uniform Fire Code is amended to read:

Sec. 11.204. Cotton batting, either natural, artificial or manufactured, straw, dry vines, leaves, trees, or other highly flammable materials shall not be used for decorative purposes in show windows or other parts of all occupancies unless flame retardant, provided, however, that nothing in this section shall be held to prohibit the display of saleable goods permitted and offered for sale. Electric light bulbs in ~~such~~ all occupancies shall not be decorated with paper or other combustible materials unless such materials shall first have been rendered flame retardant.

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EXCEPTION: These requirements shall not apply to Group R3 Occupancies.

11 MCAR S ~~1.5131~~ 1.5133 Sec. 11.210 added to the Uniform Fire Code.

A new section is added to the Uniform Fire Code to read:

Christmas Trees

Sec. 11.210. (a) The use or display of natural or resin bearing trees or decorations in Group I occupancies is prohibited.

(b) The use, display, or storage of natural or resin

bearing trees without open flames or electric light decorations is permitted in schools, churches, hotels, and mercantile occupancies. See section 11.203 (c).

(c) The use or display of flame retardant artificial trees decorated with U.L. listed electric lighting systems is acceptable in all occupancies.

(d) Natural or resin bearing trees shall not be stored on balconies or grounds of R1 Occupancies. See section 11.203(c).

11 MCAR S ~~1.5132~~ 1.5134 Sec. 11.211 added to the Uniform Fire Code.

A new section is added to the Uniform Fire Code to read: Malls, Skyways, Tunnels, or Courts

Sec. 11.211. No combustible goods, merchandise, vehicles, or decorations shall be displayed or stored in an enclosed mall, skyway, tunnel, or court unless prior approval is obtained from the chief.

11 MCAR S ~~1.5133~~ 1.5135 Sec. 11.301 of the Uniform Fire Code.

Sec. 11.301, paragraph (a), of the Uniform Fire Code is amended to read:

Sec. 11.301. (a) In the event of the discovery of fire, smoke, or flammable or toxic gases on any property, the owner or occupant shall immediately report such condition to the local fire department.

11 MCAR S ~~1.5134~~ 1.5136 Sec. 11.302 of the Uniform Fire Code.

Sec. 11.302 of the Uniform Fire Code is amended by adding a paragraph to read:

Sec. 11.302. (e) Whoever intentionally gives a false alarm of fire, or unlawfully tampers or interferes with any station or signal box of any fire alarm system or any auxiliary fire appliance, or unlawfully breaks, injures, defaces, or removes any such box or station, or unlawfully breaks, injures, destroys, or disturbs any of the wires, poles, or other supports and appliances connected with or forming a part of any fire alarm system or any auxiliary fire appliance is guilty of a misdemeanor.

11 MCAR S ~~1.5135~~ 1.5137 Sec. 11.403 of the Uniform Fire Code.

Sec. 11.403, paragraph (b), of the Uniform Fire Code is amended to read:

Sec. 11.403. (b) Every kettle shall be equipped with a tight-fitting cover. A kettle, when in operation, shall be placed a safe distance from any combustible material or buildings. Fired tar kettles shall not be left unattended.

EXCEPTION 1: Kettles when mounted in a truck body of all metal construction and securely attached to the bed of the truck. The driver, operator, or attendant shall not leave the immediate vicinity of the vehicle while it is being filled or discharged.

EXCEPTION 2: Small patch kettles while being towed behind a vehicle for patching purposes only.

11 MCAR S ~~1.5136~~ 1.5138 Sec. 12.101 of the Uniform Fire Code.

The last sentence of Sec. 12.101 of the Uniform Fire Code is amended to read:

Sec. 12.101. No exit or part thereof shall be altered in any way unless in conformance with the Building Code.

11 MCAR S ~~1.5137~~ 1.5139 Sec. 12.106 of the Uniform Fire Code.

Sec. 12.106, paragraph (a), of the Uniform Fire Code is amended to read:

Sec. 12.106. (a) General. Stairways shall conform to the provisions of the Building Code.

EXCEPTION: Stairs or ladders used only to attend equipment are exempt from the requirements of this section when properly maintained.

11 MCAR S ~~1.5138~~ 1.5140 Sec. 12.109 of the Uniform Fire Code.

Sec. 12.109, paragraph (a), of the Uniform Fire Code, is amended to read:

Sec. 12.109. (a) Every exit enclosure shall conform to the provisions of the Building Code.

11 MCAR S ~~1.5139~~ 1.5141 Article 26 of the Uniform Fire Code.

The title of Article 26 of the Uniform Fire Code is changed

to "RESURFACING AND REFINISHING."

11 MCAR S ~~1.5140~~ 1.5142 Sec. 26.101 of the Uniform Fire Code.

Sec. 26.101 of the Uniform Fire Code is amended to read:

Sec. 26.101. Bowling alleys, roller skating rinks, and other public assembly occupancies shall conform to all other applicable requirements of this code, as well as the following provisions.

11 MCAR S ~~1.5141~~ 1.5143 Sec. 26.102 of the Uniform Fire Code.

Sec. 26.102 of the Uniform Fire Code is amended to read:

Sec. 26.102. No person shall conduct bowling pin refinishing and bowling alley or floor resurfacing and refinishing operations involving the use and application of flammable liquids or materials without a local permit.

11 MCAR S ~~1.5142~~ 1.5144 Sec. 26.103 of the Uniform Fire Code.

The subtitle of Sec. 26.103 of the Uniform Fire Code is changed to "Resurfacing and Refinishing."

11 MCAR S ~~1.5143~~ 1.5145 Sec. 26.104 of the Uniform Fire Code.

The subtitle of Sec. 26.104 of the Uniform Fire Code is changed to "Refinishing."

11 MCAR S ~~1.5144~~ 1.5146 Sec. 49.101 of the Uniform Fire Code.

Sec. 49.101, paragraph (c), of the Uniform Fire Code is amended to read:

Sec. 49.101. (c) A local permit shall be required for welding or cutting operations. This permit shall not be required for each welding or cutting job location. All persons shall notify the chief in advance where such work is taking place, except where such work is done in response to an emergency call that does not allow for the chief to be notified in advance of the work. The requirement to notify the chief does not apply to welding operations conducted on the premises of a commercial or industrial establishment engaged primarily in work requiring welding operations.

11 MCAR S ~~1.5145~~ 1.5147 Sec. 61.105 of the Uniform Fire Code.

Sec. 61.105 of the Uniform Fire Code is amended to read:

Sec. 61.105. The grade of fuel oil used in a burner shall be that for which the burner is approved and as stipulated by the manufacturer. The installation and use of waste oil burners shall conform to the provisions of Minn. Stat. S 299F.015.

11 MCAR S ~~1.5146~~ 1.5148 Sec. 74.101 of the Uniform Fire Code.

Sec. 74.101 of the Uniform Fire Code is amended to read:

Sec. 74.101. This article shall apply to bulk oxygen systems and to the storage, handling and use of compressed gases as defined herein. This article shall also apply to fixed installations of nonflammable medical gases intended for sedation, wherein the patient is not rendered unconscious, such as, but not limited to, analgesia systems used for dentistry, podiatry, and such other similar uses. Liquefied petroleum gases and compressed gases used in conjunction with welding or cutting operations are exempt from these provisions. Wherever the term "oxygen" occurs in this article, the requirements shall apply to systems for nitrous oxides.

11 MCAR S ~~1.5147~~ 1.5149 Article 77 of the Uniform Fire Code.

Article 77 of the Uniform Fire Code is deleted in its entirety.

11 MCAR S ~~1.5148~~ 1.5150 Sec. 79.101 of the Uniform Fire Code.

Sec. 79.101, paragraph (a) of the Uniform Fire Code is amended to read:

Sec. 79.101. (a) General. The storage, use, dispensing and mixing of flammable and combustible liquids shall be in accordance with this article, except as otherwise provided in rules FireMar 20-23 of the Department of Public Safety. This article also applies specifically to all flammable and combustible liquids as defined in Section 79.102, except those that are solid at 100 degrees Fahrenheit or above. When heated, sprayed or mixed, Class II or Class III liquids may assume the characteristics of lower flash point liquids. Under such conditions the appropriate provisions of this article for the actual flash point shall apply.

Exceptions:

1. The transportation of flammable and combustible liquids when in conformity with the U.S. Department of Transportation regulations on file with and approved by the U.S. Department of Transportation.

2. Alcoholic beverages in retail sales or storage uses, provided the liquids are packaged in individual containers not exceeding four liters.

3. Medicines, foodstuffs and cosmetics, containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable, in retail sales or storage uses when packaged in individual containers not exceeding four liters.

4. Storage and use of fuel-oil tanks and containers connected with oil-burning equipment. Such storage and use shall comply with Article 61 and the Mechanical Code, rules SBC 7101-8505 of the Department of Administration.

5. Liquids without flash points that can be flammable under some conditions, such as certain halogenated hydrocarbons and mixtures containing halogenated hydrocarbons.

6. Mists, sprays, or foams except flammable aerosols in containers as may be included under Division II.

11 MCAR S ~~1.5149~~ 1.5151 Sec. 79.903 of the Uniform Fire Code.

Sec. 79.903, paragraph (f), of the Uniform Fire Code is amended to read:

Sec. 79.903. (f) Approved special dispensing systems. Approved special dispensing systems such as card operated and remote preset-types are permitted at service stations, provided there is at least one attendant on duty at all times the station is open to the public. Approved dispensing devices are permitted for self-service stations. Coin and currency operated dispensing devices are not approved dispensing devices.

1. The attendant or supervisor on duty shall be capable of performing the functions and assuming the responsibilities covered in Section 79.903(b).

2. Emergency controls shall be installed at a location

acceptable to the authority having jurisdiction, but controls shall be not more than 100 feet from dispensers.

3. Instructions for the operation of dispensers shall be conspicuously posted.

4. Remote preset-type devices are to be in the off position while not in use so that dispenser cannot be activated without the knowledge of the attendant.

11 MCAR S ~~1.5150~~ 1.5152 Sec. 79.903 of the Uniform Fire Code.

Sec. 79.903 of the Uniform Fire Code is amended by adding a new paragraph to read:

Sec. 79.903. (g) Age requirement. Flammable and combustible liquids shall be dispensed only by persons 16 years of age or older. Prominent signs shall be posted at self-service stations prohibiting flammable liquids from being dispensed by anyone under age 16.

11 MCAR S ~~1.5151~~ 1.5153 Article 82 of the Uniform Fire Code.

Article 82, Liquefied Petroleum Gases, is deleted in its entirety.

11 MCAR S ~~1.5152~~ 1.5154 Rules for liquefied petroleum gases.

Rules for liquefied petroleum gases shall be the existing state fire marshal rules concerning liquefied petroleum gases, rules Fire Mar 11-14 of the Department of Public Safety.

11 MCAR S ~~1.5153~~ 1.5155 Sec. 85.109 of the Uniform Fire Code.

Sec. 85.109 of the Uniform Fire Code is amended to read:

Sec. 85.109. Electrical appliances or fixtures shall not be used unless they are of an approved type.

11 MCAR S ~~1.5154~~ 1.5156 Amendments to the Appendixes of the Uniform Fire Code.

A. Adoption. Appendixes I-A,I-B,II-A,II-B,II-C,III-B, and VI-C of the Uniform Fire Code shall be deemed a part of this code and shall be enforced as such. Appendixes V-A,VI-B, and VI-D may or may not be adopted at the discretion of the local jurisdiction.

B. Amendment. Appendix II-B, item 3(d), is amended to read:

(d) In addition to the foregoing requirement, the capacity of each new tank installed shall be restricted to not more than 3,000 gallons. When installed but before backfilling, tank and fittings shall be tested for tightness at not less than three nor more than five pounds per square inch for not less than one hour. Greater test pressures may be required by the chief when tanks are subject to submergence in excess of 30 feet.

Repealer. Rules of the Department of Public Safety, Fire Marshal Division, Fire Mar 30-51 and its rules 4401-4404 governing nursing and boarding care homes are repealed.

APPROVED AS TO LEGALITY

March 7, 1983

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Jerry D. Jones
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 1 01983

Secretary of State

3:40 PM

Agency Department of Public Safety

Division

Agency Contact Diane Hamilton Phone Number 296-7096

Title: Proposed Rules Incorporating and Amending the Uniform Fire Code and Repealing Rules of the Department of Public Safety, Fire Mar 30 to 51 and 4401 to 4404

Type of Rules: Permanent X Temporary_____

Incorporations by References:

Rule Number	Material Incorporated
11 MCAR S 1.5103	'Uniform Fire Code (1982 edition)
11 MCAR S (1.5128 (1.5114	'National Fire Codes, 1982'
11 MCAR S 1.5122	'National Fire Codes, 1973'

Two copies of the publications listed above will be deposited with the State Law Library before or upon final adoption of these rules.

See Additional references on back Yes___ No X

Duplication of Statutory Language

Rule Number	Statutory Section Duplicated

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Name: Maryanne Hruby
Maryanne Hruby

Title: Assistant Revisor

Phone: 297-2957

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ADMINISTRATIVE HEARINGS

Rules as Proposed (all new material)

11 MCAR S 1.5101 Purpose. The purpose of 11 MCAR SS 1.5101-1.5154 is to adopt uniform fire safety standards governing the maintenance of buildings and premises; regulate the storage, use, and handling of dangerous and hazardous materials, substances, and processes; and regulate the maintenance of adequate egress facilities.

11 MCAR S 1.5102 Scope. The scope of 11 MCAR SS 1.5101-1.5154 is intended to be consistent with Minn. Stat. S 299F.011.

11 MCAR S 1.5103 Rules and standards adopted by reference. The ' Uniform Fire Code, ' as promulgated by the International Conference of Building Officials and the Western Fire Chiefs Association (Whittier, California, 1982) is incorporated by reference and hereby made part of Minnesota rules pursuant to statutory authority, subject to the alterations and amendments in 11 MCAR SS 1.5104-1.5154.

11 MCAR S 1.5104 Sec. 1.101 of the Uniform Fire Code. Sec. 1.101 of the Uniform Fire Code is amended to read:

Sec. 1.101. This code shall be known as the MINNESOTA UNIFORM FIRE CODE, may be cited as such, and will be referred to herein as "this code."

11 MCAR S 1.5105 Sec. 1.102 of the Uniform Fire Code. Sec. 1.102 of the Uniform Fire Code is amended by adding a paragraph to read:

Sec. 1.102(d) Whenever in this code reference is made to the Uniform Fire Code Standards, the provisions in the Uniform Fire Code Standards shall not apply unless specifically adopted.

11 MCAR S 1.5106 Sec. 2.101 of the Uniform Fire Code. Sec. 2.101 of the Uniform Fire Code is amended to read:

Sec. 2.101. The state fire marshal may, and the chief of any jurisdiction adopting this code shall, administer and enforce this code and all laws of the state pertaining to:

(a) The prevention of fires.

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File No.
Date

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(b) The suppression or extinguishing of dangerous or hazardous fires.

(c) The storage, use and handling of explosive, flammable, combustible, toxic, corrosive and other hazardous gaseous, solid and liquid materials.

(d) The installation and maintenance of automatic, manual and other private fire alarm systems and fire-extinguishing equipmment.

(e) The maintenance and regulation of fire escapes.

(f) The maintenance of fire protection and elimination of fire hazards on land and in buildings, structures, and other property, including those under construction.

(g) The means and adequacy of each exit in the event of fire, from factories, schools, hotels, lodging houses, institutions, hospitals, class B supervised living facilities, churches, halls, theaters, amphitheaters, and all other places in which people work, live, or congregate from time to time for any purpose.

(h) The investigation of the cause, origin and circumstances of fire.

11 MCAR S 1.5107 Sec. 2.102 of the Uniform Fire Code. Sec. 2.102 of the Uniform Fire Code is deleted and replaced with the following:

Sec. 2.102. (a) Any jurisdiction which adopts this code is authorized to make amendments, by ordinance, to Article 2 hereof to provide for a system of enforcement and administration within the jurisdiction. These amendments shall be in the form of additions only, and none of the existing provisions of Article 2 shall be changed nor shall any amendment be made which interferes with the intent of the existing provisions nor the state fire marshal's duties and powers thereunder.

(b) Any jurisdiction which adopts this code is authorized to adopt, by ordinance, rules for the prevention and control of fires and fire hazards as may be necessary from time to time, to carry out the intent of this code, and which may be more restrictive than this code when the rules are necessary to

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protect life or property in the community. The governing body may adopt this code by ordinance. One certified copy of the ordinance containing the rules shall be filed with the clerk of the jurisdiction and shall be in effect immediately thereafter, and additional copies shall be kept in the office of the fire department for distribution to the public.

(c) Wherever the term "state fire marshal" appears in Article 2, it shall also include the chief of any jurisdiction adopting this code.

(d) Wherever the term "chief" appears in Articles 2-86 or in the Appendix of this code, it shall mean state fire marshal except that it shall also include the chief of any jurisdiction adopting this code.

11 MCAR S 1.5108 Sec. 2.103 of the Uniform Fire Code. Sec. 2.103 of the Uniform Fire Code is deleted in its entirety.

11 MCAR S 1.5109 Sec. 2.104 of the Uniform Fire Code. Sec. 2.104 of the Uniform Fire Code is deleted in its entirety.

11 MCAR S 1.5110 Sec. 2.105 of the Uniform Fire Code. Sec. 2.105 of the Uniform Fire Code is deleted in its entirety.

11 MCAR S 1.5111 Sec. 2.202 of the Uniform Fire Code. Sec. 2.202 of the Uniform Fire Code is amended to read:

Sec. 2.202. (a) The fire department of any jurisdiction adopting this code shall investigate promptly the cause, origin and circumstances of each and every fire occurring in the municipality involving loss of life or injury to person or destruction or damage to property, and if it appears to the members of the fire department making the investigation that such fire is of suspicious origin, they shall then take immediate charge of all physical evidence relating to the cause of fire, shall notify the proper authorities designated by law to pursue the investigation of such matters, and shall cooperate with the authorities in the collection of evidence and in the prosecution of the case. The chief shall make a report in writing to the state fire marshal of all facts and findings

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relative to each investigation.

(b) The police department may assist the fire department in its investigation whenever requested to do so.

11 MCAR S 1.5112 Sec. 2.205 of the Uniform Fire Code. Sec. 2.205 of the Uniform Fire Code is amended to read:

Sec. 2.205. Any order or notice authorized or required by this code shall be given or served upon the owner, operator, occupant or other person responsible for the condition or violation either by oral notification, personal service, or by delivering the same to and leaving it with some person of suitable age and discretion upon the premises; or, if no such person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises and by mailing a copy thereof to such person by mail to his last known address. Orders or notices given orally shall be confirmed by service in writing as herein provided.

11 MCAR S 1.5113 Sec. 2.302 of the Uniform Fire Code. Sec. 2.302 of the Uniform Fire Code is deleted in its entirety.

11 MCAR S 1.5114 Sec. 2.303 of the Uniform Fire Code. Sec. 2.303 of the Uniform Fire Code is deleted and replaced with the following:

Sec. 2.303. Whenever the Uniform Fire Code, as amended by 11 MCAR SS 1.5101-1.5154, is silent on any subject, for any reason, in any situation, the provision of protection shall be in accordance with the ' National Fire Codes, 1982 ' issued by the National Fire Protection Association (Quincy, Massachusetts, 1982) which are adopted by reference as part of this code as though set forth herein in their entireties.

11 MCAR S 1.5115 Article 4 of the Uniform Fire Code. Article 4 of the Uniform Fire Code is deleted in its entirety.

11 MCAR S 1.5116 Sec. 9.103 of the Uniform Fire Code; authority having jurisdiction defined. In Sec. 9.103 of the Uniform Fire Code the following definition is added:

Sec. 9.103. AUTHORITY HAVING JURISDICTION shall mean any

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municipal fire code official or the state fire marshal or any of their authorized representatives.

11 MCAR S 1.5117 Sec. 9.104 of the Uniform Fire Code; building code definition amended. In Sec. 9.104 of the Uniform Fire Code the definition of Building Code is amended to read:

Sec. 9.104. BUILDING CODE shall mean the Minnesota State Building Code.

11 MCAR S 1.5118 Sec. 9.108 of the Uniform Fire Code; fireman defined. In Sec. 9.108 of the Uniform Fire Code the following definition is added:

Sec. 9.108. FIREMAN, as used throughout this code, shall be construed to mean firefighters.

11 MCAR S 1.5119 Sec. 9.115 of the Uniform Fire Code; mechanical code definition amended. In Sec. 9.115 of the Uniform Fire Code the definition of mechanical code is amended to read:

Sec. 9.115. MECHANICAL CODE shall mean the Minnesota Heating, Ventilation, Air Conditioning, and Refrigeration Code, rules SBC 7101-8505 of the Department of Administration.

11 MCAR S 1.5120 Sec. 9.115 of the Uniform Fire Code; municipality defined. In Sec. 9.115 of the Uniform Fire Code the following definition is added:

Sec. 9.115. MUNICIPALITY shall mean any city, county, or town meeting the requirements of Minn. Stat. S 368.01, subd. 1, or the University of Minnesota.

11 MCAR S 1.5121 Sec. 9.117 of the Uniform Fire Code; Group I Occupancies defined. In Sec. 9.117 of the Uniform Fire Code the definition of Group I Occupancies is amended to read:

Sec. 9.117. Group I Occupancies:

Division 1. Nurseries for the full-time care of children under the age of six (each accomodating more than four persons). Hospitals, sanitariums, nursing homes and similar buildings (each accomodating more than four persons).

Division 2. Detoxification centers, homes for children six years of age or over, supervised living facilities Class B as

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defined for the mentally retarded, mentally ill or the physically handicapped (each accomodating more than four persons).

Division 3. Mental hospitals, mental sanitariums, jails, prisons, reformatories and buildings where personal liberties of inmates are similarly restrained.

Exception: Group I Occupancies shall not include buildings used only for private residential purposes or for a family group.

11 MCAR S 1.5122 Sec. 9.117 of the Uniform Fire Code; Group R Occupancies defined. In Sec. 9.117 of the Uniform Fire Code the definition of Group R Occupancies is amended to read:

Sec. 9.117 Group R Occupancies:

Division 1. Hotels and apartment houses. Convents and monasteries (each accomodating more than ten persons), Supervised living facilities Class A-2 as defined in Sec. 9.121 for the mentally retarded, mentally ill, chemically dependent, and the physically handicapped (each accomodating more than four persons). Physically handicapped persons shall be housed at street level.

Exception: Supervised living facilities Class A-2 as defined in Sec. 9.121 having more than six but not more than 15 ambulatory or mobile disabled persons, duly licensed prior to the adoption of this code, and complying with the requirements for lodging and rooming houses as set forth in Standard 101, in the ' National Fire Codes, 1973 ', issued by the National Fire Protection Association (Boston, Massachusetts, 1973), shall be classified as Group R, Division 3 occupancies.

Division 2. Not used.

Division 3. Dwellings and lodging houses, supervised living facilities Class A-1 as defined in Sec. 9.121.

11 MCAR S 1.5123 Sec. 9.121 of the Uniform Fire Code; state fire marshal defined. In Sec. 9.121 of the Uniform Fire Code the following definition is added:

Sec. 9.121. STATE FIRE MARSHAL shall mean the Minnesota

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state fire marshal or any of his or her authorized representatives.

11 MCAR S 1.5124 Sec. 9.121 of the Uniform Fire Code; supervised living facility defined. In Sec. 9.121 of the Uniform Fire Code the following definition is added:

Sec. 9.121. SUPERVISED LIVING FACILITY means a facility in which there is provided supervision, lodging, meals, and, in accordance with the provisions of rules of the Department of Public Welfare and/or the Department of Health, counseling and developmental habilitative or rehabilitative services to five or more persons who are mentally retarded, chemically dependent, adult mentally ill or physically handicapped.

CLASS A SUPERVISED LIVING FACILITY means a Supervised Living Facility for ambulatory and mobile persons who are capable of taking appropriate action for self-preservation under emergency conditions as determined by program licensure provisions.

CLASS A-1 supervised living facilities shall include homes providing boarding and lodging for six or fewer ambulatory or mobile disabled persons.

CLASS A-2 supervised living facilities shall include homes providing boarding and lodging for more than six ambulatory or mobile disabled persons.

CLASS B SUPERVISED LIVING FACILITY means a Supervised Living Facility for ambulatory, nonambulatory, mobile or nonmobile persons who are not mentally or physically capable of taking appropriate action for self-preservation under emergency conditions as determined by program licensure provisions.

11 MCAR S 1.5125 Sec. 10.207 of the Uniform Fire Code. Sec. 10.207 of the Uniform Fire Code is amended by adding paragraphs to read:

Sec. 10.207. (g) The marking of fire lanes on private and public property shall be designated and approved by the chief and the chief of police.

(h) Parking of motor vehicles in, or otherwise obstructing,

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fire lanes shall be prohibited at all times.

11 MCAR S 1.5126 Sec. 10.301 of the Uniform Fire Code. Sec. 10.301, paragraph (e), of the Uniform Fire Code is amended to read:

Sec. 10.301. (e) All fire alarm systems, fire hydrant systems, fire-extinguishing systems (including automatic sprinklers), wet and dry standpipes, basement inlet pipes, and other fire-protection systems and pertinents thereto shall meet the approval of the chief as to installation and location and shall be subject to such periodic tests as required by the chief. Plans and specifications shall be submitted to the chief for review and approval prior to issuance of a building permit.

11 MCAR S 1.5127 Sec. 10.309(g) of the Uniform Fire Code. Sec. 10.309(g) of the Uniform Fire Code is deleted in its entirety.

11 MCAR S 1.5128 Sec. 10.312 of the Uniform Fire Code. Sec. 10.312, paragraph (b), of the Uniform Fire Code is amended to read:

Sec. 10.312. (b) Where Required.

1. Standpipe systems shall be provided as set forth in table no. 10.312 and shall have a constant water supply and pressure.

EXCEPTION: Dry standpipes may be installed with prior approval of the chief.

2. Standpipe systems shall comply with Standard 14, in the ' National Fire Codes, 1982, ' issued by the National Fire Protection Association (Quincy, Massachusetts, 1982).

11 MCAR S 1.5129 Table No. 10.312 of the Uniform Fire Code. Table No. 10.312 of the Uniform Fire Code is amended by changing Section 2, "Occupancy" column to read:

Section 2, "Occupancy" column: Occupancies 3 stories or more but less than 150 feet in height, except Group R, Division 3. Class II standpipes are not required in Group E or Group R-1 occupancies.

11 MCAR S 1.5130 Sec. 11.204 of the Uniform Fire Code. Sec.

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11.204 of the Uniform Fire Code is amended to read:

Sec. 11.204. Cotton batting, either natural, artificial or manufactured, straw, dry vines, leaves, trees, or other highly flammable materials shall not be used for decorative purposes in show windows or other parts of all occupancies unless flame retardant, provided, however, that nothing in this section shall be held to prohibit the display of saleable goods permitted and offered for sale. Electric light bulbs in such occupancies shall not be decorated with paper or other combustible materials unless such materials shall first have been rendered flame retardant.

EXCEPTION: These requirements shall not apply to Group R3 Occupancies.

11 MCAR S 1.5131 Sec. 11.210 added to the Uniform Fire Code. A new section is added to the Uniform Fire Code to read:

Christmas Trees

Sec. 11.210. (a) The use or display of natural or resin bearing trees or decorations in Group I occupancies is prohibited.

(b) The use, display, or storage of natural or resin bearing trees without open flames or electric light decorations is permitted in schools, churches, hotels, and mercantile occupancies.

(c) The use or display of flame retardant artificial trees decorated with U.L. listed electric lighting systems is acceptable in all occupancies.

(d) Natural or resin bearing trees shall not be stored on balconies or grounds of R1 Occupancies. See section 11.203(c).

11 MCAR S 1.5132 Sec. 11.211 added to the Uniform Fire Code. A new section is added to the Uniform Fire Code to read:

Malls, Skyways, Tunnels, or Courts

Sec. 11.211. No combustible goods, merchandise, vehicles, or decorations shall be displayed or stored in an enclosed mall, skyway, tunnel, or court unless prior approval is obtained from the chief.

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11 MCAR S 1.5133 Sec. 11.301 of the Uniform Fire Code. Sec. 11.301, paragraph (a), of the Uniform Fire Code is amended to read:

Sec. 11.301. (a) In the event of the discovery of fire, smoke, or flammable or toxic gases on any property, the owner or occupant shall immediately report such condition to the local fire department.

11 MCAR S 1.5134 Sec. 11.302 of the Uniform Fire Code. Sec. 11.302 of the Uniform Fire Code is amended by adding a paragraph to read:

Sec. 11.302. (e) Whoever intentionally gives a false alarm of fire, or unlawfully tampers or interferes with any station or signal box of any fire alarm system or any auxiliary fire appliance, or unlawfully breaks, injures, defaces, or removes any such box or station, or unlawfully breaks, injures, destroys, or disturbs any of the wires, poles, or other supports and appliances connected with or forming a part of any fire alarm system or any auxiliary fire appliance is guilty of a misdemeanor.

11 MCAR S 1.5135 Sec. 11.403 of the Uniform Fire Code. Sec. 11.403, paragraph (b), of the Uniform Fire Code is amended to read:

Sec. 11.403. (b) Every kettle shall be equipped with a tight-fitting cover. A kettle, when in operation, shall be placed a safe distance from any combustible material or buildings. Fired tar kettles shall not be left unattended.

EXCEPTION 1: Kettles when mounted in a truck body of all metal construction and securely attached to the bed of the truck. The driver, operator, or attendant shall not leave the immediate vicinity of the vehicle while it is being filled or discharged.

EXCEPTION 2: Small patch kettles while being towed behind a vehicle for patching purposes only.

11 MCAR S 1.5136 Sec. 12.101 of the Uniform Fire Code. The last

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sentence of Sec. 12.101 of the Uniform Fire Code is amended to read:

Sec. 12.101. No exit or part thereof shall be altered in any way unless in conformance with the Building Code.

11 MCAR S 1.5137 Sec. 12.106 of the Uniform Fire Code. Sec. 12.106, paragraph (a), of the Uniform Fire Code is amended to read:

Sec. 12.106. (a) General. Stairways shall conform to the provisions of the Building Code.

EXCEPTION: Stairs or ladders used only to attend equipment are exempt from the requirements of this section when properly maintained.

11 MCAR S 1.5138 Sec. 12.109 of the Uniform Fire Code. Sec. 12.109, paragraph (a), of the Uniform Fire Code, is amended to read:

Sec. 12.109. (a) Every exit enclosure shall conform to the provisions of the Building Code.

11 MCAR S 1.5139 Article 26 of the Uniform Fire Code. The title of Article 26 of the Uniform Fire Code is changed to "RESURFACING AND REFINISHING."

11 MCAR S 1.5140 Sec. 26.101 of the Uniform Fire Code. Sec. 26.101 of the Uniform Fire Code is amended to read:

Sec. 26.101. Bowling alleys, roller skating rinks, and other public assembly occupancies shall conform to all other applicable requirements of this code, as well as the following provisions.

11 MCAR S 1.5141 Sec. 26.102 of the Uniform Fire Code. Sec. 26.102 of the Uniform Fire Code is amended to read:

Sec. 26.102. No person shall conduct bowling pin refinishing and bowling alley or floor resurfacing and refinishing operations involving the use and application of flammable liquids or materials without a local permit.

11 MCAR S 1.5142 Sec. 26.103 of the Uniform Fire Code. The

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subtitle of Sec. 26.103 of the Uniform Fire Code is changed to "Resurfacing and Refinishing."

11 MCAR S 1.5143 Sec. 26.104 of the Uniform Fire Code. The subtitle of Sec. 26.104 of the Uniform Fire Code is changed to "Refinishing."

11 MCAR S 1.5144 Sec. 49.101 of the Uniform Fire Code. Sec. 49.101, paragraph (c), of the Uniform Fire Code is amended to read:

Sec. 49.101. (c) A local permit shall be required for welding or cutting operations. This permit shall not be required for each welding or cutting job location. All persons shall notify the chief in advance where such work is taking place, except where such work is done in response to an emergency call that does not allow for the chief to be notified in advance of the work. The requirement to notify the chief does not apply to welding operations conducted on the premises of a commercial or industrial establishment engaged primarily in work requiring welding operations.

11 MCAR S 1.5145 Sec. 61.105 of the Uniform Fire Code. Sec. 61.105 of the Uniform Fire Code is amended to read:

Sec. 61.105. The grade of fuel oil used in a burner shall be that for which the burner is approved and as stipulated by the manufacturer. The installation and use of waste oil burners shall conform to the provisions of Minn. Stat. S 299F.015.

11 MCAR S 1.5146 Sec. 74.101 of the Uniform Fire Code. Sec. 74.101 of the Uniform Fire Code is amended to read:

Sec. 74.101. This article shall apply to bulk oxygen systems and to the storage, handling and use of compressed gases as defined herein. This article shall also apply to fixed installations of nonflammable medical gases intended for sedation, wherein the patient is not rendered unconscious, such as, but not limited to, analgesia systems used for dentistry, podiatry, and such other similar uses. Liquefied petroleum gases and compressed gases used in conjunction with welding or

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cutting operations are exempt from these provisions. Wherever the term "oxygen" occurs in this article, the requirements shall apply to systems for nitrous oxides.

11 MCAR S 1.5147 Article 77 of the Uniform Fire Code. Article 77 of the Uniform Fire Code is deleted in its entirety.

11 MCAR S 1.5148 Sec. 79.101 of the Uniform Fire Code. Sec. 79.101, paragraph (a) of the Uniform Fire Code is amended to read:

Sec. 79.101. (a) General. The storage, use, dispensing and mixing of flammable and combustible liquids shall be in accordance with this article, except as otherwise provided in rules FireMar 20-23 of the Department of Public Safety. This article also applies specifically to all flammable and combustible liquids as defined in Section 79.102, except those that are solid at 100 degrees Fahrenheit or above. When heated, sprayed or mixed, Class II or Class III liquids may assume the characteristics of lower flash point liquids. Under such conditions the appropriate provisions of this article for the actual flash point shall apply.

Exceptions:

1. The transportation of flammable and combustible liquids when in conformity with the U.S. Department of Transportation regulations on file with and approved by the U.S. Department of Transportation.

2. Alcoholic beverages in retail sales or storage uses, provided the liquids are packaged in individual containers not exceeding four liters.

3. Medicines, foodstuffs and cosmetics, containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable, in retail sales or storage uses when packaged in individual containers not exceeding four liters.

4. Storage and use of fuel-oil tanks and containers connected with oil-burning equipment. Such storage and use shall comply with Article 61 and the Mechanical Code, rules SBC

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7101-8505 of the Department of Administration.

5. Liquids without flash points that can be flammable under some conditions, such as certain halogenated hydrocarbons and mixtures containing halogenated hydrocarbons.

6. Mists, sprays, or foams except flammable aerosols in containers as may be included under Division II.

11 MCAR S 1.5149 Sec. 79.903 of the Uniform Fire Code. Sec. 79.903, paragraph (f), of the Uniform Fire Code is amended to read:

Sec. 79.903. (f) Approved special dispensing systems. Approved special dispensing systems such as card operated and remote preset-types are permitted at service stations, provided there is at least one attendant on duty at all times the station is open to the public. Approved dispensing devices are permitted for self-service stations. Coin and currency operated dispensing devices are not approved dispensing devices.

1. The attendant or supervisor on duty shall be capable of performing the functions and assuming the responsibilities covered in Section 79.903(b).

2. Emergency controls shall be installed at a location acceptable to the authority having jurisdiction, but controls shall be not more than 100 feet from dispensers.

3. Instructions for the operation of dispensers shall be conspicuously posted.

4. Remote preset-type devices are to be in the off position while not in use so that dispenser cannot be activated without the knowledge of the attendant.

11 MCAR S 1.5150 Sec. 79.903 of the Uniform Fire Code. Sec. 79.903 of the Uniform Fire Code is amended by adding a new paragraph to read:

Sec. 79.903. (g) Age requirement. Flammable and combustible liquids shall be dispensed only by persons 16 years of age or older. Prominent signs shall be posted at self-service stations prohibiting flammable liquids from being dispensed by anyone under age 16.

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11 MCAR S 1.5151 Article 82 of the Uniform Fire Code. Article 82, Liquefied Petroleum Gases, is deleted in its entirety.

11 MCAR S 1.5152 Rules for liquefied petroleum gases. Rules for liquefied petroleum gases shall be the existing state fire marshal rules concerning liquefied petroleum gases, rules Fire Mar 11-14 of the Department of Public Safety.

11 MCAR S 1.5153 Sec. 85.109 of the Uniform Fire Code. Sec. 85.109 of the Uniform Fire Code is amended to read:

Sec. 85.109. Electrical appliances or fixtures shall not be used unless they are of an approved type.

11 MCAR S 1.5154 Amendments to the Appendixes of the Uniform Fire Code.

A. Adoption. Appendixes I-A,I-B,II-A,II-B,II-C,III-B, and VI-C of the Uniform Fire Code shall be deemed a part of this code and shall be enforced as such. Appendixes V-A,VI-B, and VI-D may or may not be adopted at the discretion of the local jurisdiction.

B. Amendment. Appendix II-B, item 3(d), is amended to read:

(d) In addition to the foregoing requirement, the capacity of each new tank installed shall be restricted to not more than 3,000 gallons. When installed but before backfilling, tank and fittings shall be tested for tightness at not less than three nor more than five pounds per square inch for not less than one hour. Greater test pressures may be required by the chief when tanks are subject to submergence in excess of 30 feet.

Repealer. Rules of the Department of Public Safety, Fire Marshal Division, Fire Mar 30-51 and its rules 4401-4404 governing nursing and boarding care homes are repealed.

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STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Amendments to the Uniform Fire Code.

ORDER ADOPTING RULES

The above entitled matter came on for hearing before Hearing Examiner Richard Luis on the 28th day of October, 1982 at 9:00 A.M. in Room G18 Transportation Building, St. Paul, Minnesota, after proper notice required by Minnesota Statutes section 15.0412 was served upon all persons, associations, and other interested groups registered with the State Department of Public Safety for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files, and proceedings herein and applicable statutory standards or criteria, and confirming the need for and reasonableness of the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as 11 MCAR 1.5101 through 1.5154 are adopted this 25th day of January, 1983, pursuant to authority vested in me by Minn. Stat. section 299A.01, subd.6 and Minn. Stat. section 299F.011.

STATE OF MINNESOTA

Paul J. Tschida

PAUL J. TSCHIDA
COMMISSIONER OF PUBLIC SAFETY

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ADMINISTRATIVE HEARINGS

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Please be advised that the issues to be considered at the hearing may, without further notice, be modified or amended by the hearing examiner during prehearing conferences. Additionally, prehearing conferences may result in the establishment of foundation for witnesses and exhibits and, furthermore, may lead to a settlement of the issues surrounding the University's application for a variance and a State Disposal System Permit.

If no person intervenes as a party and no person appears at the hearing at 9:00 a.m. on June 10, 1980, the variance may be approved and the State Disposal System Permit, as drafted, may be issued by the MPCA. In any event, some time after the close of the hearing, the hearing examiner will submit a report to the MPCA and make a recommendation on the variance and the permit. The MPCA Board will then make the final decision.

Questions concerning the issues raised in the Order or concerning informal disposition or access to information may be directed to Special Assistant Attorney General Dennis M. Coyne, Minnesota Pollution Control agency, 1935 W. County Road B2, Roseville, Minnesota, 55113, (612) 296-7702.

If any person has a good reason for requesting a delay of the hearing, a request must be made in writing to the hearing examiner at least five days prior to the hearing. A copy of the request must be served on all parties.

April 28, 1980

Terry Hoffman
Executive Director

STATE OF MINNESOTA
COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Application by the City of Winsted for a Variance from WPC 14 (c) (6) for its Existing and Proposed Municipal Wastewater Treatment Facility

NOTICE OF APPEARANCE

Date of Hearing:

Name and Telephone Number of Hearing Examiner:

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the above-entitled hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Office Address: _____

Telephone Number: _____

Signature of Party or Attorney: _____

Date: _____

NOTE: This Notice of Appearance should only be submitted by persons who have been admitted as parties after filing a Petition to Intervene. Interested persons who wish to make statements without becoming parties need not submit this Notice.

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ADMINISTRATIVE HEARINGS

Department of Public Safety
Fire Marshal Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Revision of the Minnesota Uniform Fire Code (11 MCAR §§ 1.5030-1.5051)

Notice is hereby given that the Department of Public Safety is seeking information, comments, and opinions from sources outside of the department in preparing to draft revisions to the uniform fire code rules. Such rules are authorized by Minn. Stat. § 299F.011.

All interested or affected persons or groups are invited to provide information on this subject until October 1, 1980 by contacting:

Wes Werner
State Fire Marshal
1246 University Avenue
St. Paul, MN 55104

Written statements will be made part of the public hearing record.

Department of Public Service
Public Service Commission

Notice of Intent to Solicit Outside Opinion Concerning Implementation of FERC Cogeneration and Small Power Production Rules

Notice is hereby given that the Minnesota Public Service Commission is seeking information or opinions from outside the commission on appropriate methods for implementation of Federal Energy Regulatory Commission (FERC) rules concerning arrangements between electric utilities and qualifying cogeneration and small power production facilities. The Public Utility Regulatory Policies Act of 1979 (PURPA) required the FERC to establish such rules. PURPA also requires state regulatory authorities, such as the Minnesota Public Service Commission, to implement the rules within one year of their adoption by the FERC.

Background

The intent of PURPA and the FERC rules is to encourage electric power generation by smaller units in order to realize significant resource savings. Cogeneration facilities are capable of producing electricity and other forms of energy with significantly less fuel than

DPS-83-001-RL

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

RECEIVED
SEP 10 1982
ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Amendments to the Uniform Fire Code.

ORDER FOR HEARING

IT IS ORDERED this 9th day of September, 1982, that a public hearing on the proposed rules captioned above be held in Room G-18 Transportation Bldg., St. Paul, MN 55155, on October 28, 1982, commencing at 9:00 A.M., and continue until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that a notice of said hearing be given to all persons who have registered their names with the State Department of Public Safety for that purpose and be published in the State Register.

STATE OF MINNESOTA

K. A. Dirkzwager

KENNETH A. DIRKZWAGER
COMMISSIONER OF PUBLIC SAFETY

ACDKHF0005

D.P.S. Exhibit No. 1
File No. DPS-83-001-RL
Date 10-28-82

Department of Public Safety
Fire Marshal Division

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Amendements to the Uniform Fire Code.

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to Minnesota Statutes Section 15.0412, Subdivision 4, in the above entitled matter, in Room G-18 Transportation Building, St. Paul, MN 55155, on October 28, 1982, commencing at 9:00 A.M., and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statement or arguments. Statements or briefs may be submitted without appearing at the hearing. Written materials may be submitted by mail to Richard C. Luis, State Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, MN 55415, either before the hearing or within five working days after the close of the hearing (the hearing examiner may extend the written comment period up to 20 calendar days at the hearing). The proposed rules are subject to change as a result of the rule hearing process. The department therefore strongly urges those who may potentially be affected by the substance of the proposed rules to participate in the hearing process.

The Commissioner proposes to adopt rules relating to the following matters:

The proposed rules update the existing Minnesota Uniform Fire Code to the 1982 edition of the Uniform Fire Code, Western Fire Chiefs, and update the National Fire Codes to the 1982 edition. The proposed rules are published in the August 9, 1982 State Register pages 166-173 (7 S.R.166) as part of a Notice of Intent to Adopt Rules Without a Public Hearing. More than 7 requests for public hearing were received by the agency prior to the close of the comment period. The proposed rules as published are amendements to the Uniform Fire Code to make it a state code and to correspond to state law, the State Building code and to customary state and local jurisdictions and relationships.

The Department's authority to promulgate the proposed rules is contained in Minn. Stat. Section 299F.011.

One free copy of the proposed rules is available and may be obtained by writing to the Department of Public Safety (Uniform Fire Code Rules), 211 Transportation Building, St. Paul, MN 55155. Additional copies will be available at the door on the date of the hearing.

NOTICE: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. 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 Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General). Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Department of Public Safety and at the

Office of Administrative Hearings. The Statement of Need and Reasonableness will include a summary of all of the evidence and argument which the department anticipates presenting at the hearing, justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minn. Stat. 15.0412, Subd. 7.

Please be advised that Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minnesota Statutes Section 10A.01, Subd. 11 defines a lobbyist 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, 41 State Office Building, St. Paul, MN 55155, telephone (612) 296-5615.

The rule hearing process is governed by Minnesota Statutes Sections 15.0411 through 15.0417 and Section 15.052 and by 9 MCAR Sections 2.101 through 2.113 (Minnesota Code of Agency Rules). Questions relating to the rule hearing process and procedures may be directed to the Hearing Examiner, Richard C. Luis, Office of Administrative Hearings, 400 Summit Bank Bldg., 310 Fourth Avenue South, Minneapolis, MN 55415.

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

STATE OF MINNESOTA

K. A. Dirkzwager

K. A. DIRKZWAGER
COMMISSIONER OF PUBLIC SAFETY

9-14-82
DATE

ACDKHF0007

STATE OF MINNESOTA

COUNTY OF RAMSEY

RECEIVED
SEP 30 1982
ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Amendments to the Uniform Fire Code.

AFFIDAVIT OF MAILING
NOTICE OF HEARING

Diane Hamilton, being first duly sworn, deposes and says:

That on the 24th day of September, 1982, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the Notice of Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy therof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Department of Public Safety for the purpose of receiving notice of the proposed adoption of rules by this department, mailing list A. In addition, discretionary notice was served on all persons and associations contained on mailing list B.

Diane Hamilton

Subscribed and sworn to before me
this 29th day of September,
1982

J. L. Jacobson

J. L. JACOBSON
Notary Public, Ancka Co., Minn.
My Commission Expires
April 12, 1983

ACDKHF0012

D.P.S. Exhibit No. 5
File No.
Date

H- Uniform Fire Code eff 7/23/82

AID Homes, Inc./Horizon Apts.
1094 Waterloo Ave.
West St. Paul, MN 55118

Board of Directors
A[illegible]a Homes, Inc.
P.O. Box 475
Spicer, MN 56288

[illegible]r. Bapt. Homes/Up. Midwest
7928 Eden Road
Eden Prairie, MN 55344

Gertrude M. James
Anoka Cnty Comm. Heath &
Social Services Dept.
Courthouse, 4th Floor
Anoka, MN 55303

Arnie Lee Memorial Home
Route 2
Evansville, MN 56326

Board of Directors
Assisi Residences
218 S. Linton
Blue Earth, MN 56013

Assoc. Bldrs/Contractors, Inc.
6300 Walker St., Suite 109
Mpls, MN 55416

Rick Carter
Assoc./Health Care Facilities
2850 Metro Drive, Suite 429
Mpls, MN 55420

Assoc./Residences for Retarded
459 Rice St. Suite 301
St. Paul, MN 55013

Brighter Day Residences, Inc.
620 N. Wood St.
Mora, MN 55051

Board of Directors
Cath. Charities/Dioc. St. Cloud
1726 Seventh Av. S
St. Cloud, MN 56301

Board of Directors
Christian Concern, Inc.
402 N. Third St.
St. Peter, MN 56082

Board of Directors
Community Involvement
1926 Nicollet Ave. S.
Mpls, MN 55403

Community Living
Box 128
Victoria, MN 55386

Crippled Children's School
Box 23
Worthington, MN 56187

Dakota's Children, Inc.
400 W. Marie
West St. Paul, MN 55118

Board of Directors
Dell's Place, Inc.
235 S. Second Ave.
Delano, MN 55328

Dorothe Lane Children's Home
205 Sixth St.
Sauk Centre, MN 56378

Board of Directors
Duluth Regional Care
603 Alworth Bldg.
Duluth, MN 55802

Dungarvin, Inc.
865 Front St.
St. Paul, MN 55117

Kent E. Eklund
MN Dept. Economic Development
480 Cedar St.
St. Paul, MN 55101

Richard C. Buske
MN Dept. Economic Development
480 Cedar St.
St. Paul, MN 55101

Charles Schaffer
MN Dept. Economic Development
480 Cedar St.
St. Paul, MN 55101

Ed. Phillips & Sons, Co.
2345 Kennedy St. NE
Mpls, MN 55413

Fredrik M. Christiansen
Department of Education
Room 911, Capitol Sq. Bldg.
St. Paul, MN 55101

Episcopal Group Homes
522 Shadyway Road
Wayzata, MN 55391

Bonnie M. Spencer
Dir. State Regulatory Div.
Federal-State Reports, Inc.
5203 Leesburg Pike, Suite 1201
Falls Church, VA 22041

Fillmore Cnty Hndcpped Svcs.
135 Center St. SE
Harmony, MN 55939

Forestview Community Homes
P.O. Box 1249
Minnetonka, MN 55343

Board of Directors
Greenbrier Home, Inc.
941 Birmingham St.
St. Paul, MN 55106

Great River Homes, Inc.
717 Rustic Lane
Wabasha, MN 55981

Group Homes of Winona, Inc.
377 Main St.
Winona, MN 55987

Forestview-Hemmingway
8045 Hemmingway Ave. S.
Cottage Grove, MN 55016

Friendship Haven, Inc.
P.O. Box 576
Sherburne, MN 56171

Board of Directors
Harry Meyering Center
109 Homestead Drive, Box 302
Mankato, MN 56001

Heartland Homes/Ret. Citizens
P.O. Box 214
Park Rapids, MN 56470

Board of Directors
Hiawatha Manor, Inc.
107 Fifth Ave. NE
Pipestone, MN 56164

Homeward Bound, Inc.
4741 Zealand Ave.
New Hope, MN 55428

Conrad M. Fredin
Johnson, Fredin, Killen,
Thibodeau & Seiler
811 1st Nat'l Bank Bldg.
Duluth, MN 55802

Kathleen Burek
Executive Director
Leg. Comm./Review Admin. Rules
Rm 430, State Office Bldg.
St. Paul, MN 55155

Gen. Counsel/Legal Div.
MN Gas Company
300 Peavey Bldg.
Mpls, MN 55402

John G. Horner
MN Multi-Housing Assoc.
3100 W. Lake St.
Mpls, MN 55416

Mt. Olivet Rolling Acres
7200 Rolling Acres Rd.
Excelsior, MN 55331

Nekton, Inc.
633 N. Snelling Ave.
St. Paul, MN 55104

Good Neighbor Home
1091 Fairmount Ave.
St. Paul, MN 55105

Sam Ruhle
Office of Admin. Hearings
310 So. 4th Ave.
Mpls, MN 55415

Henry Hagen Residence
19845 Lillehei Drv.
Hastings, MN 55033

Board of Directors
Home for Creative Living
108 Ninth St.
Windom, MN 56101

Innovative Homes, Inc.
P.O. Box 11
Kasson, MN 55944

Koep Group Home
Route 3
Fergus Falls, MN 56537

M.B.W. Company
801 Center St.
New Ulm, MN 56073

Jean Dawson
Editor
MN Government Report
B-12, Press Room
State Capitol Bldg.

Moore's Haven, Inc.
3490 N. Victoria
St. Paul, MN 55113

Abe Rosenthal
Executive Vice President
MN Motor Transport Assoc.
1821 University Ave. (N310)
St. Paul, MN 55104

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New Dawn, Inc.
Route 1, Box K1
Fulda, MN 56131

Board of Directors
Homer Residences, Inc.
1909 E. Wayzata Blvd.
Wayzata, MN 55391

Board of Directors
Hearthside Home
Pike Bay Drive, Lake Vermillion
Tower, MN 55790

Board of Directors
Hiawatha Children's Home
1820 Valkyrie Drive NW
Rochester, MN 55901

Hope Residence, Inc.
Box 63
Waterville, MN 56096

President
Interstate Power Co.
1000 Main St.
Dubuque, IA 52001

Lakeview Home
Lincoln & W. Second Sts.
Sauk Centre, MN 56378

Mental Health Assoc. of MN
5501 Green Valley Drive #103
Mpls, MN 55437

John T. Farmer
Executive Director
MN Manufactured Housing Assoc.
222 E. Little Canada Rd.
Little Canada, MN 55117

Gordon Forbes
MN Railroads Assoc.
480 Cedar St., 303 Hanover Bldg.
St. Paul, MN 55101

James Murphy
Vice President
Nat'l Assoc. Indep. Insurers
2600 River Road
Des Plaines, IL 60018

Board of Directors
NorHavan Homes, Inc.
1394 Jackson St.
St. Paul, MN 55117

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Northeast House, Inc.
2821 S. Inglewood Ave.
Mpls, MN 55416

Board of Directors
Olmsted ARC
1312 Seventh St. NW
Rochester, MN 5901

Outreach Group Homes, Inc.
3601 Park Center Blvd. #304
Mpls, MN 55416

Phillips Leg. Serv. Inc.
459 Rice St.
St. Paul, MN 55103

Pine River Group Home
Box 96
Pine River, MN 56474

Presbyterian Family Foundation
901 Service Drive
Willmar, MN 56201

Board of Directors
Range Center, Inc.
1001 Eighth Ave. NW
Chisholm, MN 55719

Residential Alternatives, Inc.
5449 Lyndale Ave. N
Mpls, MN 55430

Claudia Smith
Corporate Law Dept.
St. Paul Companies, Inc.
385 Washington St.
St. Paul, MN 55101

Dev. Disabilities Pl. Office
State Planning Agency
200 Capitol Sq. Bldg.
St. Paul, MN 55101

Bob Franklin
City Editor
Minneapolis Tribune
425 Portland Ave.
Mpls, MN 55488

Board of Directors
Northest Residence, Inc.
104 Bald Eagle Ave.
White Bear Lake, MN 55110

Bernice Fields
Research Analyst
Ombudsman for Corrections
333 Sibley, Rm 101 Nalpak Bldg.
St. Paul, MN 55101

Our House of MN, Inc.
1864 Portland Ave.
St. Paul, MN 55104

Board of Directors
Phoenix Residence, Inc.
135 Colorado St. E.
St. Paul, MN 55107

Thomas M. Polt
Polt Law Offices
McCarthy Bldg.
Eyota, MN 55934

Charles A. Kroeger
Executive Director
QSS, Inc.
P.O. Box 838
Faribault, MN 55021

Resa, Inc.
38 Seventh Ave. N.
Hopkins, MN 55343

Residential Svcs. of NE MN
2048 E. Eighth St.
Duluth, MN 55812

Board of Directors
Salmi Board & Lodging Home
Route 1, Box 235
Aurora, MN 55705

Summit House
1004 Summit Ave.
Mpls, MN 55403

Robert L. Haven
Twin Town Treatment Center
1706 University Ave.
St. Paul, MN 55104

G. V. Welk
[illegible]./Regulatory Compl. & Svc
Northern States Power Co.
414 Nicollet Mall
Mpls, MN 55401

Board of Directors
Orvilla, Inc.
3430 Westcott Hills Dr.
Eagan, MN 55123

People, Inc.
1245 NW Nat'l Bank Bldg.
St. Paul, MN 55101

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

Peter S. Popovich
Peterson, Popovich, Knutson
& Flynn
314 Minnesota Bldg.
St. Paul, MN 55101

Ramsey Cnty. Commissioners
Courthouse
St. Paul, MN 55101

Board of Directors
Residence, Inc.
2499 N. Rice St. Suite 139
Roseville, MN 55133

Board of Directors
Riverview Manor, Inc.
Box 215
Wanamingo, MN 55983

South Center Manor, Inc.
Park Island
Center City, MN 55012

Sur La Rue, Inc.
1386 Jackson St.
St. Paul, MN 55117

Robert A. Silvagni
University of Minnesota
319 15th Av SE, 200 Shops Bldg.
Mpls, MN 55455

Board of Directors
Valley Group Home
1332 Second Ave. No.
Moorhead, MN 56560

Windom CRF, Inc.
Box 244
Windom, MN 56101

Woodvale Management Svcs.
Box 1047
Austin, MN 55912

H. LeRoy DeBoom
3945 Zarthan Ave.
St. Louis Park, MN 55416

Kathy R. Van Kleeck
Motorcycle Industry Council
1001 Connecticut Ave. NW
Washington, DC. 20036

Joseph G. Beaton, Jr.
Attorney at Law
3109 Hennepin Ave. So.
Mpls, MN 55408

Board of Directors
Warner Care Homes
450 E. Third St.
Cokato, MN 55321

Robert Carstenbrock
Police Chief
Winona City Hall
4th & Lafayette St.
Winona, MN 55987

Jerry Kennan
Region Nine Dev. Commission
410 S. 5th St., PO Box 3367
Mankato, MN 56001

Marlis Johnson
Box 3367, Region 9
Mankato, MN 56001

POST Board
500 Metro Square Bldg.
St. Paul, MN 55101

Willmar Nursing Home, Inc.
1004 Ella Ave.
Willmar, MN 56201

Woodvale Homes, Inc.
Box 1047
Austin, MN 55912

George C. Mastor
General Manager/Legal Div.
MN Gas Company
300 Peavey Bldg.
Mpls, MN 55402

Rodney Watkins
105 University Road
Cloquet, MN 55720

Frundt, Frundt & Johnson
117 West 5th St.
Blue Earth, MN 56013

D.P.S Exhibit No. 6
File No.
Date

Mr. Al Schadt, President
Minnesota State Fire Department Association
c/o Maplewood Fire Prevention Bureau
1380 Frost Avenue
Maplewood, MN 55109

Mr. Richard Kosek, President
Minnesota State Fire Chiefs Association
c/o Red Wing Fire Department
4th and Bush Street
Red Wing, MN 55066

Mr. Jon Reedy, President
Minnesota Fire Marshals Association
7224 Vinewood Lane
Maple Grove, MN 55369

Mr. James Heim, President
Governor's Council on Fire Prevention and Control
c/o Duluth Fire Department
602 West Second Street
Duluth, MN 55802

Mr. Bruce Ryden, President
MN Chapter of the International Assoc. of Arson Investigators
c/o Roseville Fire Department
2660 Civic Center Drive
Roseville, MN 55113

Mr. Richard Johnson, President
Professional Firefighters of MN
1579 Clarence
St. Paul, MN 55106

Ms. Toni Richardson, Director
F.I.R.E. Center
3300 University Avenue SE
Mpls., MN 55414

Mr. Arnold Biedermann, Fire Marshal
Albert Lea Fire Department
221 East Clark Street
Albert Lea, MN 56007

Mr. Patrick Coughlin, Fire Chief
Richfield Fire Department
6700 Portland Avenue South
Richfield, MN 55423

Mr. Robert Aldrich, Fire Chief
Fridley Fire Department
6431 University Avenue N.E.
Fridley, MN 55432

D.P.S Exhibit No. 7
File No.
Date

Jim Ingison
Broeker, Hartfelt, Hedges and Grant
2850 Metro Drive, Suite 800
Minneapolis, MN 55420

Kip W. Kinder
Kinder & Bell Enterprises, Inc.
4734 Main St., P.O. Box 301
Lisle, Illinois 60532

Harold Tapper
Assoc. of Residences for the Retarded in MN
459 Rice St., Suite 302-B
St. Paul, MN 55103

Stan Anderson
Minnetonka Fire Marshal
14550 Minetonka Boulevard
Minnetonka, MN 55343

Eric Radke
Henkel Corp.
2010 E. Hennepin Ave.
Minneapolis, MN 55413

Nels M. Nelson, A.H.C.
Architectural Hardware Consultant
5 S. 4th St., #836
Minneapolis, MN 55401

Ed Schentzel
Northern States Power
414 Nicollet Mall
Minneapolis, MN 55401

Jerry Everett
N.W. Petroleum Assoc.
2345 Rice Street
St Paul, MN 55113

STATE OF MINNESOTA

COUNTY OF RAMSEY

RECEIVED
SEP 30 1982
ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Amendments to the Uniform Fire Code.

CERTIFICATE OF MAILING LIST

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. 15.0412, subd. 4, that their names be placed on file with and maintained by the State Department of Public Safety for the purpose of receiving notice of the proposed adoption of rules by this department, is accurate and complete as of 9:00 A.M., this 23rd day of September, 1982.

Diane K. Hamilton

ACDKHF0010

D.P.S Exhibit No. 4
File No.
Date

DPS-83-001-RL

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF PUBLIC SAFETY
FIRE MARSHAL DIVISION

In the Matter the Proposed Adoption
of the Rules of the State Department
of Public Safety Governing Amendments
to the Uniform Fire Code.

REPORT OF THE
HEARING EXAMINER

Pursuant to an Order for and Notice of Hearing issued on September 14, 1982, by John P. Sopsic, Commissioner, Minnesota Department of Public Safety (hereinafter the "Agency" or the "Department"), the above-entitled matter came on for hearing before Richard C. Luis, duly appointed as Hearing Examiner by the Chief Hearing Examiner, at 9:00 A.M., on October 28, 1982, in Room 18G, Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This Report is part of a rule-making process held pursuant to Minn. Stat. Ch. 15, to determine whether the proposed rules amending the Uniform Fire Code and updating the National Fire Code provisions applicable to Minnesota, and repealing certain existing rules, should be adopted by the Department of Public Safety.

James B. Early, Special Assistant Attorney General, Second Floor, Ford Building, 117 University Avenue, St. Paul, Minnesota 55155, appeared as counsel for the Department of Public Safety. Wes Werner, State Fire Marshal, and Dick Larson, Assistant Director, Office of the State Fire Marshal, were the members of the Department's panel. Twenty-two persons signed the hearing register. Nine members of the public spoke at the hearing. The Agency submitted 14 exhibits. The public submitted one exhibit. Written comments were received by the Hearing Examiner from 18 individuals and organizations prior to the hearing. Subsequent to the hearing, written comment was received from 16 individuals and organizations, including legal briefs from Ralph Keyes, counsel for the Minnesota Motel Association, and Wes Werner, State Fire Marshal. Those documents are part of the record submitted to the Commissioner along with this Report. By order of the Hearing Examiner, the record remained open for 20 days following the hearing, and was closed on November 17, 1982.

Pursuant to Minn. Stat. § 15.0412, subd. 4d and 4e (1980), this Report shall be available for review to all affected individuals upon request for at least five working days. Thereafter, the Commissioner of Public Safety shall, if he proposes to adopt the rule as recommended herein, submit the rule, together with the complete hearing record to the Attorney General and shall be responsible for notifying persons who have indicated that they wish to be notified of such filing. If the Commissioner makes changes in the rule other than those recommended herein, he shall submit the rule with the com- plete hearing record to the Chief Hearing Examiner for a review of the changes prior to submitting it to the Attorney General for review.

Based upon all the testimony, exhibits, and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

PROCEDURAL REQUIREMENTS

1. On September 10, 1982, the Department of Public Safety (hereinafter "Department") filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.

(b) The Order for Hearing.

(c) The Notice of Hearing proposed to be issued.

(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

(e) A copy of the State Register in which a Notice of Intent to Adopt Rules Without a Public Hearing and the proposed rules had been published.

2. On September 27, 1982, a Notice of Hearing was published at 7 State Register 421.

3. On August 9, 1982, a Notice of Intent to Adopt Rules Without a Public Hearing pursuant to Minn. Stat. § 15.0412, subd. 4h, with a copy of the proposed new rules attached thereto, was published at 7 State Register 166-173. By the conclusion of the 30-day comment period on September 8, 1982, 12 persons had submitted written requests for a public hearing on the proposed rules to the Department, five more than the minimum required to convene such a hearing. The Notice of Hearing published on September 27, 1982, referred to the proposed new rules that were originally published at 7 State Register 166-173.

4. On September 24, 1982, the Department of Public Safety mailed the Notice of Hearing to all persons and associations who had registered their names with the Department for the purpose of receiving such notice.

5. On September 30, 1982, the Department of Public Safety filed the following documents:

(a) The Notice of Hearing as mailed.

(b) The Agency's certification that its mailing list was accurate and complete.

(c) The Affidavit of Mailing of the Notice to all persons on the Agency's list.

(d) The Statement of Need and Reasonableness.

(e) The names of the Department of Public Safety personnel who would represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

(f) A copy of the State Register in which the Notice for Hearing had been published.

(g) An Affidavit of Additional Notice.

The documents were available for inspection at the Office of Administrative Hearings from the date of filing to the date of the hearing.

6. The record remained open through November 17, 1982, for the receipt of written comments and statements, the period having been extended by order of the Hearing Examiner to 20 calendar days following the hearing.

7. At the hearing in this matter on October 28, 1982, the Department introduced into evidence as exhibits the following documents:

DPS Ex. 1 - Order for Hearing.

DPS Ex. 2 - Proposed Rules.

DPS Ex. 3 - Notice of Hearing with a copy of proposed rules attached.

DPS Ex. 4 - Certificate of Mailing List.

DPS Ex. 5 - Affidavit of Mailing.

DPS Ex. 6 - Mailing List of Persons Registered with the Department for Rule Hearing Notices.

DPS Ex. 7 - Discretional Mailing List.

DPS Ex. 8 - Notice of Hearing in State Register, September 27, 1982.

DPS Ex. 9 - Statement of Need and Reasonableness.

DPS Ex. 10 - Memorandum from the Department of Public Safety to the Hearing Examiner regarding the Department's personnel appearing at the hearing.

DPS Ex. 11 - Letters of Request for a public hearing.

DPS Ex. 12 - 1982 Uniform Fire Code.

DPS Ex. 13 - The National Fire Codes, 1982.

DPS Ex. 14 - Letters of Comment.

STATUTORY AUTHORITY

8. The Department cites Minn. Stat. § 229F.011 as the statutory authority for adopting the proposed rules. Subd. 1 of that statute provides that the Commissioner of Public Safety may adopt a uniform fire code. The statute reads:

> "Subd. 1. The commissioner of public safety through the division of fire marshal may promulgate a uniform fire code and make amendments thereto in accordance with the administrative procedure act in chapter 15. The code and its amendments shall conform insofar as practicable to model fire codes generally accepted and in use throughout the United States, with consideration given to existing state-wide speciality codes presently in use in the state of Minnesota. State-wide speciality codes and model codes with necessary modifications may be adopted by reference in accordance with section 15.0412, subd. 2a."

See, Minn. Laws, 1982, Ch. 424, § 114. Minn. Stat. § 15.0412, subd. 2(a) sets forth the procedure that an Agency must follow in order to incorporate by reference into its rules the text from other publications which are determined by the Revisor of Statutes, after consultation with the Chief Hearing Examiner, to be conveniently available to the public.

9. The Department's statutory authority to adopt the 1982 Uniform Fire Code by reference was challenged by the Minnesota Motel Association (hereinafter "Association"). The Association argued in testimony at the hearing and in a legal brief filed by their counsel, Mr. Ralph Keyes, that the Depart-

ment made an insufficient showing of authority to adopt the 1982 Uniform Fire Code by reference, and hence, exceeded its legal authority.

The Association bases its argument on five grounds:

(1) The Uniform Fire Code is a "complete law" that should be passed by the legislature and not by the Agency;

(2) The Agency does not have a "standard of ascertaining operative facts for which the Agency could adopt rules." Reyburn v. Minnesota State Board of Optometry, 247 Minn. 520, 78 N.W.2d 351 (1956); Lee v. Delmont, 228 Minn. 101, 36 N.W.2d 530 (1949);

(3) The legislature set a precedent or pre-empted agency regulatory authority in the area of fire safety when it enacted Minn. Stat. § 249F.362 (1980) dealing with smoke detectors;

(4) The Commissioner of Public Safety must make a more persuasive argument that he posses legal authority to adopt by reference in light of the fact that the Commissioner of Administration is required to adopt the building code by reference and the Commissioner of Public Safety "may" adopt the Uniform Fire Code by reference; and

(5) § 10.307(a)(2) of the proposed Uniform Fire Code imposes sudden and almost calamitous new costs upon affected motel owners, which means that the Agency is exercising authority reserved for the legislature.

10. After review of the Association's arguments, and the statutory and case law cited therein, the Hearing Examiner finds that the Department has the statutory authority to adopt the 1982 Uniform Fire Code by reference. The basis of this Finding is Minn. Stat. § 299F.011, subd. 1, which provides, in part:

> ". . . . State-wide speciality codes and model codes with necessary modifications may be adopted by reference in accordance with section 15.0412, subd. 2a."

11. The 1982 Uniform Fire Code is a model code within the meaning of Minn. Stat. § 299F.011, subd. 1. It was drafted by the International Conference of Building Officials and the Western Fire Chiefs Association. The 1973 Uniform Fire Code that the Department adopted in 1975 and is presently in effect (with amendments) was promulgated by the same two organizations. As explained in the preface to the 1982 Uniform Fire Code, the drafters publish revised editions every three years and proposed changes are carefully reviewed in public hearings by professional experts in the field of fire and life safety. The Hearing Examiner finds that the 1982 Uniform Fire Code is a model code which the Department may adopt by reference.

The Hearing Examiner further finds that the National Fire Codes of 1973 and 1982 qualify as both a model code and as "speciality codes" within the meaning of the authorizing legislation. Therefore, the Department may adopt any portion(s) thereof by reference. The Codes, issued by the National Fire Protection Association are extremely voluminous, covering in detail many different areas of fire protection covered in the Uniform Fire Code of 1982, and many additional areas. The National Fire Codes, 1982, consist of 18 volumes, including two supplementary volumes, and total many thousands of

pages. The purpose of the National Fire Codes is to provide guidance to anyone interested in the reduction of loss of life and property by fires. The National Fire Protection Association is a voluntary membership organization open to any individual or organization interested in the protection of life and property against loss by fire. The codes are updated annually, and are compiliations of the codes, standards, recommended practices, manuals, guides and model laws prepared by technical committees organized under the National Fire Protection Association's sponsorship in accordance with published procedures of the Association. Only such documents which have been approved by the Association are included in the National Fire Codes.

The Board of Directors of the National Fire Protection Association appoints drafters from among those individuals who are vitally interested, qualified and active in the areas with which the committees are concerned, so as to achieve a fair balance of affected interests. Volumes 1-12 constitute "Codes and Standards", and Volumes 13-16 constitute "Recommended Practices and Manuals". The supplementary volumes contain both "Codes and Standards" and "Recommended Practices and Manuals". The Hearing Examiner finds that the National Fire Codes, 1982 are both a model code and "speciality codes" which the Department may adopt by reference.

12. The Hearing Examiner finds that the Department has complied with the statutory procedure for adopting the 1982 Uniform Fire Code by reference as provided in Minn. Stat. § 15.0412, subd. 2a. The proposed rules (DPS Ex. 2) carry the Revisor of Statutes' Certification that the Uniform Fire Code (1982 Edition) has been incorporated by reference. Absent any evidence to the contrary, the Hearing Examiner finds that this certificate was issued after a determination was made by the Revisor of Statutes, in consultation with the Chief Hearing Examiner, that the referenced Code was a publication conveniently available to the public. The Revisor's Certificate of Approval as to Form, which appears at the end of the copy of the proposed rules on file, is also a finding by the Revisor, under Minn. Stat. § 15.0412, subd. 2a, that the incorporated materials are conveniently available to the public.

The Revisor's Certificate also lists the National Fire Codes, 1982 and the National Fire Codes, 1973, as material incorporated by reference. The rules proposed to adopt by reference only those protective provisions made by the 1982 National Fire Codes in areas where the 1982 Uniform Fire Code, as amended, is silent. Only one Standard (101) of the 1973 National Fire Codes is actually proposed for adoption by reference, and this is only for an exceptional situation. As noted above, the Revisor's Certificate of Approval as to Form constitutes a finding that the incorporated materials are currently available to the public. The Hearing Examiner finds that the Department has complied with the statutory procedure for adopting by reference the 1973 and 1982 National Fire Codes for the same reasons as outlined in the proceeding paragraph with respect to the Uniform Fire Code. See, proposed 11 MCAR §§ 1.5114 and 1.5122.

13. The Association's objection to the Department's adopting the 1982 Uniform Fire Code and National Fire Codes, 1982, by reference is not without merit. But the reasons argued to support that objection do not overcome the

authorizing statute's explicit language that a model code and speciality codes, with necessary modifications, may be adopted by reference.

Additional support for this interpretation of the statute is found in the legislative history. Minn. Laws 1974, Ch. 550, was the first statute authorizing the Commissioner to adopt a uniform fire code. The title of the Act stated, in part:

> ". . . . adopting the Uniform Fire Code, 1973 edition promulgated by the international conference of building officials and the western fire chiefs association, until the commissioner promulgates a code."

Because the statutory authority is clear and unambiguous for adoption, with necessary modifications, of model codes such as the Uniform Fire Code and National Fire Codes, 1982 and for adoption of speciality codes such as are found throughout the National Fire Codes, 1982, and for the further reasons stated below, the Hearing Examiner has rejected the statutory authority objections voiced by the Minnesota Motel Association.

14. The 1982 Uniform Fire Code is, as the Association argues, "a substantial, substantive law". However, the legislature clearly authorized the adoption of a uniform fire code that could not be anything but substantial and substantive. In fact, the present Minnesota Fire Code, Minn. Rules Fire Mar 30-51, which adopts by reference the Uniform Fire Code of 1973, with amendments, is as substantial and substantive as the proposed 1982 code.

The Association makes specific objection to one section of the proposed code, § 10.307(a)2. While § 10.307(a)2 is a substantive law in itself, the Hearing Examiner finds that the legislature specifically granted the Department authority to adopt any section contained within the Uniform Fire Code. The legislature is not required to expressly detail every particular subject over which it has given an Agency the power to regulate:

> "In vesting regulatory power in an administrative Agency, the legislature need not expressly delineate with particularity or exactness each and every phase of the power so conferred, but may in order to give the administrative function reasonable flexibility, leave the exact scope of the rule-making power to reasonable implication and this includes an implied power to formulate necessary classifications and definitions within the designated area of regulation. One of the basic purposes of administrative regulation is to leave preciseness and detail of application to administrators who supposedly will bring an expert's familiarity to bear on the problems under consideration."

Wesland v. State of Minnesota Railroad and Warehouse Commission, 251 Minn. 504, 88 N.W.2d 834, 838 (1958). See, also, City of Minneapolis v. Krebes, 303 Minn. 219, 326 N.W.2d 617 (1975). Because the legislature authorized the adoption of a uniform fire code, the adoption of one section of that code, however substantial or substantive, must necessarily be within the power conferred upon the Agency.

15. Minn. Stat. § 299F.011, does provide a "standard of ascertaining operative facts" in that the Agency must adopt a "uniform fire code", and one that is in conformance with other model codes. Therefore, the second statutory authority argument raised by the Association has been overcome.

16. The Association's novel argument that the legislature has set precedent or pre-empted Agency regulation in the area of fire safety is unpersuasive. The pre-emption doctrine cannot apply in this case, where the legislature explicitly authorized the adoption of the Uniform Fire Code. The legislative history shows that the Agency adopted a uniform fire code in 1975 pursuant to a statutory grant of power given in 1974. In 1977, the legislature passed the smoke detector law, codified as Minn. Stat. § 299F.362. In 1981, the legislature specifically provided again (as it had in 1974) for the adoption of a uniform fire code and granted authority for the Agency to adopt a model code by reference. See Minn. Laws 1981, Ch. 106, § 1. The 1981 enactment clearly shows that the 1977 smoke detector law was not intented to supersede the adoption of any applicable uniform fire code provision.

The 1977 and 1981 laws do not conflict, but in fact have a different purpose. Smoke detectors are located within a guest's room as a safety measure for the occupant or occupants of the room. The fire alarm system required in Uniform Fire Code § 10.307 is located throughout the lodging establishment as a safety measure for all guests, and when one activates, they all activate. The legislature frequently speaks twice in the same area, and in this case, cannot be said to have set precedent or pre-empted the Agency's adoption of § 10.307 of the Uniform Fire Code with its adoption of the smoke detector law.

17. The Hearing Examiner will not, as the Association suggests in its fourth argument, go beyond the language of § 299F.011, and compare legislative intent as voiced in Minn. Stat. § 16.85 with the legislative intent stated at § 299F.011. Under § 16.85, subd. 1, the Commissioner of Administration is required to adopt the Uniform Building Code and under § 299F.011, the Commissioner of Public Safety is given the discretion to adopt the Uniform Fire Code. There is no basis to hold that the Department has exceeded its legal authority to adopt a code by reference because the authority is discretionary rather than mandatory. The language of § 299F.011 is clear and unambiguous. The Agency has the power to exercise its discretion in adopting a uniform fire code by reference.

18. The Department does not lose its authority to adopt rules by reference because of the potential costs to the Association's members. Evidence of cost bears on the issue of need and reasonableness and cannot stand as a reason to deny the Agency legal authority to adopt by reference.

DISCUSSION OF THE PROPOSED RULES, 11 MCAR §§ 1.5101-1.5154

19. The proposed rules are in three basic parts. First is the 1982 Uniform Fire Code, which is adopted by reference. Secondly, there are amendments to the 1982 Uniform Fire Code. These proposed amendments are codified as 11 MCAR §§ 1.5104-1.5154. The third part is the National Fire Codes, 1982, issued by the National Fire Protection Association (Quincy, Massachusetts, 1982) which are incorporated by reference in the 1982 Uniform Fire Code to apply in areas where the Uniform Code is silent. The proposed rules replace the 1973 Uniform Fire Code, as amended, that was adopted in 1975.

20. For the purposes of brevity and to avoid undue expense, the Hearing Examiner has chosen to specifically discuss or detail only certain portions of the proposed rules, focusing especially on the changes in the requirement for fire alarms in lodging establishments, which was the most controversial topic discussed at the hearing and in post-hearing comments. Any provisions of the proposed rules not specifically discussed below are found by the Hearing Examiner to be necessary and reasonable, and adequately supported by an affirmative presentation of facts on the record. That affirmative presentation of facts is contained in the Agency's Statement of Need and Reasonableness (DPS Ex. 9) and the balance of the testimony and submissions making up the record in this case. The changes left undiscussed are either clarifying in nature, repeat existing rules proposed for repeal (Minn. Rules Fire Mar 30-51), or are noncontroversial.

21. 11 MCAR § 1.5102. This section establishes the scope of the proposed rules to be consistent with Minn. Stat. § 299F.011. In the Statement of Need and Reasonableness, the Department states that the proposed rules are needed in order to keep the State's Uniform Fire Code and the National Fire Code abreast of recent technological advances in products, materials, building design and construction. The Department further states that through on-going study, the 1982 Uniform Fire Code is the latest version and is intended to correlate and be compatible with the State Building Code and other speciality codes. The Hearing Examiner finds that the Department's statements constitute a sufficient affirmative factual demonstration to support this rule section and that this section is necessary and reasonable.

22. 11 MCAR § 1.5103. This section incorporates the 1982 Uniform Fire Code by reference. As discussed above, the Agency has the statutory authority to adopt the model code by reference.

The Minnesota Motel Association objects to one section of the 1982 Uniform Fire Code, § 10.307(a)2. This section is changed from the 1973 edition of the Uniform Fire Code adopted by the Department in 1975. The 1973 Code reads, in part:

> "Sec. 13.307(a). . . . every hotel three stories or more in height containing 20 or more guest rooms, shall have installed therein an approved automatic or manually operated fire alarm system . . . ."

The 1982 Code added the word "or" between "height" and "containing", and the section reads:

> "§ 10.307(a) Apartments and Hotels. An approved automatic fire alarm system shall be installed in the following occupancies:
>
> 1. Apartment houses three or more stories in height or containing more than 15 apartments.
>
> EXCEPTION: An alarm need not be installed in buildings not over two stories in height when all individual dwelling units are separated by at least one-hour fire-resistive occupancy separations, including attics and crawl spaces, and each individual dwelling unit has direct exit to a yard or public way.
>
> 2. Hotels either three stories or more in height or con-

taining 20 or more guest rooms.

> The alarm system shall include provisions for smoke detection and manual operation in interior corridors and automatic detection in storage rooms, laundry rooms, furnace rooms and similar common areas."

The affect of the change from 1973 to 1982 versions is to expand the class of hotels required to install an approved fire alarm system. In practical terms, the proposed rule now adds all motels of 20 rooms or more, whether one or two stories high, and all three story hotels that have less than 20 rooms to the fire alarm system requirement.

For the purposes of clarity, and to conform to the Department's stated intent at the hearing, it is suggested that the Exception paragraph (quoted above) be placed after § 10.307(a)2. This change, if adopted, would not be substantial in nature because it was discussed and clarified at the hearing, and is suggested by a fair reading of the section as a whole. If adopted, the suggested amendment is found to be necessary and reasonable.

23. The Minnesota Motel Association argues that the Department has failed to prove the need and reasonableness of adopting § 10.307(a)2 of the 1982 Uniform Fire Code. § 10.307(a)2 would require, according to the Association, an unknown number of motels to install automatic fire alarm systems that the 1973 Code does not require. The cost is estimated at $3,000.00-$3,200.00 for a 35-unit two-story motel. For smaller motels, the estimate does not significantly vary because of fixed costs on installation and equipment.

24. The Department, in its brief, argues that the credentials of the members of the organizations that drafted and approved the code is prima facie evidence of need and reasonableness and that need has been shown by the testimony of various fire-fighting experts. The Department elicited testimony from Patrick Coughlin, Richfield Fire Chief, James Heim, Assistant Fire Chief for Duluth and Chairman of the Governor's Commission on Fire Prevention and Herbert W. Meyer, a former member of the Fire Marshal's office and now a code consultant with the City of Bloomington, that § 10.307(a)2 is necessary because in a hotel of 20 or more rooms the number of potential guests exceeds the number who can be warned and/or rescued by fire-fighting personnel during an emergency.

25. After careful review of the Association's and the Department's testimony, letters and briefs, the Hearing Examiner finds that the Department has proven the need for and reasonableness of adopting the 1982 Uniform Fire Code, and has specifically proven the need for and reasonableness of adopting § 10.307(a)2 thereof by an affirmative presentation of facts. This is because the Department's evidence sets out a rational basis for the rule.

The testimony of the fire-fighting experts showed that, in their experience or expert opinion, an automatic fire alarm system would aid in the rescue of guests in a hotel of three stories or more or in any lodging establishment containing 20 or more guest rooms. Their uncontroverted testimony supports the Department's contention that the drafters of the 1982 Uniform Fire Code agreed on the necessity of § 10.307(a)2.

There is also a question as to whether an Agency must prove need and

reasonableness at all when it adopts a model code by reference. In this case, the legislature authorized the adoption of a model code by reference. It is arguable that the Department's responsibility to present affirmative facts upon which need and reasonableness is demonstrated in such a situation is less compelling. The legislature has, after all, directed that a model code, generally accepted and in use throughout the United States, be adopted. It is not necessarily required that the Agency should have to prove the need and reasonableness of such a model code when the legislature has already authorized its adoption. In any case, the Hearing Examiner specifically finds that the Department of Public Safety has established the need for and reasonableness of § 10.307(a)2 of the Uniform Fire Code.

26. The Association's arguments that the rule is unnecessary and unreasonable are not convincing. The Association alleges that the Department should have specified the need for and reasonableness of § 10.307(a)2 in its Statement of Need and Reasonableness because of the cost motel owners will incur in order to comply. While the resultant cost to certain motels if this section is adopted is substantial, this fact does not, in itself, defeat the proposed rule because it does not make the proposed fire safety measures arbitrary or unnecessary.

The Association also argues that § 10.307 is inconsistent with the State Building Code, and therefore must be rejected. The Department elicited testimony at the hearing to the effect that § 10.307(a)2 of the 1082 Uniform Building Code was consistent with the Uniform Building Code. The Association is, however, correct in its assertion that the present State Building Code, at § 1202, requires an approved fire alarm system for every hotel three stories or more in height containing 20 or more guest rooms. This provision conforms to the 1973 Uniform Fire Code presently in effect. The proposed § 10.307(a)2 from the 1982 Uniform Fire Code is not in conformance with the present State Building Code. Minn. Stat. § 299F.011 requires that the Department give consideration to state-wide speciality codes, but the statute does not require that the Uniform Fire Code be in conformance with the State Building Code in every particular. Therefore, the Association's argument cannot prevail.

It should be noted that the 1982 Uniform Building Code (a model code covering structural requirements for new construction) has made a change analogous to the change contained in § 10.307(a)2 of the Uniform Fire Code. § 1202(b) of the 1982 Uniform Building Code provides, in part:

> ". . . . every hotel three stories or more in height or containing 20 or more guest rooms shall have an approved fire alarm system as specified in the Fire Code."

This requirement is a change from the previous Uniform Building Codes, the last of which was published in 1979. The 1979 Uniform Building Code provided, under the present Minnesota Building Code, for a required approved fire alarm system for every hotel three stories or more in height containing 20 or more guest rooms. It is evident that the two uniform codes (Building and Fire) have made the same, consistent change in 1982, and this fact futher persuades the Hearing Examiner that the new § 10.307(a)2 is necessary and reasonable. See, the post-hearing arguments of the City of Bloomington, filed November 8,

1982. This showing is especially persuasive because of testimony to the effect that the Building Code Division of the Minnesota Department of Administration has, in the past, used the Uniform Building Code as a model for changes in the Minnesota Building Code.

27. Although the Department has shown the need for and reasonableness of adopting the 1982 Uniform Fire Code, the Agency should note the following:

At the hearing, the Department elicited testimony that the public could learn what changes were made to the 1973 Code by noting the editorial marks in the margin of the text of the 1982. However, the 1982 Uniform Fire Code (DPS Ex. 12) only notes the changes from the 1979 edition and not the 1973 edition that was adopted by the Department in 1975. To trace the changes the 1982 Uniform Fire Code made to the 1973 Code, the public would have to compare the 1982 version to the 1979 version, the 1979 version to the 1976 version and the 1976 version to the 1973 version. A comparison of the 1973 and 1982 volumes alone will, in time, reveal the differences in specific details, so there is no defect in notice by not including the 1976 and 1979 versions to the materials on file. However, the reader should have the two additional, interim, volumes present in order to expedite the task of tracing the changes between the 1973 and 1982 Codes.

At the hearing, the Department's panel stated that interior corridors, laundry rooms, and other common areas would be included in the total of 20 rooms or more. This view is consistent with the last paragraph of §10.307(a), which reads:

> "The alarm system shall include provisions for smoke detection and manual operation in interior corridors and automatic detection in storage rooms, laundry rooms, furnace rooms and similar common areas."

However, this interpretation may be inconsistent with the meaning of "guest rooms", an undefined concept. It is suggested that the Department add a rule defining "guest rooms" as the term is used in § 10.307. This addition, either as part of § 10.307 or as an addition to Article 9 of the Uniform Fire Code, would not be a substantial change because the question is fairly raised by the Notice of Hearing and because the topic was fully debated at the hearing. This change, if adopted, is found to be necessary and reasonable because it will act to clarify the issue and prevent possible inconsistencies in future applications for variances or future contested cases. It is also noted that § 9.109 of the Uniform Fire Code defines "guest" as "any person hiring or occupying a room for living or sleeping purposes", which definition seems to support the argument that the common areas should not be included in the room count. However, a separate definition of "guest room", including common areas within such a definition, would not be so inconsistent with the

definition of "guest" as to constitute a substantive violation of law.

The Department should also take note of the Association's concern that motels will be required to immediately install a fire alarm system, or to "retrofit". § 1.103(b) of the 1982 Uniform Fire Code provides that conditions in existence at the time of adoption of the code and not in strict compliance therewith shall be permitted to continue only if, in the opinion of the local fire chief, the condition does not constitute a distinct hazard to life or property. Appendix 1-A of the Uniform Fire Code, part 1(b), gives motels 36 months after adoption of the proposed rules in which to comply with the Code. The Association's concern is valid in that the Department or authority having jurisdiction may, in a specific instance, supplant the three-year compliance period with § 1.103(b), and demand immediate compliance. The Department should note that § 1.103(b) is, in effect, an exception to the three-year compliance period, because that section applies only where there is found a distinct hazard to life or property and Appendix 1-A, part 1(b) applies to all existing hotels and apartment buildings.

28. 11 MCAR § 1.5105. This section deletes all reference to the "Uniform Fire Code Standards" unless the "Uniform Fire Code Standards" provision is specifically adopted. The Statement of Need and Reasonableness explains that the Uniform Fire Code Standards are deleted throughout the code because the National Fire Codes are the preferred supplementary code. The National Fire Codes were adopted in 1975 as the supplementary code to Minnesota's Uniform Fire Code. It is a more comprehensive supplementary code than the "Uniform Fire Code Standards" and widely used througout the state. The Hearing Examiner finds that this section is needed and reasonable.

29. 11 MCAR § 1.5106. With respect to this section, the only difference from the Uniform Fire Code is the change in the title of the person responsible for enforcement and the addition of "Class B supervised living facilities" to the list of places that are subject to enforcement. The Hearing Examiner finds this section to be necessary and reasonable as proposed.

30. 11 MCAR § 1.5107. This section allows local jurisdictions to add, by amendment to Article 2 of the Uniform Fire Code (Organization, Authority, Duties and Procedures), certain local regulations. No amendment can subtract or change existing Article 2 provisions, or the State Fire Marshal's duties and powers. This section also grants to local jurisdictions the power to adopt, by ordinance, more restrictive rules. Finally, the section declares that the phrase "State Fire Marshal" and "Chief" in the Code include the Chief of any jurisdiction adopting the Code. The Hearing Examiner finds this section to be reasonable and necessary.

31. 11 MCAR § 1.5111. This section amends the § 2.202 of the Uniform Fire

Code so that police assistance in fire investigations is discretionary with the police department and fire department. The Uniform Fire Code mandates police department assistance upon request, unless otherwise directed by the chief of police. The proposed amendment requires the fire department to first request police assistance, which the police department can then agree or refuse to provide without an order of the police chief. The Hearing Examiner finds this proposed amendment to the Uniform Fire Code to be necessary and reasonable.

32. 11 MCAR § 1.5112. § 2.205 of the Uniform Fire Code provides for posting of orders or notices of violation and mailing of copies thereof by registered or certified mail when no person of suitable age and discretion is on the premises. The Department proposes to amend this section by requiring "regular" mail, rather than registered or certified. In the Statement of Need and Reasonableness, the Department states that the amendment will result in a cost saving to the authority that mails the order and notice and that the amendment is for the convenience of the person being served, because that person will not have to report to the post office. The Department's concern for the cost of additional postage and the alleged violator's convenience may not, in specific cases, out-weigh the alleged violator's due process rights. Nevertheless, the Hearing Examiner finds that the proposed rule is needed and reasonable.

33. 11 MCAR § 1.5113. This section deletes § 2.302 of the Uniform Fire Code because there is no Board of Appeals within the Department that hears matters called for in this section. The Hearing Examiner finds the proposed deletion to be necessary and reasonable.

34. 11 MCAR § 1.5114. As in proposed rule § 1.5105, this section provides that the supplementary code, National Fire Codes, 1982, issued by the National Fire Protection Association applies when the Uniform Fire Code is silent for any reason or in any situation. The National Fire Codes are adopted by reference to apply in these specified situations. They have been a part of the Minnesota Uniform Fire Code since 1975. Adoption of the 1982 National Fire Codes updates the 1975 Code presently in effect. The Hearing Examiner find proposed 11 MCAR § 1.5114 to be necessary and reasonable.

35. 11 MCAR § 1.5115. This section deletes all of Article 4 of the Uniform Fire Code because the issuance of permits is left to local jurisdictions and because the State Fire Marshal does not have the resources to issue permits state-wide. The Hearing Examiner finds this proposed deletion to be reasonable and necessary.

36. 11 MCAR § 1.5130. This proposed rule section amends § 11.204 of the Uniform Fire Code by redefining the class covered by the rule. The proposed section prohibits certain materials used for decorative purposes in shop windows or other parts of all occupancies unless the material is flame retardant. The proposal further prohibits electric light bulbs in "such" occupancies to be decorated with paper or other combustible materials unless the materials are flame retardant. The section excepts Group R-3 occupancies, that is, dwelling and lodging houses, and supervised living facilities classified as Class A-1, as defined in § 9.121 (See, proposed rule 11 MCAR

§ 1.5122). The Hearing Examiner finds the proposed rule to be necessary and reasonable. It is suggested, for clarity purposes, that the word "such" in the second sentence, be replaced by "all". This clarifying change would remove any doubt about which occupancies the second sentence refers to. If the rule applies to all occupancies, then it should be so specified. The suggested change is found to be necesary and reasonable and not a substantial change.

37. 11 MCAR § 1.5131. This section, an addition to the Uniform Fire Code covering the subject of Christmas trees, prohibits the use of natural trees in Group I institutional occupancies, but permits their use without open flames or electic lights in schools, stores, churches, hotels and mercantile occupancies. The section permits the use of flame retardant artifical trees decorated with U.L. (Underwriters Laboratory) listed electric lighting systems in all occupancies and prohibits the storage of natural or resin-bearing trees in R-1 occupancies. In order to avoid a conflict with § 25.103(a) of the Uniform Fire Code, "places of assembly" have been deleted from the list of occupancies wherein natural trees without lights are allowed. The Hearing Examiner finds the need for and reasonableness of this section has been demonstrated by an affirmative presentation of facts on the record. For clarity purposes, it is suggested that the cross-reference, "See section 11.203(c)" be placed after part (b) of this section as well as after part (d), because part (b) also deals with the "storage" of Christmas trees. Such a change would be clarifying and not substantial in nature. If the Department adopts this suggestion, it is found that the resultant rule would be needed and reasonable.

38. 11 MCAR § 1.5149. This section amends § 79.903 of the Uniform Fire Code. The section specifies the type of dispensing devices which are approved for service stations and self-service gas stations, and sets standards for stations to meet in order to qualify their systems for approval. The Hearing Examiner finds this rule to be necessary and reasonable as proposed.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Department of Public Safety gave proper notice of the hearing in this matter.

2. That the Department of Public Safety has fulfilled the procedural requirements of Minn. Stat. § 15.0412, subd. 4-4f (1980) and all other procedural requirements of law or rule.

3. That the Department of Public Safety has documented its statutory authority to adopt the proposed rules, and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 15.0412, subd. 4e and 15.052, subd. 3(4)(i) and (ii) (1980).

4. That the Department of Public Safety has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts in the record within the meaning of Minn. Stat. § 15.0412, subd. 4c (1980).

5. That any Findings which might properly be termed Conclusions and any

Conclusions which might properly be termed Findings are hereby adopted as such.

6. That a finding or conclusion of need and reasonableness in regard to any particular rule subsection does not preclude and should not discourage the Department of Public Safety from further modification of the rules based upon an examination of the public comments, provided that no substantial change is made from the proposed rules as originally published, and provided that the rule finally adopted is based upon facts appearing in this rule hearing record.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted consistent with the Findings and Conclusions made above.

Dated this 17th day of December, 1982.

Richard C. Luis

RICHARD C. LUIS
Hearing Examiner

RCL:dd

DPS-83-001-RL

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Amendments to the Uniform Fire Code.

ORDER OF NO SUBSTANTIAL CHANGE BY THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on October 28, 1982 before Richard C. Luis, a Hearing Examiner of the State Office of Administrative Hearings, on the above-entitled matter in compliance with the rule-making provisions of Minn. Stat. Ch. 14 (1982); and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 14.50, was issued to the Department of Public Safety and;

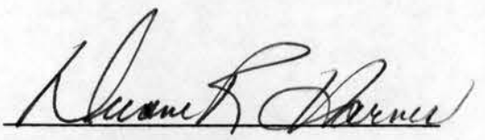
WHEREAS, the Department has now determined to adopt rules; and

WHEREAS, the Department has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. §§ 14.16, 14.51, and 9 MCAR § 2.111; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed.

NOW, THEREFORE, upon receipt of this Order, the Department has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General and to publish in the State Register if approved by the Attorney General.

Dated this 1st day of February, 1983.



DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

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ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Amendments to the Uniform Fire Code.

FINDINGS OF FACT AND CONCLUSIONS

The above entitled matter came on for hearing before Hearing Examiner Richard Luis on the 28th day of October, 1982, at 9:00 A.M. in Room G18 Transportation Building, St. Paul, Minnesota, after proper notice required by Minn. Stat. section 15.0412 was served upon all persons, associations, and other interested groups registered with the State Department of Public Safety for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced upon the records, files, and proceedings herein, I find the following:

The Department of Public Safety accepts for adoption the rules as proposed and all findings of fact and conclusions of the hearing examiner with one exception. The exception relates to fire alarm system requirements for common areas in certain living facilities. A misunderstanding occurred at the hearing regarding the intent of the Department to include the common areas in arriving at the total number of rooms in a facility for fire alarm systems to be requested. It was not, and is not, the intent or desire of the department to include common areas in determining total number of rooms requiring a fire alarm system. In order to clarify the intent, and at the same time follow the recommendations of the hearing examiner to have a definition of guest room, we propose the following definition be added to article 9 of the Uniform Fire Code:

"Guest Room: A room used exclusively for living or sleeping purposes excluding storage rooms, laundry rooms, furnace rooms and similar common areas."

The Department of Public Safety accepts the balance of the recommendations of the hearing examiner in their entirety as stipulated on page 9, item 22; page 14, item 36; and page 14, item 37 of the Report of the Hearing Examiner.

STATE OF MINNESOTA

January 25, 1983
DATE

Paul J. Tschida
PAUL J. TSCHIDA
COMMISSIONER OF PUBLIC SAFETY

ACDKHE0014

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

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ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Amendments to the Uniform Fire Code.

STATEMENT OF NEED AND REASONABLENESS

The above captioned rules are amendments to existing rules of the State Department of Public Safety. The above captioned rules were originally adopted October 3, 1975.

The need to amend the Minnesota Uniform Fire Code arises because of substantial amendments made to the model Uniform Fire Code and the National Fire Codes issued by the National Fire Protection Association which are adopted by reference in the Minnesota Code. These codes have been researched and drafted by their respective national bodies of experts. They are updated, expanded and amended periodically by knowledgeable fire and building officials, architects, engineers and officials from the various industries to which the code pertains, who possess the expertise necessary to produce a code that will achieve that degree of safety from fire which can reasonably be required to protect life and property. The model code changes are made in order to keep the Uniform Fire Code and the National Fire Codes abreast of recent technological advances, including newly developed and new applications of existing products and materials, and the latest state of the art in building design, construction and use. Changes are also made to provide for clarification of existing code provisions and to delete obsolete and ineffective provisions. Through ongoing studies of actual fire incidents, factors causing fires or contributing to its spread and factors causing deaths or injuries are identified. The Uniform Fire Code and National Fire Codes are then updated to compensate for these factors.

The model Uniform Fire Code and the National Fire Codes are addressed to correct problems which occur nationwide. They are designed to give considerable flexibility to cities or states adopting them. Many provisions in the model codes address the worst possible situation under the worst possible set of circumstances which could occur in any variety of geographical or enviornmental surroundings. The proposed Minnesota Uniform Fire Code establishes minimum uniform rules for the State of Minnesota by adopting the entire model code and making minor amendments to it in order to make it uniquely applicable to the needs of and circumstances in Minnesota.

Many amendments throughout these rules are made to conform to the State Building Code. The intent is to correlate the provisions of the fire code to the building code so that there is no conflict between them. The intent of the Western Fire Chiefs' Association and the International Conference of Building Officials, who promulgated both model codes, was that the building code (containing standards for new construction) and the fire code (containing maintenance standards for existing structures) correlate and be

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compatible. It is further intended to provide a total package of codes (i.e., Uniform Fire, Building, Pumbling, Mechanical and Electrical Codes) which will give all jurisdictions adopting these codes a complete and comprehensive program of codes that are compatible with each other.

In the following paragraphs the need for and reasonableness of each substantive rule is set out.

The following MCAR rules contain amendments to the 1982 Uniform Fire Code which are the same as amendments made by the corresponding FireMar rule to the 1973 Uniform Fire Code. The MCAR rules amend the 1982 Uniform Fire Code in the same way as the existing FireMar rules amend the existing 1973 Uniform Fire Code.

11 MCAR S 1.5106	FireMAR 33(a)
11 MCAR S 1.5107	FireMar 33(b)
11 MCAR S 1.5108	FireMar 33(c)
11 MCAR S 1.5109	FireMar 33(d)
11 MCAR S 1.5110	FireMar 33(e)
11 MCAR S 1.5111(a)	FireMar 33(h)
11 MCAR S 1.5113	FireMar 33(n)
11 MCAR S 1.5125	FireMar 42(c)
11 MCAR S 1.5130	FireMar 48(b)
11 MCAR S 1.5132	FireMar 48(d)
11 MCAR S 1.5133	FireMar 48(e)
11 MCAR S 1.5134	FireMar 48(g)
11 MCAR S 1.5136	FireMar 40(a)
11 MCAR S 1.5139	FireMar 37(a)
11 MCAR S 1.5140	FireMar 37(b)
11 MCAR S 1.5141	FireMar 37(c)
11 MCAR S 1.5142	FireMar 37(d)
11 MCAR S 1.5146	FireMar 39(a)
11 MCAR S 1.5147	FireMar 41
11 MCAR S 1.5150	FireMar 44(k)5
11 MCAR S 1.5151	FireMar 45(a)
11 MCAR S 1.5152	FireMar 45(b)

11 MCAR 1.5103. The 1982 edition of the model Uniform Fire Code is adopted to replace the existing 1973 edition. This is the lastest version available of this model code and it contains many provisions which were added as amendments to the 1973 code at the time of its adoption. The entire code is adopted with the exception of amendments contained in subsequent rules. The general need for those amendments is to make the Uniform Fire Code a state code applicable to Minnesota and to the Minnesota State Fire Marshal.

11 MCAR1.5104. This section merely cites the name of the code as it will be used in the State of Minnesota.

11 MCAR1.5105. This new paragraph deletes all references to the Uniform Fire Code Standards since these rules adopt the National Fire Codes in their place. The Uniform Fire Code Standards are similar to the National Fire Codes in that both supplementary codes are designed and intended to be used for specific, unique facilities and situations. The National Fire Codes are the preferred choice since they were adopted as supplementary

codes in 1975, they are widely accepted in Minnesota and thousands of existing facilities have been inspected to their requirements. (See 11 MCAR 1.5114.) The requirements in the Uniform Fire Code Standards are based on provisions found in the National Fire Codes but are not as comprehensive nor as widely used as the National Fire Codes.

11 MCAR1.5111. The amendment in subparagraph (b) of this section makes police department assistance in fire investigations discretionary rather than mandatory. This allows the local fire department to perform its fire investigations as required in subparagraph (a), while leaving the decision of police involvement up the discretion of the fire department. Only in certain situations, such as suspected arson, is police involvement necessary. In most cases fire cause can be determined and the fire investigation completed without involving already overburdened police agencies.

11 MCAR1.5112. Minor wording amendments are made to clarify that orders or notices of violations may be made by regular rather than certified or registered mail. This change is made for the convenience of the authority enforcing the code since considerable costs savings are realized, and for the person being served the orders who must bear the inconvenience of reporting to the post office when certified or registered mail is used.

11 MCAR1.5114. Adoption of the Uniform Fire Code Standards as part of the Uniform Fire Code is deleted and in their place the 1982 National Fire Codes are adopted. This amendment merely updates to the most recent edition of the National Fire Codes. The National Fire Codes have been a part of the Minnesota Uniform Fire Code since its adoption in 1975. They are nationally recognized standards and are far more comprehensive than the Uniform Fire Code Standards. The National Fire Codes are a compilation of the codes, standards, recommended practices and manuals developed by the National Fire Protection Association to promote and provide reasonable safeguards against loss of life and property by fire. (See 11 MCAR 1.5105.)

11 MCAR1.5115. The existing Article 4 of the Uniform Fire Code lists over 40 activities for which permits or certificates are required. It is neither needed nor reasonable for the State to mandate this upon all jurisdictions since it may or may not be locally needed nor desired for individual local jurisdictions to issue permits for any of these activities. Their local needs will dictate their actions and their local ordinances may or may not require such permits. The State Fire Marshal does not have the personnel, funds or other resources necessary to issue and regulate such permits.

11 MCAR1.5116 - 1.5124. Various definitions are added and others are retained or amended to provide for applicability to the State of Minnesota, its laws and other related codes already adopted, including the State Building Code. The definitions of "building code" and "state fire marshal" are carried forward from the code presently in existence. A definition of "authority having jurisdiction" is added because this term is used in the National Fire Codes being adopted by reference. It specifies who has authority to enforce the code or to allow alternative arrangements that will secure fire life safety in a manner equivalent to code requirements.

The definition of "fireman" is added to clarify that it includes both male and female firefighters, since there are many female fire fighting personnel in Minnesota. The definitions of "mechanical code" and "municipality" are amended in order to conform with the State Building Code.

The definitions of "Group I Occupancies" (institutional) and "Group R Occupancies" (residential) are amended to conform with the State Building code. The definition of "Supervised Living Facility" is added both to conform with the State Building Code and to satisfy a need for inspection purposes, to specifically classify these types of facilities, of which there are approximately 338 in existence in Minnesota. The existing code does not directly address nor classify Supervised Living Facilities, causing a lack of uniformity in classifying and applying proper code requirements to them. An exception in Group R, Division 1 occupancies (multiple unit residential facilities) specifies that supervised living facilities Class A-2 having more than 6 but not more than 15 ambulatory or mobile disabled persons, which were licensed prior to the adoption of this code and found to be in compliance with the 1973 Life Safety Code requirements of the National Fire Codes for rooming and lodging houses, shall be classified as Group R, Division 3 occupancies. As part of the federal Medicare/Medicaid requirements, these facilities have undergone stringent annual inspections to the requirements of the 1973 Life Safety Code as specified for rooming and lodging houses. Many of them have incurred great expense in the last few years to bring their facilities into compliance with the existing code requirements. The 1973 requirements provide the same and in some cases greater degree of fire life safety. To mandate different requirements for these existing occupancies would place undue hardship and financial burden on them.

11 MCAR1.5126. This amendment changes "fire department" to "chief" in order to designate the specific person in the fire department who must approve the installation of fire protection systems. The ultimate responsibility must be vested in one particular person rather than anyone in the department. Because of his or her position, it is the chief's responsibility to have the knowledge and expertise to understand, interpret, and communicate the requirements.

11 MCAR1.5127 Subsection 10.309(g) of the Uniform Fire Code, which is being deleted, would otherwise require all institutional occupancies to be sprinklered. This conflicts with the 1982 National Fire Codes, Life Safety Code, being adopted as part of these rules. Its requirements are preferred because they are more specific and detailed. It provides for sprinklering and gives equivalencies for non-sprinklered facilities. The Life Safety Code is a recognized standard for fire life safety for these types of facilities which have been inspected to its requirements since 1972. The Life Safety Code provides the greatest degree of fire life safety for these facilities. They have been incurring a great deal of expense and effort to come into compliance with that code and changing the requirements would place on them an undue and unfair hardship.

11 MCAR1.5128. This section requires that standpipe systems be installed in conformance with Standard 14 of the National Fire Codes and also adds the requirement that these systems have a constant water supply and pressure, except with the prior approval of the Chief. The purpose of this amendment is to conform with the Minnesota Uniform Building Code which contains this exact same requirement.

11 MCAR1.5129. The only change made to Table No. 10.312, Standpipe Requirements, is to conform with Minnesota Uniform Building Code requirements.

11 MCAR1.5131. This rule prohibits the use of natural trees in institutional occupancies, permits their use without lights in schools, stores, churches, and hotels, and allows use of flame retardant trees with lights in all occupancies. This rule is similar to an amendment contained in the rules presently in existence. It provides maximum fire safety without undue hardship for the specified types of occupancies. In the existing code the prohibition on use or display of natural trees applies to hospitals and nursing homes. This amendment extends that prohibition to all institutional occupancies. It provides a greater degree of fire life safety to all types of institutions in which occupants are confined and cannot take immediate safety action for themselves. Another amendment removes places of assembly from the list of occupancies wherein natural trees without lights are allowed, because it conflicts with Section 25.103(a). An additional paragraph prohibits storage of natural trees on balconies or grounds of hotels and apartments (R-1 occupancies). In this way, trees will not be permitted to pile up for weeks or months after Christmas to dry out and quickly create a fire hazard. This storage prohibition is provided for in the Uniform Fire Code for other types of occupancies but not for hotels or apartments. The remainder of the rule is the same as the amendment contained in the existing FireMar 48(c).

11 MCAR1.5135. The Uniform Fire Code rule, relating to asphalt kettles, requires tight fitting covers and placement a safe distance from any combustible material. This rule is essentially the same as FireMar 48(h) presently in existence, however the restriction is added that the vehicles must be attended while being filled or discharged. Filling and discharge pose the threat of spillage which can produce the immediate danger of bodily burns and widespread fire if ignited.

11 MCAR1.5137 & 1.5138. The amendment clarifies and reinforces present enforcement policy which specifies that stairways and exit enclosures conform to the provisions of the State Building Code. Existing language leaves this policy open to divergent interpretation. The purpose is to ensure strict conformity with the State Building Code and remove any doubt as to the interpretation. In addition it will provide statewide uniformity, which will benefit enforcement agencies who must enforce this code and engineers, building contractors, and architects who must design and build various occupancies according to code requirements.

11 MCAR1.5143. The subtitle of this Uniform Fire Code section is amended by deleting the prefacing word Pin in order to conform with the stated intent in 11 MCAR 1.5139 that this article applies to various public assembly places rather than just bowling alleys. Refinishing operations involving flammable or combustible finishes are also done in roller rinks, gymnasiums and dance halls.

11 MCAR1.5144. Paragraph (c) is amended to require a local permit for welding operations, except in commercial/industrial welding establishments. This rule is in the existing Minnesota Uniform Fire Code. FireMar 50, however, does not specify that the permit is locally issued. The State Fire Marshal does not issue fire code related permits, since such permits would

have to be applicable statewide. With this amendment, any local jurisdiction that wants to issue the permit is allowed to do so. In issuing a permit, the local fire chief will know the location of such operations and be able to enforce related code requirements.

11 MCAR1.5145. The purpose of this amendment is to conform to newly passed legislation (Laws 1982 Chapter 447) which sets forth requirements relating to the installation and use of waste oil burners.

11 MCAR1.5148. The amendment in Exception 1 clarifies that the United States rather than Minnesota Department of Transportation is the correct reference. In subparagraph (a) the reference to the applicable flammable and combustible liquids law and rule is changed to the currently effective Fire Marshal rules, FireMar 20-23.

11 MCAR1.5149. This section of the Uniform Fire Code specifies the type of dispensing devices which are approved for self-service gas stations. It contains the same requirements and prohibitions in the current rules, FireMar 44(k) except that the language is organized and presented slightly differently.

11 MCAR1.5153. Section 85.109 is extremely idealistic and prohibitive to the extent that it is unenforceable. It specifies that unapproved electrical applicances or fixtures shall not be sold, offered for sale or rent, disposed of by gift or premium, nor made available for use. It is not reasonable for the State to mandate this unenforceable requirement upon all jurisdictions nor does the State Fire Marhsal have the resources to even attempt to regulate such a broad prohibition.

11 MCAR1.5154. This rule adopts several appendixes by reference as part of the code, whereas several other appendixes are not adopted by reference but may be adopted by local jurisdictions at their discretion. The amendment to Appendix II-B, Item 3(d) changes the tightness test for underground flammable or combustible liquid tanks and fittings from not less than 5 pounds per square inch to not less than three nor more than five pounds per square inch. The existing language allows the test to be made at any pressure over 5 pounds per square inch. Based on actual experience in Minnesota, this amount of pressure has been found to be very dangerous. It could cause underground tank rupture resulting ina pressure explosion at ground level. This amendment specifies both a minimum and a maximum pressure at amounts that are both safe and effective for the test.

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STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Amendments to the Uniform Fire Code.

Post Hearing Comments of the State Fire Marshal

I. THE FIRE MARSHAL MADE AN AFFIRMATIVE PRESENTATION OF FACTS ESTABLISHING THE NEED FOR AND THE REASONABLENESS OF UFC § 10.307.

A. The Need For And Reasonableness Of The Rule Was Demonstrated.

Section 10.307 is part of the 1982 edition of the Uniform Fire Code. The Uniform Fire Code has been proposed for adoption by national organizations of fire safety experts as well as persons representing the construction industry and the various industries regulated by the Uniform Fire Code. A uniform code that has been proposed by an organization with such credentials should in and of itself establish the need for and reasonableness of the code. No person appearing at the hearing claimed that the imprimatur of the national organization was not sufficient for any provision of the Uniform Fire Code other than section 10.307.

In addition there were some amendments made to the Uniform Fire Code. Some of these amendments simply retained provisions of the existing fire code in Minnesota. For the other amendments statements were made demonstrating the need for and reasonableness

of each specific amendment. Again no person has claimed that these particular statements were inadequate. Therefore the discussion in this document will concentrate on section 10.307.

Not only is the imprimatur of a group with such impressive credentials sufficient to demonstrate need and reasonableness, but in addition any other conclusion would be simply impractical. The Minnesota Fire Marshal's office does not have the resources to begin to research and draft a fire code of the magnitude of the one that is proposed to be adopted. (The existing Minnesota Uniform Fire Code is of essentially the same magnitude.) Nor for that matter would many, if any, of the other state and local jurisdictions adopting the code. In adopting the vast majority of the Uniform Fire Code by reference the Minnesota Fire Marshal's office is relying on the expertise of the Western Fire Chief's Association, Inc., the International Conference ofBuilding Code Officials, and the National Fire Protection Association. The fact that these organizations have approved the uniform code is sufficient prima facie evidence of the need for and reasonableness of the code. There are 19 volumes of proposed rules. A statement of need and reasonable discussing each individual section would be mammoth and would perform no useful purpose.

Nor would such a long statement of need and reasonableness probably have been of any assistance to the Motel Association. If the Association was unaware of section 10.307, which was supposedly "buried" in the voluminous code, the Association probably would have faced no better in noticing any statement about section 10.307 in the midst of statements about hundreds of other provisions.

Certainly, however when someone wishes to know the reason for a particular section of the uniform code the fire marshal's office will contact the organizations responsible for the uniform code and tell the person the reason for the particular section. In fact this was what was done in this particular proceeding regarding section 10.307. It clearly would have made no sense to spend the amount of time on every other section that was spent explaining the rationale for section 10.307.

The rationale for the section is quite convincing. In motels with more than 20 units in them, the occupants must be warned soon enough so that they can get out before their escape routes are cut off. A fire department simply cannot extricate a large number of motel guests who are trapped by the fire in their rooms. Nor do smoke detectors in the rooms provide sufficient early warning. This is because those detectors will not go off until the smoke enters the room in sufficient quantity and by that time the exit will be likely to be cut off. Everyone testifying at the hearing who had fire fighting experience agreed that this rule was necessary and reasonable.

B. The Objections Raised By The Motel Association To The Rule Do Not Mean That The Rule Is Not Needed And Reasonable.

The Motel Association agrees that fire alarms are necessary in some motels but maintains that they are not necessary in all the motels that would be covered by this rule, particularly one and two-story motels with 20 or more units. The reasons given by the Motel Association for opposing section 10.307 as it applies to these types of motels are as follows:

1. This is a substantial change affecting a large number of motels.

2. There was inadequate notification about section 10.307.

3. The Motel Association cannot demonstrate that the rule is not needed, but it claims that nothing at the hearing demonstrated the specific need for this specific individual rule.

4. It could cost a considerable amount to comply with the rule ($800 to $1500 per motel for a motel between 20 and 25 units.)

5. Because of time factors the Motel Association has not had time to consider whether the rule is necessary for fire safety.

6. The Motel Association does not know when the building code started requiring fire alarms in these types of motels, and thus does not know how many motels might be affected by the new section.

The Motel Association's objections to the provision are in good faith and are made without any intention of causing a dangerous situation or allowing a dangerous situation to continue. However, its objections did not analyze whether or not fire alarms were a reasonable requirement to protect motel guests in these types of motels. The first two reasons above will be discussed in a subsequent section. The next four reasons are essentially that the Motel Association does not know whether safety considerations require the fire alarms, but it does feel that requiring the fire alarms could be a considerable expense.

This opposition by the Motel Association was not based upon any experience in investigating the causes of fires nor was it based upon any experience in fighting fires in motels or in evacuating people who had been trapped in a motel room by a fire.

There was no evidence that the Motel Association had made any evaluation of the effect of this rule on fire safety. There was no evidence that the Motel Association had discussed this rule with the Western Fire Chiefs Association, the National Fire Protection Association or the International Conference of Building Officials to determine what the fire safety aspects of the rule were. The Motel Association has discussed the rule with the fire marshal's office, but these discussions do not provide any basis for a claim (which the Motel Association has not made in any event) that the rule is not a reasonable requirement for fire safety. There is no evidence that the Motel Association has any experience with fire rescue operations in large motels (with over twenty units) where large numbers of guest rooms would strain the rescue capabilities of the firemen arriving on the scene. Nor did the Motel Association, in asking for an amended rule while the fire safety aspects of section 10.307 were investigated, say how this investigation or study would proceed. In summary, the Motel Association has shown nothing to refute the presentation by the fire marshal that the rule is necessary for the early, safe evacuation of the guests who the firemen might very well be unable to rescue.

The Motel Association apparently believes that it is reasonable to require a fire alarm system for some motels but that it is not reasonable to require one for all the motels that would be covered by this particular rule. (This is because the Motel Association opposes the requirement for fire alarms for one and two story motels with 20 or more rooms but does not oppose the

requirement for the other motels that are required to have fire alarms.) The Motel Association however gave no reason why the requirement for fire alarms in certain motels is reasonable but unreasonable in others. It would probably be reasonable, considering the amount of discretion allowed an administrative agency, for the agency to adopt a code that required all motels to have fire alarms. In this case, not all motels are required to have fire alarms and the cutoff is in terms of number of units. Obviously the cutoff has to be somewhere. In essence the Motel Association appears to be saying that it is unreasonable to require a two-story motel to install a fire alarm system although it would be reasonable to require a three-story motel with the same number of rooms to install a fire alarm. The Motel Association however submitted no evidence to demonstrate that it would be more difficult for a two-story motel to install a fire alarm system than for a three story motel. (In fact running the wiring in a two-story motel would be considerably easier than in a three-story motel since each story would have some open space either above or below it through which the wiring could be run.) In summary if a requirement for a fire alarm system in some motels is reasonable, there is no basis for saying that it is reasonable to require a fire alarm in a three-story motel but unreasonable to require a fire alarm in a two-story motel. (In order to establish a difference, the Motel Association would probably have to establish, it seems, that the economics between the two-story and three-story motels are inherently and drastically different to such an extent that this would outweigh the need to

have a fire alarm system to evacuate people from the motel before they could be trapped in their rooms by the fire.)

C. An Agency Has Wide Discretion In Determining Whether To Adopt The Rule And In Determining The Provisions Of That Rule.

This is not a lawsuit nor is it a contested case where the issue would be who had the better case. Rather the only question in this case is whether the rules are needed and reasonable. The question of whether a particular rule is reasonable in essence means whether that rule is arbitrary or not. It is not a very high standard of proof of course to establish that a particular standard is not arbitrary.

A large variety of possible provisions on a subject covered by a section or rule could all be reasonable. Therefore the question in a proceeding such as this is not whether the proposed rule is the best rule that could be proposed but simply whether it is a reasonable one.

Section 10.307 is a good example of this. As in the case of many rules, this rule specifies particular numbers at which a given standard would apply. In this case it is the size of motel for which a fire alarm is required. When it comes to picking the number at which a standard will apply, this is inherently the type of area in which administrative discretion is exercised, so long as the number picked has some rational basis.

In this case the issue before the Hearing Examiner is not whether the cutoff should be at 10, 20, 30 or 40 rooms. In this case, the expert organizations promulgating the uniform code

determined that a motel that had 20 or more rooms strained the rescue capabilities of fire departments. Therefore, the issue before the hearing examiner is whether the choice of 20 rooms as the cutoff point is completely arbitrary.

The Motel Association agrees that fire alarms are necessary and reasonable in some motels. The Association apparently does not oppose the requirement for motels that are three stories or higher. Nor did the Association, since its figures pertained only to motels with 50 units or less, apparently have strong, if any, opposition to the fire alarm requirement for one and two story motels with more than 50 units. The Motel Association did not care to pick a particular number of units at which the requirement for a fire alarm should be imposed. However in promulgating the fire alarm rule, it is necessary to have such a definite cutoff point. As demonstrated at the hearing, there selection of 20 rooms as the cutoff was based upon valid reasons.

In making his recommendation, the Hearing Examiner is also to consider not just the interests of the industries that are covered by the proposed rules, but also, for example, the interest of persons staying in motels to be protected against death or injury by fire. This is a consideration even though the fire marshal's office and the Motel Association are both concerned about these persons' safety. Therefore in considering any modification to the proposed rules, the Hearing Examiner should consider whether the modification will give a reasonable degree of protection to motel guests. Rules that allow dangerous conditions to exist would

presumably be as unreasonable as a rule that flatly outlawed all motels on the ground that this was the only way to absolutely insure that no one ever died in a motel fire.

II. THE MOTEL ASSOCIATION RECEIVED ADEQUATE NOTICE OF THE UNIFORM FIRE CODE.

All the statutory requirements for notice were complied with by the agency in this case. The Motel Association however claims that any changes that had been made by the authors of the Uniform Fire Code from the previous edition should have been published in the State Register. A quick perusal of the 1982 Uniform Fire Code indicates that this would involve a substantial percentage of the pages in the Code, and would undoubtedly have required numerous volumes of the State Register simply to publish these changes. Such an approach would of course defeat the whole purpose of incorporating these lengthy codes by reference. The Motel Association was given notice that the new edition of the Uniform Fire Code was to be adopted by reference. The Uniform Fire Code itself indicated what sections had been changed from the previous edition. The Motel Association failed to demonstrate how it would be any easier to determine the substance of those changes by reading the voluminous changes in the State Register instead of looking at the changes where they are printed in the Uniform Fire Code.

The Motel Association might argue that only "important" changes would have to be published in the State Register. This of course implies that the "important" changes would be only a small

number of the total changes. There is nothing to indicate that this is true, but, even if it were, a suggestion to publish only "important" changes lacks merit. What is important depends on one's point of view. What is insignificant to one could be of utmost importance to another. Therefore, if changes in the uniform code should be published in the State Register, all of them should be. The fire marshal should not be expected to determine what someone else will consider important. In addition it would be reasonable to assume that most, if not all, of the changes are significant to someone. Otherwise there would be no reason to make them.

III. THE FIRE MARSHAL HAS THE AUTHORITY TO INCORPORATE THE UNIFORM FIRE CODE BY REFERENCE.

Agencies may incorporate publications by reference which are determined by the Revisor of the Statutes to be conveniently available to the public. Minn. Stat. § 15.0412, Subd. 4(a) (1980). Incorporation of the uniform fire code has been approved by the Revisor's office. Moreover, it would have been senseless not to approve this incorporation since it would have been absurd to print the 19 volumes of Exhibits 12 and 13 in the State Register at a phenomenal cost and send them to numerous subscribers that had absolutely no interest in owning a complete copy of the Uniform Fire Code. When the Legislature authorized the Fire Marshal to adopt a fire code, it specified "uniform fire code" and not just simply any fire code. Minn. Stat. § 299F.011, Subd 1 (1980). As is very evident from exhibits 12 & 13 the Uniform Fire Code is not a relatively short enactment like the Uniform Commercial Code or some

other uniform laws such as motor vehicle traffic laws. Rather it is a code with specific, technical requirements for a large variety of situations. When the Legislature specified that the Uniform Fire Code should be adopted it obviously contemplated an incorporation by reference. Otherwise the State of Minnesota would be needlessly duplicating the printing job already done by the authors of the Uniform Code.

IV. THE MEMBERS OF THE MOTEL ASSOCIATION HAVE ADEQUATE TIME TO COMPLY WITH SECTION 10.307 OF THE CODE.

Up to three years is allowed to install the fire alarm systems. No evidence has been proffered that the fire alarms are not a reasonable fire safety requirement. There is no evidence, other than conclusionary evidence, that there will be any hardship in installing the fire alarms.

Three years would be plenty of time for the Motel Association to investigate whether the rule is needed, and, if it discovers facts that it believes indicate that the rule is not needed or reasonable, petition for amendment of the rule. If only a couple of motels appear to be "unreasonably affected" those motels could apply for a variance. The fire code variance procedure has worked very well in individual situations where a variance is warranted under the standards of Minn. Stat. § 299F.011, subd. 5.

Moreover even if the three year delay were not available, a delayed implementation of part of the rules is not a good idea when the reason for the delay is to have further study. (Unless there is some extraordinary circumstances). This is because time

and notice given by the statute is presumed to be reasonable enough time for people to respond to the rule. In this case substantially more time than the statutory minimum was given between the time the rule was first published for the first notice and the time of the hearing. In addition, the Motel Association also has an additional 20 days after the hearing to present any facts it believes to be pertinent.

V. SECTION 10.307 SHOULD BE PART OF THE UNIFORM FIRE CODE AND NOT A STATUTORY ENACTMENT.

The Minnesota Legislature in Minn. Stat. § 299F.011, subd. 1 endorsed the adoption of the Uniform Fire Code. Section 10.307 is part of the Uniform Fire Code. No reason has been given why this one section should be adopted by statute while the rest of the 19 volumes of the Uniform Fire Code is implemented as a rule.

Of course a statutory enactment can always countermand or amend the effect of any rule. That is not what has been proposed here however. It simply makes no sense to take one section out of Uniform Fire Code in isolation and adopt it as a statute. (In addition, more than just section 10.307 would have to be enacted. Any definitions and interrelated sections would have to be considered.) Just because a provision could be enacted as a statute is not a valid reason for not adopting the section as a rule. Moreover, from the testimony of the Chairman of the Governor's Advisory Committee it would appear that the Legislature if anything preferred the fire code to be adopted as a rule and not promulgated as a statute. In addition, adopting part of the fire code as a rule

and enacting the rest of it as a statute could cause considerable confusion regarding where provisions concerning a specific situation could be found.

VI. MINNESOTA HAS NO CHARACTERISTICS DIFFERENT FROM OTHER STATES THAT WOULD REQUIRE SECTION 10.307 TO BE AMENDED FOR MOTELS IN MINNESOTA.

The Motel Association stated that the conditions in Minnesota might be different from those in other states. The only difference mentioned however was that Minnesota motels might be smaller than motels elsewhere in the nation. Section 10.307 does not apply to small motels of less than 20 units. Therefore any concern about small motels is already taken care of. Moreover, this section would apply to the same size motels in Minnesota as it does in other states. The Motel Association has not pointed out diferences between 20-room motels in Minnesota and 20-room motels in California or some other state. Other jurisdictions have adopted the 1982 edition Uniform Fire Code in its entirety, including Section 10.307. No persuasive reason has been given why it should not be adopted in Minnesota also. Certainly there is an interest in having fairly uniform standards for motels throughout the nation, since travelers should be able to expect the same minimum standards of fire safety in motels no matter where they go in the United States.

VII. SECTION 10.307 IS NEEDED IN THE FIRE CODE TO COVER CONSTRUCTION OF NEW MOTELS AS WELL AS EXISTING MOTELS.

The 1982 edition of the Uniform Building Code contains essentially the same requirements as the Uniform Fire Code § 10.307.

Therefore new motels constructed pursuant to the Building Code would have to meet these standards regardless of the provisions of the Uniform Fire Code. However in 72 out of the 87 counties in Minnesota, new motels would not have to meet building code requirements. The Department of Health, which licenses motels, does not require that motels meet the building code in counties that do not have one. The only requirement in those counties (in regard to fire safety) is that the new motels comply with the fire code. See 7 MCAR § 1.153(q)

VIII. THE UNIFORM FIRE CODE IS AMENDED PERIODICALLY TO KEEP IT UP-TO-DATE.

The Motel Association also appears to argue that, because the previous editions of the Uniform Fire Code did not require fire alarms in one and two story motels with 20 or more units, the 1982 edition of the Uniform Fire Code should not make such requirements either. The body of knowledge concerning fire safety is continually growing and the code requirements need to be changed to reflect this and to have effective and reasonable requirements. (One example of state-of-the-art changes in the code that was alluded to at the hearing is the approval of certain types of plastic containers for carrying gasoline.) Therefore it is not unreasonable for the authors of the Uniform Fire Code to make changes as the need arises.

The Motel Association has not shown any prejudicial reliance on any previous editions of the Code by motels that would now be required to install fire alarms. It is not as if former editions required one type of alarm and the 1982 edition requires

replacement of that alarm with another. Those motels that would have to install alarms are simply not equipped with any fire alarm system at the present.

This is certainly not the only change that has and is occurring in fire safety standards in Minnesota. For example, prior to the adoption of the Uniform Fire Code in Minnesota in 1975, Minn. Stat. § 157.08 (1974) allowed hotels to have a "5/8 inch manila rope of sufficient length to reach the ground in lieu of the . . . fire escape." Thus change in the fire code is not, in and of itself, either undesirable or unreasonable.

Therefore for the foregoing reasons the Hearing Examiner should recommend that the fire code rules be adopted as proposed.

WES WERNER
State Fire Marshal

In the Matter of the Proposed Adoption
of Rules of the State Department of
Public Safety Governing Amendments
to the Uniform Fire Code.

STATEMENT OF COMPLIANCE WITH
RULEMAKING PROCEDURES

I, Special Assistant Attorney General James Early, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Feb. 9, 1983
DATED

James B. Early
SPECIAL ASSISTANT ATTORNEY GENERAL

ACDKHF0021

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the State Department of Pubic Safety Governing Amendments to the Uniform Fire Code.

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

LeeAnn Aitkin, being first duly sworn, deposes and says:

That on the 11th day of February, 1983, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, properly enveloped, with postage prepaid, to all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

LeeAnn Aitkin

Subscribed and sworn to before me this 11th day of February, 1983

Dorothy F. Gerlach

DOROTHY F. GERLACH
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires Feb. 4, 1987

ACDKHF0020

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

211 Transportation Building
St. Paul, Minnesota 55155

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Amendments to the Uniform Code.

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. section 15.0412:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, February 11, 1983, for review as to form and legality. Pursuant to 1MCAR 1.206B, the Attorney General will not act on the rules for at least 10 calendar days after receipt, to allow any person or association time to comment on the legality of the rules, after which that office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, telephone (612) 296-7030. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after the hearing and before submission to the Attorney General, you may contact Diane Hamilton at the above address.

Diane Hamilton