

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : March 17, 1988

TO : MARGARET OPELINSKI
Building Codes and Standards Division

FROM : MARTHA J. CASSERLY
Special Assistant
Attorney General MJC

PHONE : 296-6839

SUBJECT : In the Matter of the Adopted Permanent Rules Relating to Manufactured Home Park Storm Shelter Design

The above-referenced rule has been approved as to its legality by the Attorney General on March 11, 1988.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must establish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:sc

Enclosures

cc: Maryanne Hruby
Duane Harves

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : March 14, 1988

TO : BUILDING CODE DIVISION

FROM : MARTHA J. CASSERLY
Special Assistant
Attorney General MJCasserly

PHONE : 296-6839

SUBJECT : Storm Shelter Design Rules

Although the enclosed rule was approved, please be advised that I had two concerns which your division should attempt to avoid in future rulemaking.

First, I had a concern about the references to rulemaking authority in the Notice of Intent. The Notice refers to "Section 16B.59 through 16B.73, Minnesota Statutes 327.20, Section 2 (327.205)". The first cite (16B.59 through 16B.73) is not specific enough, the APA and the Attorney General Rule requires reference to the "most specific statutory authority". As to the second cite, section 327.20, subd. 2 provides the Department of Health with rulemaking authority, not the Department of Administration. However, your third referenced citation does provide sufficient authority for these rules, and upon that basis I deemed there was sufficient notification of the proper rulemaking authority.

Second, while much of the statement of need and reasonableness was adequate in justifying the rule, there were several important subparts which merely "restated" the proposed rule. See, 1370.0160, 1370.0170, and 1370.0220. It is important to explain why your division is proposing the language of the rule as it is. The Attorney General Rule (2010.0700) provides that a Statement which merely "restates' the rule will not be approved.

Finally, while there is nothing illegal about reprinting the Statement of Need and Reasonableness in the State Register, there is no legal requirement to publish it. I am not aware of any other state agency publishing their Statement in the State Register. In light of the cost of printing, your agency may want to reconsider this.

MJC:sc

Enclosure

RULE REVIEW CHECKLIST

File No. 1457 Docket No. 5-0009-0004

DATE RECEIVED 3-1-88 ADOPTED W/O HEARING X

REVIEW DATE 3-10-88 EMERGENCY RULE

DUE DATE 3-15-88

REVISOR APPROVED

APPROVED Mar 11-88 REVISOR DISAPPROVED

DISAPPROVED FIELD W/SEC.STATE

WITHDRAWN RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion

8-3-87 Date published in State Register

Comments

NA Petition for Adoption of a Rule

NA Board's Authorizing Resolution

Proposed rule

Revisor's Certificate

3 Notice of Intent to Adopt Rule 2.

? 327.20, 327.39 (327.20) 16A.59-.73 Statutory Authority

2. yes Small Business Statement

N/A Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness

✓ Small Business Statement

NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule - Separate

11-12-87 Date 30/25 days before adoption

✓ Publication in State Register

11-16-87 Date 30/25 days before adoption

NA Resolution Adopting

✓ Findings of Fact, Conclusions & Order Adopting

2-5-88 Date

Written requests, submissions or comments

✓ Declaration of attorney

Julie Leppink Name of SAAG representing agency

Notice of Submission to Attorney General

NA Affidavit of Mailing Notice to Attorney General

Department of Administration

Adopted Permanent Rules Relating to Manufactured Home Park Storm Shelter Design

Rules as Adopted

1370.0100 PURPOSE.

The purpose of parts 1370.0100 to 1370.0230 is to provide minimum standards of design and construction of buildings to provide protection for manufactured home park occupants from tornadoes and extreme winds.

1370.0110 SCOPE.

Parts 1370.0100 to 1370.0230 apply to buildings or portions of buildings that are designed for use as manufactured home park storm shelters.

1370.0120 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1370.0100 to 1370.0230.

Subp. 2. **Storm shelter.** "Storm shelter" means a structure or portion of a structure designed in compliance with parts 1370.0100 to 1370.0230.

Subp. 3. **Dual purpose storm shelter.** "Dual purpose storm shelter" means a structure or portion of a structure designed for use as a storm shelter and also designed for some other secondary permitted use.

Subp. 4. **Single purpose storm shelter.** "Single purpose storm shelter" means a structure designed for use only as a storm shelter.

1370.0130 APPLICABLE REQUIREMENTS.

Subpart 1. **Incorporation by reference.** "Interim Guidelines for Building Occupant Protection from Tornadoes and Extreme Winds," TR-83A January 1980, sections 1 and 2, published by the Federal Emergency Management Agency, Washington, D.C., is incorporated by reference and must be used to determine design

loads and as a guide for use in designing storm shelters. The document is not subject to frequent change and is available: (1) in the Minnesota State Law Library; (2) from the Printing and Publications Division, Federal Emergency Management Agency, P.O. Box 8181, Washington, D.C. 20024; and from the Minnesota Department of Public Safety, Division of Emergency Services, 85 State Capitol, Saint Paul, Minnesota 55155.

Subp. 2. **Dual purpose storm shelters.** A dual purpose storm shelter must comply with other applicable requirements of the state building code for its other intended uses.

1370.0140 PLANS, SPECIFICATIONS, PERMITS.

Storm shelter plans, engineering calculations, diagrams, and other required data must be prepared by a registered architect or engineer licensed to practice in Minnesota. For permit procedures, see section 304 of the Uniform Building Code, incorporated by reference in parts 1305.0100 and 1305.0800.

1370.0150 SPACE REQUIREMENTS.

A minimum of four square feet per person must be provided within a storm shelter. A ceiling height of not less than seven feet must be provided over 60 percent of the floor area.

1370.0160 REQUIRED EXITS.

Subpart 1. **Exits; openings.** At least two exits must be provided in compliance with chapter 33 of the Uniform Building Code. The second exit from a single purpose storm shelter may have an opening of at least nine square feet with a minimum of 20 inches in width and the bottom of the opening not more than 44 inches from the floor.

Openings in the exterior walls of the shelter must be protected to prevent flying missiles from entering the interior of the shelter.

Subp. 2. **Handicapped access.** At least one of the exits must comply with chapter 1340, facilities for the handicapped.

Subp. 3. **Exit to exterior.** When a portion of a structure is designed as a storm shelter, one exit must be directly to the

exterior of the building or to an exit system complying with the state building code.

1370.0170 DRY INTERIOR.

Provisions must be made to construct storm shelters outside of flood-prone areas and other nonwater ponding areas and so that the interiors remain reasonably dry.

1370.0180 UTILITY LINE HAZARDS.

Hazardous utility lines must not be located in or near a storm shelter. The underground electrical service required by part 1370.0200 is exempt from this requirement.

1370.0190 MINIMIZING FIRE DANGER.

Storm shelters must be constructed to minimize the danger of fire from both external and internal sources.

1370.0200 ELECTRICAL POWER.

Underground electrical service must be provided to a storm shelter.

1370.0210 ILLUMINATION.

Subpart 1. **Minimum illumination.** At least five foot candles of illumination must be provided at floor level.

Subp. 2. **Source.** An emergency lighting system must be supplied from storage batteries or an on-site generator installed in accordance with the requirements of the National Electrical Code, incorporated by reference in chapter 1315.

1370.0220 VENTILATION.

Ventilation must comply with the criterion on page nine of the interim guidelines incorporated in part 1370.0130.

1370.0230 SANITATION FACILITIES.

Sanitation facilities and water for drinking are not required for storm shelters.

APPROVED AS TO FORM AND LEGALITY

mar 11 19 88

ROBERT H. HUMPHREY, III
ATTORNEY GENERAL

MJ Cassidy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAR 15 1988

Joan Anderson Growe
Secretary of State

2:30 pm

Proposed Rules

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Administration

Proposed Permanent Rules Relating to Manufactured Home Park Storm Shelter Design

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the State Department of Administration, Building Codes and Standards Division intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 16B.59 to 16B.73. The requirement to promulgate the rule is found in *Minnesota Statutes* 327.20 Section 2. (327.205) (Shelter Construction Standards)

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

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Margaret Opalinski
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101
(612) 296-4626

Comments or requests for a public hearing must be received by the Building Codes and Standards Division by 4:30 p.m., December 23, 1987.

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

A copy of the proposed rule is attached to this notice. (The referenced "Interim Guideline" is available for review in the office of the Building Codes and Standards Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota, between the hours of 8:00 a.m. to 4:30 p.m.)

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is a part of this notice.

You are advised, pursuant to *Minnesota Statutes*, section 14.11 "Special Notice of Rulemaking", the adoption of these rules will not have any impact on agricultural land nor should the expenditure of public money exceed $100,000 in either of the two years following the adoption of these rules. Also, pursuant to *Minnesota Statutes*, section 14.115, subd. 2, the Building Codes and Standards Division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed. The

proposed rules do not require businesses to make reports so the requirements for reporting required in items (a), (b), and (c) are not applicable. Compliance requirements of items (a), (b), (c), and (e) are not appropriate because the purpose of the rules is to establish a minimum standard for the construction of emergency storm shelters in a manufactured home park at the least possible cost consistent with recognized standards. *Minnesota Statutes* section 16B.59 (1984). To exempt small businesses from any or all requirements of the rules would be contrary to statutory obligation that are the basis of the proposed rulemaking, *Minnesota Statutes* section 16B.59, 16B.61, 16B.64 and 327.20, section 2 (327.205). The legislature has specifically mandated that the commissioner of administration shall adopt, by rule, minimum standards for the construction of low cost manufactured home park storm shelters by March 1, 1988.

Minnesota Statutes, section 14.115, subd. 2(d) calls for the establishment of performance standards for small businesses as one method of reducing the adverse impact of rules upon them. It is believed that the proposed rules promulgated by this action together with the "FEMA, TR-93A, 1983 Interim Guidelines" provide the minimum standards necessary for the storm shelters. Since the performance standards apply across the board to all entities subject to the rule, the methods of reducing the impact of rules provided by Subd. 2(d) has been utilized. No special changes are necessary for small businesses.

Pursuant to *Minnesota Statutes* 14.115 subd. 4(a) the statement in the preceding two paragraphs constitute the statement of the impact of the rule on small businesses, and the probable qualitative and quantitative effect of its rules.

The Minnesota Building Codes and Standards Division has evaluated the effects of *Minnesota Statutes* 3.981 to 3.983 and 14.131 and believe that the promulgation of these proposed rules will not result in the expenditure of monies by local bodies nor have an impact on agricultural land and meets the test of the exception to fiscal notes as provided in *Minnesota Statutes* 3.393.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* section 10A.10, subd. 11 as an 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 $250.00, not including travel expenses and memberships dues, in any year, for the purpose of attempting to influence legislation or administrative action by communicating or urging others to communicate with public officials; or,

(b) who spends more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislation 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, 625 North Robert Street, St. Paul, Minnesota 55101, (612) 296-5148.

If no hearing is required, upon adoption of the rule, the rule and required supporting documents will be submitted to the Attorney General's Office for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to the Minnesota Building Codes and Standards Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

Dated: 23 October 1987

Sandra J. Hale, Commissioner
Department of Administration

Statement of Need and Reasonableness

The above-captioned proposed rules are new rules in the Minnesota State Building Code.

Pursuant to *Minnesota Statutes* Section 16B.59 to 16B.73, the Commissioner of Administration is charged with the responsibility of promulgating rules for the Minnesota State Building Code. It is the duty of the commissioner to maintain the Minnesota State Building Code consistent with recognized standards regarding minimum safeguards of life, limb, health, property and public welfare together with controlling the design, construction, quality of materials, use and maintenance of buildings and structures.

The additional statutory requirements in the promulgation of this rule is found in *Minnesota Statutes* 327.20 Section 2 (327.205) (Shelter Construction Standards).

The rules as proposed incorporate by reference the "Interim Guidelines"—TR-83A, January 1980 Section 1 and 2 by reference and amends the "Interim Guidelines" to reflect specific needs in developing manufactured homes park shelters.

The proposed rules conform as far as practicable to established model guidelines. The amendments reflect the necessary added requirements that will make the application and enforcement of the standards reasonable and appropriate.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Any business entity which constructs, expands or remodels buildings is required to comply with the Minnesota State Building Code. When adopted, these proposed rules become part of the Minnesota State Building Code and will be applicable to all future manufactured home park shelter construction. These rules are not applicable to existing manufactured home park shelters unless they are declared unsafe (see hazardous and substandard buildings, *Minnesota Statutes* Sec. 463.15 to 463.26).

The Building Codes and Standards Division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed by *Minnesota Statutes* Sec. 14.115, Subd. 2, for reducing the impact of the rules on small businesses. The proposed rules do not require businesses to make reports so the requirements for reporting identified in items (a), (b), and (c) are not applicable.

Compliance requirements of items (a), (b), and (e) are not appropriate because the purpose of these rules is to establish a minimum uniform standard for construction of all public, private, commercial, industrial or residential structures within the State of Minnesota to protect life, limb, health, property, and public welfare of the residents of the state at the least possible cost consistent with recognized standards. *Minnesota Statutes* Sec. 16B.59 (1984). To exempt small businesses from any or all requirements of the rules would be contrary to the statutory objectives that are the basis of the proposed rulemaking, *Minnesota Statutes* Sec. 16B.59, 16B.61 and 16B.64. The legislature has specifically mandated that the uniformity of building standards is in the public interest. *Minnesota Statutes* Sec. 16B.85 states in part:

The (building) code and any amendments thereof shall conform insofar as practicable to model building codes generally accepted and in use throughout the United States.

Minnesota Statutes Section 14.115, Subd. 2(d) calls for the establishment of performance standards for small businesses as one method of reducing the adverse impact of rules upon them. The code and its amendments are based on the application of scientific principles, approved tests and professional judgement; and to the extent practicable, are in terms or results rather than requiring specific methods or material. The building code uses performance standards wherever possible. Since the performance standards apply across the board to all entities subject to the building code, the methods of reducing the impact of the rules provided by Subdivision 2(d) has been utilized. No special changes are necessary for small businesses.

The Building Codes and Standards Division has evaluated the effects of *Minnesota Statutes* 3.981 to 3.983 and 14.131 and believe that the promulgation of these proposed rules will not result in the expenditure of additional monies by local public bodies nor have an impact on agricultural land and meets the test of the exceptions to fiscal notes as provided by *Minnesota Statutes* 3.983.

Richard I. Hauck, Supervisor—Manufactured Structures, and Alvin Kleinbeck, Code Administrator of the Building Codes and Standards Division will appear on behalf of the proposed rules at the hearing if a hearing is required. They will testify regarding the need for and reasonableness of the proposed rules. The substance of the testimony is set forth herein.

The following is the evidence and argument which supports the need for and reasonableness of the proposed rules.

1370.0100 Purpose — This section identifies the provision of minimum standards to provide protection for manufactured home park occupants from tornados and extreme winds.

1370.0110 Scope — This section identifies the criteria to be used in the design and development of the manufactured home park storm shelters.

1370.0120 Definitions — Definition of storm shelter, dual purpose storm shelter and a single purpose storm shelter.

1370.0130 Applicable Requirements — This portion of the rule adopts the Federal Emergency Management Agencies Interim Guidelines TR-83A January 1980 Sections 1 and 2 for the design and construction of the storm shelters.

1370.0140 Plans, Specifications and Permits — Plans and specifications for the storm shelters must be designed and sealed by a registered architect or engineer licensed to practice in the State of Minnesota. Permits for the construction of the shelters must be secured from the local building permit office in the jurisdiction where the unit will be constructed.

1370.0150 Space Requirements — The square foot per person designation is deemed adequate for a reasonable duration of the use of the shelter. If a dual purpose shelter is built, the square foot per occupant as determined by Table 33-A of the Uniform Building Code will be used. The ceiling height is deemed adequate because the single purpose shelter is not designed as habitable space as defined by the building code. The height required over 60% of the developed floor area will allow for a variation in designs of the shelter such as a curved roof structure.

1370.0160 Required Exits — This section of the rule indicates that in dual purpose shelters, regular exit doors will be required. In single purpose shelters the second exit may be an opening of

1370.0130 APPLICABLE REQUIREMENTS.

Subpart 1. **Incorporation by reference.** "Interim Guidelines for Building Occupant Protection from Tornadoes and Extreme Winds," TR-83A January 1980, sections 1 and 2, published by the Federal Emergency Management Agency, Washington, D.C., is incorporated by reference and must be used to determine design loads and as a guide for use in designing storm shelters. The document is not subject to frequent change and is available: (1) in the Minnesota State Law Library; (2) from the Printing and Publications Division, Federal Emergency Management Agency, P.O. Box 8181, Washington, D.C. 20024; and from the Minnesota Department of Public Safety, Division of Emergency Services, 85 State Capitol, Saint Paul, Minnesota 55155.

Subp. 2. **Dual purpose storm shelters.** A dual purpose storm shelter must comply with other applicable requirements of the state building code for its other intended uses.

1370.0140 PLANS, SPECIFICATIONS, PERMITS.

Storm shelter plans, engineering calculations, diagrams, and other required data must be prepared by a registered architect or engineer licensed to practice in Minnesota. For permit procedures, see section 304 of the Uniform Building Code, incorporated by reference in parts 1305.0100 and 1305.0800.

1370.0150 SPACE REQUIREMENTS.

A minimum of four square feet per person must be provided within a storm shelter. A ceiling height of not less than seven feet must be provided over 60 percent of the floor area.

1370.0160 REQUIRED EXITS.

Subpart 1. **Exits; openings.** At least two exits must be provided in compliance with chapter 33 of the Uniform Building Code. The second exit from a single purpose storm shelter may have an opening of at least nine square feet with a minimum of 20 inches in width and the bottom of the opening not more than 44 inches from the floor.

Openings in the exterior walls of the shelter must be protected to prevent flying missiles from entering the interior of the shelter.

Subp. 2. **Handicapped access.** At least one of the exits must comply with chapter 1340, facilities for the handicapped.

Subp. 3. **Exit to exterior.** When a portion of a structure is designed as a storm shelter, one exit must be directly to the exterior of the building or to an exit system complying with the state building code.

1370.0170 DRY INTERIOR.

Provisions must be made to construct storm shelters outside of flood-prone areas and other nonwater ponding areas and so that the interiors remain reasonably dry.

1370.0180 UTILITY LINE HAZARDS.

Hazardous utility lines must not be located in or near a storm shelter. The underground electrical service required by part 1370.0200 is exempt from this requirement.

1370.0190 MINIMIZING FIRE DANGER.

Storm shelters must be constructed to minimize the danger of fire from both external and internal sources.

1370.0200 ELECTRICAL POWER.

Underground electrical service must be provided to a storm shelter.

1370.0210 ILLUMINATION.

Subpart 1. **Minimum illumination.** At least five foot candles of illumination must be provided at floor level.

Subp. 2. **Source.** An emergency lighting system must be supplied from storage batteries or an on-site generator installed in accordance with the requirements of the National Electrical Code, incorporated by reference in chapter 1315.

1370.0220 VENTILATION.

Ventilation must comply with the criterion on page nine of the interim guidelines incorporated in part 1370.0130.

1370.0230 SANITATION FACILITIES.

Sanitation facilities and water for drinking are not required for storm shelters.

Hazardous Substance Injury Compensation Board

Notice of Withdrawal of Rules as Proposed

Notice is hereby given that the rules proposed by the Hazardous Substance Injury Compensation Board regarding attorney fees

Department of Administration

Proposed Permanent Rules Relating to Manufactured Home Park Storm Shelter Design

Rules as Proposed (all new material)

1370.0100 PURPOSE.

The purpose of parts 1370.0100 to 1370.0230 is to provide minimum standards of design and construction of buildings to provide protection for manufactured home park occupants from tornadoes and extreme winds.

1370.0110 SCOPE.

Parts 1370.0100 to 1370.0230 apply to buildings or portions of buildings that are designed for use as manufactured home park storm shelters.

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Subpart 1. **Scope.** The definitions in this part apply to parts 1370.0100 to 1370.0230.

Subp. 2. **Storm shelter.** "Storm shelter" means a structure or portion of a structure designed in compliance with parts 1370.0100 to 1370.0230.

Subp. 3. **Dual purpose storm shelter.** "Dual purpose storm shelter" means a structure or portion of a structure designed for use as a storm shelter and also designed for some other secondary permitted use.

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Approved by Revisor

loads and as a guide for use in designing storm shelters. The document is not subject to frequent change and is available: (1) in the Minnesota State Law Library; (2) from the Printing and Publications Division, Federal Emergency Management Agency, P.O. Box 8181, Washington, D.C. 20024; and from the Minnesota Department of Public Safety, Division of Emergency Services, 85 State Capitol, Saint Paul, Minnesota 55155.

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exterior of the building or to an exit system complying with the state building code.

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1370.0230 SANITATION FACILITIES.

Sanitation facilities and water for drinking are not required for storm shelters.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Manufactured Home Park Storm Shelter Design

AGENCY: Department of Administration

MINNESOTA RULES: Chapter 1370

INCORPORATION BY REFERENCE:

Rule Number:	Material Incorporated:
1370.0130, subpart 1	Interim Guidelines for Building Occupant Protection from Tornadoes and Extreme Winds, TR-83A January 1980, sections 1 and 2, published by the Federal Emergency Management Agency Washington, D.C.

APPROVED AS TO FORM AND LEGALITY
March 11 1988
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassell
SPECIAL ASSISTANT ATTORNEY GENERAL

The attached rules are approved for publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

BUILDING CODES & STANDARDS DIVISION

In the Matter of the Proposed Adoption of the Rule of the State Department of Administration, Building Codes and Sandards Division Governing the Design of Manufactured Home Park Storm Shelters and Adopting "Interim Guidelines" TR-83A, January 1980, Section 1 and 2 by Reference

STATEMENT OF NEED AND REASONABLENESS

The above-captioned proposed rules are new rules in the Minnesota State Building Code.

Pursuant to Minnesota Statute Section 16B.59 to 16B.73, the Commissioner of Administration is charged with the responsibility of promulgating rules for the Minnesota State Building Code. It is the duty of the commissioner to maintain the Minnesota State Building Code consistent with recognized standards regarding minimum safeguards of life, limb, health, property and public welfare together with controlling the design, construction, quality of materals, use and maintenance of buildings and structures.

The additional statutory requirements in the promulgation of this rule is found in Minnesota Statutes 327.20 Section 2 (327.205) (Shelter Construction Standards).

The rules as proposed incorporate by reference the "Interim Guidelines" — TR-83A, January 1980 Section 1 and 2 by reference and amends the "Interim Guidelines" to reflect specific needs in developing manufactured homes park shelters.

The proposed rules conform as far as practicable to established model guidelines. The amendments reflect the necessary added requirements that will make the application and enforcement of the standards reasonable and appropriate.

Any business entity which constructs, expands or remodels buildings is required to comply with the Minnesota State Building Code. When adopted, these proposed rules become part of the Minnesota State Building Code and will be applicable to all future manufactured home park shelter construction. These rules are not applicable to existing manufactured home park shelters unless they are declared unsafe (see hazardous and substandard buildings, MN Stat. Sec. 463.15 to 463.26).

The Building Codes and Standards Division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed by MN Stat. Sec. 14.115, Subd. 2, for reducing the impact of the rules on small businesses. The proposed rules do not require businesses to make reports so the requirements for reporting identified in items (a), (b), and (c) are not applicable.

Compliance requirements of items (a), (b), and (e) are not appropriate because the purpose of these rules is to establish a minimum uniform standard for construction of all public, private, commercial, industrial or residential structures within the State of Minnesota to protect life, limb, health, property, and public welfare of the residents of the state at the least possible cost consistent with recognized standards. MN Stat. Sec. 16B.59 (1984). To exempt small businesses from any or all requirements of the rules would be contrary to the statutory objectives that are the basis of the the proposed rulemaking, MN Stat. Sec. 16B.59, 16B.61 and 16B.64. The legislature

has specifically mandated that the uniformity of building standards is in the public interest. MN Stat. Sec. 16B.85 states in part:

> The (building) code and any amendments thereof shall conform insofar as practicable to model building codes generally accepted and in use throughout the United States.

Minnesota Statute Section 14.115, Subd. 2(d) calls for the establishment of performance standards for small businesses as one method of reducing the adverse impact of rules upon them. The code and its amendments are based on the application of scientific principles, approved tests and professional judgement; and to the extend practicable, are in terms or results rather than requiring specific methods or materials. The building code uses performance standards wherever possible. Since the performance standards apply across the board to all entities subject to the building code, the methods of reducing the impact of the rules provided by Subdivision 2(d) has been utilized. No special changes are necessary for small businesses.

The Building Codes and Standards Division has evaluated the effects of MN Stats. 3.981 to 3.983 and 14.131 and believe that the promulgation of these proposed rules will not result in the expenditure of additional monies by local public bodies nor have an impact on agricultural land and meets the test of the exceptions to fiscal notes as provided by MN Stat. 3.983.

Richard I. Hauck, Supervisor - Manufactured Structures, and Alvin Kleinbeck, Code Administrator of the Building Codes and Standards Division will appear on behalf of the proposed rules at the hearing if a hearing is required. They will testify regarding the need for and reasonableness of the proposed rules. The substance of the testimony is set forth herein.

The following is the evidence and argument which supports the need for and reasonableness of the proposed rules.

1370.0100 Purpose	This section identifies the provision of minimum standards to provide protection for manufactured home park occupants from tornados and extreme winds.
1370.0100 Scope	This section identifies the criteria to be used in the design and development of the manufactured home park storm shelters.
1370.0120 Definitions	Definition of storm shelter, dual purpose storm shelter and a single purpose storm shelter.
1370.0130 Appliable Requirements	This portion of the rule adopts the Federal Emergecny Management Agencies Interim Guidelines TR-83A January 1980 Sections 1 and 2 for the design and construction of the storm shelters.

1370.0140 Plans, Specifications and Permits

Plans and specifications for the storm shelters must be designed and sealed by a registered architect or engineer licensed to practice in the State of Minnesota. Permits for the construction of the shelters must be secured from the local building permit office in the jurisdiction where the unit will be constructed.

1370.0150 Space Requirements

The square foot per person designation is deemed adequate for a reasonable duration of the use of the shelter. If a dual purpose shelter is built, the square foot per occupant as determined by Table 33-A of the Uniform Building Code will be used. The ceiling height is deemed adequate because the single purpose shelter is not design as habitable space as defined by the building code. The height required over 60% of the developed floor area will allow for a variation in designs of the shelter such as a curved roof structure.

1370.0160 Required Exits

This section of the rule indicates that in dual purpose shelters, regular exit doors will be required. In single purpose shelters the second exit may be an opening of 9 square in area with a minimum dimension of 20 inches in width and the bottom of the opening no higher than 44 inches from the floor. All openings shall be designed to prevent flying missiles from entering the interior of the shelter. At least one opening must be accessible to the physically disabled in compliance with Chapter 1340 of the Minnesota State Building Code.

1370.0170 Dry Interiors

This section identifies that the storm shelter must be located away from flood-prone or ponding areas of the park and be so constructed so that they will remain reasonablly dry for their use.

1370.0180 Utility Line Hazards

This requirement is important so that the shelter will be reasonablly free from downed power lines which could impede access to and use of the shelter.

1370.0190 Minimizing Fire Danger

This requirement would require that the construction and location of the shelter be such that potential fire dangers be kept at a minimum in order to keep the shelter useful.

1370.0200 Electrical Power

The requirements of underground electrical service follows with Section 1370.0180 to keep the potential loss of electrical power, because of fallen power lines or other causes, to a minimum for the shelter.

1370.0210 Illumination

The requirement of five foot candle illumination at floor level is based on the average illumination of limited places of public assemblies for social activities, dance halls, auditoriums at intermission time, foyers of auditoriums and general exits and exit stairs in accordance with figure 9-80, IES Lighting Handbook, fifth edition as well as Minnesota State Building Code, 1330.0900 Subpart 4.B.

An emergency backup system is required to reduce the potential of fright and panic if the primary source of light is lost.

1370.0220 Ventilation

The ventilation requirements of the FEMA Interim Guidelines have been incorporated in this code because it is the most appropriate for the need.

1370.0320 Sanitation Facilities

Sanitation and drinking facilities for the storm shelters is not required because of the typical short duration of the use.

Sandra J. Hale

SANDRA J. HALE, COMMISSIONER

DEPARTMENT OF ADMINISTRATION

In the Matter of the Adoption of the Rule of the State Department of Administration, Building Codes and Standards Division Governing the Design of Manufactured Home Park Storm Shelters and Adopting "Interim Guidelines" TR-83A, January 1980, Section 1 and 2 by Reference

DECLARATION OF COUNSEL

I, JULIE A. LEPPINK, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Adminstrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is .0004.

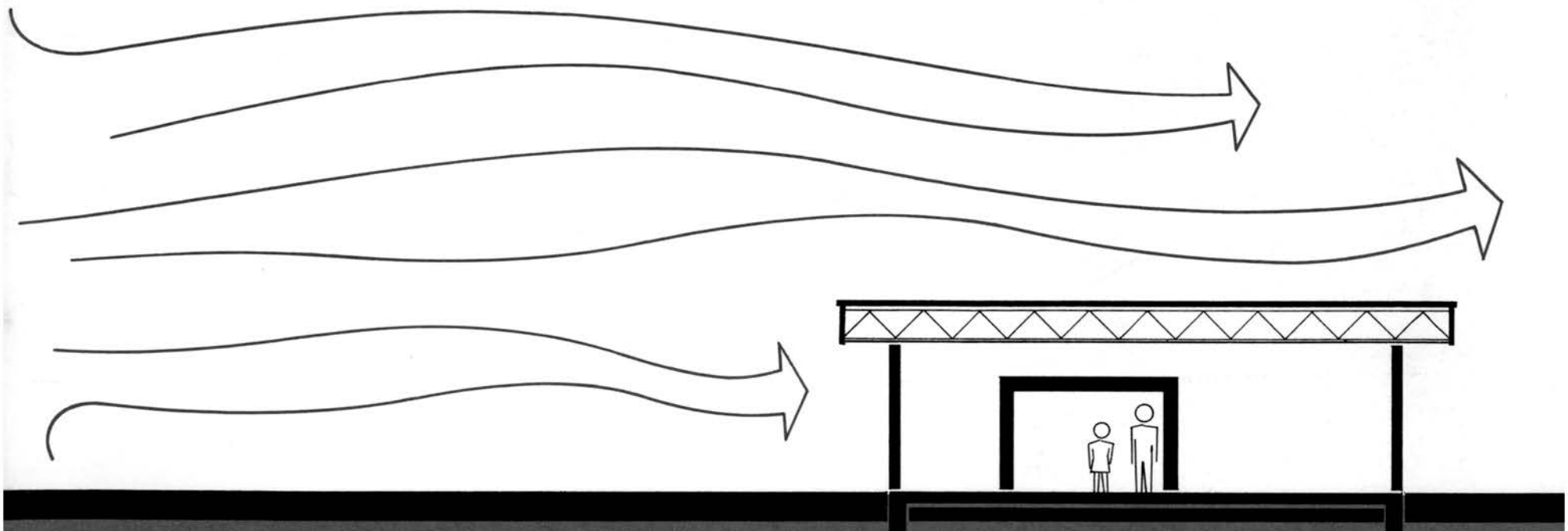
Julie A. Leppink

JULIE A. LEPPINK
Special Assistant
Attorney General

Dated: March 1, 1988

INTERIM GUIDELINES

FOR BUILDING OCCUPANT PROTECTION FROM TORNADOES AND EXTREME WINDS



TECHNICAL GUIDELINES FOR ARCHITECTS AND ENGINEERS

TR-83A / JANUARY 1980

federal emergency
management agency

FOREWORD

The understanding of tornadoes and the technology of tornado-resistant design are advancing at rapid rates. These technological advances are occurring so fast that we can expect, in the foreseeable future, the development of a rational process for economically designing structures to resist the effects of tornadoes and extreme winds. The anticipated design process will incorporate considerations of tornado occurrence possibilities, building content or function to be protected, and the economics of providing various degrees of protection from the effects of extreme winds.

In the interim, before a complete rational design process becomes available, current knowledge can be employed advantageously to provide immediate protection for building occupants.

Current knowledge has been applied to the development of these *Interim Guidelines* which can provide high levels of survivability for building occupants while more refined, and more economical, design procedures are being finalized.

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INTRODUCTION

This technical report presents interim guidelines for use in designing and building-in protection from high winds generated by tornadoes and other severe storms. The guidelines are based on a concept of strengthened interior modules intended for use in public buildings and other high-occupancy structures. Residential shelters which employ the concept of strengthened interior modules are described in other FEMA publications listed on page 24 *(Ref. 1, 2, and 3)*.

From a civil preparedness standpoint, design of structures for protection from severe winds would also provide some protection from blast pressures that would be generated in event of nuclear attack on the United States. Guidelines presented here for maximum protection provide designs that can withstand winds of up to 260 mph.

The guidelines are presented in two sections: *Section 1 — DESIGN-BASIS FORCES*, and *Section 2 — SPECIFIC MODULE DESIGNS*.

The first section contains specific tornado effects (winds, atmospheric pressure changes, and missiles). The interior protective module should be designed to withstand these effects in addition to specific design loads for walls, roofs, connections, and anchorages.

The design-basis forces are based on intensities of tornadoes and severe windstorms which have been recorded in the United States. The forces induced by winds, atmospheric pressure changes, and missiles that are used as the design basis in these *Interim Guidelines* exceed the forces encountered in 98 percent of the recorded tornadoes.

The second section contains four specific module designs based on two interior module concepts which will resist the design loads described in the first section. Detailed structural designs for a 20 ft. x 20 ft. basement room and for three 10-ft. wide interior hallways above grade are included. These four designs are for basement rooms and interior hallways commonly found in buildings. Designs for other shelter configurations must be based on design-basis forces rather than upon modification of the detailed designs.

In *Section 3* example buildings are shown which illustrate how the module concepts can be integrated successfully into building designs. While these projects indicate fundamental features of the tornado-resistant shelter concepts, all were completed before formulation of these *Interim Guidelines* and therefore do not necessarily conform to specific details presented herein.

SECTION 1

DESIGN-BASIS FORCES

Tornadoes are the most intense and violent windstorms with which man has to contend. They have characteristic rotating winds which create atmospheric pressure changes within a central vortex. General discussions of tornadoes may be found in publications by E. Kessler (*Ref. 4*), P. Dergarabedian and F. Fendell (*Ref. 5*), and M. G. Melaragno (*Ref. 6*).

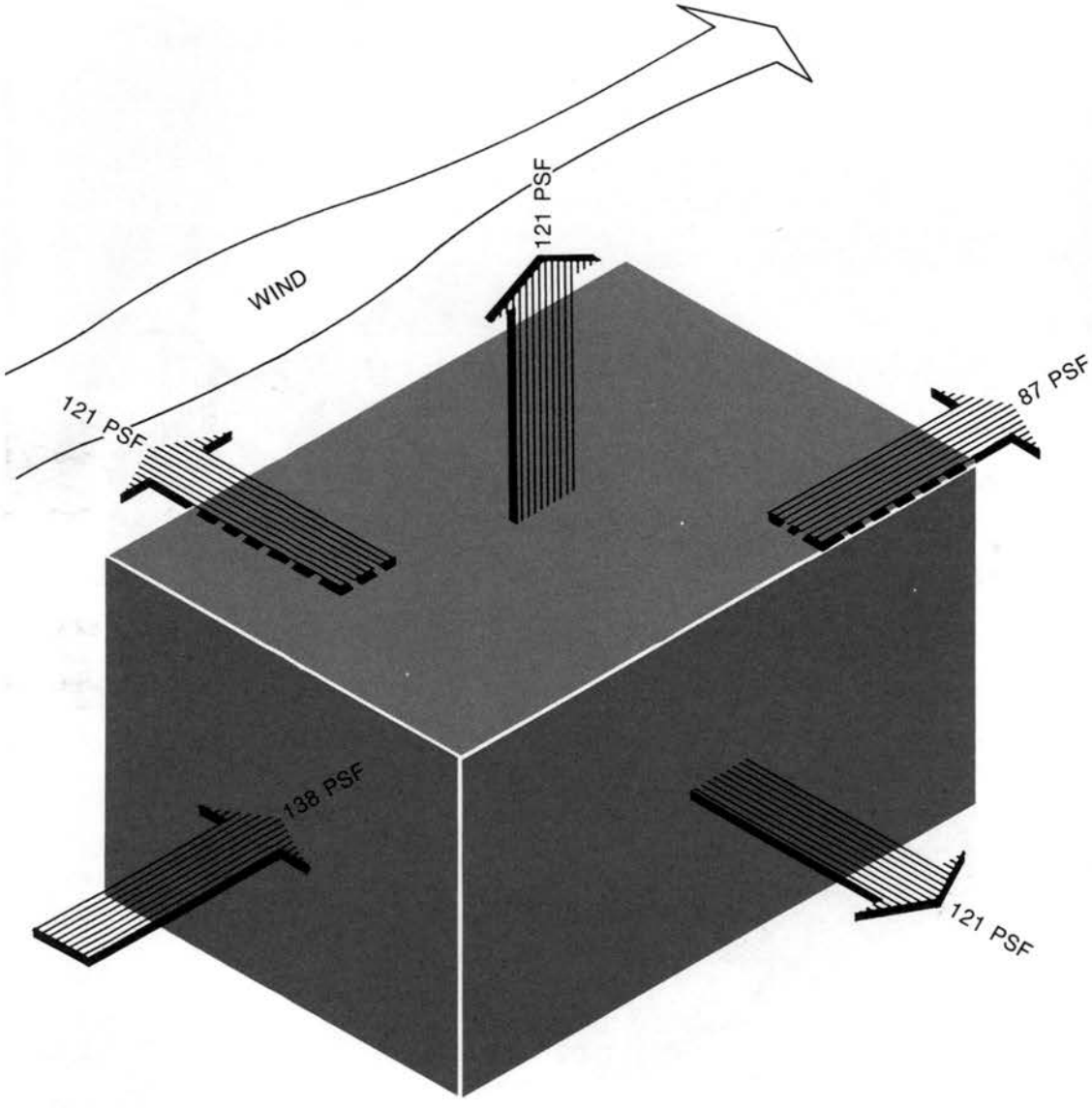
The tornadic effects that are reflected as winds and changes in atmospheric pressure cause structural damage through three principal mechanisms:

- Pressure forces created by air flowing around the structure.
- Pressure forces created by relatively rapid changes in atmospheric pressure.
- Impact forces created by missiles.

A tornado-resistant design must consider all three of the damaging mechanisms listed above.

A windspeed of 260 mph is recommended for building occupant protective design.

The atmospheric pressure change may occur in as little as three seconds and the reduced atmospheric pressure may prevail for an extended period. Atmospheric-pressure-change-induced pressures are not to be confused with wind-induced pressures.



WALLS AND FLAT ROOF DESIGN-BASIS OVERALL WIND PRESSURES

WIND-INDUCED FORCES

Wind-induced design pressures for various parts of a vented[1] shelter module should be as follows:

- Windward wall design pressure of 138 psf acting inward.
- Leeward wall design pressure of 87 psf acting outward.
- Side walls design pressure of 121 psf acting outward.
- Flat roof design pressure of 121 psf acting outward.

[1] *See discussion of venting on page 9, Section 2.*

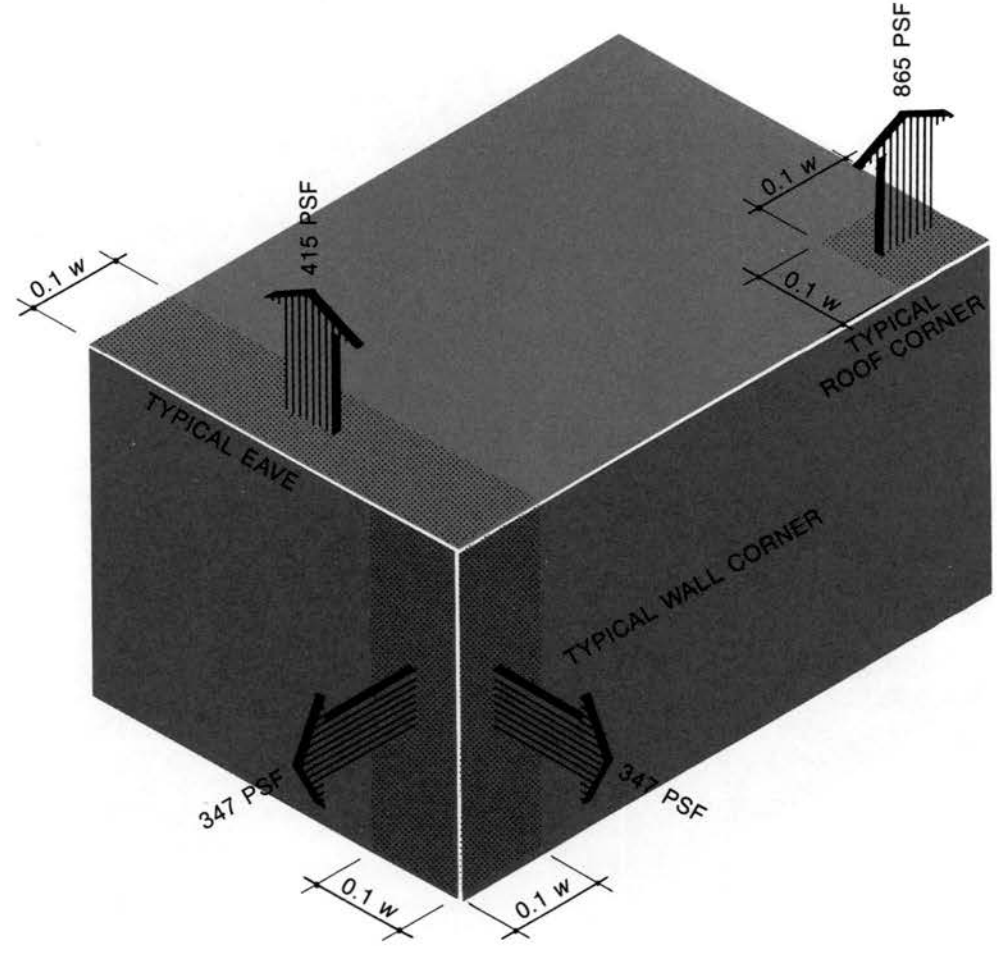
- Wall corners local design pressure of 347 psf acting outward on vertical strips of width 0.1*w*, where *w* is the least width of the shelter area. This design pressure is not to be included in the overall wind loads.

- Roof eaves local design pressure of 415 psf acting outward on strips of width 0.1*w*, where *w* is the least width of the shelter area. This design pressure is not to be included in the overall wind loads.

- Roof corners local design pressure of 865 psf acting outward on an area of 0.1*w* × 0.1*w*, where *w* is the least width of the shelter area. This design pressure is not to be included in the overall wind loads.

If the design wind pressure for a structure or a structural component is not given above, the same can be obtained by multiplying an *Effective Velocity Pressure* of 173 psf by the appropriate pressure coefficients from the American National Standards Institute manual A58.1 – 1972 (*Ref. 7*).

NOTE:
- *w* IS THE LEAST WIDTH OF THE SHELTER AREA.
- LOCALIZED PRESSURES ARE NOT TO BE INCLUDED IN OVERALL WIND LOADINGS. THEY APPLY ONLY TO LOCALIZED AREAS.



DESIGN-BASIS LOCALIZED WIND PRESSURES

ATMOSPHERIC-PRESSURE-INDUCED FORCES

Design pressures of 205 psf acting outward on all surfaces should be used unless venting is provided. If adequate venting as described in Section 2 is provided, the atmospheric-pressure-change forces will not exist. The design pressures due to atmospheric pressure change may be created in as little as 3 seconds; however, they will not create any dynamic load effect for most stiff structures.

MISSILES

The design missile is a 2-in. x 4-in. x 12-ft. long piece of lumber. The missile is assumed to be traveling on end at 100 mph. The Amirikian-Modified Petry formula (*Ref. 8*) should be used to calculate depth of penetration in the shelter walls and roof slabs. The missile should be assumed to strike normal to the plane of the wall or roof slab.

LOAD COMBINATIONS

If maximum values of design-basis forces due to wind forces, atmospheric-pressure-change forces, and missiles, as suggested in these *Interim Guidelines* are used, each of them can be assumed to act separately. The forces given in these guidelines are ultimate loads; hence, ultimate-strength design concepts could be used (*Ref. 9*).

The occupant shelter area should be designed independently for normal dead and live loads in addition to the loads mentioned in these guidelines.

SECTION 2

SPECIFIC MODULE DESIGNS

Detailed guidelines for four specific module designs are given in this section. The four module designs are a basement room (Design **A**) and three designs for an above-grade hallway (Designs **B, C,** and **D**). Design guidelines for each of the module concepts were developed by using the design-basis forces given in the previous section. It is necessary to comply with the following five requirements in order to make direct use of these guidelines:

- Shelter construction shall conform to the specific designs indicated for each module, if no engineering analysis is pursued for the tornado loads.
- Shelter module shall be designed for normal dead and live loads and shrinkage and temperature-change forces, *in addition to* the tornado design-basis forces given.
- Material properties shall conform to the minimum strengths given.
- The specific module designs shall not be modified in any manner to accommodate changes in module size and shape without an accompanying engineering analysis.
- Venting area shall be provided for module designs B, C, and D in accordance with the formula given on page 9 in order to alleviate atmospheric-pressure-change forces.

LOCATION OF SHELTER AREA

The shelter area should be located in a basement below grade, or in an interior hallway if above grade. To meet the definition of an interior hallway, side walls of the shelter hallway shall not be an exterior wall, and at least one conventionally designed wall shall be placed between the shelter area walls and the outside of the building.

MATERIALS AND COMPONENTS

The module design guidelines are based on material strengths and component dimensions conforming to the following:

- Concrete — 4,000 psi compressive strength, ASTM C31 (*Ref. 10*).
- Steel — 60,000 psi yield strength, ASTM A615 or A616.
- Wire Reinforcement — 70,000 psi yield strength, ASTM A82.
- Brick — 6,000 psi compressive strength, ASTM C62.
- Concrete Masonry — 1,000 psi compressive strength, ASTM C90.
- Mortar — Type M or S, ASTM C476.
- Concrete Slab and Wall — Concrete shall be cast-in-place. Dimensions of the members shall be as specified in specific module design concepts. Placement of reinforcement shall be in accordance with ACI 318-71 (*Ref. 9*).
- Brick Cavity Wall — Wall thickness shall be 10 in.; consisting of two wythes of 3½-in. bricks with a cavity in the center. The cavity shall be filled with concrete.
- Concrete Masonry Wall — Wall thickness shall be 8 in. All cells of the wall should be filled with concrete to the full height of the wall.
- Reinforcement Splices — Reinforcing bars shall be spliced in accordance with ACI 318-71 (*Ref. 9*).

VENTING

Design pressures induced by atmospheric pressure change can be deleted if adequate venting to accomplish escape of air is provided. The venting area necessary to limit escaping air velocity to 25 mph can be determined using the following formula:

$$A_v = 0.00098 \times V,$$

where A_v is the area of venting in square feet, and V is the volume of shelter to be vented in cubic feet.

Venting can be provided through windows or doors. A structural screen wall should be provided in front of windows or doors to prevent missiles from entering the shelter area.

MODULE DESIGN A

BASEMENT ROOM

The basement room shall be 20 ft. × 20 ft. in area, and 8 ft. in height. The guidelines provided for this concept are based on atmospheric-pressure-change forces; hence, it is not necessary to provide venting. If the walls of the room are in contact with the soil, no special design of the wall for wind forces is necessary. However, if full or partial height of a wall is not in contact with the outside soil, the wall should conform to the guidelines given. The overhead slab design guidelines can be utilized with either of the wall option guidelines.

Designs are for tornado design-basis forces only. Other live and dead loads on the structure are not considered.

OVERHEAD SLAB FOR MODULE DESIGN A

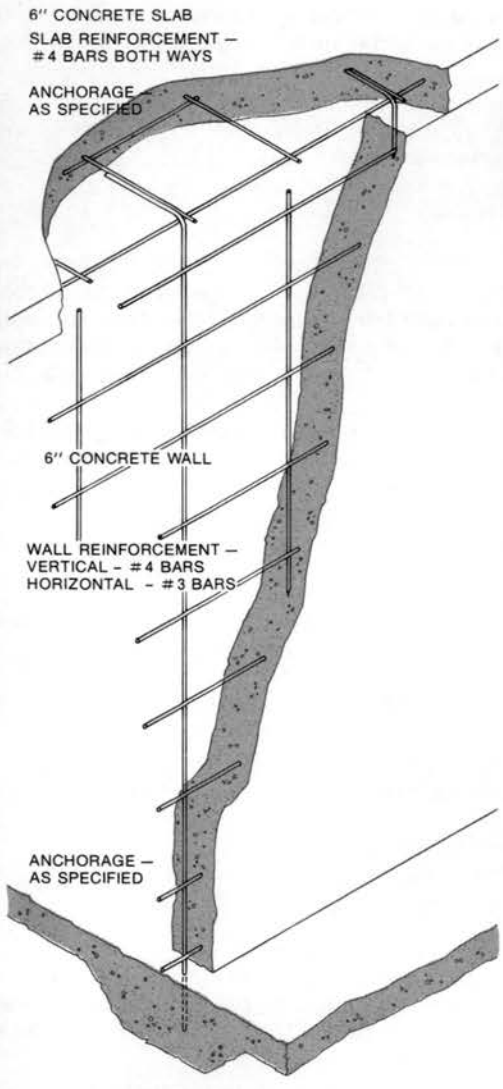
DIMENSION	6-in. concrete slab.
REINFORCEMENT	Place #4 bars at 16 in. on center both ways in the top of the slab. This steel resists pressures acting outward.
ANCHORAGE	The overhead slab should be anchored by extending #4 bars from the slab to the footing at 32 in. on center throughout the perimeter of the slab. There shall be at least one #4 bar at each corner.

WALL OPTION 1 FOR MODULE DESIGN A

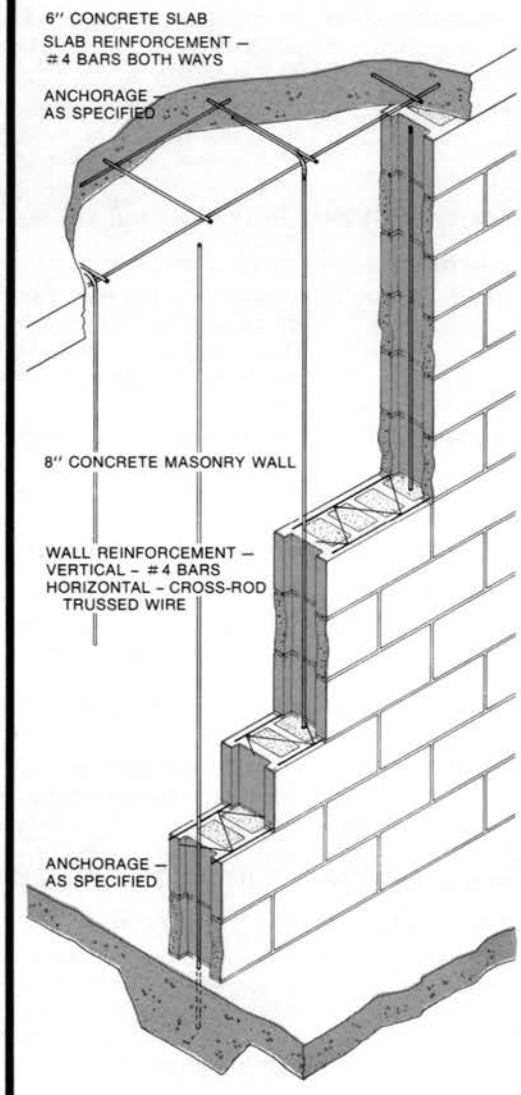
DIMENSION	6-in. concrete wall.
REINFORCEMENT	Vertical reinforcement shall be #4 bars at 16 in. on center placed near the outside surface of the wall. Horizontal reinforcement shall be #3 bars at 12 in. on center.
ANCHORAGE	The vertical reinforcement should extend 12 in. into the overhead slab and into the footing. The horizontal reinforcement should extend 12 in. into intersecting walls.

WALL OPTION 2 FOR MODULE DESIGN A

DIMENSION	8-in. concrete masonry wall.
REINFORCEMENT	Vertical reinforcement shall be #4 bars at 16 in. on center. Horizontal reinforcement shall be typical cross-rod, truss-design wire reinforcement; and it shall be placed at every mortar joint.
ANCHORAGE	The vertical reinforcement should extend 12 in. into the overhead slab and into the footing. The horizontal reinforcement should overlap at every intersecting wall.



WALL OPTION 1



WALL OPTION 2

MODULE DESIGN B

HALLWAY—CANTILEVER WALL

The hallway shall be 10 ft. wide and up to 10 ft. in height. This module is based on a cantilever wall design concept. Hence, the wall footing should be designed for a horizontal thrust of 1,380 lb. per ft. and an overturning moment of 6,900 ft.-lb. per foot, in addition to normal dead and live-load forces acting on the footing. The guidelines provided for this concept are based on wind forces only, and it is assumed that adequate venting as specified on page 9 will be provided to alleviate atmospheric-pressure-change forces. The overhead slab design guidelines can be utilized with any one of the three wall option guidelines.

Reinforcement requirements for dead and live loads other than tornado design-basis forces must be determined through engineering analysis.

OVERHEAD SLAB FOR MODULE DESIGN B

DIMENSION 4-in. concrete slab.

REINFORCEMENT Place #4 bars at 12 in. on center, extending from wall to wall (walls which are 10 ft. apart). The #4 bars shall be placed near the top surface of the slab.

ANCHORAGE The overhead slab should be anchored by extending reinforcing bars from the walls into the slab as specified in the wall options. The bars should extend at least 12 in. into the slab.

WALL OPTION 1 FOR MODULE DESIGN B

DIMENSION 10-in. brick cavity wall.

REINFORCEMENT Vertical reinforcement shall be #4 bars at 4 in. on center at the bottom of the wall, reducing to #4 bars at 12 in. on center at the top of the wall. Reinforcement should extend into the slab at 24 in. on center. Horizontal reinforcement shall be #4 bars at 12 in. on center to the full height of the wall.

ANCHORAGE The vertical reinforcement should extend 12 in. into the footing and into the slab. The horizontal reinforcement should extend 12 in. into intersecting walls.

WALL OPTION 2 FOR MODULE DESIGN B

DIMENSION 8-in. concrete masonry wall.

REINFORCEMENT Vertical reinforcement shall be #5 bars at 4 in. on center at the bottom of the wall, reducing to #5 bars at 8 in. on center at the top of the wall. Reinforcement should extend into the slab at 24 in. on center. Horizontal reinforcement should be typical cross-rod, truss-design wire reinforcement; and it shall be placed at every mortar joint.

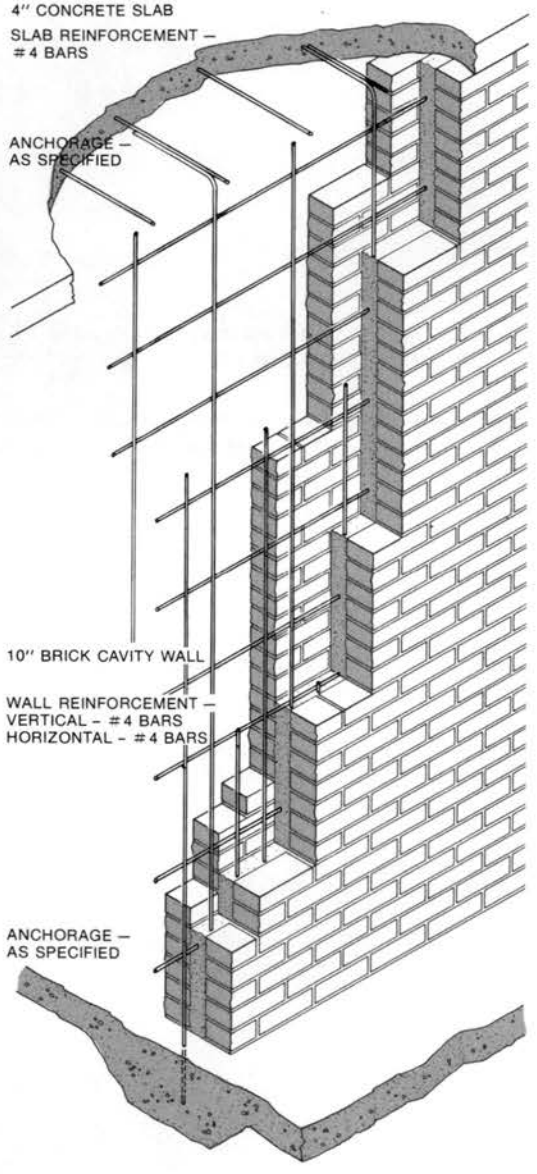
ANCHORAGE The vertical reinforcement should extend 15 in. into the footing and into the slab. The horizontal reinforcement should overlap at every intersecting wall.

WALL OPTION 3 FOR MODULE DESIGN B

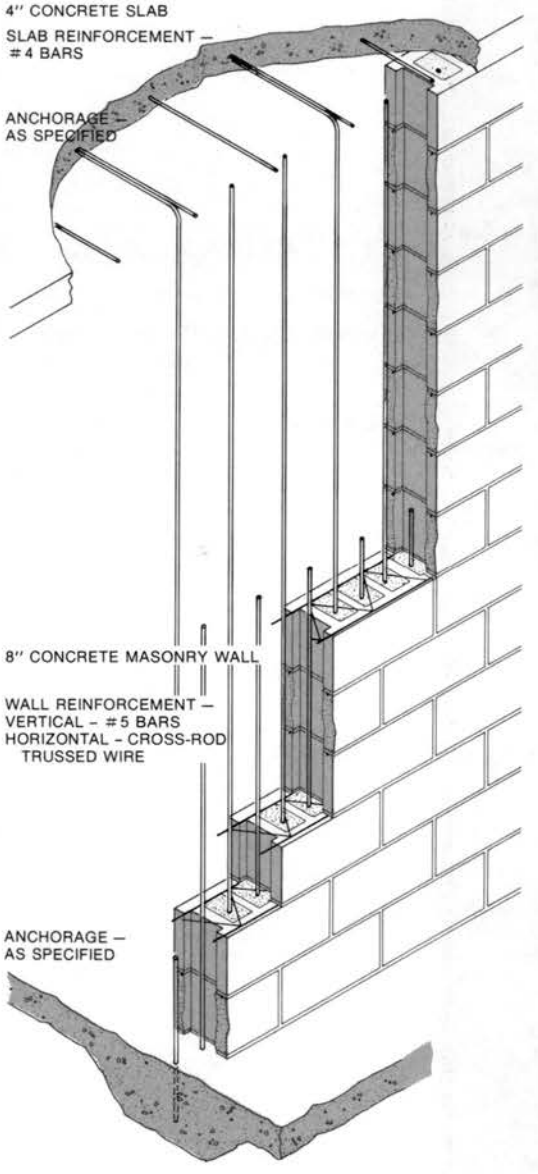
DIMENSION 6-in. concrete wall.

REINFORCEMENT Vertical reinforcement shall be #4 bars at 4 in. on center at the bottom of the wall, reducing to #4 bars at 16 in. on center at the top of the wall. The vertical reinforcement should be placed in the middle of the wall. Reinforcement should extend into the slab at 16 in. on center. Horizontal reinforcement shall be #3 bars at 18 in. on center.

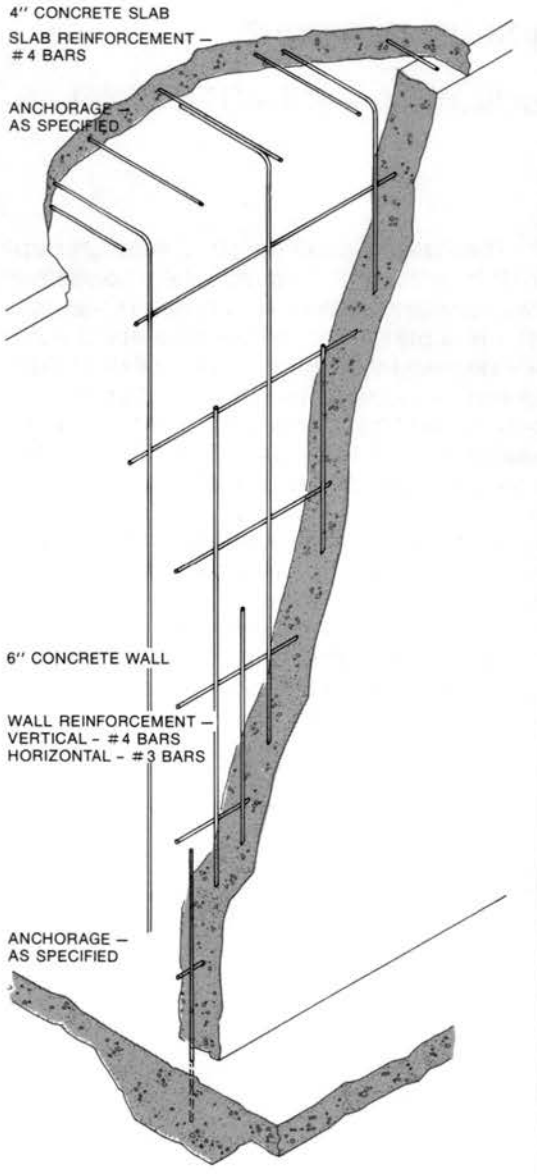
ANCHORAGE The vertical reinforcement should extend 12 in. into the footing and into the slab. The horizontal reinforcement should extend 12 in. into intersecting walls.



WALL OPTION 1



WALL OPTION 2



WALL OPTION 3

MODULE DESIGN C

HALLWAY — PILASTER WALLS

The hallway shall be 10 ft. wide and up to 10 ft. in height. This module is based on a wall design concept with pilasters located 8 ft. on center. Footings for pilasters should be designed for a horizontal thrust of 11,040 lb. and an overturning moment of 55,200 ft.-lb., in addition to normal dead and live-load forces acting on the footing. The guidelines provided for this concept are based on wind forces only, and it is assumed that adequate venting as specified on page 9 will be provided to alleviate atmospheric-pressure-change forces.

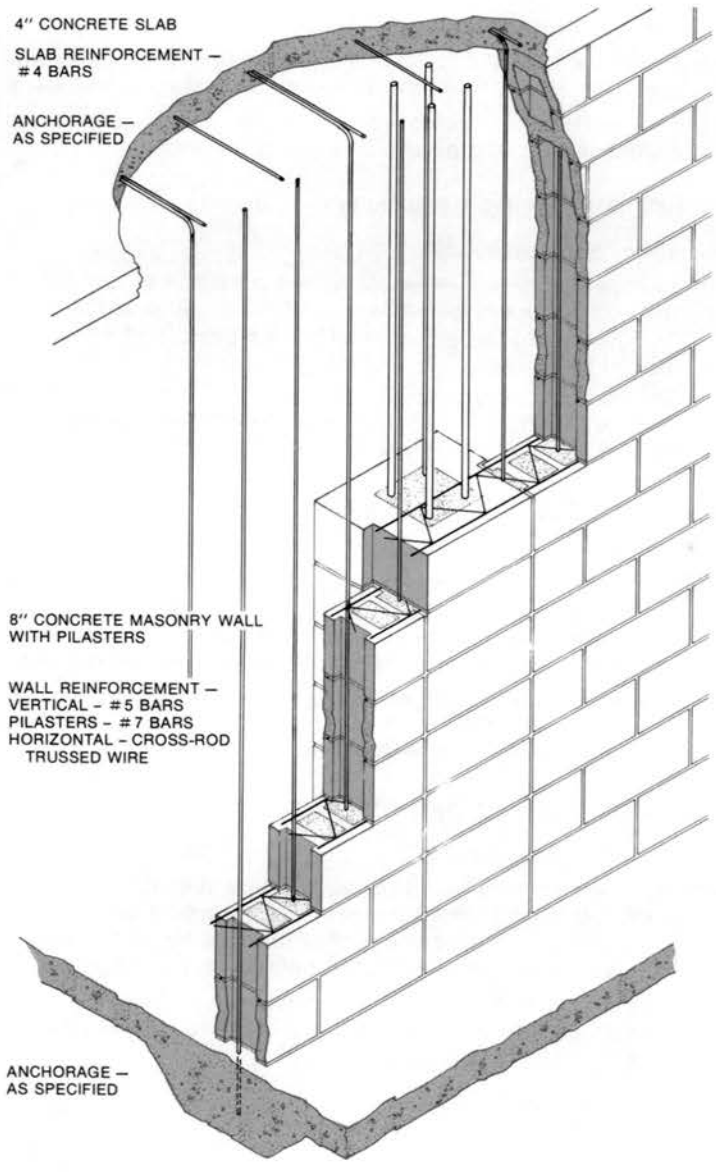
Reinforcement requirements for dead and live loads other than tornado design-basis forces must be determined through engineering analysis.

OVERHEAD SLAB FOR MODULE DESIGN C

DIMENSION	4-in. concrete slab.
REINFORCEMENT	Place #4 bars at 12 in. on center, extending from wall to wall (walls which are 10 ft. apart). The #4 bars shall be placed near the top surface of the slab.
ANCHORAGE	The overhead slab should be anchored by extending vertical bars from the walls into the slab at 24 in. on center. The bars should extend at least 15 in. into the slab.

WALL FOR MODULE DESIGN C

DIMENSION	8-in. concrete masonry wall with 16 in. × 16 in. pilasters located at 8 ft. on center.
REINFORCEMENT	Vertical reinforcement shall be #5 bars at 8 in. on center in the wall, and 4 – #7 bars in each pilaster. Horizontal reinforcement shall be typical cross-rod, truss-design wire reinforcement; and it shall be placed at every mortar joint of the wall.
ANCHORAGE	The vertical wall reinforcement (#5 bars) should extend 15 in. into the footing and into the slab. The vertical pilaster reinforcement (#7 bars) should extend 24 in. into the footing. The horizontal reinforcement should extend into pilasters.



MODULE DESIGN C
DETAILS

MODULE DESIGN D

HALLWAY — RIGID-FRAME CONCEPT

The hallway shall be 10 ft. wide and up to 10 ft. in height. This module is based on a rigid-frame design concept involving walls and the overhead slab. The guidelines provided for this concept are based on wind forces only, and it is assumed that adequate venting as specified on page 9 will be provided to alleviate atmospheric-pressure-change forces. The overhead slab design guidelines can be utilized with any one of the three wall option guidelines.

Reinforcement requirements for dead and live loads other than tornado design-basis forces must be determined through engineering analysis.

OVERHEAD SLAB FOR MODULE DESIGN D

DIMENSION 5-in. concrete slab.

REINFORCEMENT Place #4 bars at 4 in. on center, extending from wall to wall (walls which are 10 ft. apart). The #4 bars shall be placed at mid-depth of the slab.

ANCHORAGE The vertical reinforcing bars from the walls should be spliced to slab reinforcement and extend 24 in. into the slab.

WALL OPTION 1 FOR MODULE DESIGN D

DIMENSION 10-in. brick cavity wall.

REINFORCEMENT Vertical reinforcement shall be #4 bars at 4 in. on center at the top of the wall, reducing to #4 bars at 12 in. on center at the bottom of the wall. Horizontal reinforcement shall be #4 bars at 12 in. on center to the full height of the wall.

ANCHORAGE The vertical reinforcement in the wall should extend 12 in. into the footing and 24 in. into the overhead slab. The horizontal reinforcement should extend 12 in. into intersecting walls.

WALL OPTION 2 FOR MODULE DESIGN D

DIMENSION 8-in. concrete masonry wall.

REINFORCEMENT Vertical reinforcement shall be #5 bars at 4 in. on center at the top of the wall, reducing to #5 bars at 8 in. on center at the bottom of the wall. Horizontal reinforcement shall be typical cross-rod, truss-design wire reinforcement; and it shall be placed at every mortar joint.

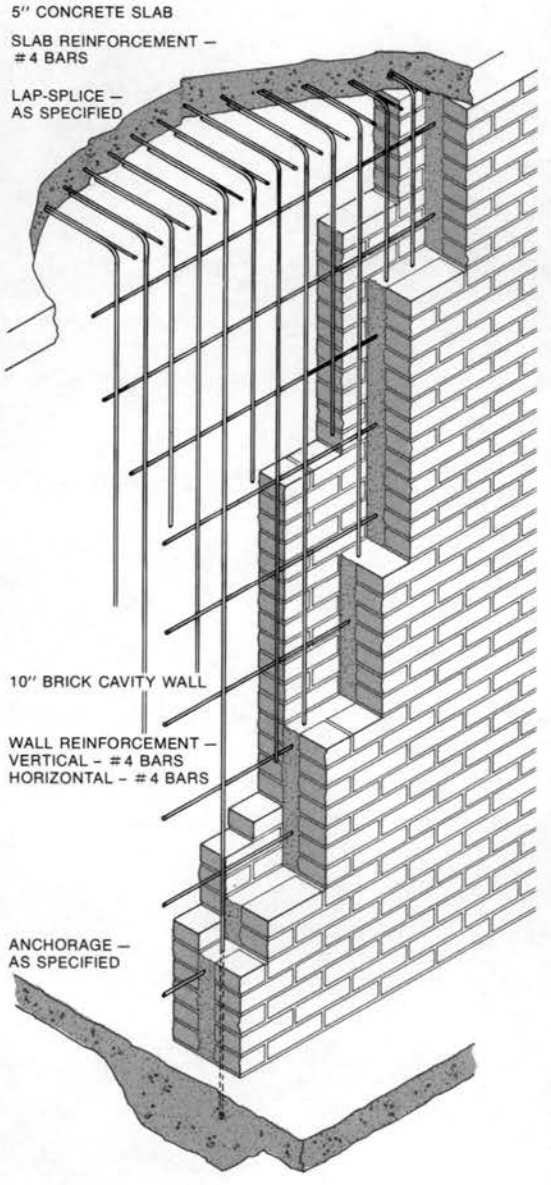
ANCHORAGE The vertical reinforcement of the wall should extend 15 in. into the footing and 24 in. into the overhead slab. The horizontal reinforcement should overlap at every intersecting wall.

WALL OPTION 3 FOR MODULE DESIGN D

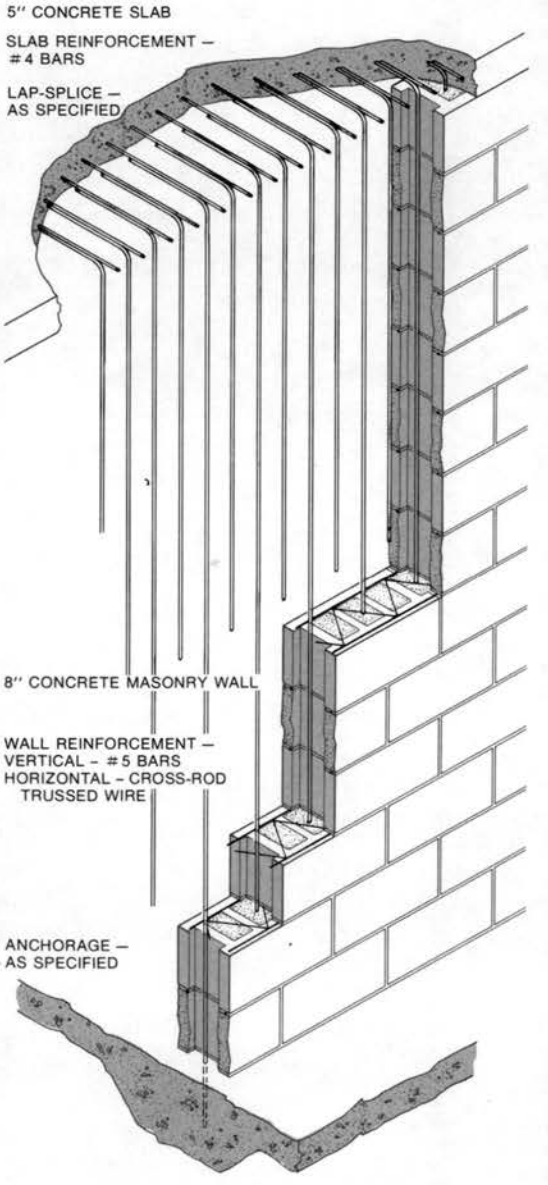
DIMENSION 6-in. concrete wall.

REINFORCEMENT Vertical reinforcement shall be #4 bars at 4 in. on center at the top of the wall, reducing to #4 bars at 16 in. on center at the bottom of the wall. The vertical reinforcement shall be placed in the middle of the wall. Horizontal reinforcement shall be #3 bars at 18 in. on center.

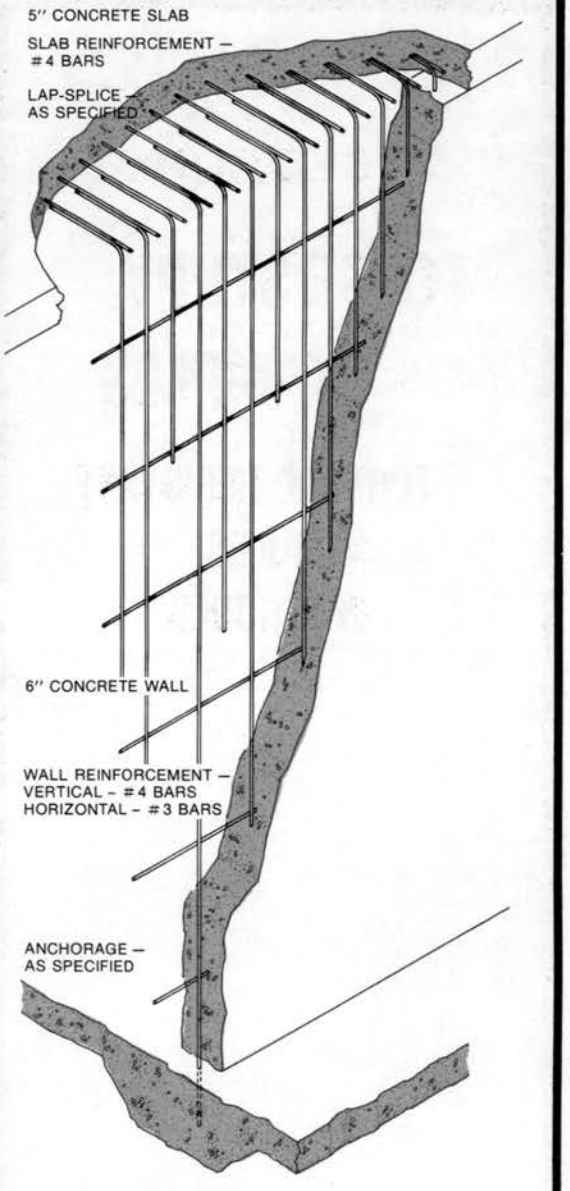
ANCHORAGE The vertical reinforcement of the wall should extend 12 in. into the footing and 24 in. into the overhead slab. The horizontal reinforcement should extend 12 in. into intersecting walls.



WALL OPTION 1



WALL OPTION 2



WALL OPTION 3

SECTION 3

CASE STUDY EXAMPLES

TORNADO-RESISTANT MODULES IN SCHOOLS

Examples of two schools, each with a tornado-resistant shelter of an interior module type, are illustrated in this section. These two projects were designed prior to and without the guidelines presented in the booklet. Planning and construction concepts of the case-study examples are similar to those suggested in the *Interim Guidelines*, and they illustrate how tornado-resistant shelter modules can be integrated successfully into schoolhouses, and by implication into other building designs. However, they do not follow the specific module designs presented in Section 2, nor are the design loads the same as the tornado design-basis forces outlined in Section 1.

The two example schools provide protection from tornado effects for their populations in interior shelter modules. The tornado-resistant modules of both are dual-purpose spaces having daily educational use. For each module, construction is heavier and stronger than other portions of the buildings in order to resist the tornado loading effects of wind pressure and missiles.

The following selection criteria may help to identify educational spaces suitable for development as shelter modules:

- Sufficient floor area to accommodate the school enrollment.
- Natural boundaries for the designated shelter area which allow heavier construction without adverse effects upon educational functions or building appearance.
- Framing relationships with other portions of the building which allow an independent structure for the shelter module, including a reinforced concrete roof system.
- No functional requirements for windows or other large openings into the designated shelter module.
- Additional space planning benefits which might result from construction requirements of the shelter module; for example, reduced noise transfer — a common need for music instruction areas.

WEST CENTRAL ELEMENTARY SCHOOL

HEREFORD, TEXAS

Hereford Independent School District

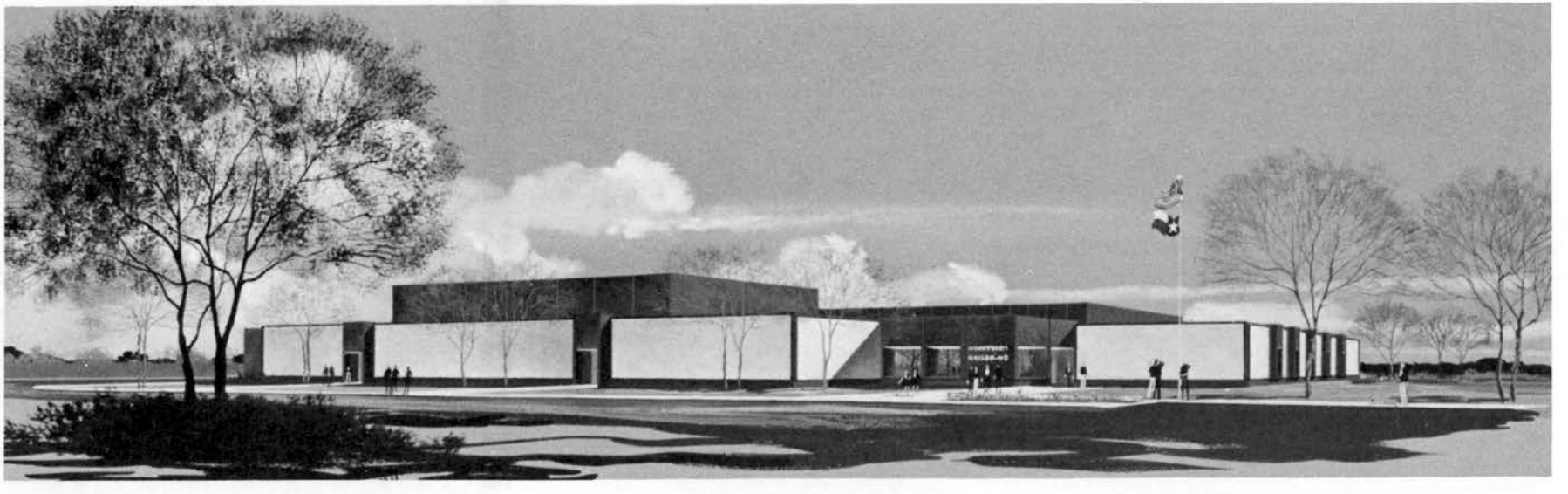
Architects:

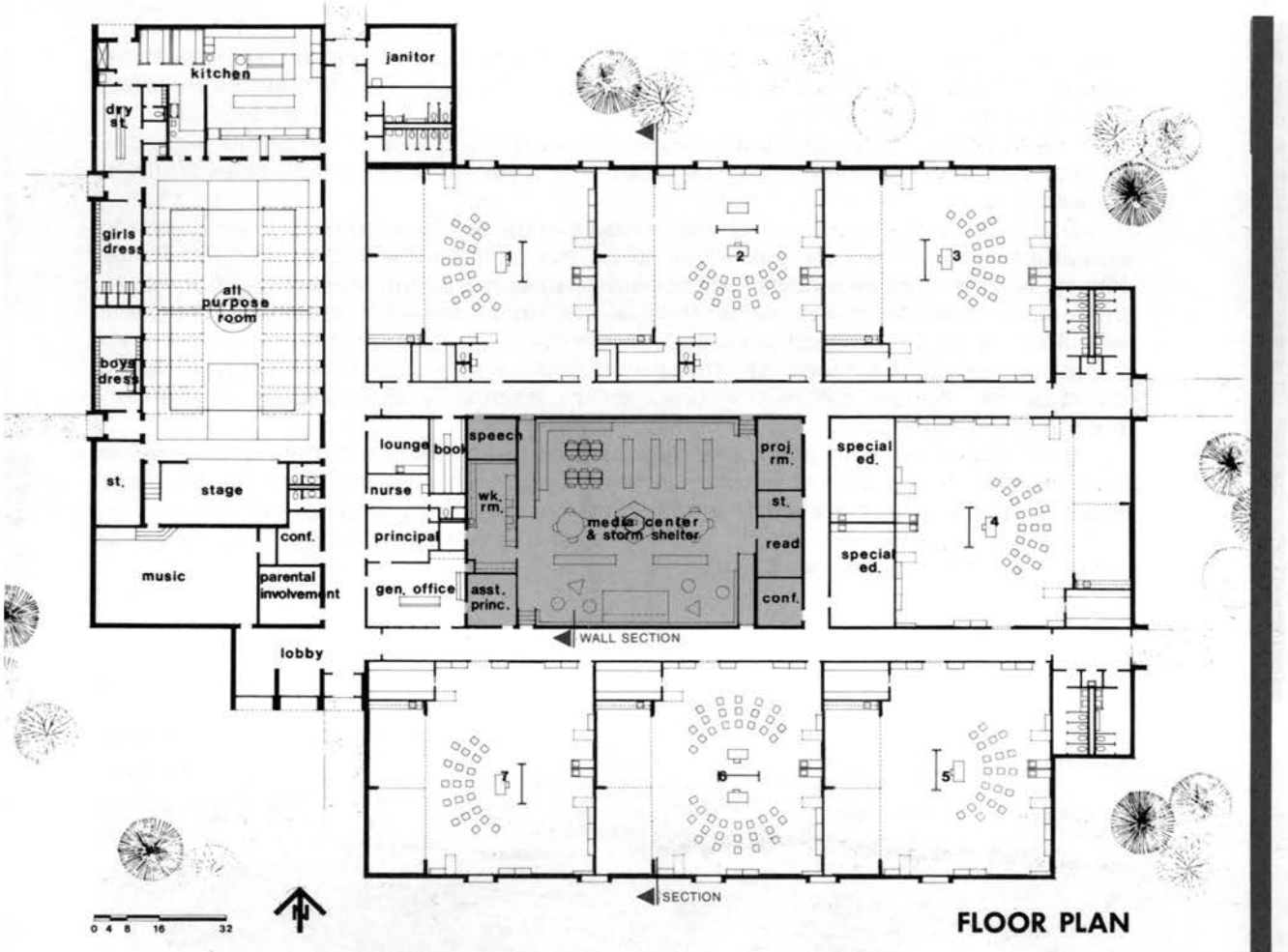
Brasher + Goyette + Rapier, AIA
Lubbock, Texas

The centrally positioned media center doubles as a tornado shelter for this new school in Hereford, a community of approximately 17,000 population located 50 miles southwest of Amarillo. The 52 ft. × 82 ft. shelter, which was included in the design of the school, is a rigid, interior module similar in concept to the smaller aboveground modules presented in Section 2.

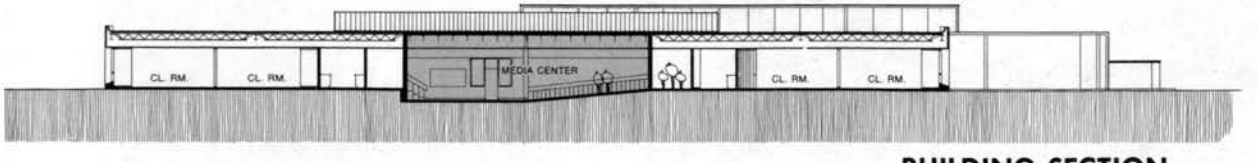
The shelter module is independent of surrounding construction, although this is not apparent to daily users of the media center. Module walls are 8-in. concrete masonry units with concrete grout in cells and vertical reinforcement of #5 bars at 8 in. on center. The roof of the module consists of a 5-in. reinforced concrete slab poured on steel forming and supported on steel joists and rigid frames. The slab is anchored to walls with #4 bars at 8 in. on center. Steel columns of the rigid frame placed in the wall line of the shelter module are tied to concrete masonry units with 2 – #4 bars at 12 in. on center to the full height of the wall and provide lateral support for walls. Exterior walls of the building — 4-in. brick plus 8-in. block — provide an additional barrier to resist penetration of missiles into the shelter.

The school's pupils — design occupancy is 600 — are accommodated easily in the 4,260 sq. ft. shelter space. The central location of the shelter allows for quick access from peripheral instruction areas without exposing students to unnecessary hazards while moving to the shelter.

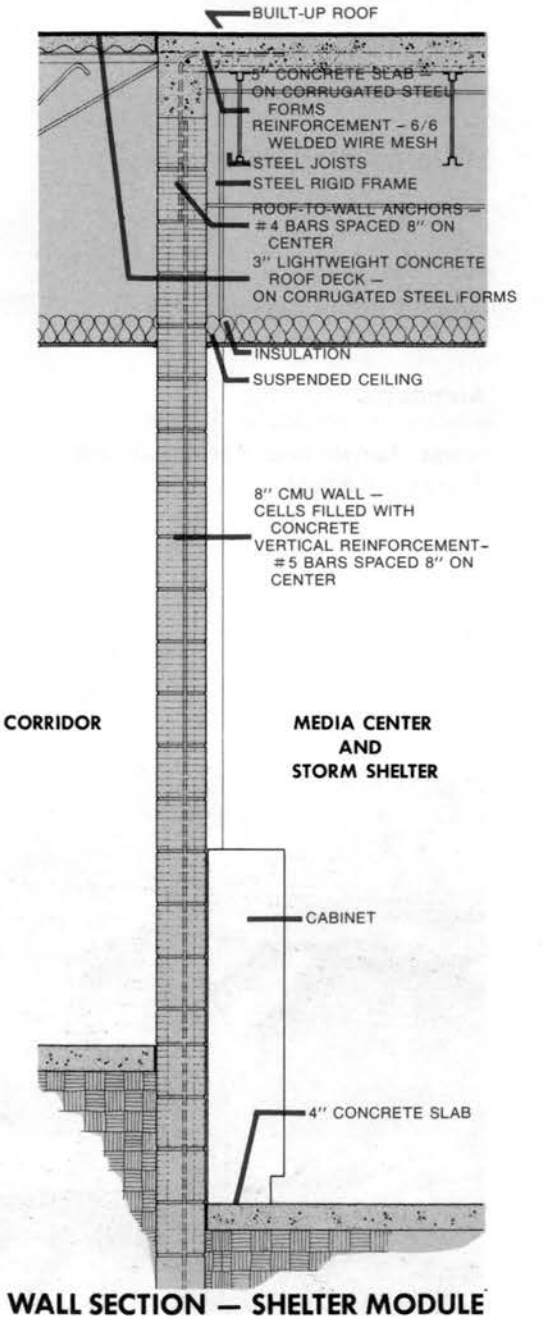




FLOOR PLAN



BUILDING SECTION



WALL SECTION — SHELTER MODULE

ELEMENTARY — JUNIOR HIGH SCHOOL

LOUISBURG, KANSAS

Unified School District 416

Architects:

Horst, Terrill, and Karst, AIA, PA
Topeka, Kansas

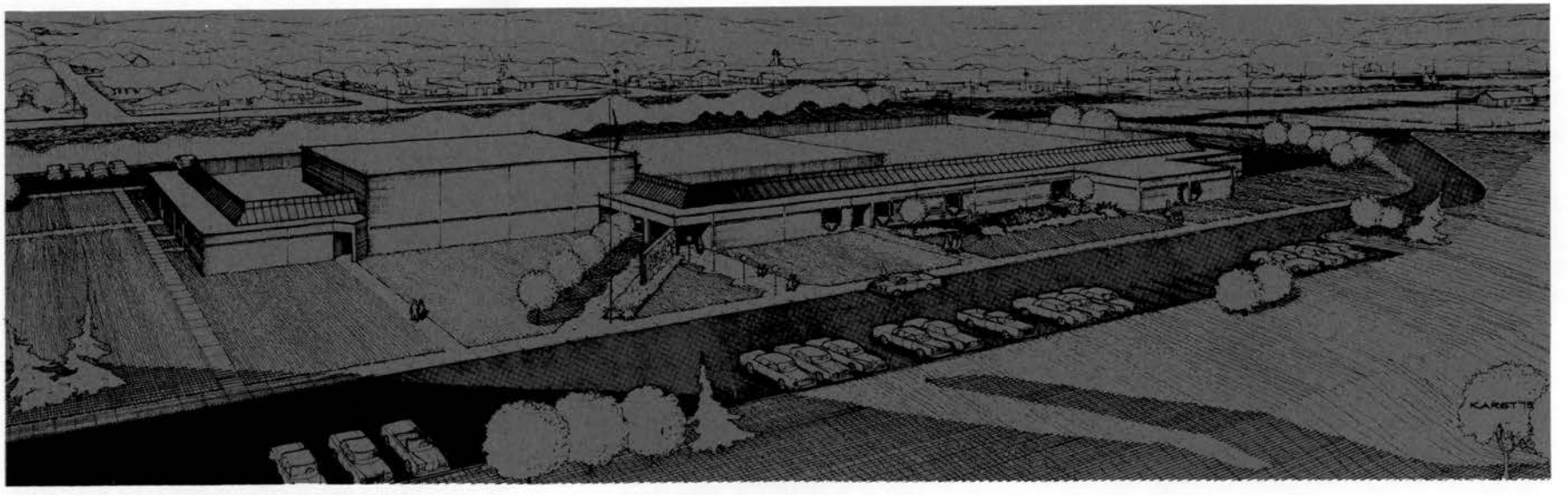
This school illustrates another interior tornado shelter module which has been integrated with an educational program. Again, the concepts are similar to those of the smaller modules presented in Section 2. In this example, music instruction areas double as the storm shelter.

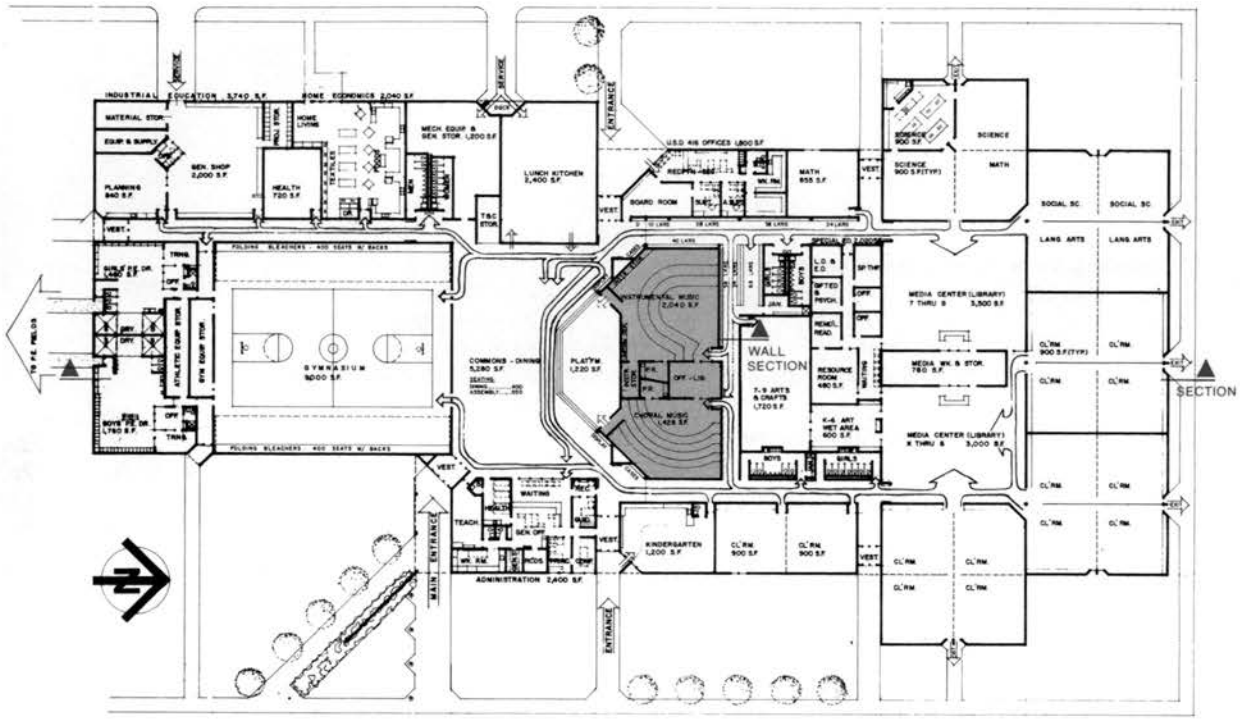
The 81,500 sq. ft. schoolhouse serves elementary and junior high pupils — grades K through 8 — of a community and surrounding rural areas located 30 miles south of Kansas City.

Occupant protection in the shelter module is gained through reinforced-concrete construction. Concrete walls of 12-in. thickness enclose the shelter module. These interior walls also reduce noise transfer from music instruction areas into other teaching spaces. The roof of the shelter module is a reinforced-concrete pan-joist system with 30-in. wide, 20-in. deep pans at 38 in. on center (8-in. wide joists) plus 3-in. slab (23-in. total depth for system). All other portions of the schoolhouse are of steel-framed construction; hence, the reinforced-concrete module is independent of the surrounding structure.

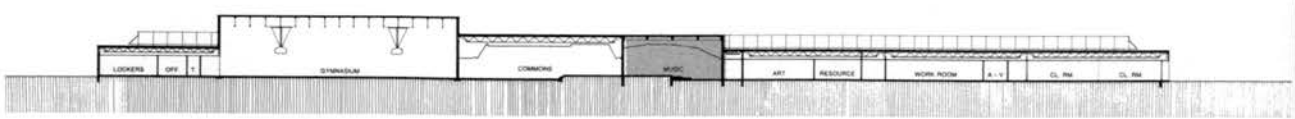
Brick enclosure walls at the exterior enhance the protection of the interior shelter module from penetration of missiles. Additional safety is provided at door openings into the shelter which are either baffled with concrete wing walls or recessed.

With an area of 3,900 sq. ft., the shelter size is adequate for the 700 pupils for which the school is designed.

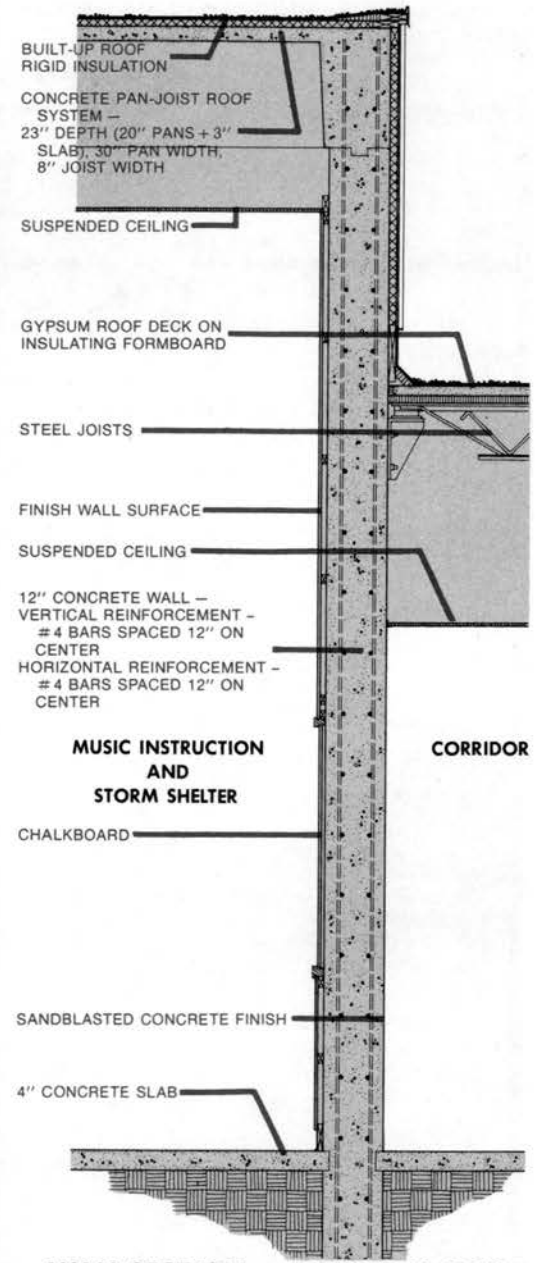




FLOOR PLAN



BUILDING SECTION



WALL SECTION — SHELTER MODULE

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2. *Shelters In New Apartments*, TR-74, August 1972.
3. *Wind-Resistant Design Concepts for Residences*, TR-83, July, 1975.

Other Publications — Not Available From FEMA

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10. American Society for Testing and Materials, *Annual Book of ASTM Standards*, 1971.

Interim Guidelines by

Kishor C. Mehta, Joseph E. Minor, and James R. McDonald
Institute for Disaster Research
Texas Tech University

Booklet and Graphics by

Delbert B. Ward
Associate Professor of Architecture
The University of Utah



STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
BUILDING CODES AND STANDARDS DIVISION

In the Matter of the Proposed Adoption of the Rule of the State Department of Administration, Building Codes and Standards Division Governing the Design of Manufactured Home Park Storm Shelters and Adopting "Interim Guidelines" - TR-83A, January 1980, Sections 1 and 2 by Reference

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Administration, Building Codes and Standards Division intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, section 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes 16B.59 to 16B.73. The requirement to promulgate the rule is found in Minnesota Statutes 327.20 Section 2. (327.205) (Shelter Construction Standards)

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

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

Margaret Opalinski
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101
(612) 296-4626

Comments or requests for a public hearing must be received by the Building Codes and Standards Division by 4:30 p.m., December 23, 1987.

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

A copy of the proposed rule is attached to this notice. (The referenced "Interim Guideline" is available for review in the office of the Building Codes

and Standards Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minesota, between the hours of 8:00 a.m. to 4:30 p.m.)

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is a part of this notice.

You are advised, pursuant to Minnesota Statutes, section 14.11 "Special Notice of Rulemaking", the adoption of these rules will not have any impact on agricultural land nor should the expenditure of public money exceed $100,000 in either of the two years following the adoption of these rules. Also, pursuant to Minnesota Statutes, section 14.115, subd. 2, the Building Codes and Standards Division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed. The proposed rules do not require businesses to make reports so the requirements for reporting required in items (a), (b), (and (c) are not applicable. Compliance requirements of items (a), (b), (c), and (e) are not appropriate because the purpose of the rules is to establish a minimum standard for the construction of emergency storm shelters in a manufactured home park at the least possible cost consistent with recognized standards. Minnesota Statute section 16B.59 (1984). To exempt small businesses from any or all requirements of the rules would be contrary to statutory obligation that are the basis of the proposed rulemaking, Minnesota Statutes section 16B.59, 16B.61, 16B.64 and 327.20, section 2 (327.205). The legislature has specifically mandated that the commissioner of administration shall adopt, by rule, minimum standards for the construction of low cost manufactured home park storm shelters by March 1, 1988.

Minnesota Statutes, section 14.115, subd. 2(d) calls for the establishment of performance standards for small businesses as one method of reducing the adverse impact of rules upon them. It is believed that the proposed rules promulgated by this action together with the "FEMA, TR-93A, 1983 Interim Guidelines" provide the minimum standards necessary for the storm shelters. Since the performance standards apply across the board to all entities subject to the rule, the methods of reducing the impact of rules provided by Subd. 2(d) has been utilized. No special changes are necessary for small businesses.

Pursuant to Minnesota Statute 14.115 subd. 4(a) the statement in the preceding two paragraphs constitute the statement of the impact of the rule on small businesses, and the probable quatitative and quantitative effect of its rules.

The Minnesota Building Codes and Standards Division has evaluated the effects of Minnesota Statutes 3.981 to 3.983 and 14.131 and believe that the promulgation of these proposed rules will not result in the expenditure of monies by local bodies nor have an impact on agricultural land and meets the test of the exception to fiscal notes as provided in Minnesota Statute 3.393.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes section 10A.10, subd. 11 as an 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 $250.00, not including travel expenses and memberships dues, in any year, for the purpose of attempting to

influence legislation or administrative action by communicating or urging others to communicate with public officials; or,

(b) who spends more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislation 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, 625 North Robert Street, St. Paul, Minnesota 55101, (612) 296-5148.

If no hearing is required, upon adoption of the rule, the rule and required supporting documents will be submitted to the Attorney Generals's Office for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to the Minnesota Building Codes and Standards Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

DATE: 10/23/87

Sandra J. Hale

SANDRA J. HALE, COMMISSIONER
DEPARTMENT OF ADMINISTRATION

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption
of the Rule of the State Department of Administration
Building Codes and Standards Division Governing
the Design of Manufactured Home Park Storm Shelters
and Adopting "Interim Guidelines" — TR-83-A, January
1980, Sections 1 and 2 by Reference

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to MN Stat. § 14.14, Subd. 1A, that their names be placed on file with and maintained by the State Building Codes and Standards Division for the purpose of receiving notice of the proposed adoption of rules by this division is accurate and complete as of 2:30 p.m., this 12th day of November, 1987.

Margaret Ann Opalinski

Margaret Ann Opalinski

In the Matter of the Proposed Adoption
of the Rule of the State Department of
Administration, Building Codes and
Standards Division Governing the Design
of Manufactured Home Park Storm Shelters
and Adopting "Interim Guidelines" — TR-83A,
January 1980, Sections 1a and 2 by Reference

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Gloria Safford, being first duly sworn deposes and says:

That on the 12th day of November, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules With a Public Hearing/Notice to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mailing at said City of St. Paul, a copy thereof, properly enveloped with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Building Codes and Standards Division for the purpose of receiving notice of the proposed adoption of rules by this division.

Gloria Safford
Gloria Safford

Subscribed and sworn to before me
this 12th day of November, 1987.

Janice G. Johnson
Janice G. Johnson

JANICE G. JOHNSON
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
MY COMM. EXPIRES NOV. 23, 1989

city of
bloomington, minnesota
Municipal Building • 2215 West Old Shakopee Road • Bloomington, Minnesota 55431-3096 • (612) 881-5811

November 23, 1987

Margaret Opalinski
Building Codes and Standards Division
408 Metro Square Building
7th & Robert Sts.
St. Paul, MN 55101

I have reviewed the proposed rules pertaining to storm shelters and offer the following comments:

Section 1370.0160 - Required Exits

Subpart 1: I would revise the second sentence as follows: (The second exit from a single purpose storm shelter may have an opening of at least nine square feet with a minimim dimension of 24" and the bottom of the opening not more than 44" from the floor.

Section 1370.0150 - Space Requirements

Revise the first sentence as follows:

Space is required for all persons residing in manufactured home parks with a minimum of 4 square feet per person.

DEPARTMENT OF COMMUNITY DEVELOPMENT
Building and Inspection Division

Richard C. Nelson
Plan Check Engineer

RCN:jp

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DEPARTMENT OF
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State of Minnesota

STATE REGISTER

Department of Administration—Documents Division



Published every Monday

16 November 1987

Volume 12, Number 20

Pages 1025-1088

STATE REGISTER

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, official notices to the public, state and non-state public contracts, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

Volume 12 Printing Schedule and Submission Deadlines

Vol. 12 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
20	Monday 2 November	Monday 9 November	Monday 16 November
21	Monday 9 November	Monday 16 November	Monday 23 November
22	Monday 16 November	Monday 23 November	Monday 30 November
23	Monday 23 November	Monday 30 November	Monday 7 December

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the State Register editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *State Register* is published by the State of Minnesota, Department of Administration, Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at $130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at $3.50 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

Rudy Perpich, Governor

Sandra J. Hale, Commissioner
Department of Administration

Stephen A. Ordahl, Director
Minnesota Documents Division

Robin PanLener, Editor

Paul Hoffman, Assistant Editor

Debbie Kobold, Circulation Manager

Bonita Karels, Staff Assistant

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

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NOTICE: How to Follow State Agency Rulemaking in the *State Register*

The ***State Register*** is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the ***State Register.*** Published every Monday, the ***State Register*** makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific ***Minnesota Rule*** chapter numbers. Every odd-numbered year the ***Minnesota Rules*** are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the ***State Register.***

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the ***Official Notices*** section of the ***State Register.*** When rules are first drafted, state agencies publish them as **Proposed Rules,** along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the ***State Register.*** After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the ***State Register*** as **Adopted Rules.** These final adopted rules are not printed in their entirety in the ***State Register,*** only the changes made since their publication as **Proposed Rules.** To see the full rule, as adopted and in effect, a person simply needs two issues of the ***State Register,*** the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the ***Minnesota Guidebook to State Agency Services.***

The ***State Register*** features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the ***State Register,*** a subscription, the annual index, the ***Minnesota Rules*** or the ***Minnesota Guidebook to State Agency Services,*** contact the Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-652-9747 and ask for "Documents."

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Proposed Rules

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Administration

Proposed Permanent Rules Relating to Manufactured Home Park Storm Shelter Design

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the State Department of Administration, Building Codes and Standards Division intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 16B.59 to 16B.73. The requirement to promulgate the rule is found in *Minnesota Statutes* 327.20 Section 2. (327.205) (Shelter Construction Standards)

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

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Margaret Opalinski
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101
(612) 296-4626

Comments or requests for a public hearing must be received by the Building Codes and Standards Division by 4:30 p.m., December 23, 1987.

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

A copy of the proposed rule is attached to this notice. (The referenced "Interim Guideline" is available for review in the office of the Building Codes and Standards Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota, between the hours of 8:00 a.m. to 4:30 p.m.)

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is a part of this notice.

You are advised, pursuant to *Minnesota Statutes*, section 14.11 "Special Notice of Rulemaking", the adoption of these rules will not have any impact on agricultural land nor should the expenditure of public money exceed $100,000 in either of the two years following the adoption of these rules. Also, pursuant to *Minnesota Statutes*, section 14.115, subd. 2, the Building Codes and Standards Division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed. The

proposed rules do not require businesses to make reports so the requirements for reporting required in items (a), (b), and (c) are not applicable. Compliance requirements of items (a), (b), (c), and (e) are not appropriate because the purpose of the rules is to establish a minimum standard for the construction of emergency storm shelters in a manufactured home park at the least possible cost consistent with recognized standards. *Minnesota Statutes* section 16B.59 (1984). To exempt small businesses from any or all requirements of the rules would be contrary to statutory obligation that are the basis of the proposed rulemaking, *Minnesota Statutes* section 16B.59, 16B.61, 16B.64 and 327.20, section 2 (327.205). The legislature has specifically mandated that the commissioner of administration shall adopt, by rule, minimum standards for the construction of low cost manufactured home park storm shelters by March 1, 1988.

Minnesota Statutes, section 14.115, subd. 2(d) calls for the establishment of performance standards for small businesses as one method of reducing the adverse impact of rules upon them. It is believed that the proposed rules promulgated by this action together with the "FEMA, TR-93A, 1983 Interim Guidelines" provide the minimum standards necessary for the storm shelters. Since the performance standards apply across the board to all entities subject to the rule, the methods of reducing the impact of rules provided by Subd. 2(d) has been utilized. No special changes are necessary for small businesses.

Pursuant to *Minnesota Statutes* 14.115 subd. 4(a) the statement in the preceding two paragraphs constitute the statement of the impact of the rule on small businesses, and the probable qualitative and quantitative effect of its rules.

The Minnesota Building Codes and Standards Division has evaluated the effects of *Minnesota Statutes* 3.981 to 3.983 and 14.131 and believe that the promulgation of these proposed rules will not result in the expenditure of monies by local bodies nor have an impact on agricultural land and meets the test of the exception to fiscal notes as provided in *Minnesota Statutes* 3.393.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* section 10A.10, subd. 11 as an 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 $250.00, not including travel expenses and memberships dues, in any year, for the purpose of attempting to influence legislation or administrative action by communicating or urging others to communicate with public officials; or,

(b) who spends more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislation 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, 625 North Robert Street, St. Paul, Minnesota 55101, (612) 296-5148.

If no hearing is required, upon adoption of the rule, the rule and required supporting documents will be submitted to the Attorney General's Office for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to the Minnesota Building Codes and Standards Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

Dated: 23 October 1987

Sandra J. Hale, Commissioner
Department of Administration

Statement of Need and Reasonableness

The above-captioned proposed rules are new rules in the Minnesota State Building Code.

Pursuant to *Minnesota Statutes* Section 16B.59 to 16B.73, the Commissioner of Administration is charged with the responsibility of promulgating rules for the Minnesota State Building Code. It is the duty of the commissioner to maintain the Minnesota State Building Code consistent with recognized standards regarding minimum safeguards of life, limb, health, property and public welfare together with controlling the design, construction, quality of materials, use and maintenance of buildings and structures.

The additional statutory requirements in the promulgation of this rule is found in *Minnesota Statutes* 327.20 Section 2 (327.205) (Shelter Construction Standards).

The rules as proposed incorporate by reference the "Interim Guidelines"—TR-83A, January 1980 Section 1 and 2 by reference and amends the "Interim Guidelines" to reflect specific needs in developing manufactured homes park shelters.

The proposed rules conform as far as practicable to established model guidelines. The amendments reflect the necessary added requirements that will make the application and enforcement of the standards reasonable and appropriate.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Any business entity which constructs, expands or remodels buildings is required to comply with the Minnesota State Building Code. When adopted, these proposed rules become part of the Minnesota State Building Code and will be applicable to all future manufactured home park shelter construction. These rules are not applicable to existing manufactured home park shelters unless they are declared unsafe (see hazardous and substandard buildings, *Minnesota Statutes* Sec. 463.15 to 463.26).

The Building Codes and Standards Division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed by *Minnesota Statutes* Sec. 14.115, Subd. 2, for reducing the impact of the rules on small businesses. The proposed rules do not require businesses to make reports so the requirements for reporting identified in items (a), (b), and (c) are not applicable.

Compliance requirements of items (a), (b), and (e) are not appropriate because the purpose of these rules is to establish a minimum uniform standard for construction of all public, private, commercial, industrial or residential structures within the State of Minnesota to protect life, limb, health, property, and public welfare of the residents of the state at the least possible cost consistent with recognized standards. *Minnesota Statutes* Sec. 16B.59 (1984). To exempt small businesses from any or all requirements of the rules would be contrary to the statutory objectives that are the basis of the proposed rulemaking, *Minnesota Statutes* Sec. 16B.59, 16B.61 and 16B.64. The legislature has specifically mandated that the uniformity of building standards is in the public interest. *Minnesota Statutes* Sec. 16B.85 states in part:

> The (building) code and any amendments thereof shall conform insofar as practicable to model building codes generally accepted and in use throughout the United States.

Minnesota Statutes Section 14.115, Subd. 2(d) calls for the establishment of performance standards for small businesses as one method of reducing the adverse impact of rules upon them. The code and its amendments are based on the application of scientific principles, approved tests and professional judgement; and to the extent practicable, are in terms or results rather than requiring specific methods or material. The building code uses performance standards wherever possible. Since the performance standards apply across the board to all entities subject to the building code, the methods of reducing the impact of the rules provided by Subdivision 2(d) has been utilized. No special changes are necessary for small businesses.

The Building Codes and Standards Division has evaluated the effects of *Minnesota Statutes* 3.981 to 3.983 and 14.131 and believe that the promulgation of these proposed rules will not result in the expenditure of additional monies by local public bodies nor have an impact on agricultural land and meets the test of the exceptions to fiscal notes as provided by *Minnesota Statutes* 3.983.

Richard I. Hauck, Supervisor—Manufactured Structures, and Alvin Kleinbeck, Code Administrator of the Building Codes and Standards Division will appear on behalf of the proposed rules at the hearing if a hearing is required. They will testify regarding the need for and reasonableness of the proposed rules. The substance of the testimony is set forth herein.

The following is the evidence and argument which supports the need for and reasonableness of the proposed rules.

1370.0100 Purpose — This section identifies the provision of minimum standards to provide protection for manufactured home park occupants from tornados and extreme winds.

1370.0110 Scope — This section identifies the criteria to be used in the design and development of the manufactured home park storm shelters.

1370.0120 Definitions — Definition of storm shelter, dual purpose storm shelter and a single purpose storm shelter.

1370.0130 Applicable Requirements — This portion of the rule adopts the Federal Emergency Management Agencies Interim Guidelines TR-83A January 1980 Sections 1 and 2 for the design and construction of the storm shelters.

1370.0140 Plans, Specifications and Permits — Plans and specifications for the storm shelters must be designed and sealed by a registered architect or engineer licensed to practice in the State of Minnesota. Permits for the construction of the shelters must be secured from the local building permit office in the jurisdiction where the unit will be constructed.

1370.0150 Space Requirements — The square foot per person designation is deemed adequate for a reasonable duration of the use of the shelter. If a dual purpose shelter is built, the square foot per occupant as determined by Table 33-A of the Uniform Building Code will be used. The ceiling height is deemed adequate because the single purpose shelter is not designed as habitable space as defined by the building code. The height required over 60% of the developed floor area will allow for a variation in designs of the shelter such as a curved roof structure.

1370.0160 Required Exits — This section of the rule indicates that in dual purpose shelters, regular exit doors will be required. In single purpose shelters the second exit may be an opening of

	9 square feet in area with a minimum dimension of 20 inches in width and the bottom of the opening no higher than 44 inches from the floor. All openings shall be designed to prevent flying missiles from entering the interior of the shelter. At least one opening must be accessible to the physically disabled in compliance with Chapter 1340 of the Minnesota State Building Code.
1370.0170 Dry Interiors	This section identifies that the storm shelter must be located away from flood-prone or ponding areas of the park and be so constructed so that they will remain reasonably dry for their use.
1370.0180 Utility Line Hazards	This requirement is important so that the shelter will be reasonably free from downed power lines which could impede access to and use of the shelter.
1370.0190 Minimizing Fire Danger	This requirement would require that the construction and location of the shelter be such that potential fire dangers be kept at a minimum in order to keep the shelter useful.
1370.0200 Electrical Power	The requirements of underground electrical service follows with Section 1370.0180 to keep the potential loss of electrical power, because of fallen power lines or other causes, to a minimum for the shelter.
1370.0210 Illumination	The requirement of five foot candle illumination at floor level is based on the average illumination of limited places of public assemblies for social activities, dance halls, auditoriums at intermission time, foyers of auditoriums and general exits and exit stairs in accordance with figure 9-80, IES Lighting Handbook, fifth edition as well as Minnesota State Building Code, 1330.0900 Subpart 4.B. An emergency backup system is required to reduce the potential of fright and panic if the primary source of light is lost.
1370.0220 Ventilation	The ventilation requirement of the FEMA Interim Guidelines have been incorporated in this code because it is the most appropriate for the need.
1370.0320 Sanitation Facilities	Sanitation and drinking facilities for the storm shelters is not required because of the typical short duration of the use.

Sandra J. Hale, Commissioner
Department of Administration

Rules as Proposed (all new material)

1370.0100 PURPOSE.

The purpose of parts 1370.0100 to 1370.0230 is to provide minimum standards of design and construction of buildings to provide protection for manufactured home park occupants from tornadoes and extreme winds.

1370.0110 SCOPE.

Parts 1370.0100 to 1370.0230 apply to buildings or portions of buildings that are designed for use as manufactured home park storm shelters.

1370.0120 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1370.0100 to 1370.0230.

Subp. 2. **Storm shelter.** "Storm shelter" means a structure or portion of a structure designed in compliance with parts 1370.0100 to 1370.0230.

Subp. 3. **Dual purpose storm shelter.** "Dual purpose storm shelter" means a structure or portion of a structure designed for use as a storm shelter and also designed for some other secondary permitted use.

Subp. 4. **Single purpose storm shelter.** "Single purpose storm shelter" means a structure designed for use only as a storm shelter.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

1370.0130 APPLICABLE REQUIREMENTS.

Subpart 1. **Incorporation by reference.** "Interim Guidelines for Building Occupant Protection from Tornadoes and Extreme Winds," TR-83A January 1980, sections 1 and 2, published by the Federal Emergency Management Agency, Washington, D.C., is incorporated by reference and must be used to determine design loads and as a guide for use in designing storm shelters. The document is not subject to frequent change and is available: (1) in the Minnesota State Law Library; (2) from the Printing and Publications Division, Federal Emergency Management Agency, P.O. Box 8181, Washington, D.C. 20024; and from the Minnesota Department of Public Safety, Division of Emergency Services, 85 State Capitol, Saint Paul, Minnesota 55155.

Subp. 2. **Dual purpose storm shelters.** A dual purpose storm shelter must comply with other applicable requirements of the state building code for its other intended uses.

1370.0140 PLANS, SPECIFICATIONS, PERMITS.

Storm shelter plans, engineering calculations, diagrams, and other required data must be prepared by a registered architect or engineer licensed to practice in Minnesota. For permit procedures, see section 304 of the Uniform Building Code, incorporated by reference in parts 1305.0100 and 1305.0800.

1370.0150 SPACE REQUIREMENTS.

A minimum of four square feet per person must be provided within a storm shelter. A ceiling height of not less than seven feet must be provided over 60 percent of the floor area.

1370.0160 REQUIRED EXITS.

Subpart 1. **Exits; openings.** At least two exits must be provided in compliance with chapter 33 of the Uniform Building Code. The second exit from a single purpose storm shelter may have an opening of at least nine square feet with a minimum of 20 inches in width and the bottom of the opening not more than 44 inches from the floor.

Openings in the exterior walls of the shelter must be protected to prevent flying missiles from entering the interior of the shelter.

Subp. 2. **Handicapped access.** At least one of the exits must comply with chapter 1340, facilities for the handicapped.

Subp. 3. **Exit to exterior.** When a portion of a structure is designed as a storm shelter, one exit must be directly to the exterior of the building or to an exit system complying with the state building code.

1370.0170 DRY INTERIOR.

Provisions must be made to construct storm shelters outside of flood-prone areas and other nonwater ponding areas and so that the interiors remain reasonably dry.

1370.0180 UTILITY LINE HAZARDS.

Hazardous utility lines must not be located in or near a storm shelter. The underground electrical service required by part 1370.0200 is exempt from this requirement.

1370.0190 MINIMIZING FIRE DANGER.

Storm shelters must be constructed to minimize the danger of fire from both external and internal sources.

1370.0200 ELECTRICAL POWER.

Underground electrical service must be provided to a storm shelter.

1370.0210 ILLUMINATION.

Subpart 1. **Minimum illumination.** At least five foot candles of illumination must be provided at floor level.

Subp. 2. **Source.** An emergency lighting system must be supplied from storage batteries or an on-site generator installed in accordance with the requirements of the National Electrical Code, incorporated by reference in chapter 1315.

1370.0220 VENTILATION.

Ventilation must comply with the criterion on page nine of the interim guidelines incorporated in part 1370.0130.

1370.0230 SANITATION FACILITIES.

Sanitation facilities and water for drinking are not required for storm shelters.

Hazardous Substance Injury Compensation Board

Notice of Withdrawal of Rules as Proposed

Notice is hereby given that the rules proposed by the Hazardous Substance Injury Compensation Board regarding attorney fees

and published in the *State Register*, Volume 11, Number 50, pages 2278-2279, June 15, 1987 (11 S.R. 2278) are withdrawn.

The Board has considered comments received in response to the rules proposed June 15, 1987 and is proposing new rules on attorney fees limited to property damage claims. A notice of Proposed Adoption of a Rule Without a Public Hearing is published below.

Hazardous Substance Injury Compensation Board

Proposed Permanent Rules Relating to Attorney Fees for Property Damage Claims

Notice of Proposed Adoption of a Rule Without a Public Hearing

Notice is hereby given that the Hazardous Substance Injury Compensation Board proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* Section 115B.37.

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Virginia L. Reiner
Hazardous Substance Injury Compensation Board
2700 University Avenue West, #115
St. Paul, Minnesota 55114
612/642-0455

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

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

A Statement of Need and Reasonableness that describes the rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request by writing or telephoning the Board's office at the address or telephone number listed above.

Promulgation of the proposed rule will not result in the expenditure of public monies by local public bodies, have an impact on agricultural land or an impact on small businesses.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to the executive director at the address listed above.

Virginia L. Reiner
Executive Director
Hazardous Substance Injury Compensation Board

Rules as Proposed (all new material)

7190.0020 ATTORNEY FEES.

Subpart 1. **Entitlement.** An attorney is entitled to a fee for representing a claimant in a property damage claim before the board

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if the claimant accepts an award from the board. Representation includes preparation involved in filing an application, monitoring the claim progress, communication with the board and appearances before the board.

Subp. 2. **Maximum fee.** The fee must not exceed 15 percent of the amount the board awards the claimant for the property damage.

Subp. 3. **Variance not binding.** An agreement between the attorney and client that attempts to vary or change the provisions of this part is not binding upon the attorney and the client.

Pollution Control Agency

Proposed Permanent Rules Relating to Air Quality Permit Fees

Notice of Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) will hold a public hearing in the above-entitled matter in the Board Room of the Agency, Lower Level, 520 Lafayette Avenue North, St. Paul, Minnesota, commencing at 9:30 a.m. on Thursday, December 17, 1987. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing. A public hearing was previously held on these same rules on September 1, 1987, and no changes have been made to the proposed rules.

The matter will be heard before Administrative Law Judge Allan Klein, Office of Administrative Hearings, 5th Floor, Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, (612) 341-7609. The rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1986) and by the rules of the Office of Administrative Hearings, *Minnesota Rules* Parts 1400.0200 to 1400.1200 (1987). Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above.

The subject of the hearing will be proposed amendments to rules governing air quality permit fees, *Minnesota Rules* Parts 7002.0010 to 7002.0110. The proposed rule amendments are authorized by *Minnesota Statutes* § 116.07, subd. 4d (1986). The proposed rule amendments are published below. One free copy of the rule amendments is available on request by contacting:

Ahto Niemioja
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7485

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the Agency offices and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rule amendments. Copies of the Statement of Need and Reasonableness may be reviewed at the Agency offices or at the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Any person may present his or her views on the proposed rule amendments in one or more of the following ways: by submitting written data to the Administrative Law Judge at any time before the close of the hearing; by submitting oral or written data at the hearing; and by submitting written data to the Administrative Law Judge during the comment period following the hearing. The comment period will be not less than five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. The written material received during the comment period shall be available for review at the Office of Administrative Hearings. Within three business days after the expiration of the comment period, the Agency and interested persons may respond in writing to any new information received during the comment period; however, no additional evidence may be submitted during this three-day period.

The Agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment period also submit a copy of the written data to Ahto Niemioja at the address stated above.

The proposed rule amendments may be modified if the data and views received during the hearing process warrant modification and the modification does not result in a substantial change in the proposed rules.

Any person may request notification of the date on which the Administrative Law Judge'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. If you desire to be so notified, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rule amendments are adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Agency at any time prior to the filing of the rules with the Secretary of State.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rules affect small business because they will increase all air quality application, processing, and annual fees (including those fees for small businesses) by an average of 60 percent.

Please be advised that *Minnesota Statutes* ch. 10A (1986) requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 (1986) 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 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.

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 624 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5615.

Thomas J. Kalitowski
Commissioner

Rules as Proposed

7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.

Subpart 1. [Unchanged.]

Subp. 2. **Application fee.** A person making application for an air emission facility permit or an indirect source permit shall submit with the application an application fee of ~~$50~~ $80.

Subp. 3. **Basic processing fees.** The permittee shall pay the following basic processing fees for the applicable permit activity:

A. ~~$900~~ $1,440 for the construction of an indirect source;

B. ~~$900~~ $1,440 for the construction or reconstruction of a major emission facility;

C. ~~$300~~ $480 for the construction or reconstruction of an emission facility other than a major emission facility;

D. ~~$300~~ $480 for the modification of a major emission facility or installation of air pollution control equipment at a major emission facility;

E. ~~$100~~ $160 for the modification of an emission facility other than a major emission facility or installation of air pollution control equipment at an emission facility other than a major emission facility;

F. ~~$450~~ $720 for the reissuance of a major emission facility permit; and

G. ~~$150~~ $240 for the reissuance of an emission facility permit other than a major emission facility.

For purposes of this subpart, activities as described in items D and E that occur during the last year of the term of a permit will be addressed along with the reissuance of the permit for a new term. The agency shall waive the fee for items D and E and only assess a reissuance fee and applicable additional processing fees.

Subp. 4. **Additional processing fees.** In addition to the basic processing fees required in subpart 3, the permittee shall pay the following additional processing fees, if applicable:

A. ~~$500~~ $800 for a major stationary source, as defined in Code of Federal Regulations, title 40, section 51.18(j)(1)(iv), as amended through June 25, 1982, located in a nonattainment area;

B. ~~$150~~ $240 for an emission facility that is subject to the federal prevention of significant deterioration requirements as established in Code of Federal Regulations, title 40, section 51.24;

C. ~~$50~~ $80 for an emission facility that is subject to the federal new source performance standards established in Code of Federal Regulations, title 40, part 60;

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D. ~~$150~~ $240 for an emission facility that must apply best available control technology as required under Code of Federal Regulations, title 40, section 51.24;

E. ~~$250~~ $400 for evaluation of air emissions containing pollutants for which no ambient air quality standard has been established under part 7005.0080 (state ambient air quality standards) and which have the potential to be injurious to human health;

F. ~~$150~~ $240 for dispersion modeling review; and

G. ~~$150~~ $240 for each performance test review.

Subp. 5. **Annual fees.** All persons required to obtain an air emission facility permit shall pay the following applicable annual fee:

A. ~~$650~~ $1,040 for a major emission facility; or

B. ~~$150~~ $240 for an emission facility other than a major emission facility.

The agency shall not charge an annual fee for an emission facility with potential emissions of a single pollutant of more than 25 tons per year but less than 50 tons per year unless the facility also discharges lead to the ambient air.

Subp. 6. [Unchanged.]

Pollution Control Agency

Proposed Permanent Rules Relating to Hazardous Waste; Tanks

Notice of Intent to Adopt Rule Amendments Without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1986). The MPCA's authority to adopt the rule amendments is set forth in *Minnesota Statutes* § 116.07, Subd. 4 (1986).

All persons have until 4:30 p.m. on December 16, 1987 to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rule amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986).

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

Carol Nankivel
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

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

The proposed rule amendments, if adopted, will incorporate recent changes to the federal hazardous waste regulations regarding the design and operation of tanks used to treat, store, or accumulate hazardous wastes. The proposed rule amendments add more extensive requirements for tank assessment, secondary containment, inspection, and responses to leaks and spills.

The proposed rule amendments follow this notice. One free copy of the proposed rule amendments is available upon request from Carol Nankivel at 612/296-7260 or at the address stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon to support the proposed rule amendments has been prepared and is available from Carol Nankivel upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "small business considerations in rulemaking," that the proposed rule amendments will have a minimal impact on small businesses. Most of the amendments are already provisions of the federal hazardous waste program. By adopting these provisions as State rules the MPCA is not increasing the level of regulation beyond the scope of the federal program. In addition, certain aspects of the proposed amendments are more stringent than the federal

regulations. However, these more stringent requirements are justified in the Statement of Need and Reasonableness and will not present an unreasonable burden to small businesses.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and the supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rule amendments as adopted, must submit a written request to Carol Nankivel at the address stated above.

Gerald L. Willet
Commissioner

Rules as Proposed

7001.0560 GENERAL INFORMATION REQUIREMENTS FOR PART B OF APPLICATION.

Part B of the application must contain the following information:

A. to D. [Unchanged.]

E. A copy of the inspection schedule required by part 7045.0452, subpart 5, item B, including, if applicable, the information set forth in parts 7045.0526, subpart 5; 7045.0528, ~~subpart 4~~ subparts 5 and 7; 7045.0532, subpart 5; 7045.0534, subparts 5 and 6; 7045.0536, subpart 4; 7045.0538, subpart 5; and 7045.0542, subpart 7.

F. to K. [Unchanged.]

L. A copy of the closure plan and, where applicable, the post-closure plan required by parts 7045.0486 ~~and~~, 7045.0490, and 7045.0528, subpart 9, including, if applicable, the specific information in parts 7045.0526, subpart 9; 7045.0528, subpart ~~6~~ 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; and 7045.0542, subpart 8.

M. to U. [Unchanged.]

7001.0580 PART B INFORMATION REQUIREMENTS FOR STORAGE OR TREATMENT TANKS.

Except as otherwise provided in part 7045.0528, subpart 1, if the applicant proposes to use tanks to store or treat hazardous waste, the applicant shall furnish the following information ~~designated in items A and B~~, in writing, in addition to the information required by part 7001.0560:

~~A. A description of the design and operation procedures of the tank that demonstrate compliance with the requirements of part 7045.0528, subparts 2, 3, 7, and 8. This description must include:~~

~~(1) references to design standards or other available information used, or to be used, in the design and construction of the tank;~~

~~(2) a description of the design specifications, including identification of construction materials and lining materials and any pertinent characteristics of these materials, such as corrosion or erosion resistance;~~

~~(3) a description of design specifications and operational procedures that demonstrate compliance with part 7045.0528, subpart 2, item C, for underground tanks;~~

~~(4) tank dimensions, capacity, and shell thickness;~~

~~(5) a diagram of piping, instrumentation, and process flow;~~

~~(6) a description of feed systems, safety cutoff and bypass systems, and pressure controls, such as vents;~~

~~(7) a description of waste types and volumes to be stored in each tank; and~~

~~(8) a description of operational procedures that demonstrate compliance with the requirements of parts 7045.0456 and 7045.0528, subparts 7 and 8, regarding the procedures for handling ignitable, reactive, or incompatible wastes.~~

~~B. A description of the system to be used to contain the tank and any spills or releases of hazardous waste from the tank, demonstrating compliance with part 7045.0528, subpart 5, and where applicable, subpart 9, including at a minimum the following:~~

~~(1) basic design parameters, dimensions, and construction materials;~~

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~~(2) the manner in which the design promotes drainage or prevents contact between the tank and standing liquids;~~

~~(3) the capacity of the system in terms of number and volume of tanks to be held;~~

~~(4) provisions for preventing or managing run-on;~~

~~(5) the manner in which accumulated liquids can be removed to prevent overflow and can be analyzed to determine proper management of the removed liquids; and~~

~~(6) for tanks holding hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2, a description of the system to detect leaks and spills and how precipitation and run-on will be prevented from entering the detection system.~~

A. an assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under part 7045.0528, subparts 2 and 3;

B. the dimensions and capacity of each tank;

C. a description of feed systems, safety cutoff, bypass systems, and pressure controls such as vents for each tank;

D. a diagram of piping, instrumentation, and process flow for each tank system;

E. a description of materials and equipment used to provide external corrosion protection, as required under part 7045.0528, subpart 3, item A, subitem (3);

F. for new tank systems, a detailed description of how the tank systems will be installed in compliance with part 7045.0528, subpart 3, items B to E;

G. detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of part 7045.0528, subpart 4;

H. for tank systems for which a petition from the requirements of part 7045.0528, subpart 4, is sought, as provided in part 7045.0075, subparts 6 and 7:

(1) detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous waste or hazardous constituents into the ground water or surface water during the life of the facility, or

(2) a detailed assessment of the substantial present and potential hazards posed to human health or the environment should a release enter the environment;

I. description of controls and practices to prevent spills and overflows, as required under part 7045.0528, subpart 6, item B; and

J. for tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of part 7045.0528, subparts 10 and 11.

7001.0650 INTERIM STATUS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Prohibitions.** During the interim status period, an owner or operator shall not:

A. treat, store, or dispose of a hazardous waste not specified in Part A of the application;

B. employ processes not specified in Part A of the permit application;

C. exceed the design capacities specified in Part A of the application; or

D. alter a hazardous waste facility in a manner that amounts to a reconstruction of the facility. For the purpose of this part, reconstruction occurs when the capital investment in the modification of the facility exceeds 50 percent of the capital cost of a comparable new hazardous waste facility. Reconstruction does not include changes made solely for the purpose of complying with the requirements of part 7045.0628, subparts 4 and 5, for tanks and ancillary equipment.

Subp. 5. to 7. [Unchanged.]

7045.0020 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the following words shall have the meanings given them.

Subp. 1a. **Aboveground tank.** "Aboveground tank" means a device meeting the definition of "tank" in subpart 90 and that is

situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank, including the tank bottom, is able to be visually inspected.

Subp. 2. to 4. [Unchanged.]

Subp. 4a. **Ancillary equipment.** "Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank, between hazardous waste storage and treatment tanks to a point of disposal on site, or to a point of shipment for disposal off site.

Subp. 5. to 9. [Unchanged.]

Subp. 9a. **Component.** "Component" means either the tank or ancillary equipment of a tank system.

Subp. 10. to 13. [Unchanged.]

Subp. 13a. **Corrosion expert.** "Corrosion expert" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

Subp. 14. to 23. [Unchanged.]

Subp. 23a. **Existing tank system or existing component.** "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or before July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either (1) a continuous on-site physical construction or installation program has begun, or (2) the owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time.

Subp. 24. to 43a. [Unchanged.]

Subp. 43b. **Inground tank.** "Inground tank" means a device meeting the definition of "tank" in subpart 90 whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

Subp. 44. and 45. [Unchanged.]

Subp. 45a. **Installation inspector.** "Installation inspector" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

Subp. 46. to 51. [Unchanged.]

Subp. 51a. **Leak-detection system.** "Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls, such as daily visual inspections for releases into the secondary containment system of aboveground tanks, or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

Subp. 52. to 59. [Unchanged.]

Subp. 59a. **New tank system or new tank component.** "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986. However, for purposes of obtaining approval for a petition pursuant to part 7045.0075, subpart 7, a new tank system is one for which construction commences after July 14, 1986.

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Subp. 59b. **Onground tank.** "Onground tank" means a device meeting the definition of "tank" in subpart 90 and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

Subp. 60. to 87. [Unchanged.]

Subp. 87a. **Sump.** "Sump" means any pit or reservoir that meets the definition of "tank" and those troughs or trenches connected to it that serves to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities.

Subp. 88. to 90. [Unchanged.]

Subp. 90a. **Tank system.** "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

Subp. 91. to 98. [Unchanged.]

Subp. 98a. **Underground tank.** "Underground tank" means a device meeting the definition of "tank" in subpart 90 whose entire surface area is totally below the surface of and covered by the ground.

Subp. 98b. **Unfit-for-use tank system.** "Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

Subp. 99. to 108. [Unchanged.]

Subp. 109. **Zone of engineering control.** "Zone of engineering control" means an area under the control of the owner or operator that, upon detection of a hazardous waste release, can be readily cleaned up before the release of hazardous waste or hazardous constituents to ground water or surface water.

7045.0075 PETITIONS.

Subpart 1. **Petitions for equivalent testing or analytical methods.** Any person seeking to use a testing or analytical method other than those described in parts 7045.0100 to 7045.0141, 7045.0450 to 7045.0544, or 7045.0552 to 7045.0642 may petition under these provisions. The person must demonstrate to the satisfaction of the ~~director~~ commissioner that the proposed method is equal to or superior to the corresponding method prescribed in parts 7045.0100 to 7045.0141, 7045.0450 to 7045.0544, or 7045.0552 to 7045.0642 in terms of its sensitivity, accuracy, precision, and reproducibility. Each petition must include:

A. to G. [Unchanged.]

After receiving a petition for an equivalent testing or analytical method, the ~~director~~ commissioner may request any additional information on the proposed method which ~~he~~ the commissioner may reasonably require to evaluate the method.

Subp. 2. to 5. [Unchanged.]

Subp. 6. **Petition for alternate design or operating practices for secondary containment of tank systems.** A person may submit a petition to the commissioner for approval to use alternate design or operating practices in lieu of the requirements of parts 7045.0528, subpart 4, and 7045.0628, subpart 4. The commissioner's decision shall be based on a demonstration by the petitioner that the alternate design and operating practices, together with location characteristics, will prevent the migration of any hazardous wastes or hazardous constituents into surface and ground water as effectively as the secondary containment requirements of parts 7045.0528, subpart 4, and 7045.0628, subpart 4, during the active life of the tank system.

A. In order to determine equivalent protection, the commissioner shall consider:

(1) the nature and quantity of the wastes;

(2) the proposed alternate design and operating practices;

(3) the hydrogeologic setting of the tank system, including the thickness of soils present between the tank system and ground water; and

(4) factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to ground water or surface water.

B. The following procedures must be followed for submittal of a petition for alternate design or operating practices for secondary containment of permitted tank systems.

(1) The commissioner must be notified in writing by the owner or operator that he or she intends to conduct and submit a demonstration for a petition from secondary containment for existing tank systems. This notification must be submitted at least 24 months before the date that secondary containment must be provided in accordance with part 7045.0528, subpart 4, item A. For new tank systems, this notification must be submitted at least 30 days before entering into a contract for installation.

(2) As part of the notification, the owner or operator must also submit to the commissioner a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in item A.

(3) The demonstration for a petition must be completed within 180 days after notifying the commissioner of an intent to conduct the demonstration.

(4) If a petition is granted under this subpart, the commissioner will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the petition.

C. The following procedures must be followed for submittal of a petition for alternate design or operating practices for secondary containment of interim status tank facilities and generator's tanks.

(1) The owner or operator must notify the commissioner in writing that a demonstration will be conducted and submitted to obtain approval to use alternate design or operating practices. For existing tank systems this notification must be submitted 24 months before the date that secondary containment must be provided in accordance with part 7045.0628, subpart 4, item A. For new tank systems this notification must be submitted 30 days before entering into a contract for installation of the tank system.

(2) As part of the notification, the owner or operator must also submit a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. This description must be submitted to the commissioner and must address each of the factors listed in item A.

(3) The demonstration for a petition must be completed and submitted to the commissioner within 180 days after notifying the commissioner of the intent to conduct the demonstration.

(4) The commissioner will notify the public, through a newspaper notice, of the availability of the demonstration for a petition. The notice shall be placed in a daily or weekly major local newspaper of general circulation and shall provide at least 30 days from the date of the notice for the public to review and comment on the demonstration. Public comments shall be made in accordance with the procedures and requirements in part 7001.0110. If public comments request that a contested case hearing be held, the commissioner shall review the requests using the standards in part 7001.0120 or 7001.0130, whichever applies. If a public information meeting or contested case hearing is held, the commissioner shall give notice of the hearing or meeting in accordance with the requirements of part 7001.0120 or 7001.0130, whichever applies, except that the commissioner shall give notice at least 30 days before the date of the hearing or meeting. In addition, notice of the hearing or meeting may be given at the same time as the notice of availability of the demonstration for a petition.

(5) When the commissioner approves or disapproves a petition request, the owner or operator will be notified in writing of the petition decision. The commissioner will also notify each person who submitted written comments or requested notice of the petition decision.

D. Upon approval of a petition for alternate design or operating practices, as provided in item A, the owner or operator of a tank system must comply with the following requirements in the event of a release of hazardous waste from the primary tank system that has not migrated beyond the zone of engineering control. The owner or operator must:

(1) comply with the requirements of part 7045.0528, subpart 8, except for item D; or for interim status facilities and generator's tanks, the requirements of part 7045.0628, subpart 8, except for item D;

(2) decontaminate or remove contaminated soil to the extent necessary to enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had before the release, and prevent the migration of hazardous waste or hazardous constituents to ground water or surface water; and

(3) if contaminated soil cannot be removed or decontaminated in accordance with subitem (2), comply with the requirement of part 7045.0528, subpart 9, item B; or for interim status facilities or generator's tanks, the requirement of part 7045.0628, subpart 9, item B.

E. Upon approval of a petition for alternate design or operating practices under item A, the owner or operator of a tank system must comply with the following requirements in the event of a release of hazardous waste from the primary tank system that has migrated beyond the zone of engineering control. The owner or operator must:

(1) Comply with the requirements of part 7045.0528, subpart 8, items A to D; or for interim status facilities or generator's tanks, the requirements of part 7045.0628, subpart 8, items A to D.

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(2) Prevent the migration of hazardous waste or hazardous constituents to ground water or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if ground water has been contaminated, the owner or operator must comply with the requirements of subpart 9, item B; or for interim status facilities or generator's tanks, the requirements of part 7045.0628, subpart 9, item B.

(3) If repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with part 7045.0528, subpart 4; or for interim status facilities or generator's tanks, part 7045.0628, subpart 4, reapply for a variance from secondary containment and meet the requirements for new tank systems in part 7045.0528, subpart 3, if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and ground water or surface water has not been contaminated.

Subp. 7. **Petition for demonstration of no substantial hazard from tank systems.** A person may submit a petition to the agency for an exemption from the secondary containment requirements of parts 7045.0528, subpart 4, and 7045.0628, subpart 4. The agency's decision shall be based on a demonstration that, in the event of a release that migrates to ground water or surface water, no substantial present or potential hazard will be posed to human health or the environment. No petition may be granted under this subpart for new underground tank systems.

A. In order to determine no substantial present or potential hazard, the agency shall consider the following factors.

(1) The potential adverse effects on ground water, surface water, and land quality, taking into account:

(a) the physical and chemical characteristics of the waste in the tank system, including its potential for migration;

(b) the hydrogeologic characteristics of the facility and surrounding land;

(c) the potential for health risks caused by human exposure to waste constituents;

(d) the potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(e) the persistence and permanence of the potential adverse effects.

(2) The potential adverse effects of a release on ground water quality, taking into account:

(a) the quantity and quality of ground water and the direction of ground water flow;

(b) the proximity and withdrawal rates of ground water users;

(c) the current and future uses of ground water in the area; and

(d) the existing quality of ground water, including other sources of contamination and their cumulative impact on ground water quality.

(3) The potential adverse effects of a release on surface water quality, taking into account:

(a) the quantity and quality of ground water and the direction of ground water flow;

(b) the patterns of rainfall in the region;

(c) the proximity of the tank system to surface waters;

(d) the current and future uses of surface waters in the area and any water quality standards established for these surface waters;

(e) the existing quality of surface water, including other sources of contamination; and

(f) the cumulative impact on surface water quality.

(4) The potential adverse effects of a release on the land surrounding the tank system, taking into account:

(a) the patterns of rainfall in the region; and

(b) the current and future uses of the surrounding land.

B. The following procedures must be followed for the submittal of a petition for an exemption from secondary containment for permitted facilities.

(1) The agency must be notified in writing by the owner or operator that he or she intends to conduct and submit a demonstration to be exempted from secondary containment requirements. For existing tank systems, this notification must be submitted at least 24 months before the date secondary containment must be provided in accordance with part 7045.0528, subpart 4, item A. For new aboveground, onground, or inground tank systems, this notification must be submitted at least 30 days before entering into a contract for installation.

(2) As part of the notification, the owner or operator must also submit to the agency a description of the steps necessary

to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in item A.

(3) The demonstration for a petition must be completed within 180 days after notifying the agency of the intent to conduct the demonstration.

(4) If a petition is granted under this subpart, the agency will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the petition.

C. The following procedures must be followed for submittal of a petition for an exemption from secondary containment for interim status or generator's tanks.

(1) The owner or operator must notify the agency in writing that a demonstration will be conducted and submitted to obtain approval to use alternate design or operating practices. For existing tank systems, this notification must be submitted 24 months before the date that secondary containment must be provided in accordance with part 7045.0628, subpart 4, item A. For new aboveground, onground, or inground tank systems, this notification must be submitted 30 days before entering into a contract for installation of the tank system.

(2) As part of the notification, the owner or operator must also submit a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. This description must be submitted to the agency and must address each of the factors listed in item A.

(3) The demonstration for a petition must be completed and submitted to the agency within 180 days after notifying the agency of the intent to conduct the demonstration.

(4) The agency will notify the public, through a newspaper notice, of the availability of the demonstration for a petition. The notice shall be placed in a daily or weekly major local newspaper of general circulation and shall provide at least 30 days from the date of the notice for the public to review and comment on the demonstration. Public comments shall be made in accordance with the procedures and requirements in part 7001.0110. If public comments request that a contested case hearing be held, the agency shall review the requests using the standards in part 7001.0120 or 7001.0130, whichever applies. If a public information meeting or contested case hearing is held, the agency shall give notice of the hearing or meeting in accordance with the requirements of part 7001.0120 or 7001.0130, whichever applies, except that the agency shall give notice at least 30 days before the date of the hearing or meeting. In addition, notice of the hearing or meeting may be given at the same time as the notice of availability of the demonstration for a petition.

(5) When the agency approves or disapproves the petition request within 90 days, the owner or operator will be notified in writing of the petition decision. The agency will also notify each person who submitted written comments or requested notice of the petition decision.

7045.0120 EXEMPT WASTES.

The following wastes may be stored, labeled, transported, treated, processed, and disposed of without complying with the requirements of this chapter:

A. to P. [Unchanged.]

Q. Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided that:

(1) only tank storage is involved and the entire process, through completion of reclamation, is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(2) reclamation does not involve controlled flame combustion such as occurs in boilers, industrial furnaces, or incinerators;

(3) the secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and

(4) the reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. to 4. [Unchanged.]

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Subp. 5. **Management requirements.**

A. Small quantity generators shall comply with the following requirements of this chapter:

(1) to (6) [Unchanged.]

(7) parts 7045.0626 and ~~7045.0628~~ 7045.0629.

B. and C. [Unchanged.]

Subp. 6. [Unchanged.]

7045.0292 ACCUMULATION OF HAZARDOUS WASTE.

Subpart 1. **When allowed without a permit.** A generator may accumulate hazardous waste on-site without a permit or without having interim status if:

A. [Unchanged.]

B. the waste is placed in containers which meet the standards of part 7045.0270, subpart 4 and are managed in accordance with part 7045.0626, subparts 4 to 6; or in tanks provided the generator complies with the requirements of part 7045.0628 except part 7045.0628, subpart ~~3~~ 9, item C, and subpart 12;

C. to H. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

7045.0452 GENERAL FACILITY STANDARDS.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **General inspection requirements.** General inspection requirements include the following:

A. and B. [Unchanged.]

C. The frequency of inspection may vary for the items on the schedule. However, it must be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunctions or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. The inspection schedule must include the terms and frequencies called for in parts 7045.0526, subpart 5; 7045.0528, ~~subpart~~ subparts 4, 5, and 7; 7045.0532, subpart 5; 7045.0534, subparts 5 and 6; 7045.0538, subpart 5; and 7045.0542, subpart 7, where applicable. The inspection schedule must be submitted with the permit application. The ~~director~~ commissioner shall evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the ~~director~~ commissioner may modify or amend the schedule as necessary.

D. and E. [Unchanged.]

7045.0478 OPERATING RECORD.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Record information.** All of the following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

A. to G. [Unchanged.]

H. Monitoring, testing, or analytical data where required by parts 7045.0484; 7045.0528, subparts 2, 4, 5, and 7; 7045.0532, subpart 5; 7045.0534, subparts 5 and 6; 7045.0536, subparts 5, 6, and 8; 7045.0538, subparts 5 and 6; and 7045.0542, subpart 7.

I. and J. [Unchanged.]

7045.0490 POST-CLOSURE.

Subpart 1. **Scope.** Except as otherwise provided in part 7045.0450, the provisions of subparts 2, 3, and parts 7045.0492 to 7045.0496 apply to:

A. the owner or operator of a hazardous waste disposal facility ~~and~~;

B. the owner or operator of a waste pile or surface impoundment ~~which~~ that is required by part 7045.0532, subpart 7 ~~,~~, or 7045.0534, subpart 7~~,~~, to have a post-closure plan; and

C. the owner or operator of tank systems that are required under part 7045.0528, subpart 9, to meet the requirements for landfills.

Subp. 2. and 3. [Unchanged.]

7045.0498 FINANCIAL REQUIREMENTS.

Subpart 1. **Scope.** Parts 7045.0502, 7045.0504, and 7045.0518 to 7045.0524 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this part or in part 7045.0450, subpart 3.

Parts 7045.0506 and 7045.0508 apply only to owners and operators of:

A. disposal facilities; ~~and~~

B. waste piles, and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that he or she is required to develop a contingent closure and post-closure care plan in parts 7045.0532, subpart 7; and 7045.0534, subpart 7; and

C. tank systems that are required under part 7045.0528, subpart 9, to meet the requirements for landfills.

Parts 7045.0512 to 7045.0516 apply only to owners and operators of facilities that treat, store, or dispose of hazardous waste in surface impoundments, waste piles, land treatment units, or landfills.

The state and the federal government are exempt from the requirements of parts 7045.0498 to 7045.0524.

Subp. 2. [Unchanged.]

7045.0528 TANKS.

Subpart 1. **Scope.** This part applies to owners and operators of facilities that use tanks to treat or store hazardous waste, except as part 7045.0450 ~~provides~~, and items A and B provide otherwise.

A. Tanks that are used to store or treat hazardous waste that contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in subparts 4 and 5. To demonstrate the absence or presence of free liquids in the stored or treated waste, EPA Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846) must be used.

B. Tanks, including sumps, as defined in part 7045.0020, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempt from the requirements in subparts 4 and 5.

Subp. 2. **~~Design~~ Assessment of ~~tanks~~ existing tank system's integrity.** ~~Tanks must be designed as follows:~~

~~A. Tanks must have sufficient shell strength and, for closed tanks, pressure controls to ensure that they do not collapse or rupture. The director shall review the design of the tanks, including the foundation, structural support, seams, and pressure controls. A minimum shell thickness must be maintained at all times to ensure sufficient shell strength. Factors to be considered in establishing minimum thickness include the width, height, and materials of construction of the tank, and the specific gravity of the waste which will be placed in the tank. In reviewing the design of the tank and establishing a minimum thickness, the director shall rely upon appropriate industrial design standards and other available information.~~

~~B. Tanks and their closures must be constructed of materials, or protected by a liner that will not undergo chemical reaction with the contained hazardous waste or other substances that the tank may foreseeably contact if such a reaction may impair the tank's ability to contain the waste. Gasketed closures must be fitted with gaskets of material that is sufficient to prevent leakage and that will not be deteriorated by the contents.~~

~~C. The owner or operator shall design and construct underground tanks to meet the general design requirements of items A and B for all tanks and must allow for the inspection of the interior and exterior of the tank according to subpart 4 or:~~

~~(1) provide for corrosion protection by use of protective coatings or cathodic protection;~~

~~(2) provide for the detection of any leakage through the use of sensing devices or other equivalent methods;~~

~~(3) perform hydrostatic testing on all tanks with the initial test being performed within three years of the July 16, 1984 and at least every three years thereafter; and~~

~~(4) keep a weekly inventory for each tank. Inventories must be based upon the actual daily measurement of tank liquid level. The written record must include a computation of gain or loss for the period. Inventory records must be maintained for at least three years at the facility. Upon discovery of loss of ten percent of the waste volume, the owner or operator shall notify the director and implement the procedures outlined in the owner's or operator's contingency plan for that occurrence.~~ The following requirements apply to existing tank systems:

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A. For each existing tank system that does not have secondary containment meeting the requirements of subparts 4 and 5, the owner or operator must determine whether the tank system is leaking or is unfit for use. Except as provided in item C, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified registered professional engineer, that attests to the tank system's integrity. The certification must include the statements in parts 7001.0070 and 7001.0540.

B. This assessment must determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the wastes to be stored or treated to ensure that it will not collapse, rupture, or fail. This assessment must consider the following:

(1) design standards, if available, according to which the tank and ancillary equipment were constructed;

(2) hazardous characteristics of the waste that has been and will be handled;

(3) existing corrosion protection measures;

(4) documented age of the tank system, if available (otherwise, an estimate of the age); and

(5) results of a leak test, internal inspection, or other tank integrity examination. For nonenterable underground, inground, or onground tanks, the assessment must include a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects. For other than nonenterable underground, inground, or onground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination, that is certified by an independent, qualified, registered professional engineer, that addresses cracks, leaks, corrosion, and erosion. The certification must include the statements in parts 7001.0070 and 7001.0540.

C. Owners or operators of tank systems that were required to conduct this assessment by Code of Federal Regulations, title 40, section 264.191(a), must conduct and keep this assessment on file as required by that section. Owners or operators of all other existing tank systems must conduct this assessment within 18 months of the effective date of this part. Owners or operators of tank systems that store or treat materials that become hazardous wastes must conduct this assessment within 12 months after the date the waste becomes a hazardous waste.

D. If, as a result of the assessment conducted in accordance with item A, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of subpart 8.

Subp. 3. ~~**General operating requirements**~~ **Design and installation of new tank systems or components.** ~~Wastes and other materials that are incompatible with the material of the construction of the tank must not be placed in the tank, unless the tank is protected from accelerated corrosion, erosion, or abrasion through the use of an inner liner or coating which is compatible with the waste or material and which is free of leaks, cracks, holes, or other deterioration; or an alternate means of protection such as cathodic protection, or corrosion inhibitors.~~

~~The owner or operator must use appropriate controls and practices to prevent overfilling. These must include controls to prevent overfilling such as waste feed cutoff systems or bypass systems to a standby tank, and for uncovered tanks, maintenance of sufficient freeboard to prevent overtopping by wave or wind action or by precipitation.~~ New tank systems and components must be designed as follows:

A. Owners or operators of new tank systems or components must obtain and submit to the commissioner at time of submittal of Part B information, a written assessment, reviewed and certified by an independent, qualified registered professional engineer, attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The certification must include the statements in parts 7001.0070 and 7001.0540. The assessment must show that the foundation, structural support, seams, connections, and pressure controls, if applicable, are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. This assessment must include the following information:

(1) design standards according to which tanks and/or the ancillary equipment are constructed;

(2) hazardous characteristics of the waste to be handled;

(3) for new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system will be in contact with the soil or with water, a determination by a corrosion expert of the factors affecting the potential for corrosion, including soil moisture content, soil pH, soil sulfides level, soil resistivity, structure to soil potential, influence of nearby underground metal structures such as piping, existence of stray electric current, and existing corrosion-protection measures such as coating and cathodic protection. The determination must also address the type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component. This protection must consist of corrosion-resistant materials of construction such as special alloys or fiberglass reinforced plastic; corrosion-resistant coating, such as epoxy or fiberglass, with cathodic protection such as impressed current or sacrificial anodes; or electrical isolation devices such as insulating joints, or flanges;

(4) for underground tank system components that are likely to be adversely affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

(5) design considerations to ensure that tank foundations will maintain the load of a full tank, tank systems will be anchored to prevent flotation or dislodgement where the tank system is placed in a saturated zone, and tank systems will withstand the effects of frost heave.

B. The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Before covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, registered professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of weld breaks, punctures, scrapes of protective coatings, cracks, corrosion, or other structural damage or inadequate construction or installation. All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

C. New tank systems or components that are placed underground and that are backfilled must be provided with a backfill material that is a noncorrosive, porous, homogeneous substance and that is installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

D. All new tanks and ancillary equipment must be tested for tightness before being covered, enclosed, or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leaks in the system must be performed before the tank system is covered, enclosed, or placed into use.

E. Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

F. The owner or operator must provide the type and degree of corrosion protection recommended by an independent corrosion expert, based on the information provided under item A, subitem (3), or other corrosion protection if the commissioner believes other corrosion protection is necessary to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

G. The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of items A to F that attest that the tank system was properly designed and installed and that repairs under items B and D were performed. The certification must include the statements in parts 7001.0070 and 7001.0540.

Subp. 4. ~~**Inspections**~~ **Containment and detection of releases.** The following requirements apply to ~~inspections~~ the containment and detection of releases from tanks:

~~A. The owner or operator shall inspect:~~

~~(1) overfilling control equipment, including waste feed cut off systems and bypass systems, at least once each operating day to ensure that it is in good working order;~~

~~(2) data gathered from monitoring equipment, where present, at least once each operating day to ensure that the tank is being operated according to its design;~~

~~(3) for uncovered tanks, the level of waste in the tank at least once each operating day to ensure compliance with subpart 3;~~

~~(4) the construction materials of the tank, at least weekly to detect corrosion or erosion and leaking of fixtures and seams; and~~

~~(5) the area immediately surrounding the tank and the containment system, at least weekly to detect obvious signs of leakage and deterioration of the containment system caused by corrosion, erosion, or other factors.~~

~~B. As part of the inspection schedule required in part 7045.0452 and in addition to the specific requirements of item A, the owner or operator shall develop a schedule and procedure for assessing the condition of the tank. The schedule and procedure must be adequate to detect cracks, leaks, or corrosion or erosion which may lead to cracks, leaks, or wall thinning to less than the thickness required under subpart 2. Procedures for emptying a tank to allow entry and inspection of the interior must be established~~

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~~when necessary to detect corrosion or erosion of the tank sides and bottom. The frequency of these assessments must be based on the material of construction of the tank, type of corrosion or erosion protection used, rate of corrosion or erosion observed during previous inspections, and the characteristics of the waste being treated or stored.~~

~~C. As part of the contingency plan required under parts 7045.0464 to 7045.0470, the owner or operator must specify:~~

~~(1) the procedures he or she intends to use to respond to tank spills or leakage, including procedures and timing for expeditious removal of leaked or spilled waste and repair of the tank. As required in part 7045.0452, subpart 5, item D, the owner or operator shall remedy any leak, crack, or wall thinning in violation of subpart 2, or equipment or process malfunction in violation of subpart 3, which he or she discovers during inspection; and~~

~~(2) for tanks holding wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2, the contingency plan must also include the procedures for responding to a spill or leak of these wastes from tanks into the containment system. These procedures shall include measures for immediate removal of the waste from the system and replacement or repair of the leaking tank.~~

A. In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this part must be provided, except as provided in item H:

(1) for new tank systems or components, before they are put into service;

(2) for existing tank systems, within five years of the effective date of these rules, except as provided in subitem (3);

(3) for tank systems that are known to be more than 15 years old or that will reach 15 years of age before the time provided in subitem (2), by January 12, 1989;

(4) for tank systems that store or treat materials that become hazardous wastes, within two years of the date the material becomes hazardous waste; and

(5) for all existing tanks used to store or treat EPA hazardous waste Nos. F020, F021, F022, F023, F026, F027, and F028, by January 12, 1989.

B. Secondary containment systems must be:

(1) designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system; and

(2) capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

C. To meet the requirements of item B, secondary containment systems must be:

(1) constructed of or lined with materials that are compatible with the waste to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients, including static head and external hydrological forces; physical contact with the waste to which it is exposed; climatic conditions; and the stress of daily operation, including stresses from nearby vehicular traffic;

(2) placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(3) provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or at the earliest practicable time if the owner or operator can demonstrate to the commissioner that existing detection technologies or site conditions will not allow detection of a release within 24 hours; and

(4) sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the commissioner that removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.

D. Unless a petition is granted under part 7045.0075, subpart 7, secondary containment for tanks must include one or more of the following devices:

(1) a liner external to the tank;

(2) a vault;

(3) a double-walled tank; or

(4) an equivalent device as approved by the commissioner under part 7045.0075, subpart 6.

E. In addition to the requirements of items B, C, and D, an external liner system of secondary containment systems must be:

(1) designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;

(2) designed and operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. The additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

(3) free of cracks or gaps; and

(4) designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank; that is, capable of preventing lateral as well as vertical migration of the waste.

F. In addition to the requirements of items B, C, and D, a vault system must be:

(1) designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;

(2) designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

(3) constructed with chemical-resistant water stops in place at all joints, if any;

(4) provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

(5) provided with a means to protect against the formation and ignition of vapors within the vault, if the waste being stored or treated meets the definition of ignitable waste under part 7045.0131, or reactive waste under part 7045.0131 and may form an ignitable or explosive vapor; and

(6) provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

G. In addition to the requirements of items B, C, and D, double-walled tanks must be:

(1) designed as an integral structure, that is, an inner tank completely enveloped within an outer shell, so that any release from the inner tank is contained by the outer shell;

(2) protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

(3) provided with a built-in continuous leak detection system capable of detecting a release within 24 hours, or at the earliest practicable time, if the owner or operator can demonstrate to the commissioner, and the commissioner concludes, that the existing detection technology or site conditions would not allow detection of a release within 24 hours.

H. Ancillary equipment must be provided with secondary containment, such as trench, jacketing, or double-walled piping, that meets the requirements of items B and C, except for:

(1) aboveground piping, exclusive of flanges, joints, valves, and other connections, that are visually inspected for leaks on a daily basis;

(2) welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;

(3) sealless or magnetic coupling pumps that are visually inspected for leaks on a daily basis; and

(4) pressurized aboveground piping systems with automatic shut-off devices, such as excess flow check valves, flow metering shutdown devices, and loss of pressure actuated shut-off devices, that are visually inspected for leaks on a daily basis.

Subp. 5. ~~Containment~~ **Requirements for tank systems.** ~~Requirements for containment systems are as follows:~~

~~A. Storage or treatment tank areas must have a containment system that is capable of collecting and holding spills, leaks, and precipitation. The containment system must:~~

~~(1) have a base underlying the tanks which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;~~

~~(2) have a base which is sloped, or be otherwise designed and operated to drain and remove liquids resulting from leaks,~~

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~~spills, or precipitation, unless the tank is protected from contact with accumulated liquids;~~

~~(3) have sufficient capacity to contain ten percent of the volume of tanks, or the volume of the largest tank, whichever is greater, plus ten centimeters (four inches) of freeboard; and~~

~~(4) be constructed so that the interface between the dike or sidewall and the underlying base is sealed to contain leaks, spills, and accumulated liquids.~~

~~B. Run-on into the containment system must be prevented, unless the agency waives this requirement in the permit after determining that the collection system has sufficient excess capacity in addition to that required in item A, subitem (3) to accommodate any run-on which might enter the system.~~

~~C. Spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system. If the collected material is a hazardous waste as defined in parts 7045.0100 to 7045.0141, it must be managed as a hazardous waste in accordance with all applicable requirements of parts 7045.0205 to 7045.1030. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of the federal Water Pollution Control Act Amendments of 1972, United States Code, title 33, section 1342, as amended through June 30, 1983.~~ All tank systems, until such time as secondary containment that meets the requirements of this part is provided, must comply with the following:

A. For nonenterable underground, inground, and onground tanks, a leak test that meets the requirements of subpart 2, item B, subitem (5), or other tank integrity method, as approved or required by the commissioner, must be conducted at least annually.

B. For other than nonenterable underground, inground, and onground tanks, the owner or operator must either conduct a leak test as in item A, or develop a schedule and procedure for an assessment of the overall condition of the tank system by an independent, qualified, registered professional engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection, and the characteristics of the waste being stored or treated.

C. For underground, inground, and onground tanks, a test to detect tank wall thinning and to determine that the minimum tank wall thickness is maintained. The frequency of the inspections will be determined by the commissioner based on consideration of waste type, tank construction and materials, age of facility, and facility management practices.

D. For ancillary equipment, a leak test or other integrity assessment as approved by the commissioner, must be conducted at least annually.

E. The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with items A to D.

F. If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in items A to D, the owner or operator must comply with the requirements of subpart 8.

Subp. 6. ~~Closure~~ **General operating requirements.** ~~At closure, all hazardous waste and hazardous residues must be removed from tanks, discharge control equipment, discharge confinement structures, and the containment system. Remaining liners, bases, and soil containing or contaminated with hazardous waste or hazardous waste residues must be decontaminated or removed. At closure, as throughout the operating period, unless the owner or operator can demonstrate that the waste removed from his tank or containment system is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and shall manage it in accordance with all applicable requirements of parts 7045.0205 to 7045.1030.~~

A. Hazardous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.

B. The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include:

(1) spill prevention controls such as check valves and dry disconnect couplings;

(2) overfill prevention controls such as level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank; and

(3) maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

C. The owner or operator must comply with the requirements of subpart 8 if a leak or spill occurs in the tank system.

Subp. 7. **Inspections.** The following requirements apply to inspections:

A. The owner or operator must develop and follow a schedule and procedure for inspecting overfill controls.

B. The owner or operator must inspect at least once each operating day:

(1) aboveground portions of the tank system, if any, to detect corrosion or releases of waste;

(2) data gathered from monitoring and leak detection equipment, such as pressure or temperature gauges and monitoring wells, to ensure that the tank system is being operated according to its design; and

(3) the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system, such as dikes, to detect erosion or signs of releases of hazardous waste such as wet spots and dead vegetation.

C. The owner or operator must inspect cathodic protection systems, if present, according to the following schedule to ensure that they are functioning properly:

(1) the proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and

(2) all sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly.

D. The owner or operator must document in the operating record of the facility an inspection of those items in items A to C.

Subp. 8. **Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.** The owner or operator of a tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must satisfy the following requirements:

A. The owner or operator must immediately stop the flow of hazardous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

B. Removal of waste from tank system or secondary containment system:

(1) If the release was from the tank system, the owner or operator must, within 24 hours after detection of the leak, or if the owner or operator demonstrates that it is not possible, at the earliest practicable time, remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed.

(2) If the material released was to a secondary containment system, all released materials must be removed within 24 hours or in as timely a manner as is possible to prevent harm to human health and the environment.

C. The owner or operator must immediately conduct a visual inspection of the release and, based upon that inspection:

(1) prevent further migration of the leak or spill to soils or surface water; and

(2) remove and properly dispose of any visible contamination of the soil or surface water.

D. Notification and reports.

(1) Any release to the environment must be reported to the commissioner within 24 hours of its detection.

(2) Within 30 days of detection of a release to the environment, a report containing the following information must be submitted to the commissioner. The report must include the likely route of migration of the release; the characteristics of the surrounding soil, including soil composition, geology, hydrogeology, and climate; and the results of any monitoring or sampling conducted in connection with the release, if available. If sampling or monitoring data relating to the release are not available within 30 days, these data must be submitted to the commissioner as soon as they become available. The report must also address the proximity to downgradient drinking water, surface water, and populated areas and a description of response actions taken or planned.

(3) A leak or spill of hazardous waste that is less than or equal to a quantity of one pound and immediately contained and cleaned up is exempt from the requirements of subitem (2).

E. Provision of secondary containment, repair, or closure.

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(1) Unless the owner or operator satisfies the requirements of subitems (2) to (4), the tank system must be closed in accordance with subpart 9.

(2) If the cause of the release was a spill that has not damaged the integrity of the system, the owner or operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

(3) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired before returning the tank system to service.

(4) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner or operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of subparts 4 and 5 before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of item F are satisfied. If a component is replaced to comply with the requirements of this subitem, that component must satisfy the requirements for new tank systems or components in subparts 3 to 5. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection, such as the bottom of an inground or onground tank, the entire component must be provided with secondary containment in accordance with subparts 4 and 5 before being returned to use.

F. If the owner or operator has repaired a tank system in accordance with item E and the repair has been extensive, such as installation of an internal liner or repair of a ruptured primary containment or secondary containment vessel, the tank system must not be returned to service unless the owner or operator has obtained a certification by an independent, qualified, registered professional engineer that the repaired system is capable of handling hazardous wastes without release. This certification must be submitted to the commissioner before returning the tank system to use and must include the statements in parts 7001.0070 and 7001.0540.

Subp. 9. **Closure and post-closure care.** The requirements for closure and post-closure care of tank systems are as follows:

A. At closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components, such as liners, contaminated soils, and structures and equipment contaminated with waste, and manage them as hazardous waste unless it can be demonstrated that they are not a hazardous waste. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements of parts 7045.0486 to 7045.0524.

B. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in item A, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements of part 7045.0538, subpart 7. In addition, for the purposes of closure, post-closure, and financial responsibility, the tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements of parts 7045.0486 to 7045.0524.

C. If an owner or operator has a tank system that does not have secondary containment that meets the requirements of subpart 4, items B to F, and has not been granted a petition under part 7045.0075, subpart 6 or 7, then:

(1) the closure plan for the tank system must include both a plan for complying with item A and a contingent plan for complying with item B;

(2) a contingent post-closure plan for complying with item B must be prepared and submitted as part of the permit application;

(3) the cost estimates calculated for closure and post-closure care must reflect the costs of complying with the contingent closure plan and the contingent post-closure plan, if those costs are greater than the costs of complying with the closure plan prepared for the expected closure under item A;

(4) financial assurance must be based on the cost estimates in subitem (3); and

(5) for the purposes of the contingent closure and post-closure plans, the tank system is considered to be a landfill, and the contingent plans must meet all of the closure, post-closure, and financial responsibility requirements of parts 7045.0486 to 7045.0524.

Subp. ~~7~~ 10. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a tank unless:

A. the waste is treated, rendered, or mixed before or immediately after placement in the tank so that the resulting waste, mixture, or ~~dissolution of~~ dissolved material no longer meets the definition of ignitable or reactive waste under part 7045.0131, subparts 2 and 5, and compliance with part 7045.0456, subpart 2 is maintained;

B. the waste is stored or treated in such a way that it is protected from any materials or conditions which may cause the waste to ignite or react; or

C. the tank is used solely for emergencies.

The owner or operator of a facility that treats or stores ignitable or reactive waste in ~~covered tanks~~ a tank shall comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon, as required in the National Fire Protection Association's buffer zone requirements for tanks contained in Tables 2-1 to 2-6 of the Flammable and Combustible Liquids Code in the National Fire Codes, 1981 issued by the National Fire Protection Association (Quincy, Massachusetts, 1981). As required by part 7045.0458, the waste analysis plan must include analyses needed to comply with these special requirements for ignitable or reactive waste. Additional requirements for ignitable and reactive wastes are contained in part 7045.0456, subpart 1. Part 7045.0456, subpart 3 also requires waste analysis, trial tests, or other documentation to ensure compliance with part 7045.0456, subpart 2. As required by part 7045.0478, the owner or operator shall place the results of each waste analysis and trial test, and any documented information, in the operating record of the facility.

Subp. ~~8~~ 11. **Special requirements for incompatible wastes.** Incompatible wastes or incompatible wastes and materials, must not be placed in the same tank, unless compliance with part 7045.0456, subpart 2 is maintained.

Hazardous waste must not be placed in ~~an unwashed~~ a tank system that has not been decontaminated and which previously held an incompatible waste or material, unless compliance with part 7045.0456, subpart 2 is maintained. As required by part 7045.0458, the waste analysis plan must include analyses needed to comply with these special requirements for incompatible wastes. Part 7045.0456, subpart 3 also requires waste analyses, trial tests, or other documentation to ensure compliance with part 7045.0456, subpart 2. As required by part 7045.0478, the owner or operator shall place the results of each waste analysis and trial test, and any documented information, in the operating record of the facility.

Subp. 9. [See Repealer.]

7045.0556 GENERAL FACILITY STANDARDS.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **General inspection requirements.** The following are the general inspection requirements:

A. The owner or operator shall inspect the facility for malfunctions and deterioration, operator errors, and discharges which may be causing or may lead to the release of hazardous waste constituents to the environment or a threat to human health. The owner or operator shall conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

B. The owner or operator shall develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that are important to preventing, detecting, or responding to environmental or human health hazards. The owner or operator shall keep this schedule at the facility. The schedule must identify the types of problems which are to be looked for during the inspection.

C. The frequency of inspection may vary for the items on the schedule. However, it must be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunction or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. The inspection schedule must include the items and frequencies called for in parts 7045.0626, subpart 5; 7045.0628, ~~subpart~~ subparts 4, 5, and 7; 7045.0630, subpart 5; 7045.0640, subpart 4; and 7045.0642, subpart 4.

D. The owner or operator shall remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

E. The owner or operator shall record inspections in an inspection log or summary. He or she shall keep these records for at least three years from the date of inspection. These records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

Subp. 6. and 7. [Unchanged.]

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7045.0564 WASTE ANALYSIS REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. **Waste analysis plan.** The owner or operator shall develop and follow a written waste analysis plan which describes the procedures the owner or operator will carry out to comply with subpart 1. The owner or operator shall keep this plan at the facility. The plan must specify:

A. to E. [Unchanged.]

F. Where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in parts 7045.0628, subpart ~~3~~ 12; 7045.0630, subpart 4; 7045.0632, subpart 3; 7045.0634, subpart 3; 7045.0638, subpart 7; 7045.0640, subpart 2; and 7045.0642, subpart 3.

G. [Unchanged.]

7045.0584 OPERATING RECORD.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Record information.** The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

A. to D. [Unchanged.]

E. Records and results of waste analysis and trial tests performed as specified in parts 7045.0564; 7045.0628, subpart ~~3~~ 12; 7045.0630, subpart 4; 7045.0632, subpart 3; 7045.0634, subpart 3; 7045.0638, subpart 7; 7045.0640, subpart 2; and 7045.0642, subpart 3.

F. and G. [Unchanged.]

H. Monitoring, testing, or analytical data where required by parts 7045.0590, subparts 1, 6, and 7; 7045.0592, subparts 1 and 7; 7045.0628, subparts 2, 4, 5, and 7; 7045.0634, subparts 4 and 6, item D, subitem (1); 7045.0636; and 7045.0640, subpart 4. As required by parts 7045.0590, subparts 6 and 7; and 7045.0592, subpart 7, monitoring data at disposal facilities must be kept throughout the post-closure period.

I. [Unchanged.]

7045.0600 POST-CLOSURE.

Subpart 1. **Scope.** This part and parts 7045.0602 to 7045.0606 apply to the owners and operators of all hazardous waste disposal facilities, including tank systems that are required under part 7045.0628, subpart 9, to meet the requirements for landfills, except as provided otherwise in part 7045.0552.

Subp. 2. and 3. [Unchanged.]

7045.0608 FINANCIAL REQUIREMENTS.

Subpart 1. **Scope.** The requirements of parts 7045.0610, 7045.0612, and 7045.0620 to 7045.0624 apply to owners and operators of hazardous waste facilities except as provided otherwise in this part or in part 7045.0552.

The requirements of parts 7045.0614 to 7045.0618 apply only to owners and operators of disposal facilities and tank systems that are required under part 7045.0628, subpart 9, to meet the requirements for landfills.

The state and the federal government are exempt from the requirements of parts 7045.0608 to 7045.0624.

Subp. 2. [Unchanged.]

7045.0628 TANKS.

Subpart 1. **Scope.** This part applies to owners and operators of facilities that use tanks to treat or store hazardous waste, except as items A and B and part 7045.0552 ~~provides~~ provide otherwise.

A. Tanks that are used to store or treat hazardous waste containing no free liquids and that are located inside a building with an impermeable floor are exempt from the requirements of subparts 4 and 5. To demonstrate the absence or presence of free liquids in the stored or treated waste, EPA Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846) must be used.

B. Tanks, including sumps, as defined in part 7045.0020 that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from the requirements in subparts 4 and 5.

Subp. 2. ~~**General operating requirements**~~ **Assessment of existing tank system's integrity.** ~~Treatment or storage of hazardous waste in tanks must comply with part 7045.0562, subpart 2.~~

~~Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank, its closures, or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.~~

~~Uncovered tanks must be operated to ensure at least 60 centimeters (two feet) of freeboard, unless the tank is equipped with a containment structure, a drainage control system, or a diversion structure with a capacity that equals or exceeds the volume of the top 60 centimeters (two feet) of the tank.~~

~~When hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow. These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure.~~ The following requirements apply to existing tank systems:

A. For each existing tank system that does not have secondary containment meeting the requirements of subparts 4 and 5, the owner or operator must determine whether the tank system is leaking or is unfit for use. Except as provided in item C, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified, registered professional engineer that attests to the tank system's integrity. The certification must include the statements in parts 7001.0070 and 7001.0540.

B. This assessment must determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the waste to be stored or treated to ensure that it will not collapse, rupture, or fail. This assessment must consider the following:

(1) design standards, if available, according to which the tank and ancillary equipment were constructed;

(2) hazardous characteristics of the waste that has been or will be handled;

(3) existing corrosion protection measures;

(4) documented age of the tank system, if available, otherwise, an estimate of the age; and

(5) results of a leak test, internal inspection, or other tank integrity examination. For nonenterable underground, inground, or onground tanks, this assessment must consist of a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects. For other than nonenterable underground, inground, or onground tanks and for ancillary equipment, this assessment must be either a leak test, as described above, or an internal inspection and/or other tank integrity examination certified by an independent, qualified, registered professional engineer, that addresses cracks, leaks, corrosion, and erosion. The certification must include the statements in parts 7001.0070 and 7001.0540.

C. Owners or operators of tank systems that were required to conduct this assessment by Code of Federal Regulations, title 40, section 265.191(a), must conduct and keep this assessment on file as required by that section. Owners or operators of all other existing tank systems must conduct this assessment within 18 months of the effective date of this part. Owners or operators of tank systems that store or treat materials that become hazardous wastes must conduct this assessment within 12 months after the date that the waste becomes a hazardous waste.

D. If, as a result of the assessment conducted in accordance with item A, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of subpart 8.

Subp. 3. ~~**Waste analysis and trial tests**~~ **Design and installation of new tank systems or components.** ~~In addition to the waste analysis required by part 7045.0564, whenever a tank is to be used to chemically treat or store a hazardous waste which is substantially different from waste previously treated or stored in that tank, or chemically treat hazardous waste with a substantially different process than any previously used in that tank, the owner or operator shall, before treating or storing the different waste or using the different process:~~

~~A. conduct waste analyses and trial treatment or storage tests; or~~

~~B. obtain written, documented information on similar storage or treatment of similar waste under similar operating conditions to show that this proposed treatment or storage will meet all applicable requirements of subpart 2. As required by part 7045.0564, the waste analysis plan must include analyses needed to comply with subparts 6 and 7. As required by part 7045.0584, the owner or operator shall place the results from each waste analysis and trial test, or the documented information, in the operating record of the facility.~~

A. Owners or operators of new tank systems or components must ensure that the foundation, structural support, seams,

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connections, and pressure controls, if applicable, are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer, attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The certification must include the statements in parts 7001.0070 and 7001.0540. This assessment must include the following information:

(1) design standards according to which the tank and ancillary equipment is or will be constructed;

(2) hazardous characteristics of the waste to be handled;

(3) for new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system is or will be in contact with the soil or with water, a determination by a corrosion expert of the factors affecting the potential for corrosion, including soil moisture content, soil pH, soil sulfides level, soil resistivity, structure to soil potential, influence of nearby underground metal structures such as piping, stray electric current, and existing corrosion-protection measures such as coating and cathodic protection. The determination must also address the type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component. This protection must consist of corrosion-resistant materials of construction such as special alloys or fiberglass-reinforced plastic; corrosion-resistant coating, such as epoxy or fiberglass, with cathodic protection such as impressed current or sacrificial anodes; and electrical isolation devices such as insulating joints or flanges;

(4) for underground tank system components that are likely to be affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

(5) design considerations to ensure that tank foundations will maintain the load of a full tank, tank systems will be anchored to prevent flotation or dislodgement where the tank system is placed in a saturated zone, and tank systems will withstand the effects of frost heave.

B. The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Before covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, registered professional engineer, either of whom is trained and experienced in the proper installation of tank systems, must inspect the system or component for the presence of weld breaks, punctures, scrapes of protective coatings, cracks, corrosion, and other structural damage or inadequate construction or installation. All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

C. New tank systems or components and piping that are placed underground and that are backfilled must be provided with a backfill material that is a noncorrosive, porous, homogeneous substance and that is carefully installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

D. All new tanks and ancillary equipment must be tested for tightness before being covered, enclosed, or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leaks in the system must be performed before the tank system is covered, enclosed, or placed in use.

E. Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

F. The owner or operator must provide the type and degree of corrosion protection necessary, based on the information provided under item A, subitem (3), to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion-protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

G. The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of items B to F to attest that the tank system was properly designed and installed and that repairs under items B and D were performed. The certification must include the statements in parts 7001.0070 and 7001.0540.

Subp. 4. ~~Inspection~~ **Containment and detection of releases.** ~~The owner or operator of a tank shall inspect, where possible:~~

~~A. discharge control equipment, at least once each operating day, to ensure that it is in good working order;~~

~~B. data gathered from monitoring equipment, at least once each operating day, to ensure that the tank is being operated according to its design;~~

~~C. the level of waste in the tank, at least once each operating day, to ensure compliance with subpart 2;~~

~~D. the construction materials of the tank, at least weekly, to detect corrosion or leaking of fixtures or seams; and~~

~~E. the construction materials of, and the area immediately surrounding, discharge confinement structures, at least weekly, to detect erosion or obvious signs of leakage. As required by part 7045.0556, subpart 5, the owner or operator shall remedy any~~

~~deterioration or malfunction he or she finds.~~

A. In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this part must be provided, except as provided in item H:

(1) for new tank systems or components, before being put into service;

(2) for existing tank systems, within five years of the effective date of these rules except as provided in subitem (3);

(3) for existing tank systems that are known to be more than 15 years old or that will reach 15 years of age before the time provided in subitem (2), by January 12, 1989;

(4) for tank systems that store or treat material that becomes a hazardous waste, within two years of the date the material becomes a hazardous waste; and

(5) for existing tanks used to store or treat EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, F027, and F028, by January 12, 1989.

B. Secondary containment systems must be:

(1) designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system; and

(2) capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

C. To meet the requirements of item B, secondary containment systems must be at a minimum:

(1) constructed of or lined with materials that are compatible with the waste to be placed in the tank system and must have sufficient strength and thickness to prevent failure due to pressure gradients, including static head and external hydrological forces; physical contact with the waste to which they are exposed; climatic conditions; the stress of installation; and the stress of daily operation, including stresses from nearby vehicular traffic;

(2) placed on a foundation or base capable of providing support to the secondary containment system and resistance to pressure gradients above and below the system and capable of preventing failure due to settlement, compression, or uplift;

(3) provided with a leak detection system that is designed and operated so that it will detect the failure of either the primary and secondary containment structure or any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or at the earliest practicable time if the existing detection technology or site conditions will not allow detection of a release within 24 hours; and

(4) sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or in as timely a manner as is possible to prevent harm to human health or the environment, if removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.

D. Unless a petition is granted under part 7045.0075, subpart 7, secondary containment for tanks must include one or more of the following devices:

(1) a liner external to the tank;

(2) a vault;

(3) a double-walled tank; or

(4) an equivalent device as approved by the commissioner under part 7045.0075, subpart 6.

E. In addition to the requirements of items B, C, and D, the external liner system of secondary containment systems must be:

(1) designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;

(2) designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

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(3) free of cracks or gaps; and

(4) designed and installed to completely surround the tank and to cover all surrounding earth likely to come into contact with the waste if released from the tank; that is, capable of preventing lateral as well as vertical migration of the waste.

F. In addition to the requirements of items B, C, and D, a vault system must be:

(1) designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;

(2) designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. The additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

(3) constructed with chemical-resistant water stops in place at all joints, if any;

(4) provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

(5) provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated meets the definition of ignitable waste under part 7045.0131, or reactive waste under part 7045.0131 and may form an ignitable or explosive vapor; and

(6) provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

G. In addition to the requirements of items B, C, and D, double-walled tanks must be:

(1) designed as an integral structure, such as an inner tank within an outer shell so that any release from the inner tank is contained by the outer shell;

(2) protected, if constructed of metal, from both corrosion of the primary tank interior and the external surface of the outer shell; and

(3) provided with a built-in, continuous leak-detection system capable of detecting a release within 24 hours or at the earliest practicable time, if the owner or operator can demonstrate to the commissioner, and the commissioner concurs, that the existing leak-detection technology or site conditions will not allow detection of a release within 24 hours.

H. Ancillary equipment must be provided with full secondary containment, such as trench, jacketing, or double-walled piping, that meets the requirements of items B and C, except for:

(1) aboveground piping, exclusive of flanges, joints, valves, and other connections, that are visually inspected on a daily basis;

(2) welded flanges, welded joints, and welded connections, that are visually inspected on a daily basis;

(3) sealless or magnetic coupling pumps, that are visually inspected on a daily basis; and

(4) pressurized aboveground piping systems with automatic shut-off devices, such as excess flow check valves, flow metering shutdown devices, and loss of pressure actuated shut-off devices, that are visually inspected on a daily basis.

Subp. 5. ~~Closure~~ **Requirements for tank systems.** ~~At closure, all hazardous waste and hazardous waste residues must be removed from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the owner or operator can demonstrate that any waste removed from his tank is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and shall manage it in accordance with all applicable requirements of parts 7045.0205 to 7045.0397 and 7045.0552 to 7045.0642.~~ All tank systems, until such time as secondary containment meeting the requirements of this section is provided, must comply with the following:

A. For nonenterable underground, inground, and onground tanks, a leak test that meets the requirements of subpart 2, item B, subitem (5), must be conducted at least annually.

B. For other than nonenterable underground, inground, and onground tanks and for all ancillary equipment, an annual leak test, as described in item A, or an internal inspection or other tank integrity examination by an independent, qualified, registered professional engineer, that addresses cracks, leaks, corrosion, and erosion must be conducted at least annually. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed.

C. For underground, inground, and onground tanks, a test to detect tank wall thinning and to determine that the minimum tank wall thickness is maintained. This test must be conducted within 18 months of the effective date of this part and every two years thereafter until secondary containment meeting the requirements of subparts 4 and 5 is installed.

D. The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with items A to D.

E. If the tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in items A to D, the owner or operator must comply with the requirements of subpart 8.

Subp. 6. **General operating requirements.** Treatment or storage of hazardous waste in tanks must comply with the following:

A. Hazardous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the secondary containment system to rupture, leak, corrode, or otherwise fail.

B. The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems. These include:

(1) spill prevention controls such as check valves or dry disconnect couplings;

(2) overfill prevention controls such as level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank; and

(3) maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

C. The owner or operator must comply with subpart 8 if a leak or spill occurs in the tank system.

Subp. 7. **Inspections.**

A. The owner or operator must inspect, where present, at least once each operating day:

(1) overfill or spill control equipment such as waste-feed cutoff systems, bypass systems, and drainage systems to ensure that it is in good working order;

(2) the aboveground portions of the tank system, if any, to detect corrosion or releases of waste;

(3) data gathered from monitoring equipment and leak-detection equipment, such as pressure and temperature gauges or monitoring wells, to ensure that the tank system is being operated according to its design; and

(4) the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including secondary containment structures such as dikes, to detect erosion or signs of releases of hazardous waste such as wet spots or dead vegetation.

B. The owner or operator must inspect cathodic protection systems, if present, according to the following schedule, to ensure that they are functioning properly:

(1) The proper operation of the cathodic protection system must be confirmed within six months after initial installation, and annually thereafter.

(2) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly.

C. The owner or operator must document in the operating record of the facility an inspection of those items in items A and B.

Subp. 8. **Responses to leaks or spills and disposition of unfit-for-use tank systems.** A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements:

A. The owner or operator must immediately stop the flow of hazardous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

B. Removal of waste from tank system or secondary containment system.

(1) If the release was from the tank system, the owner or operator must, within 24 hours after detection of the leak or, if the owner or operator demonstrates that that is not possible, at the earliest practicable time, remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed.

(2) If the release was to a secondary containment system, all released materials must be removed within 24 hours or in as timely a manner as is possible to prevent harm to human health and the environment.

C. The owner or operator must immediately conduct a visual inspection of the release and, based upon that inspection:

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(1) prevent further migration of the leak or spill to soils or surface water; and

(2) remove, and properly dispose of, any visible contamination of the soil or surface water.

D. Notifications, reports.

(1) Any release to the environment must be reported to the commissioner within 24 hours of detection.

(2) Within 30 days of detection of a release to the environment, a report containing the following information must be submitted to the commissioner. The report must address the likely route of migration of the release; characteristics of the surrounding soil, including soil composition, geology, hydrogeology, and climate; and the results of any monitoring or sampling conducted in connection with the release, if available. If sampling or monitoring data relating to the release are not available within 30 days, these data must be submitted to the commissioner as soon as they become available. The report must also address the proximity to downgradient drinking water, surface water, and population areas; and a description of response actions taken or planned.

(3) A leak or spill of hazardous waste that is less than or equal to a quantity of one pound and immediately contained and cleaned up is exempted from the requirements of subitem (2).

E. Provision of secondary containment, repair, or closure.

(1) Unless the owner or operator satisfies the requirements of subitems (2) to (4), the tank system must be closed in accordance with subpart 9.

(2) If the cause of the release was a spill that has not damaged the integrity of the system, the owner or operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

(3) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired before returning the tank system to service.

(4) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner or operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of subparts 4 and 5 before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of item F are satisfied. If a component is replaced to comply with the requirements of this subitem, that component must satisfy the requirements for new tank systems or components in subparts 3 to 5. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection, such as the bottom of an inground or onground tank, the entire component must be provided with secondary containment in accordance with subparts 4 and 5 before being returned to use.

F. Certification of major repairs. If the owner or operator has repaired a tank system in accordance with item E and the repair has been extensive, such as installation of an internal liner or repair of a ruptured primary containment or secondary containment vessel, the tank system must not be returned to service unless the owner or operator has obtained a certification by an independent, qualified, registered professional engineer that the repaired system is capable of handling hazardous wastes without release. This certification must be submitted to the commissioner within seven days after returning the tank system to use and must include the statements in parts 7001.0070 and 7001.0540.

Subp. 9. **Closure and post-closure care.** The requirements for closure and post-closure care of tank systems are as follows:

A. At closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components such as liners, contaminated soils, and structures and equipment contaminated with waste, and manage them as hazardous waste unless it can be demonstrated that they are not a hazardous waste. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet the requirements of parts 7045.0594 to 7045.0624.

B. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in item A, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills in part 7045.0638. In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet the requirements for landfills in parts 7045.0594 to 7045.0624.

C. If an owner or operator has a tank system which does not have secondary containment that meets the requirements of subpart 4, items B to F, and which is not exempt from the secondary containment requirements in accordance with part 7045.0075, subparts 6 and 7, then:

(1) the closure plan for the tank system must include both a plan for complying with item A and a contingent plan for complying with item B;

(2) a contingent post-closure plan for complying with item B must be prepared and submitted as part of the permit application;

(3) the cost estimates calculated for closure and post-closure care must reflect the costs of complying with the contingent closure plan and the contingent post-closure plan, if these costs are greater than the costs of complying with the closure plan prepared for the expected closure under item A;

(4) financial assurance must be based on the cost estimates in subitem (3); and

(5) for the purposes of the contingent closure and post-closure plans, the tank system is considered to be a landfill, and the contingent plans must meet the closure, post-closure, and financial responsibility requirements of parts 7045.0594 to 7045.0624.

Subp. ~~6~~ 10. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a tank unless:

A. the waste is treated, rendered, or mixed before or immediately after placement in the tank so that the resulting waste, mixture, or ~~dissolution of~~ dissolved material no longer meets the definition of ignitable or reactive waste under part 7045.0131, subpart 2 or 5, and compliance with part 7045.0562, subpart 2 is maintained; or

B. the waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or the tank is used solely for emergencies.

The owner or operator of a facility which treats or stores ignitable or reactive waste in ~~covered tanks~~ a tank shall comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon, as required in the National Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of the Flammable and Combustible Code, in the National Fire Codes, 1981 issued by the National Fire Protection Association (Quincy, Massachusetts, 1981).

Subp. ~~7~~ 11. **Special requirement for incompatible wastes.** Incompatible wastes, or incompatible wastes and materials must not be placed in the same tank, unless compliance with part 7045.0562, subpart 2, is maintained.

Hazardous waste must not be placed in ~~an unwashed~~ a tank system that has not been decontaminated and which previously held an incompatible waste or material, unless compliance with part 7045.0562, subpart 2, is maintained.

Subp. 12. **Waste analysis and trial tests.** In addition to performing the waste analysis required by part 7045.0564, the owner or operator must, whenever a tank system is to be used to treat chemically or to store a hazardous waste that is substantially different from waste previously treated or stored in that tank system, or treat chemically a hazardous waste with a substantially different process than any previously used in that tank system:

A. conduct waste analyses and trial treatment or storage tests, bench-scale or pilot-plant scale tests; or

B. obtain written, documented information on similar waste under similar operating conditions to show that the proposed treatment or storage will meet the requirements of subpart 6, item A.

7045.0629 REQUIREMENTS FOR SMALL QUANTITY GENERATORS THAT ACCUMULATE HAZARDOUS WASTE IN TANKS.

Subpart 1. **Scope.** The requirements of this part apply to small quantity generators that accumulate hazardous waste in tanks, and do not accumulate over 3,000 kilograms on site at any time as provided in part 7045.0219.

Subp. 2. **General operating requirements.** Small quantity generators must comply with the following general operating requirements:

A. Treatment or storage of hazardous waste in tanks must comply with part 7045.0562, subpart 2.

B. Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail.

C. Uncovered tanks must be operated to ensure at least 60 centimeters of freeboard, unless the tank is equipped with a containment structure such as a dike or trench, a drainage control system, or a diversion structure such as a standby tank with a capacity that equals or exceeds the volume of the top 60 centimeters of the tank.

D. Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow such as a waste feed cutoff system or bypass system to a standby tank.

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Subp. 3. **Inspections.** Small quantity generators must inspect, where present:

A. discharge control equipment, such as waste feed cutoff systems, bypass systems, and drainage systems, at least once each operating day, to ensure that it is in good working order;

B. data gathered from monitoring equipment such as pressure and temperature gauges, at least once each operating day, to ensure that the tank is being operated according to its design;

C. the level of waste in the tank at least once each operating day to ensure compliance with subpart 3, item C;

D. the construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

E. the construction materials of, and the area immediately surrounding, discharge confinement structures such as dikes at least weekly to detect erosion or obvious signs of leakage such as wet spots or dead vegetation.

Subp. 4. **Closure.** Small quantity generators must, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures.

Subp. 5. **Ignitable and reactive wastes.** Small quantity generators must comply with the following special requirements for ignitable or reactive waste:

A. Ignitable or reactive waste must not be placed in a tank, unless the waste is treated, rendered, or mixed before or immediately after placement in a tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under parts 7045.0131, subpart 2 or 5, and 7045.0562, subpart 2 is complied with, or the waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react, or the tank is used solely for emergencies.

B. The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 to 2-6 of the National Fire Protection Association's Flammable and Combustible Liquids Code, (1977 or 1981).

Subp. 6. **Incompatible wastes.** Small quantity generators must comply with the following special requirements for incompatible wastes:

A. Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank, unless part 7045.0562, subpart 2 is complied with.

B. Hazardous waste must not be placed in an unwashed tank which previously held an incompatible waste or material unless part 7045.0562, subpart 2 is complied with.

REPEALER. Minnesota Rules, part 7045.0528, subpart 9, is repealed.

Department of Human Services

Withdrawal of Proposed Permanent Rules Relating to Veteran's Home Discharge Provisions and Fees

The proposed rule published in the *State Register* on August 3, 1987 (CITE 12 S.R. 191) is hereby officially withdrawn.

Questions about withdrawal of this rule may be addressed to Thomas Eberhart at 296-8974.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Education

Adopted Permanent Rules Relating to Licensure for Directors of Special Education

The rules proposed and published at *State Register*, Volume 11, Number 44, pages 2025-2028, May 4, 1987 (11 S.R. 2025) are adopted as proposed.

Department of Public Service

Adopted Permanent Rules Relating to Building Energy Audits

The rules proposed and published at *State Register*, Volume 12, Number 6, pages 236-239, August 10, 1987, (12 S.R. 236) are adopted with the following modifications:

Rules as Adopted

ENERGY AUDITS OF PUBLIC SCHOOL DISTRICTS, CITIES, COUNTIES, AND TOWNS

7680.0100 PURPOSE.

Parts 7680.0100 to 7680.0200 are adopted under the authority of Minnesota Statutes, section ~~116J.035~~ 216C.02, subdivision ~~2~~ 3, to establish criteria and procedures for granting financial assistance to Minnesota public school districts, cities, counties, and towns for conducting building energy audits under the state's cost-share maxi-audit program.

7680.0110 DEFINITIONS.

Subp. 8. ~~**Designated official.** "Designated official" means a person designated by a municipality or joint power of municipalities to sign a grant for cost-share maxi-audit services.~~

~~Subp. 9.~~ **Municipality.** "Municipality" means a public school district, statutory or home rule charter city, county, or town in Minnesota, or joint power of these.

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Emergency Rules

Proposed Emergency Rules
According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

1) that a free copy of the proposed emergency rule is available upon request from the agency;
2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules
Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules
Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

Department of Labor and Industry

Workers' Compensation Division

Withdrawal of Proposed Emergency Rules Relating to Cost of Medical Records Copies

Notice is hereby given that the above-captioned rule as proposed and published in the *State Register* on September 28, 1987, (12 S.R. 576-577) is hereby withdrawn pursuant to Minn. Stat. § 14.05, subd. 3 (1986).

Amended emergency rules on the above captioned matter are published below.

Dated: 6 November 1987

Ray Bohn, Commissioner
Department of Labor and Industry

Department of Labor and Industry

Proposed Emergency Rules Relating to Workers' Compensation Cost of Medical Record Copies

Notice of Intent to Adopt an Emergency Rule

Notice is hereby given that the State Department of Labor and Industry intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 176.135, subdivision 7. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules on Minnesota Statutes, Section 14.29 to 14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to:

Ray Bohn, Commissioner
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

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

A free copy of the proposed emergency rule is available by contacting Julie Kress at 296-2342.

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

Upon the adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request

notification of the date of submission to Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Julie Kress at the above address.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with *Minnesota Statutes*, Section 14.35.

Dated: 10 November 1987

Ray Bohn, Commissioner
Department of Labor and Industry

Rules as Proposed (all new material)

5219.0010 [Emergency] PURPOSE.

This chapter is intended to provide a schedule of reasonable charges for copies of health care provider records or reports substantiating the nature of a medical bill and its relationship to the work injury. The privacy of medical reports or records under other provisions of law is not to be affected by this chapter.

5219.0020 [Emergency] SCOPE.

This chapter is applicable to charges for copies from health care providers as defined in Minnesota Statutes, section 176.011, subdivision 24.

5219.0030 [Emergency] COST OF MEDICAL RECORDS.

Subpart 1. **Doctor's office notes.** No charge is allowed for a copy of a doctor's office notes covering the services billed.

Subp. 2. **Schedule of charges.** Reasonable charges for other copies of existing medical records or reports obtained from health care providers under Minnesota Statutes, section 176.135, subdivision 7, are as follows for each patient:

A. $5 per file as a retrieval fee;

B. 75 cents a page for up to 20 pages;

C. 50 cents a page for the next 32 pages; and

D. 25 cents a page for all remaining pages.

Subp. 3. **First report form, maximum medical improvement.** Part 5220.2590, subpart 4, governs the physician's first report form and the maximum medical improvement form. No charge is allowed as provided in that part.

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Board of Animal Health

Notice of Quarterly Board Meeting

A quarterly meeting of the Board of Animal Health has been scheduled for Friday, December 11, 1987 at the Board of Animal Health offices, 90 W. Plato Boulevard, St. Paul, Minnesota at 9:30 a.m.

Information about this meeting may be obtained by calling the Board office at 612-296-5000.

Thomas J. Hagerty, DVM
Executive Secretary

Board of Barber Examiners

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Barbers' Licensing and Operation

Notice is hereby given that the State Board of Barber Examiners is seeking information or opinions from sources outside the

agency in preparing to propose the amendment of *Minnesota Rules* 2100.0100/2100.9200 governing Barbers' Licensing and Operation. The adoption of the rule is authorized by *Minnesota Statutes*, section 154.065, subdivision 5/154.24, which requires the agency to solicit outside information and opinions.

The State Board of Barber Examiners requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Adam J. Mikrot, Executive Secretary, Board of Barber Examiners, 500 Metro Square Building, St. Paul, Mn. 55101. Oral statements will be received during regular business hours over the telephone at (612) 296-2364 and in person at the above address.

All statements of information and opinions shall be accepted until January 1, 1988. Any written material received by the State Board of Barber Examiners shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 20 October 1987

Adam J. Mikrot
Executive Secretary

Statutory Authority: *Minnesota Statutes*, sections 14.06; 14.09
History: 11 SR 618

Emergency Response Commission

Meeting Notice for Local Emergency Planning Committee

Notice is hereby given that the Local Emergency Planning Committee established by the Emergency Response Commission under Title III ("Emergency Planning and Community Right-to-Know Act") of the Superfund Amendments and Reauthorization Act of 1986 has scheduled meetings on November 23, 1987 and December 21, 1987 at 9:00 a.m. The Committee is responsible for establishing standard procedures for receiving and processing requests from the public for hazardous material information and for reviewing emergency plans prepared by counties and municipalities. By July 1988, seven Committees will be established by the one Local Emergency Planning Committee. Contact the State Emergency Response Commission (612/296-0481) for additional information on agenda items, location, and future meeting dates.

Emergency Response Commission

Meeting Notice and Preliminary Agenda

1. Approval of minutes of previous meeting.
2. Introduction of new agenda items.
3. Subcommittee Reports
   a. Reporting and Public Requests
   b. Emergency Plan Review
   c. Local Committee Appointments and Rules
   d. Education and Training
4. Open—New Business

Meeting dates and locations are:

December 10, 1987	Room 300 No., State Office Bldg.
January 14, 1988	Room 300 No., State Office Bldg.
February 11, 1988	To be determined
March 10, 1988	To be determined
April 14, 1988	To be determined
May 12, 1988	To be determined
June 9, 1988	To be determined

All meetings will be held at 11:00 a.m. Contact the Commission for additional information (612/296-0481).

Ethical Practices Board

Advisory Opinion #97 re: Hennepin County Disclosure Law

Issued 11-5-87 to Dale G. Folstad—SUMMARY—97. Contributions to and payments from a separate fund to defray cost of an elected Hennepin County official's personal expenses associated with volunteer duties on behalf of the Minnesota Aquatennial Association are not subject to the registration and reporting requirements of *Minnesota Statutes* §§ 383B.041 to 383B.056 under certain conditions.

The full text of the opinion is available upon request from the Ethical Practices Board, 625 North Robert Street, St. Paul, MN 55101-2520, (612) 296-5148.

Department of Finance

Maximum Interest Rate for Municipal Obligations in November

Pursuant to Minnesota Statutes, Section 475.55, Subdivision 4, Commissioner of Finance, Tom Triplett, announced today that the maximum interest rate for municipal obligations in the month of November would be eleven (11) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by General Obligations of the municipality may bear an interest rate of up to twelve (12) percent per annum.

Dated: 21 October 1987

Peter Sausen, Assistant Commissioner
Cash and Debt Management
(612) 296-5900

Department of Health

Services for Children with Handicaps (SCH)

Notice of Cost Sharing Schedule for use in Services for Children with Handicaps

Notice is hereby given that the Cost-Sharing Schedule, prepared according to *Minnesota Rules*, Chapter 4705.0600 Subp. 3 and published here will be effective January 1, 1988.

SCH Cost-Sharing Schedule

The applicant's share is one percent of cost for each $1,000 or fraction of $1,000 of income above 60 percent of the State gross median income for a household of the same size as the applicant's. The applicant's percent share is found on the schedule by looking under the number which is the number of members of applicant's household to find the income level which includes the applicant's annual household income. The applicant's percent share is shown on the far left of that income level. For each additional household member greater than 10, add 3% to 144% for each additional household member and multiply the new percentage by the State's dollar amount for 4-person households.

Income Levels by Number of Members in Household

Percentage which eligible applicants share in the cost of treatment %	1	2	3	4	5
0	0-10,725	0-14,025	0-17,325	0-20,626	0-23,926
1	10,726-11,725	14.026-15,025	17,326-18,325	20,627-21,626	23,927-24,926
2	11,726-12,725	15,026-16,025	18,326-19,325	21,627-22,626	24,927-25,926
3	12,726-13,725	16,026-17,025	19,326-20,325	22,627-23,626	25,927-26,926
4	13,726-14,725	17,026-18,025	20,326-21,325	23,627-24,626	26,927-27,926
5	14,726-15,725	18,026-19,025	21,326-22,325	24,627-25,626	27,927-28,926
6	15,726-16,725	19,026-20,025	22,326-23,325	25,627-26,626	28,927-29,926
7	16,726-17,725	20,026-21,025	23,326-24,325	26,627-27,626	29,927-30,926
8	17,726-18,725	21,026-22,025	24,326-25,325	27,627-28,626	30,927-31,926
9	18,726-19,725	22,026-23,025	25,326-26,325	28,627-29,626	31,927-32,926
10	19,726-20,725	23,026-24,025	26,326-27,325	29,627-30,626	32,927-33,926

Income Levels by Number of Members in Household

Percentage which eligible applicants share in the cost of treatment %	1	2	3	4	5
11	20,726-21,725	24,026-25,025	27,326-28,325	30,627-31,626	33,927-34,926
12	21,726-22,725	25,026-26,025	28,326-29,325	31,627-32,626	34,927-35,926
13	22,726-23,725	26,026-27,025	29,326-30,325	32,627-33,626	35,927-36,926
14	23,726-24,725	27,026-28,025	30,326-31,325	33,627-34,626	36,927-37,926
15	24,726-25,725	28,026-29,025	31,326-32,325	34,627-35,626	37,927-38,926
16	25,726-26,725	29,026-30,025	32,326-33,325	35,627-36,626	38,927-39,926
17	26,726-27,725	30,026-31,025	33,326-34,325	36,627-37,626	39,927-40,926
18	27,726-28,725	31,026-32,025	34,326-35,325	37,627-38,626	40,927-41,926
%	**6**	**7**	**8**	**9**	**10**
0	0-27,226	0-27,845	0-28,463	0-29,082	0-29,701
1	27,227-28,226	27,846-28,845	28,464-29,463	29,083-30,082	29,702-30,701
2	28,227-29,226	28,846-29,845	29,464-30,463	30,083-31,082	30,702-31,701
3	29,227-30,226	29,846-30,845	30,464-31,463	31,083-32,082	31,702-32,701
4	30,227-31,226	30,846-31,845	31,464-32,463	32,083-33,082	32,702-33,701
5	31,227-32,226	31,846-32,845	32,464-33,463	33,083-34,082	33,702-34,701
6	32,227-33,226	32,846-33,845	33,464-34,463	34,083-35,082	34,702-35,701
7	33,227-34,226	33,846-34,845	34,464-35,463	35,083-36,082	35,702-36,701
8	34,227-35,226	34,846-35,845	35,464-36,463	36,083-37,082	36,702-37,701
9	35,227-36,226	35,846-36,845	36,464-37,463	37,083-38,082	37,702-38,701
10	36,227-37,226	36,846-37,845	37,464-38,463	38,083-39,082	38,702-39,701
11	37,227-38,226	37,846-38,845	38,464-39,463	39,083-40,082	39,702-40,701
12	38,227-39,226	38,846-39,845	39,464-40,463	40,083-41,082	40,702-41,701
13	39,227-40,226	39,846-40,845	40,464-41,463	41,083-42,082	41,702-42,701
14	40,227-41,226	40,846-41,845	41,464-42,463	42,083-43,082	42,702-43,701
15	41,227-42,226	41,846-42,845	42,464-43,463	43,083-44,082	43,702-44,701
16	42,227-43,226	42,846-43,845	43,464-44,463	44,083-45,082	44,702-45,701
17	43.227-44,226	43,846-44,845	44,464-45,463	45,083-46,082	45,702-46,701
18	44,227-45,226	44,846-45,845	45,464-46,463	46,083-47,082	46,702-47,701

Department of Health

Health Resources Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Review of Proposals for Exceptions to the Moratorium on the Licensure of Nursing Home Beds and the Medical Assistance Certification of Nursing Home or Licensed Boarding Care Home Beds

Notice is hereby given that the State Department of Health is seeking information or opinions from sources outside the department in preparing to propose the adoption of rules governing review of proposals for exceptions to the nursing home and boarding care bed moratorium contained in *Minnesota Statutes*, section 144A.071. The adoption of the proposed rules is required by *Minnesota Statutes*, 1987 section 144A.073.

The state Department of Health requests information and comments concerning the subject matter of these rules. Interested or affected groups or persons may submit statements of information or comment orally or in writing to: Michael G. Dean, Health Resources Division, 717 S.E. Delaware Street, P.O. Box 9441, Minneapolis, Minnesota 55440, (612) 623-5424.

All statements of information and opinions will be accepted until 4:30 p.m., December 31, 1987. Any written material received by the Department of Health will become part of the rulemaking record to be submitted to the attorney general or administrative law judge if the rules are adopted.

Janet S. Brodahl, director
Health Resources Division

Department of Human Services

State Title XX Intended Use Report

The Division of Community Social Services has submitted a Title XX Intended Use Report for the period of October 1, 1987 through September 30, 1988 to the Department of Health and Human Services, Administration for Children, Youth and Families. The report is intended to meet federal requirements for funds provided under Title XX of the Social Security Act.

The plan is available for public review and comment. A copy of the plan can be obtained from the:

Department of Human Services
Division of Community Social Services
Title XX Intended Use Report
4th Floor
Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

State Board of Investment and the Investment Advisory Council

Notice of Meetings

The State Board of Investment will meet on Wednesday, November 25, 1987 at 8:00 a.m. in Room 112, State Capitol, Saint Paul, MN.

The Investment Advisory Council will meet on Tuesday, November 24, 1987 at 2:00 p.m. in Conference Room "A", MEA Building, 41 Sherburne Avenue, Saint Paul, MN.

Minnesota State Retirement System

Board of Directors, Special Meeting

A special meeting of the Board of Directors, Minnesota State Retirement System will be held on Friday, November 20, 1987 at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota. The purpose of the meeting will be to hear the appeal of an application for disability benefits which has been denied, and any other matters that may properly come before the Board.

Department of Revenue

Legal and Legislative Affairs Division

Notice of Solicitation of Public Comments and Advice Regarding How Minnesota Should Apportion and Define Income From the Operation of a Farm

Notice is hereby given that the State Department of Revenue is conducting a legislatively mandated study on the application of income tax allocation and apportionment rules with respect to income from highly technologically related agricultural production. As part of the study, the Department must consider whether the following types of income are from the operation of a farm:

(1) income of a taxpayer from an operation classified by the United States Department of Commerce Standard Industrial Classification as industrial, manufacturing, or distribution;

(2) income attributable to activities that occur prior to the commencement of the biological process creating the product or other value or after the biological process terminates;

(3) income attributable to testing; research, genetic or biological selection; genetic engineering; creation or licensing of patents, copyrights, trademarks, or other intellectual property; processing, packaging, grading, promotion, or distribution of products or value attributable thereto;

(4) income from any activity, which, if performed by another person not otherwise engaged in farming, would not in itself be farming;

(5) income derived from the sale, exchange, or distribution of living livestock and poultry purchased or leased by the taxpayer.

The Department must also consider how income should be apportioned between farm and nonfarm activities, particularly if:

(1) one or more activities or businesses of the taxpayer is wholly separate and unrelated to the taxpayer's farm income; or

(2) a small proportion of the taxpayer's income is income from the operation of a farm.

The Department is soliciting comments and advice from the public on how Minnesota should apportion and define income from the operation of a farm for Minnesota income and franchise tax purposes.

Interested persons or groups may submit comments and advice on the subject matter of concern in writing or orally. Written comments should be addressed to:

John P. Malach, Jr. or
Michael E. Boekhaus, Attorneys
Legal and Legislative Affairs Division
Mail Station 2220
St. Paul, Minnesota 55146-2220

Oral comments will be received during regular business hours over the telephone at (612) 296-1022.

All statements of information and opinions should be sent to the Department no later than December 4, 1987.

Dated: 6 November 1987

John P. Malach, Jr., attorney
Legal & Legislative Affairs Division
Department of Revenue

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes*, 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN 55155-1299; (612) 296-2805. Specific information about these vacancies may be obtained from the agencies listed below. The application deadline is December 8, 1987.

MN ZOOLOGICAL BOARD

1 public member

STATE BOARD OF VOCATIONAL TECHNICAL EDUCATION

1 at-large position

STATE CURRICULUM ADVISORY COMMITTEE

1 member residing in regions one or two (northwest)

MN ZOOLOGICAL BOARD
12101 Johnny Cake Ridge Rd.
Apple Valley 55124 612-432-9010. M.S. 85A.01, Subd. 1.

APPOINTING AUTHORITY: Governor.
COMPENSATION: $35 per diem.

The board operates and maintains the Minnesota zoological garden.

Fifteen members must have a background or interest in zoological societies or zoo management or an ability to generate community interest in the Minnesota zoological garden. To the extent possible members will be appointed who are residents of the various geographic regions of the state. Members should have the ability to raise significant funds from the private sector.

Monthly meetings at the Minnesota zoological garden.

STATE BOARD OF VOCATIONAL TECHNICAL EDUCATION
564 Capitol Square Bldg., 550 Cedar St.
St. Paul 55101 612-296-3995. M.S. 136C.03.

APPOINTING AUTHORITY: Governor. Senate confirmation.
COMPENSATION: $35 per diem plus expenses.

The board has the power to manage postsecondary vocational education.

The board consists of eleven members; one member from each congressional district; two at-large members and one student member. Except for the student representative, members may not receive compensation or be employed by any public or private postsecondary vocational institution. Terms are staggered.

Members must file with the Ethical Practices Board.

STATE CURRICULUM ADVISORY COMMITTEE
718 Capitol Square Bldg.
St. Paul 55101 612-296-8132. M.S. 126.67, subd. 1a.

APPOINTING AUTHORITY: Commissioner of Education.
COMPENSATION: None.

The committee advises the state board and department of education on the planning, evaluation, and reporting process.

Eleven members include nine members, one appointed from each educational cooperative service units and two at-large members.

Department of Transportation

Meeting State Aid Standard Variance Committee

Notice is hereby given that the Commissioner of Transportation has appointed a State Aid Standard Variance Committee who will conduct a meeting on Thursday, November 19, 1987, at 9:30 a.m., in room 419 State Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This notice is given pursuant to *Minnesota Statutes*, 47K.705.

The purpose of this open meeting is to investigate and determine recommendations for variances from minimum State Aid roadway standards as governed by *Minnesota Rules* for State Aid Operations 8820.3400 adopted pursuant to Statutes 161 and 162.

The agenda will be limited to these questions however additional requests will be considered if received in a timely manner.

1. Petition of the City of Elk River for a variance from design standards so as to permit 45 degree diagonal parking with a traffic aisle of 22.2′ instead of the required traffic aisle width of 25.2′ on a reconstruction project on MSAS 113 (Main Street) from County Road 42 to Lowell Street.

2. Petition of Nicollet County for a variance from a variance from design standards so as to permit an interim 32′ wide roadway with a gravel surface instead of the required surfacing and width necessary to provide a 7 ton ultimate 9 ton roadway on a reconstruction project on CSAH 4 from CSAH 5 to CSAH 1 (6.5 miles).

3. Petition of the City of St. Paul for a variance from design standards so as to permit a street width of 32′ with parking on one side from Cretin Avenue to Cleveland Avenue instead of the required width of 36′ with parking on one side; a street width of 40′ with parking on both sides from Cleveland Avenue to Snelling Avenue instead of the required width of 44′ with parking on both sides; a street width of 40′ with parking on both sides from Snelling Avenue to Hamline Avenue instead of the required width of 48′ with parking on both sides; a street width of 40′ with parking on both sides from Hamline Avenue to Short Line Road instead of the required width of 44′ with parking on both sides; and a street width of 40′ with parking on both sides from Short Line Road to Lexington Parkway instead of the required width of 48′ with parking on both sides on a construction project on MSAS 188 (St. Clair Avenue) from Cretin Avenue to Lexington Parkway.

4. Petition of the County of Beltrami for a variance from design standards so as to permit design speeds of 25 MPH and 37 MPH instead of the required design speed of 40 MPH on a bituminous resurfacing and aggregate shouldering project on CSAH 32 from the West County Line to T.H. 89.

5. Petition of the County of Beltrami for a variance from design standards so as to permit design speeds of 37 MPH and 38 MPH instead of the required design speed of 40 MPH on a bituminous resurfacing and aggregate shouldering project on CSAH 5 from Jct. CSAH 22 (east) in Pinewood to CSAH 32, 2.0 miles north of Debs.

6. Petition of the County of Traverse for a variance from design standards so as to permit a bridge width of 31.9 instead of the required width of 32′ and so as to permit a roadbed width of 31′9″ instead of 33′4″ which is necessary for a future 9 Ton finished roadway width of 32′ on a bridge construction project over the Bois De Sioux River on CSAH 16 at the South Dakota-Minnesota State Line.

The cities and counties listed above are requested to follow the following time schedule when appearing before the Variance Committee.

9:30 a.m.	City of Elk River
9:50 a.m.	County of Nicollet
10:10 a.m.	County of Traverse
10:30 a.m.	County of Beltrami
10:50 a.m.	City of St. Paul

Dated: 10 November 1987

Leonard W. Levine
Commissioner
Minnesota Department of Transportation

Department of Transportation

Petition of Traverse County for a Variance from State Aid Standards for Design Width

Notice is hereby given that the County Board of the County of Traverse has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* § 8820.3300 for a variance from minimum standards for a bridge construction project over the Bois De Sioux River on C.S.A.H. 16 at the South Dakota-Minnesota State Line.

The request is for a variance from *Minnesota Rules* for State Aid Operations § 8820.9910 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a curb to curb bridge width of 31′9″ instead of the required curb to curb bridge width of 32′0″ and so as to permit a roadbed width of 31′9″ instead of a width of 33′4″, which is necessary for a future 9 ton finished roadway width of 32′0″ (a 9 ton roadway requires an additional 2″ of bituminous surfacing).

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 10 November 1987

Leonard W. Levine, Commissioner
Department of Transportation

Department of Transportation

Petition of Beltrami County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Beltrami County has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* § 8820.3300 for a variance from minimum standards for a bituminous resurfacing and aggregate shouldering project on C.S.A.H. 32 from the West County Line to T.H. 89.

The request is for a variance from *Minnesota Rules* for State Aid Operations § 8820.9914 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit design speeds of 25 MPH and 37 MPH on six sag vertical curves instead of the required design speeds of 40 MPH.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 10 November 1987

Leonard W. Levine, Commissioner
Department of Transportation

Department of Transportation

Petition of Beltrami County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Beltrami County has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* § 8820.3300 for a variance from minimum standards for a bituminous resurfacing and gravel shouldering project on C.S.A.H. 5 from Jct. C.S.A.H. 22 (East) in Pinewood to C.S.A.H. 32, 2.0 miles North of Debs.

The request is for a variance from *Minnesota Rules* for State Aid Operations § 8820.9914 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit design speeds of 38 MPH and 37 MPH on two sag vertical curves instead of the required design speeds of 40 MPH.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 10 November 1987

Leonard W. Levine, Commissioner
Department of Transportation

Board of Water and Soil Resources

Notice of Meeting

The Board of Water and Soil Resources will hold its next monthly meeting on Wednesday, November 25, 1987, in Conference Room A of the Department of Agriculture Building, 90 West Plato Boulevard, St. Paul, Minnesota, starting at 9:00 a.m.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of $15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Department of Administration: Procurement Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid. Buyer's initials are listed next to each commodity.

Commodity for Bid (and Buyer)	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Men's underwear—rebid (AW)	November 18	Various	Various	Price Contract
Copying equipment (BT)	November 18	State University	Moorhead	26072 01333
Laboratory supplies (JG)	November 18	State University	Mankato	26071 17866
Centrifuge (JG)	November 18	State University	Mankato	26071 17867

Commodity for Bid (and Buyer)	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Preserved specimens & supplies—rebid (DO)	November 19	Various	Various	Price Contract
Air compressors (DM)	November 19	Transportation	Various	79000 81775
IBM compatible (BV)	November 19	Fond Du Lac Higher Education	Cloquet	27163 63014
Ultracentrifuge & rotors (JG)	November 20	Agriculture	St. Paul	04121 81465
Automated word processing system—rebid (DO)	November 20	Agriculture	St. Paul	Price Contract
Lease purchase, van w/lift (DM)	November 23	Reg. Human Service Ctr.	Cambridge	55201 07198
1988 Caterpillar Addendum #3	November 3	Transportation	Various	11909

Department of Administration: Printing & Mailing Services

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Commodity for Bid (and Buyer)	Bid Due Date at 2 pm	Department or Division	Delivery Point	Requisition #
Winter Schedule Eastside edition	November 17	Community College, Lakewood	White Bear Lake	2861
Mailing Sleeve	November 17	Health	Minneapolis	3071
8-page booklet plus cover	November 17	Higher Education Coordinating Bd.	St. Paul	2986
Employer's Statement of Account	November 17	Jobs & Training	St. Paul	3040
1988 MN Boating Guide	November 18	Natural Resources	St. Paul	2804
Southern MN Travel directory	November 18	Trade & Economic Development	St. Paul	1494
Kraft envelopes	November 18	Human Services	St. Paul	3079
Boiler application forms	November 18	Labor & Industry	St. Paul	3120
Unite Assignment forms 8½ × 5¾	November 18	Transportation	St. Paul	3025
Undergraduate catalog	November 20	State University	Bemidji	2900
Carbonless Snapout Sets	December 1	Administration: Printing & Mailing	St. Paul	Price Contract
Wic Shelf Labels	November 20	Health	Minneapolis	3070

Department of Labor and Industry

Workers' Compensation Division

Request for Proposals for Medical Consultant

The Minnesota Department of Labor and Industry is requesting proposals from eligible physicians who would be able to serve as medical consultant to the Rehabilitation and Medical Affairs Section of the Workers' Compensation Division and to the Rehabilitation Review Panel and the Medical Services Review Board, for the time period of December 1, 1987 through June 30, 1988. Qualifications for the position include: current active practice of medicine, preferably with active practice in the area of workers' compensation; recognized standing in the professional community in the form of current or recent chairmanships or memberships of the Minnesota Medical Association and relevant professional associations; experience in working with governmental agencies; familiarity with the state workers' compensation rehabilitation program and other relevant programs; an interest in assisting the Department

of Labor and Industry in developing and achieving its goals in the planning and implementation of an effective workers' compensation rehabilitation and medical services program, the regulation of current services, and the development of appropriate guidelines and standards.

Minimum tasks include: assisting the Department and its boards in the development and administration of rules and regulations pertaining to workers' compensation medical and rehabilitation services, representing the Department to various professional, governmental, and public entities and providing general technical assistance to the Department.

Candidates must respond in the form of a proposal to enter into a contract as required by the Department of Labor and Industry. Maximum reimbursement for a total of 400-500 hours assistance will be $25,000 which includes travel and expenses. The deadline for proposals, which must include current resume or curriculum vitae, is December 1, 1987.

Copies of the request for proposals, and related information, are available from:

Mary Jo Glumack, Director
Rehabilitation and Medical Affairs
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

Minnesota State University Board/Metropolitan State University

Notice of Request for Proposals for Production of Video Tapes

Metropolitan State University is seeking individuals or organizations able to produce video tapes for its Adult Learner Services Network. The Project, which will be provided under contract, is outlined in detail in the Request for Proposals (RFP) Statement of Work. The formal RFP may be requested and inquiries should be directed to:

Garrit Groen
Director of Adult Learner Services Network
Metropolitan State University
121 Metro Square Building
St. Paul, MN 55101
(612) 296-8107

It is anticipated that the activities to accomplish this Project will not exceed a total cost to the State of between $15,000 and $20,000. The deadline for the submission of completed proposals will be the close of the working date November 30, 1987. The Project is expected to be completed by February 19, 1988.

Department of Trade & Economic Development

Request for Proposals for a Community Economic Development Targeted Marketing Computer Software Package and Manual

The Minnesota Department of Trade and Economic Development (MN DTED) through its Development Resources unit is requesting proposals from qualified computer programmers to design and produce menu driven computer software and one or more complimentary manuals or handbooks to enable communities to:

- identify industries to attract,
- determine growth potential of targeted industries,
- match local and regional resources available to industry requirements,
- select appropriate marketing methods to reach targeted industries.

The SIC code data base for this project collected and compiled by MN DTED staff will be derived from Department of Commerce statistics.

The computer software products of this project are expected to be very user friendly and must be developed using languages compatible with IBM PC and compatible systems.

The cost of this project may approach but shall not exceed $30,000.00. Proposals must be received by MN DTED no later than 4:00 p.m. **December 7, 1987.**

This Request for Proposal does not obligate the State of Minnesota to complete the project and the State reserves the right to cancel the solicitation if it is considered in its best interest. The formal request for proposals document may be requested and inquiries should be directed to:

Patrice K. Abbe
Department of Trade and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
612/297-1166

Supreme Court Decisions

Decisions Filed Friday, 13 November 1987

C5-87-1233 Richard D. Violette v. Midwest Printing Company-Webb Publishing and American Mutual Insurance Company, Relators, Steve Keefe, Commissioner of the Department of Labor and Industry, intervenor. Workers' Compensation Court of Appeals.

The Department of Labor and Industry properly interpreted Minn. Stat. § 176.242 (1984) as requiring the employer and insurer to prove by a preponderance of evidence that discontinuance of workers' compensation benefits was warranted.

The procedures employed at administrative conferences held pursuant to Minn. Stat. § 176.242 (1984) afford all process that is constitutionally due where the party aggrieved by the administrative decision has a right to an expedited **de novo** hearing before a compensation judge.

Where the employer and insurer sought discontinuance of temporary total disability benefits based on the employee's return to work, the issue of temporary partial disability benefits was properly before the compensation judge.

The refusal of two Workers' Compensation Court of Appeals' judges to disqualify themselves below did not deny due process where disqualification was not mandated by the ABA Standards of Judicial Administration or the Code of Judicial Conduct.

Affirmed. Yetka, J.

Took no part, Scott, J.

Announcements

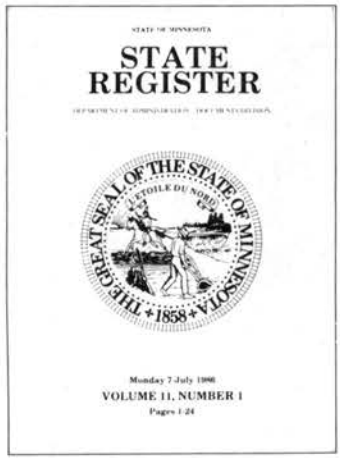
New Documents Division Catalog Available: The new Publications Catalog produced by the Minnesota Documents Division is available for free by writing or calling the division at 117 University Avenue, St. Paul, MN 55155, (612) 297-3000 or state-wide toll-free 1-800-652-9747 (ask for "Documents"). The catalog features a wide variety of business and recreational books, posters, maps, as well as information on the division's services, laws and rules booklets, subscriptions and mailing lists.

Free *MECC Etc. Catalog* Available from MECC: The Minnesota Educational Computing Corporation (MECC) has just released its new *MECC Etc. Catalog* featuring high-quality products especially well-suited to schools using "cutting-edge" technology. The "Etc." stands for "Emerging Technologies in the Classroom." This eight-page catalog includes both MECC and non-MECC products, including: **Electronic Imaging Systems**—The Telex **MagnaByte** and Computer Accessories **Data Display** use the latest electronic imaging technology to project clear computer images onto a wall or screen. With the aid of any standard overhead projector, you can display computer images to an entire class. **Videodisc Players**—Videodisc players represent the most advanced of all visual technologies. Three models of **Pioneer LaserDisc Players**, the LD-V2000, LD-V4200, and LD-V6010A are being sold in various combinations with Pioneer and/or MECC videodiscs. **Videodiscs**—A wide assortment of educational videodiscs from Pioneer and MECC are being offered. Videodisc accessories and a variety of computer supplies are also included in this catalog. For more information or for a free ***MECC Etc. Catalog***, write or call MECC Customer Services at 1-800-228-3504. 3490 LEXINGTON AVENUE NORTH, SAINT PAUL, MINNESOTA 55126-8097

Illegal Grass Carp Found in Minnesota: A species of grass carp that destroys native fish and wildlife habitat was illegally imported into Minnesota recently and stocked in three privately controlled ponds in the Twin Cities Metropolitan Area. Information supplied by the U.S. Fish and Wildlife Service led Department of Natural Resources (DNR) officials to a golf course that had purchased 50 of the fish from a private outside hatchery. DNR Fisheries personnel treated the ponds with the fish toxicant rotenone, which destroyed the carp. Dick Hassinger, DNR Section of Fisheries Chief, said the grass carp, also known as the White Amur, is a weed-destroying fish that made headlines recently for being illegally introduced in 50 Wisconsin ponds and lakes. "It is illegal to import any fish into the state for stocking without first getting a permit from the DNR," Hassinger said. He added that native fish, waterfowl and other aquatic wildlife could be threatened by the introduction of species like the grass carp. Anyone seeking a permit to import fish must first contact the DNR Fisheries Office at (612) 293-3325. For more information, contact: Dick Hassinger, DNR Fisheries Chief (612) 296-0792.

Notice of Public Hearing to Consider Modifications to the Sentencing Guidelines: The Minnesota Sentencing Guidelines Commission will hold a public hearing on Thursday, December 10, 1987, at 6:00 p.m. in Hearing Room 5, Ground Floor, State Office Building, 100 Constitution Ave., St. Paul, Minnesota. The public hearing is to consider proposed modifications to the sentencing guidelines regarding the presumptive sentence for offenders to the right of the dispositional line at severity levels I through VI, an additional aggravating factor for offenders with extensive criminal history, and the ranking for Sale of Cocaine and Sale of Heroin when the amount of drug involved is at least 10 grams over a 90 day period. Additional copies of the proposed modifications that include proposed modifications to the Commentary are available, free of charge, by contacting the Minnesota Sentencing Guidelines Commission at 51 State Office Building, St. Paul, MN 55155, or by calling (612) 296-0144. All interested persons are encouraged to attend the hearing and offer comments. Persons wishing to speak may register in advance by contacting the Commission staff at the above address/telephone number. The Commission will hold the record open for five days after the public hearing to accept additional written comment on the proposed modifications. On December 15, 1987, the Commission will meet in Room 10, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota to formally adopt or reject the proposed modifications. If adopted, the modifications as indicated will become effective December 16, 1987. Those requiring legislative review will become effective August 1, 1988 absent legislative action to the contrary.

Winter Road Condition Reports Available: Winter road condition reports for motorists statewide—using a 15-line telephone handling system and taped reports—will start Nov. 14, reports Darrell Schierman, manager of Mn/DOT's Road Information Unit. The reports are updated hourly or as road conditions change. The statewide condition report number is 296-3076. Touchtone telephone users also can obtain sectionalized reports for the north, south, central and Twin Cities metropolitan areas of Minnesota. Local reports are available from the districts.



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Each year over $1 billion in state contracts are awarded. About $20 million in state contracts per week are advertised in the **State Register,** the most complete listing of state contracts available. Just a *sampling* of contracts includes, consulting services, professional services, technical services, commodities, equipment, supplies, and a wide variety of special services.

For 50¢ a day, the price of a **Wall Street Journal,** we will deliver to your office the most effective and economical means of tracking state contracts. The smart way to stay in the know, and land the business of state government, is with the **State Register.**

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Could you hire someone to bring all this information to you and your company for so little money? Let us bring you the business of state government. Subscribe to the **State Register** today, or call 296-4273 for more information.

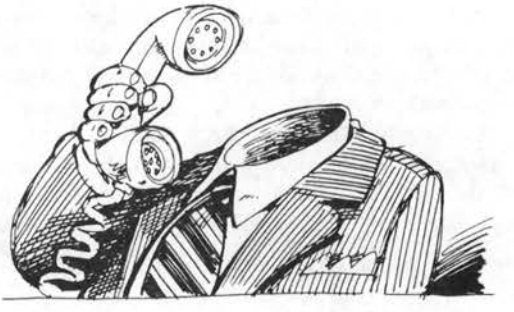
An annual subscription is $130 and a 13-week trial subscription is $40. MasterCard/VISA orders can be taken over the phone, otherwise prepayment is required. Send your orders to the Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Ever called and been transferred to this guy?

1987 & 1988 State of Minnesota Telephone Directory. Get a direct line to the persons you want to speak to. Contains names, numbers, and agencies in the executive, legislative and judicial branches of state government. Four sections give listings alphabetically name, agency, Minnesota region, plus an index for cross referencing. Over 250 pages, paperback, 8½"x11". Code #1-87, $10.95

U.S. Government Manual 1986-87. Contains comprehensive information on federal agencies of the legislative, judicial and executive branches of government. Each agency description includes address, phone number, a list of principal officials, a summary of each agency's purpose and programs and activities. Paperback 940 pages with appendices and index. Code #16-46, $19.00



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Department of Commerce Regulated Profession Publications

Banking Laws 1986. Complete text of state law governing banks, trust companies and other financial institutions. Code #2-76 $29.95

Business and Nonprofit Corporation Act 1987. Laws governing establishment and conduct of for-profit and non-profit corporations in Minnesota. Chapters 80B, 302A, 317. Code #2-87 $10.00

Fair Labor Standards Act 1987. Minimum wage and overtime compensation standards for employers. Chapter 177. Code #2-75 $5.00

Insurance Laws 1986. A compendium of laws applicable to the insurance business. Includes chapters on company and individual agents licensing requirements. Code #2-1 $14.95

Insurance Rules 1986. Essential licensing information for businesses and agents. Includes standards on policies, practices, marketing and continuing education. Code #3-1 $14.00

Notary Public Laws 1987. Statutory requirements regarding the oath of office, necessary bond, and taking of depositions. Includes an explanation of the term of the office and procedures for removal from office. Code #2-13 $4.00

Real Estate Laws 1987. Complete and up-to-date extract from the 1986 Minnesota Statutes. Code #2-92 $6.00

Real Estate Rules 1987. Contains all education and licensing requirements for agents. Chapters 2800.2805, and 2810. Code #3-99 $8.00

Securities Laws 1987. Governs the activities of broker/dealers, agents or investment advisors. Chapter 80A. Code #2-12 $6.00

Securities Rules 1987. Subjects include standards of conduct, equity securities, investment companies and more. Chapter 2875. Code #3-5 $13.00

Banking Rules 1987. New rules are expected in early fall '87. Call then for more information.

Uniform Commercial Code 1986. Chapter 336, U.S. laws governing trade, including contracts, title, payment, warranties, performance and liability. Code #2-2 $10.00

Mailing Lists. All kinds available. A catalog will be available in late summer '87. Call to receive a copy, (612) 297-2552 or 296-0930.

TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6% sales tax, and $1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.

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Pheasants in Minnesota

Pheasants in Minnesota, focusing exclusively on the ringneck pheasant, this DNR booklet tells of this popular game bird's origin, introduction and development in Minnesota. Through many full-color photos the book shows the pheasant in various settings, tells how to maintain wildlife habitat and explains the wise management of the hunt. A great gift for each member of your hunting party, or as a memento to a special Minnesota hunting vacation. Quantity discounts available. Code #9-13, $5.95.

Woodworking for Wildlife, delightfully written and carefully illustrated with a variety of game bird and mammal box designs. Includes important information on the placement of nests in proper habitat areas and maintenance requirements. Diagrams, 48 pp. Code #9-14, $6.00.



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Minnesota: national leader in education

101 Ways to Promote Academic Excellence

A collection of nuts-and-bolts methods educators have successfully used to foster academic achievement. These are techniques that directly help students, can be replicated easily, are cost-effective, and that work in meeting public education's great challenge: helping every single child learn. Code #5-1, $4.50.

Education Directory, 1986-87

This popular comprehensive directory contains Minnesota school districts, superintendents, principals, addresses, phone numbers, and enrollment. 128 pages, paperbound. Code #1-93, $5.00.

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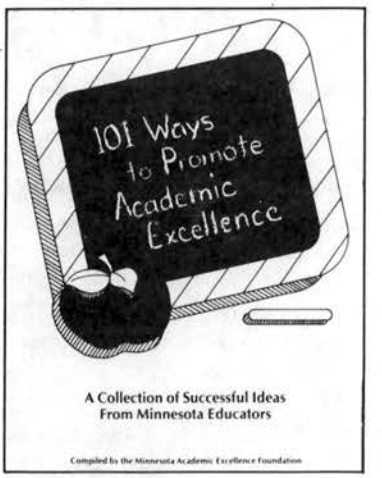

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Buying Or Selling?

In either case, **The Medical Alley Directory** can help you do your job better. Double your business; the 1986 edition is nearly twice as large as last year's. Reach the decision-makers without delay at more than 300 medical and bio-tech companies and healthcare delivery organizations.

Entries include major products and/or services, company background, special interests, trade name(s), major activities, and addresses and phone numbers. Code # 40-7, $49.95.

Mailing Lists. We have a large variety of mailing lists, in many formats. A new catalog is being developed. Call or write if you wish to receive a copy when it is updated.



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Complete attached order blank. Include either your VISA/MasterCard number with the expiration date, or a check/money order made out to the State of Minnesota. Orders by phone are accepted when purchasing with your VISA/MasterCard or if you have a customer deposit account. Please include a phone number where you can be reached during the day in case we have questions about your order.
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City	State	Zip	Postage/Handling (per order)	**$1.50**
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MAILING LISTS GALORE

Successful business means successful sales

The Minnesota Documents Division has a variety of mailing lists of licensed professionals and permit holders that will enable you to focus your marketing efforts on a targeted audience.

Types of lists available are: registered nurses, real estate agents, physicians, insurance agents, boatowners, hunters, cosmetologists, teachers, and many more! And you can get them on printouts, cheshire/pressure sensitive labels, as well as 9-track magnetic tapes.

What's more, you can choose from several selection capabilities. You will find our selections most helpful and beneficial to your business when you learn that you can acquire names and addresses of individuals in the areas you need to target most.

Find out more about our mailing lists by writing for our free mailing list catalog. In a hurry? Call (612) 297-2552 for more information. Requests can be sent to: Minnesota Documents Division, Mailing List Operation, 117 University Avenue, St. Paul, MN 55155.

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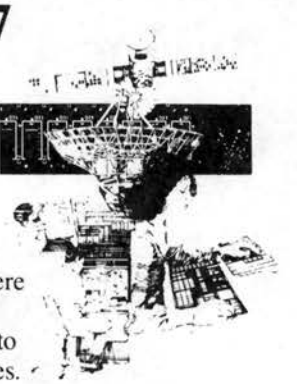
Minnesota Manufacturer's Directory 1986-87



UPDATED: Name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2, $68.50.

NEW: In the directory this year are two titles (where applicable) Chief Engineer and Data Processing Manager.





REVISED: There are more than 7,000 changes to the 7,068 entries.

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Voices of the Loon



Its voice severs the bonds to the world of cities, traffic, crowds, lights and noise. The lyrical magic of the loon, sometimes hauntingly eerie, makes the skin tingle, and the hair on the back of the neck stand on edge, awakening a primitive response. Its solitary wail turns the shadowy wilderness into a mysterious path into eternity.

Voices of the Loon, cassette tape, includes introduction and loon call identification, chorus from a distant lake, tremolo duet, wail duet, border confrontation, wails with morning songbird chorus, tremolos while running, wails during a thunderstorm, and coyotes calling with loons. Code #19-73, $12.00.

The Loon: Voice of the Wilderness, hardbound with color plates and illustrations, 143 pages. Code #19-54, $15.95.

Loon Calendar 1988, beautiful photographs and scenes. Code #15-40, $6.95.

Loon Lapel Pin. Code #15-30, $2.49.

Loon Windsock, 56 inches long in full color. Code #15-29, $19.95.

Loon Nature Print, full-color poster 16″ × 22″, Code #15-18, $3.00.

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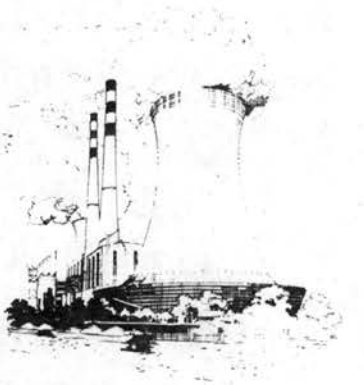
Minnesota's future environment

The issue of environmental protection is of continuing interest to both Minnesota business and the general public. Stay abreast of changes in state government regulations with these publications.



1986 Pollution Control Laws
Laws dealing with water pollution, disposal facilities, solid waste management, the MN Environmental Rights Act, recycling, and more. Code No. 2-21. $15.00.

1986 Hazardous Waste Rules
Governs the production, storage, transportation and disposal of hazardous waste. MN Rules Chapter 7045 and 7046. Code No. 3-71. $13.50.

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Subscription Services

The Minnesota Documents Division offers several subscription services of activities, awards, decisions and special bulletins of various Minnesota state agencies.

Use the handy order form on the back of the *State Register* to order. Simply fill in the subscription code number, include your name, address and zip and your check made out to the State of Minnesota (PREPAYMENT IS REQUIRED) and send it in. We'll start your subscription as soon as we receive your order, or whenever you like.

SUBSCRIPTION	COST	CODE NO.
Career Opportunity Bulletin, 1 year	$ 20.00	90-3
Career Opportunity Bulletin, 6 mos.	$ 15.00	90-4
Human Services Informational and Instructional Bulletin	$100.00	90-6
Human Services Bulletin List	$ 30.00	90-7
PERB (Public Employee Relations Board) Awards	$285.00	90-9
PERB (Public Employee Relations Board) Decisions	$ 60.00	90-10
Minnesota Statutes Subscription Includes the complete 10-volume set of Minnesota Statutes 1986 and the 1987 Supplement	$135.00	18-8
State Register, 1 year	$130.00	90-1
State Register, 3 mos. trial can be converted to a full subscription for $90 at end of trial	$ 40.00	90-2
Tax Court/Property Decisions	$210.00	90-11
Workers Compensation Decisions, unpublished subs run Jan-Dec; can be prorated	$320.00	90-12
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Selling business and financial services to physicians?



Physicians Directory 1985

Names and addresses of licensed chiropractors, doctors of medicine, and osteopaths, optometrists, podiatrists and registered physical therapists in alphabetical order by discipline. Includes members of all the state medical profession boards. Code #1-1, $15.00.

Medical Alley Directory 1986

A guide to more than 300 high-tech medical, bio-tech and health care companies, institutions and organizations and their products and services. Code #40-7, $49.95.

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For Real Estate Professionals:



REAL ESTATE RULES 1987

Chapters 2800, 2805, and 2810 from the Minnesota Rules. *Essential* for both students and established brokers and salespersons. It contains all education and licensing requirements. Code No. 3-99. $8.00

REAL ESTATE LAWS 1987

Includes all the changes made by the 1986 State Legislature. Complete and up-to-date. Code No. 2-92. $6.00.

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Morel: Minnesota's mushroom

ROON: A Tribute to Morel Mushrooms, this delightful treatise on the "filet mignon" of mushrooms will help the stalker of this elusive prey find, and prepare in a variety of ways, its mouth-watering madness. Code #19-55, $12.00.

Edible Mushrooms, a classic guide to safe mushrooms, describes 60 species in detail, with photographs (many in color) to show each in its natural habitat. Advice to amateur mushroom hunters. Paperbound, 118 pp. Code #19-11, $9.95.

Malfred Ferndock's Morel Cookbook, brim full of morel lore, interesting and tall tales, recounts of the hunt, and many savory recipes. Spiral bound, 117 pgs., black & white photos and drawings. Code #19-83, $8.50.

Northland Wildflowers, the perfect mushroomers companion. An excellent guide for identification and enjoyment of wildflowers, with 308 color photographs and descriptions of 300 species. Paperbound. 236 pp. Code #19-9, $12.95.

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NOTARY PUBLIC LAWS

Statutory requirements regarding the oath of office, necessary bond, and taking of depositions. Includes an explanation of the term of office and procedures for removal from office. Code No. 2-13. $4.00.

Jane Smith
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Commission Expires January 1, 1994

U.S. SMALL BUSINESS ADMINISTRATION PUBLICATIONS:

Insurance and Risk Management for Small Business	Code No. 16-50. $3.00.
Small Business Finance	Code No. 16-42. $2.00.
Starting and Managing a Small Business of Your Own	Code No. 16-40. $4.75.

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Catching criminals is only one part of law enforcement. Here's the rest of it.



Police Report Writing Style Manual 1986–A common framework for report writing throughout the state. Discusses the general purpose of police reports, reviews field notetaking, offers instructions on completing common report forms, and introduces the Data Practices Law. Code No. 14-13. $12.50.

Background Investigation Manual 1986–A guide to conducting effective thorough background investigations of peace officer candidates. Included are various criteria for use in the selection process: experience, education, and past behavior. Sample forms. Code No. 14-15. $10.00.

Motor Vehicle Traffic Laws 1986–Includes laws governing motor carriers, motor vehicle registration and no-fault auto insurance. Code No. 2-85. $12.50.

Criminal Code & Selected Statutes 1986–Governs the conduct of peace officers. Includes continuing education requirements, sentencing standards, and more. Code No. 2-68. $12.00.

Blue Binder–3 ring. 2″ capacity. Criminal Code and Motor Vehicle Traffic Laws require 1 binder each. Code No. 10-21. $4.25.

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Murder: Minnesota style

Murder in Minnesota is a treasury of vintage crimes. Characters, some famous, some obscure, come to life in all their cleverness or murderous madness. Minnesota cases from 1858-1917. 253 pp. photos, index. Code 17-35, $5.95.

Robber and Hero On September 7, 1876 six members of the James-Younger gang blasted their way out of Northfield, Minnesota. George Huntington's classic account of the Northfield Bank raid is as fascinating today as it was when first published 19 years after the attempted robbery. 125 pp., charts, maps, photos, with index. Code 17-40, $5.95.

Secrets of the Congdon Mansion The prosecutor called it a crime of greed. A complex, intriguing murder case, set in one of Minnesota's most spectacular mansions, and now a top Minnesota tourist attraction on Duluth's famous Lake Superior North Shore Drive. By Joe Kimball, 64 pp., drawings. Code 19-56, $4.95.

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Human Services Laws and Rules



Human Services Laws 1986
An extract from the statutes. Includes legislative amendments and additions from the most recent session. Code No. 2-56. $20.00

Human Services Rules as in effect July 7, 1986
Rules governing assistance programs, eligibility grant amounts, AFDC and residence requirements. MN Rules Chapter 9500-9580. Code No. 3-95. $24.95.

Human Services Rules Supplement 1987. Includes recent changes to many rules in effect from July 1986 through January 1987. Code #3-95s1, $14.00.

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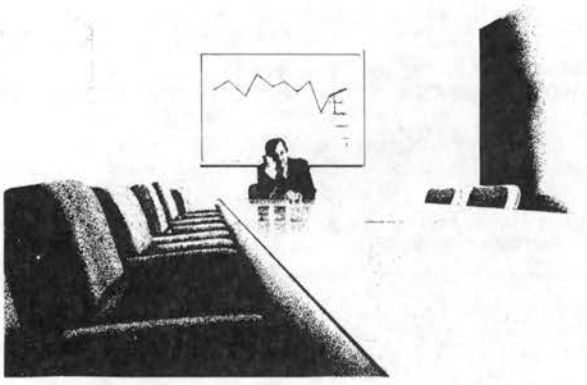

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STATE OF MINNESOTA

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STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

BUILDING CODES & STANDARDS

In the Matter of the Proposed Adoption of the Rule of the State Department of Administration, Building Codes and Standards Division Governing the Design of Manufactured Home Park Storm Shelters and Adopting "Interim Guidelines" — TR-83A, January 1980, Sections 1 and 2 by Reference

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE, WITHOUT A PUBLIC HEARING

Notice of the Commissioner of Administration's intent to adopt the above-entitled rule was published in the State Register on Monday, November 16, 1987 and was sent to all persons of the list maintained by the Building Codes and Standards Division pursuant to Minnesota Statutes, Sections 14.14, subdivision 1a and 14.22 on November 12, 1987. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking list and published in the State Register and was also available to the public.

All persons were given the opportunity to submit comment on the rule for the required 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the Building Codes and Standards Division.

No request for notice of submission to the attorney general of the rules published in the State Register, Monday, November 16, 1987 were received by the Building Codes and Standards Division.

The Building Codes and Standards Division received one letter of comment from Richard C. Nelson, Plan Check Engineer, City of Bloomington, Minnesota, offering recommended changes to two items of the rule.

1. Section 1370.0160 - Required exits. Mr. Nelson is suggesting that the proposed minimum dimension of 20 inches be increased to 24". The proponent has not stated any justification for the proposed change, no reasons why the proposed dimension is not satisfactory. The division used the 20 inch dimension because it is consistent with an egress standard identified in the Uniform Building Code, Section 1204 which the State Building Codes and Standards Division has adopted by reference. The division does not support this proposed amendment by Mr. Nelson.

2. Section 1370.0150 - Space requirements. Mr. Nelson is proposing a change in the sentence structure of this rule which could be interpreted to go beyond the intent and application of the rule. The proposed rule establishes a minimum square foot per person be provided within a shelter where we believe the wording of Mr. Nelson's proposal could be grossly misapplied where he indicates the

2. cont.

space required is for persons residing in "parks" with a minimum of 4 square feet per person. Again no justification for the proposal was given.

It is the intent of the division to not dictate to the park what size shelters are required to be constructed but only requiring that the size of the structure be such that the appropriate occupant load can be accommodated. A park of some magnitude may have to develop more than a single shelter to accommodate their needs. This determintion would generally be made at time of licensure of the park by the Minnesota Department of Health or through the process of local Land Use Zoning approvals. The division does not support the proposed amendment by Mr. Nelson.

Based upon the comments and evidence in the record before the Building Codes and Standards Division, I find the following:

The above-captioned rule is needed and reasonable.

NOW, THEREFORE AS ORDERED, that the rule identified as proposed is adopted this 5th day of February, 1988, pursuant to authority vested in me by Minnesota Statutes Section 16B.61.

STATE OF MINNESOTA

Sandra J. Hale

SANDRA J. HALE, COMMISSIONER
DEPARTMENT OF ADMINISTRATION

A resident who objects to a planned transfer or discharge may request a contested case hearing within the 30-day time limit before discharge as set forth in Minnesota Statutes, section 144.651, subdivision 29. The administration of the home shall grant the request for a contested case hearing and proceed in accordance with chapter 1400 and Minnesota Statutes, chapter 14.

A resident may remain at the home until the administration has acted upon the administrative law judge's recommendation if all conditions of eligibility for residency continue to be met except those under contention.

After the administrative law judge has made his report, the administration of the home shall make the final determination whether or not to discharge a resident.

Residents refusing to leave the premises of the home, if so directed by the outcome of a contested case hearing, may be evicted by the administration of the home and the appropriate civil authorities.

9050.3900 POLICIES CONCERNING RESIDENTS.

Subpart 1. **Visiting hours.** Visiting hours must be prominently displayed; visiting is encouraged unless it is medically contra-indicated.

Subp. 2. **Visits by pastor.** A resident's spiritual advisor must be permitted to visit at any time. Privacy for these visits is a resident's privilege.

Subp. 3. **Visits to critically ill residents.** Relatives or guardians must be allowed to visit critically ill residents at any time.

Subp. 4. **Telephone.** There must be at least one noncoin-operated telephone accessible at all times in case of emergency. Residents must have access to a coin-operated telephone at a convenient location.

Subp. 5. **Mail.** Residents must receive their mail unopened unless the resident or legal guardian requests in writing that a resident's mail be opened. That written request must be maintained in the resident's permanent file.

Subp. 6. **Funds and possessions.** Neither the home nor an employee of the home may handle the major personal or major business affairs of a resident.

Subp. 7. **Pets.** Pet animals may not be kept on the grounds or premises of a home without written consent of the commissioner.

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Administration

Building Codes & Standards

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing the Construction of Manufactured Home Park Storm Shelters

Notice is hereby given that the State Department of Administration, Building Codes and Standards Division is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing the construction of manufactured home park storm shelters. The adoption of the rule is authorized by *Minnesota Laws 1987*, chapter 195, which requires the agency to adopt rules for the construction of manufactured home park storm shelters by March 1, 1988.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike~~ ~~outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike~~ ~~outs~~ indicate deletions from proposed rule language.

The Building Codes and Standards Division requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing. Written statements should be addressed to:

Mr. Richard I. Hauck
Supervisor, Manufactured Homes Sections
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

All statements of information and opinions shall be accepted until 4:30 p.m., August 28, 1987. Any written material received by the State Building Codes and Standards Division shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 17 July 1987

Richard A. Brooks, Director
State Building Codes & Standards Division

Minnesota Agricultural and Economic Development Board

Notice of Public Hearing on Proposed Project and the Issuance of Bonds under *Minnesota Statutes* 1986, Chapter 116M and *Minnesota Statutes*, Chapter 41A

NOTICE IS HEREBY GIVEN that the Minnesota Agricultural and Economic Development Board (the "Board") or its designated representative, shall meet on August 19, 1987, at 3:00 p.m. o'clock, at 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") and the provision of other financial assistance under *Minnesota Statutes* 1986, Chapter 116M, and *Minnesota Statutes*, Chapter 41A, as amended (the "Act"), to undertake and finance a project on behalf of Metro Recovery Systems, a Minnesota partnership (the "Applicant"). Such persons as desire to be heard with reference to said issue of Bonds will be heard at this meeting.

The project to be financed consists of the development, construction and operation of a hazardous waste recovery, treatment, temporary storage and transfer facility in the City of Roseville, Ramsey County, Minnesota (general description of the location being an I-2a zoned undeveloped 4½ acre parcel on Rose Place near Walnut Street and County Road C in Roseville, Minnesota) (the "Project"). The initial owner of the Project will be the Applicant and the Project is expected to be operated and managed by the Applicant, Metropolitan Recovery Corporation, Lancy Recovery, Inc. or a related person or agent. It is contemplated that the Project will accept inorganic hazardous waste from, primarily, metal finishing and printed circuit fabrication firms which are mainly located in the Minneapolis-St. Paul area and will also accept organic hazardous waste for temporaray storage transfer. The estimated amount of the Board's proposed bond issue is an amount equal to $6,060,000 and, in any event, the principal amount of bonds will not exceed $6,500,000. The Bonds shall be limited obligations of the Board, shall be taxable, the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, a limited guaranty fund (which may be established and funded by the Board in an amount equal to maximum annual debt service on the Bonds) and a mortgage or security interest or other security arrangements to be established by or on behalf of the Applicant. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the Application to the Board for approval of the Project, together with all attachments and exhibits thereto and a copy of the Board's resolution accepting the Application and accepting the Project is available for public inspection at the offices of the Board at 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

Dated: 13 July 1987

BY ORDER OF THE MEMBERS OF THE
MINNESOTA AGRICULTURAL AND
ECONOMIC DEVELOPMENT BOARD

Commissioner, Department of
Trade and Economic Development,
Chair, Minnesota
Agricultural and Economic
Development Board