

Minnesota Attorney General: Administrative Rules Proceedings

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DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : December 12, 1989

TO : Beth G.Lockwood, P.C. Specialist Sr.
Minnesota Pollution Control Agency
520 Lafayette Road (55155)

FROM : MARTHA J. CASSERLY
Special Assistant Attorney General
525 Park Street, Suite 404 (55103)

PHONE : 296-6839

SUBJECT : In the Matter of the Adopted Permanent Rule Relating to Underground Storage Tank Training and Certification

The above-referenced Permanent rule has been approved as to its legality by the Attorney General on December 12, 1989.

Enclosed is your 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 along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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:bbl
Enclosures
cc: William Brown, Chief Judge (memo only)
MaryAnn Hruby " "
Barbara Friese, S.A.A.G. " "

Pollution Control Agency
Hazardous Waste Division

Adopted Permanent Rules Relating to Underground Storage Tank Training and Certification

Rules as Adopted

7105.0010 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the following terms and abbreviations have the meanings given them. Terms that are not specifically defined have the meanings given them in Minnesota Statutes, sections 115.01, 115C.02, and 116.46.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. **Approved training provider.** "Approved training provider" means a person approved by the commissioner to provide the installer training course or the final examination.

Subp. 4. **Certificate.** "Certificate" means a document issued by the agency to a person who has met the certification requirements of this chapter.

Subp. 5. **Certified contractor.** "Certified contractor" means a contractor that has been certified by the agency under the requirements of this chapter to engage in the business of installing, repairing, or closing underground storage tank systems.

Subp. 6. **Certified supervisor or supervisor.** "Certified supervisor" or "supervisor" means an individual certified by the agency under the requirements of this chapter to perform one or more storage tank projects. This individual provides supervision and direction to workers engaged in a storage tank project.

Subp. 7. **Closure or removal.** "Closure" or "removal" means permanently taking an underground storage tank out of service by either closing it in place, removing it from the ground, or converting it to store a nonregulated substance, as required by

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Code of Federal Regulations, title 40, part 280, or its counterpart in Minnesota rules when adopted.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of the agency.

Subp. 9. **Contractor.** "Contractor" means a corporation, partnership, or duly constituted individual proprietorship that holds itself as being qualified to engage in storage tank projects.

Subp. 10. **Critical junctures.**

A. "Critical junctures" in the case of an installation means the steps in the installation of an underground storage tank system that are important to the prevention of releases, including but not limited to:

(1) preparation of the excavation immediately before receiving backfill and the tank;

(2) setting of the tank and the piping, including placement of anchoring devices, backfill to the level of the tank, and strapping, if any;

(3) any time during the installation in which components of the piping are connected, field coated, or cathodically protected;

(4) all pressure testing of the tank system, including associated piping, performed during the installation; and

(5) completion of backfill and filling of the excavation.

B. "Critical junctures" in the case of a tank removal means the steps in the removal project that are important to the prevention of releases, including but not limited to:

(1) the cleaning and purging of the tank system;

(2) the actual excavation and removal of the tank system;

(3) all testing associated with the cleaning and purging processes; and

(4) any time during the removal in which components of the tank are disconnected or capped.

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C. "Critical junctures" in the case of a repair means the steps in the repair project that are comparable to the steps listed for item A in terms of their importance in the prevention of releases, including but not limited to:

(1) the actual excavation of existing tanks or piping;

(2) the actual performance of the repairs to the tank system;

(3) any time during the repair project in which components of the piping are connected; and

(4) any time during the repair project in which the tank or its associated piping is tested.

Subp. 11. **Day.** "Day," when used to describe a day of training, equals eight hours including breaks and lunch.

Subp. 12. **Diploma.** "Diploma" means a document verifying the successful completion of the required training course.

Subp. 13. **Disciplines of certification or disciplines.** "Disciplines of certification" or "disciplines" means the categories of tank projects within which a person may be certified under the requirements of this chapter. Each discipline includes the storage tank projects listed in items A to C.

A. The discipline of "installation" includes installations as defined in subpart 15, as well as the correction, restoration, modification, or upgrading of tank system piping or appurtenances.

B. The discipline of "repair" includes the correction restoration, modification, or upgrading of the tank vessel itself, for example, repairing a hole in a tank or relining a tank. The discipline of repair does not include other storage tank projects defined as "repair" in subpart 21 which do not involve the tank vessel itself.

C. The discipline of "closure" includes the storage tank projects defined in subpart 7.

Subp. 14. **EPA.** "EPA" means the United States Environmental Protection Agency.

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Subp. 15. **Installation.** "Installation" means the work involved in placing an underground storage tank in position and preparing it to be placed in service or the movement of an underground storage tank to a new position and preparing it to be placed in service.

Subp. 16. **Installer.** "Installer" means a person who installs, repairs, or closes an underground storage tank.

Subp. 17. **Operator.** "Operator" means a person in control of, or having responsibility for, the daily operation of a tank, and who was in control of, or had responsibility for, the daily operation of the tank immediately before discontinuation of its use.

Subp. 18. **Owner.** "Owner" means a person who holds title to, controls, or possesses an interest in a tank and who held title to, controlled, or possessed an interest in a tank immediately before discontinuation of its use. Owner does not include a person who holds an interest in a tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the tank.

Subp. 19. **Person.** "Person" means an individual, partnership, association, public or private corporation, or other legal entity, including the United States government, an interstate commission or other body, the state, or any agency, board, bureau, office, department, or political subdivision of the state, but does not include the Pollution Control Agency.

Subp. 20. **Regulated substance.** "Regulated substance" means:

A. a hazardous material listed in Code of Federal Regulations, title 49, section 172.101; or

B. petroleum, including:

(1) gasoline and fuel oil as defined in Minnesota Statutes, section 296.01, subdivisions 3 and 4;

(2) crude oil or a fraction of crude oil that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute;

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(3) constituents of gasoline and fuel oil under subitem (1) and constituents of crude oil under subitem (2); and

(4) petroleum-based substances that are comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, and used oils.

Subp. 21. **Repair.** "Repair" means the correction, restoration, modification, or upgrading of a tank system, including but not limited to the addition of cathodic protection systems; the replacement of piping, valves, fill pipes, or vents; the lining of a tank through the application of materials such as epoxy resins; and other similar activities that may affect the integrity of the tank system.

Subp. 22. **State.** "State" means the state of Minnesota.

Subp. 23. **Storage tank project.** "Storage tank project" means the installation, repair, or closure of an underground storage tank.

Subp. 24. **Tank or tank system.** "Tank" or "tank system" has the same meaning as underground storage tank.

Subp. 25. **Underground storage tank.** "Underground storage tank" means any one or a combination of containers including tanks, vessels, enclosures, or structures and underground appurtenances connected to them, that is used to contain or dispense an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected to them, is ten percent or more beneath the surface of the ground.

7105.0020 PURPOSE.

This chapter implements the requirement of Minnesota Statutes, section 116.491, that the agency require a person who installs, repairs, or takes an underground storage tank permanently out of service to first obtain a certificate of competency from the agency.

7105.0030 GENERAL PROVISIONS.

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Subpart 1. **Certification requirements and deadlines.** No person may install, repair, or close a tank system after [insert date six months after the effective date of this chapter] unless:

A. a supervisor certified in the appropriate discipline is physically present on site at all critical junctures during the storage tank project; and

B. the certified supervisor in item A is also a certified contractor or is in the employ of a certified contractor.

Subp. 2. **Certificate availability.** A copy of the contractor's current certificate must be at the work location and posted in a conspicuous place. Certified supervisors must have copies of current certificates issued by the agency at the location where they are supervising work.

Subp. 3. **Tank owner or operator requirements.** Owners or operators of an underground storage tank must not allow a storage tank project to be performed on their tank system, except in compliance with subpart 1.

7105.0040 EXCLUSIONS.

The following underground storage tanks are excluded from the requirements of this chapter:

A. a wastewater treatment tank system that is part of a wastewater treatment facility regulated under United States Code, title 33, section 1317 or 1342;

B. equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tank systems and electrical equipment tank systems;

C. tank systems with a capacity of 110 gallons or less;

D. tank systems that contain a de minimus concentration of regulated substances;

E. an emergency spill or overfill containment tank system that is expeditiously emptied after use;

F. farm or residential tank systems of 1,100 gallons or less capacity used for storing motor fuel for noncommercial

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purposes;

G. tank systems of 1,100 gallons or less capacity used for storing heating oil for consumptive use on the premises where stored;

H. septic tanks;

I. pipeline facilities, including gathering lines, regulated under United States Code, title 49, chapter 24 or 29;

J. surface impoundments, pits, ponds, or lagoons;

K. storm water or waste water collection systems;

L. flow-through process tank systems;

M. tank systems located in an underground area such as a basement, cellar, mine working, drift, shaft, or tunnel if the tank is located on or above the surface of the floor;

N. wastewater treatment tank systems;

O. tank systems containing radioactive material that is regulated under the Atomic Energy Act of 1954, United States Code, title 42, sections 2011 to 2296;

P. a tank system that is part of an emergency generator system at nuclear power generator facilities regulated by the Nuclear Regulatory Commission under Code of Federal Regulations, title 10, section 50, Appendix A;

Q. airport hydrant fuel distribution systems; and

R. underground storage tank systems with field constructed tanks.

7105.0050 CONTRACTOR CERTIFICATION.

Subpart 1. Contractor certification requirements. To obtain certification from the commissioner, an applicant for a contractor's certificate shall:

A. be, or have in its employ, a certified supervisor who will exercise responsible supervisory control over a given storage tank project and who will be physically present on site at the critical junctures in the tank project;

B. submit documentation showing that it has comprehensive general liability insurance, surety bonds, or liquid company assets that, in combination, represent a value of

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not less than five times the value of the largest storage tank project contract performed by the contractor during the previous two years; and

C. complete the application procedures in subpart 3 or 4.

Subp. 2. **Disciplines of contractor certification.** A contractor may be certified in one or more of the following disciplines providing it employs supervisors that are certified in the disciplines for which the contractor seeks certification, as defined in part 7105.0010, subpart 13:

A. installation;

B. repair; and

C. closure.

Subp. 3. **Application procedures for contractor certification.** To apply for certification as a certified contractor, the following information must be submitted to the agency on a form provided by the agency:

A. the full name, address, and telephone number of the firm;

B. any names held by the firm within the previous five years;

C. the discipline for which the applicant wishes certification;

D. the nature of the storage tank projects to be conducted;

E. a summary of the project history of the firm over the two-year period immediately preceding the application;

F. documentation that the contractor meets the financial responsibility requirements in subpart 1, item B;

G. identification of industry or government licenses held by the firm related to underground storage tanks;

H. the names of employees certified by the agency to perform and supervise storage tank projects, including identification of the specific disciplines for which they are certified, certification numbers, and expiration dates;

I. a statement signed and notarized by at least one

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active officer, partner, owner, or designated managerial representative of the contractor that certifies that:

(1) the person signing has obtained a copy of the applicable laws and rules pertaining to the regulation of underground storage tanks in the state, including the standards of performance in part 7105.0070;

(2) the person signing has read and understands the regulations in subitem (1) and will direct the employees and principals of the company to perform the storage tank projects rendered by the company in a manner that is consistent with their requirements; and

(3) on all storage tank projects a certified supervisor will exercise responsible supervisory control over the work and will be physically present on site at all critical junctures during the storage tank project; and

J. remittance of the contractor certification fee.

The application must be specific to one contractor, but may include a request to be certified in more than one discipline.

Subp. 4. **Application procedures for contractor certification renewals and upgrades.** Certification renewals and upgrades must be applied for as outlined in subpart 3. In addition, a copy of the applicant's most recent contractor certificate must also accompany the application. Completed renewal applications should be submitted no later than 30 days before the expiration date.

Subp. 5. **Length of contractor certification.** Contractor certificates expire two years after the date of issuance.

7105.0060 SUPERVISOR CERTIFICATION.

Subpart 1. **Supervisor certification requirements.** To obtain certification from the commissioner, an applicant for a supervisor's certificate shall:

A. in the two-year period immediately before making the an initial or renewal application, have successfully completed an approved five-day training course as outlined in parts 7105.0080 and 7105.0090, or a course approved by the

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commissioner under subpart 7;

B. have at least two years of tank service experience and have actively participated in the field on a minimum of five underground storage tank projects during the two-year period immediately before making the an initial or renewal application, with at least four of these projects being in the discipline for which the individual wishes to be certified. Any experience obtained after [insert date six months after the effective date of this chapter], for the purposes of obtaining initial certification, must be in the employ of a certified contractor and under the immediate and personal supervision of a certified supervisor; and

C. complete the application procedures in subpart 4 or 5.

Subp. 2. **Successful completion of a training course.** Successful completion of a training course includes attending all training hours and passing the final examination.

Subp. 3. **Disciplines of supervisor certification.** An individual, with the appropriate training and experience, may be certified in one or more of the following disciplines, as defined in part 7105.0010, subpart 13:

A. installation;

B. repair; and

C. closure.

Subp. 4. Application procedures for supervisor certification. To apply for certification as a certified supervisor, the following information must be submitted to the agency on a form provided by the agency:

A. the applicant's full name, social security number, job title, name of business, business address, and business phone number;

B. a copy of the most recent training course diploma;

C. the date of the final examination and documentation that a passing score was received, if not included on the course diploma;

D. the discipline for which the applicant wishes

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certification;

E. documentation that the experience requirements in subpart 1 have been met; and

F. a signed, notarized statement that the applicant has obtained a copy, read, understands, and will comply with all applicable laws and rules pertaining to the regulation of underground storage tanks in the state, including the standards of performance in part 7105.0070.

The application must be specific to one individual, but may include a request to be certified in more than one discipline.

Subp. 5. **Additional application procedures for supervisor certification renewals and upgrades.** Certification renewals and upgrades must be applied for as outlined in subpart 4. In addition, a copy of the applicant's most recent certificate must accompany the application. Completed renewal applications should be submitted no later than 30 days before the expiration date.

Subp. 6. **Length of supervisor certification.** Supervisor certificates expire two years after the applicant successfully completes the final training course examination.

Subp. 7. **Reciprocity.** The commissioner shall approve a tank installer certification course sponsored by a state or organization other than an approved training provider if the commissioner determines that the course is comparable to the program outlined in parts 7105.0080 and 7105.0090. Persons seeking reciprocity under this subpart shall be required by the commissioner to pass an examination to verify their familiarity with Minnesota's laws pertaining to underground storage tank systems if the commissioner finds that their courses did not adequately address Minnesota's statutes and rules. This examination may be taken any time after the completion of the approved training course and before applying for certification. However, the certificate expires two years after the final day of the approved training course.

7105.0070 STANDARDS OF PERFORMANCE.

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Subpart 1. Standards of performance for contractors and supervisors. Certified contractors and supervisors shall comply with the standards of performance in items A and B.

A. Certified contractors and supervisors shall perform or undertake only those storage tank projects that conform to accepted industry standards and federal, state, and local laws and safeguard the public life, health, safety and welfare, and the environment.

B. Certified contractors and supervisors must not offer, give, solicit, or receive, either directly or indirectly, any commission, gift, or other valuable consideration to secure work, and shall not make any political contribution with the intent to influence the award of a contract by public authority.

Subp. 2. Additional standards of performance for supervisors. In addition to the standards in subpart 1, certified supervisors:

A. shall perform all storage tank projects so that there is no release of the contents of the tank;

B. must not affix the supervisor's signature or certification number to a storage tank project unless it was accomplished under the supervisor's direct control and personal supervision and the supervisor was present at all critical junctures during the storage tank project; and

C. must not certify to an owner that a storage tank project is complete unless it complies with Minnesota Statutes, sections 116.46 to 116.50, Code of Federal Regulations, title 40, part 280, subparts A to G, and state technical tank rules adopted under Minnesota Statutes, section 116.49, subdivision 1, when adopted. Where storage tank projects are being performed for an owner or operator on a contract basis, both the certified supervisor and the certified contractor for whom the supervisor works are responsible for the accuracy of the representations made.

7105.0080 TRAINING COURSE REQUIREMENTS.

Subpart 1. Storage tank installer training course

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requirements. The storage tank installer training course must be at least five days in length and must include lectures, demonstrations, four hours of hands-on training, course review, and a final written examination. Publications cited are incorporated by reference in part 7105.0130. The following topics must be included in the course:

A. regulatory review providing familiarity with the following codes, statutes, rules, and recommended practices and how they relate to the other course requirements, with particular emphasis on subitem ~~(10)~~ (9):

(1) PEI's Recommended Practices for Installation of Underground Liquid Storage Systems (PEI/RP 100);

(2) API's Installation of Underground Petroleum Storage Systems (API Recommended Practice 1615);

(3) API's Removal and Disposal of Used Underground Petroleum Storage Tanks (API Recommended Practice 1604);

~~(4) NFPA's Flammable and Combustible Liquids Code (ANSI/NFPA 30);~~

~~(5) NFPA's Automotive and Marine Service Station Code (ANSI/NFPA 30A);~~

~~(6)~~ (4) EPA's Underground Storage Tanks - Technical Requirements at Code of Federal Regulations, title 40, part 280, subparts A to G;

(5) parts 7510.3120 and 7510.3240, incorporating by reference and amending Article 79 of the Uniform Fire Code;

~~(7)~~ (6) parts 7001.0580, 7045.0020, 7045.0528, 7045.0580, 7045.0628, and 7045.0629, relating to hazardous waste tanks;

~~(8)~~ (7) Minnesota Statutes, sections 116.46 to 116.50;

~~(9)~~ (8) Minnesota Statutes, chapter 115C; and

~~(10)~~ (9) state technical tank rules adopted under Minnesota Statutes, section 116.49, subdivision 1, when adopted;

B. legal liabilities and defenses:

(1) responsibilities of the contractor;

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(2) a discussion of comprehensive general liability policies, claims-made and occurrence policies, and environmental and pollution liability policy clauses;

(3) state tank contractor liability insurance requirements;

(4) bonding and the relationship of insurance availability to bond availability;

(5) a discussion of EPA's Underground Storage Tanks Containing Petroleum - Financial Responsibility Requirements at Code of Federal Regulations, title 40, part 280, subpart H; and

(6) third party liabilities and defenses;

C. safety aspects, including discussions on:

(1) OSHA's Safety and Health standards relating to excavations, trenching, and shoring at Code of Federal Regulations, title 29, part 1926, subpart P;

(2) Minnesota Department of Labor and Industry Employee Right-to-Know training standards in part 5206.0700;

(3) fire and explosion hazards;

(4) working around heavy equipment, excavations, hazardous materials, vehicular traffic, overhead and underground obstacles such as power and sewer lines, and other hazardous situations;

(5) personal protective equipment and its proper use; and

(6) safety considerations and precautions, including erecting physical barriers and signs, and trench shoring;

D. underground storage tank installation:

(1) project management:

(a) establishing lines of responsibility;

(b) financial parameters;

(c) planning and mobilization, including lining up work crews and tools, calling subcontractors, and picking up materials;

(d) site visit before bidding;

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(e) project team, assigning a project leader;

(f) timing, including completion date and schedules for equipment, materials, and crews;

(g) subcontractors and material suppliers, including coordination of schedules and ordering materials, with consideration given to material compatibility between other equipment and product to be stored;

(h) job site management and allocation of work areas, including areas to safely stockpile materials such as backfill, tanks, and piping, and safe and effective traffic flow for heavy equipment as well as civilian traffic;

(i) safety, including assessing hazards and planning for proper safety equipment;

(j) employee training, including informal field training and formal in-house or outside training;

(k) contingency planning;

(l) progress reports; and

(m) plans and specifications, as-built drawings;

(2) material handling:

(a) transportation, unloading, lifting, lowering, and storage;

(b) steel, fiberglass, and composite tanks and pipe handling requirements; and

(c) single-wall versus double-wall;

(3) preinstallation inspection and testing:

(a) inspection of tanks, pipes, and other materials for size, as well as scratches, dents or other damages, and minor repairs;

(b) preinstallation "soap test" on single-wall and double-wall tanks, including proper soaping techniques, selection of gauges, and proper pressures;

(c) preinstallation testing of tanks shipped under a vacuum;

(d) holiday testing techniques for composite

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tanks;

(e) isolating and soap testing pipe runs before backfilling;

(f) inspection and testing of impervious liners before backfilling; and

(g) testing and visual inspection of cathodic protection systems, secondary containment, monitoring systems, and overfill prevention systems before placing the tank facility into operation;

(4) excavating and trenching:

(a) excavation size, depth, bedding, and backfill;

(b) filter fabrics, sloping, and water problems;

(c) storage and disposal of excavated materials, contaminated versus uncontaminated;

(d) adjacent structures;

(e) safety considerations, including properly sized equipment; and

(f) piping trench slope and depth considerations;

(5) supplemental restraints:

(a) reasons for supplemental restraints;

(b) types and proper installation of supports, foundations, and anchorage;

(c) water table, flooding, and weather considerations; and

(d) factors influencing buoyancy, including flotation and anchorage calculation exercises;

(6) backfilling and compaction:

(a) ballasting;

(b) types and sizes of backfill materials suitable for composite tanks and steel and fiberglass tanks and piping;

(c) placement of tanks and piping, including bedding depth and distances between tanks or pipes;

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(d) backfilling and compaction procedures, including the special compaction requirements of sand;

(e) measuring tank deflection;

(f) prevention of backfill migration using filter fabrics; and

(g) grading and paving precautions;

(7) secondary containment:

(a) types, including double-walled tanks and piping, impervious liners, catchment basins, piping sumps, and concrete vaults;

(b) installation methods and considerations; and

(c) material compatibility;

E. piping:

(1) leak statistics concerning improperly installed piping;

(2) installation methods:

(a) types and specific installation requirements, including galvanized steel, fiberglass, coated, and single-walled and double-walled;

(b) piping layout and design;

(c) pipe trenches, backfilling, compaction, and paving;

(d) pipefitting, including curing times for fiberglass adhesives, compatibility of product with pipe dope, minimizing fittings, tightness, and pipe support;

(e) swing joints and flexible connectors;

(f) emergency shutoff valves;

(g) tank fittings and bushings;

(h) vent capacity, location, arrangement, and height; and

(i) visual inspections;

(3) material compatibility;

(4) manifolded tanks; and

(5) vapor recovery systems;

F. electrical installation:

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(1) regulatory review, including:

(a) ~~NFPA's National Fire Code (ANSI/NFPA Article 79)~~ parts 7510.3120 and 7510.3240, incorporating by reference and amending Article 79 of the Uniform Fire Code; and

(b) API's Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems (API Recommended Practice 1632);

(2) NFPA Class I ~~liquids~~ locations, Divisions I and II, requirements and restrictions as described in parts 7510.3120 and 7510.3240, incorporating by reference and amending Article 79 of the Uniform Fire Code;

(3) definitions, including explosion proof apparatus and intrinsically safe equipment and wiring;

(4) general installation considerations, including trenching, cover, grounding, backfill, seals, bushings, supports, and stray currents;

(5) circuit disconnects;

(6) accessibility of circuit breakers for monitoring devices and impressed cathodic protection systems by unauthorized personnel; and

(7) as-built drawings;

G. ancillary equipment placement and installation:

(1) fuel dispensing systems;

(2) emergency power cutoffs;

(3) suction and remote pumping systems;

(4) fill-pipe and spill catchment basin;

(5) tank fittings;

(6) observation and monitoring wells, including a discussion of Minnesota Department of Health's Water Well Construction Code in chapter 4725;

(7) interstitial tank and piping monitors; and

(8) identification of wells, manholes, and fill pipes;

H. tank system testing:

(1) methods and appropriate uses:

(a) a detailed discussion of how to conduct

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a proper "soap" or air test;

(b) hydrostatic pressure, tightness, or precision tests;

(c) spark testing for holidays on composite steel tanks;

(d) testing of new cathodic protection systems for continuity and isolation;

(e) vapor testing during tank closure;

(f) testing impervious liners according to the manufacturers' instructions; and

(g) testing of other associated equipment for proper installation and operation;

(2) testing considerations:

(a) new versus existing tanks or piping;

(b) single-wall versus double-wall tanks or piping;

(c) manufacturers' instructions;

(d) safeguards;

(e) tank deflection; and

(f) variables specific to certain tests, such as pressure, temperature, and vapor traps; and

(3) documentation and record keeping requirements;

I. release detection:

(1) leak detection:

(a) interstitial monitoring;

(b) observation wells located in the excavation zone and collection sumps of secondary containment systems;

(c) automatic tank gauging;

(d) vapor monitoring;

(e) groundwater monitoring;

(f) inventory control; and

(g) line pressure monitoring;

(2) spill and overfill prevention:

(a) catchment basins;

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(b) automatic shutoff devices; and

(c) ball float valves; and

(3) identification and security considerations for monitoring systems;

J. corrosion protection:

(1) requirements for external corrosion protection in Code of Federal Regulations, title 40, part 280, subparts A to G, and state technical tank rules adopted under Minnesota Statutes, section 116.49, subdivision 1, when adopted;

(2) a discussion of API's Cathodic Protection of Underground Storage Tanks and Piping Systems (API Recommended Practice 1632);

(3) coatings for external corrosion protection:

(a) desirable characteristics;

(b) handling, inspection, and installation; and

(c) minor, on-site repairs according to the manufacturers' instructions;

(4) cathodic protection:

(a) sacrificial anode versus impressed current;

(b) isolation of tank and piping;

(c) rule of thumb and mathematical determination of adequate corrosion protection;

(d) periodic inspections and testing;

(e) considerations when choosing a cathodic protection system;

(f) stray current corrosion;

(g) proper installation of a cathodic protection system, including an in-depth discussion of the installation of the factory-installed cathodic protection systems; and

(h) installation and use of test cells and monitoring ports;

K. tank closure and removal:

(1) regulatory discussion:

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(a) requirements for external corrosion protection in EPA's Underground Storage Tanks - Technical Requirements at Code of Federal Regulations, title 40, part 280, subparts A to G;

(b) API's Removal and Disposal of Used Underground Petroleum Storage Tanks (API Recommended Practice 1604);

(c) API's Cleaning Petroleum Storage Tanks (API Recommended Practice 2015);

(d) NFPA's Cleaning Small Tanks and Containers (NFPA Standard 327);

(e) requirements for tank closure in NFPA's ~~Uniform Fire Code, Article 79~~ parts 7510.3120 and 7510.3240, incorporating by reference and amending Article 79 of the Uniform Fire Code; and

(f) state technical tank rules adopted under Minnesota Statutes, section 116.49, subdivision 1, when adopted;

(2) temporary and permanent closure requirements;

(3) tank cleaning methods:

(a) purging procedures, pros and cons:

i. inert gas: carbon dioxide (CO_2) or nitrogen (N_2);

ii. solid carbon dioxide (dry ice);

iii. compressed air;

iv. diffused air;

v. water; and

vi. steam;

(b) compatibility of method with product;

(c) safety procedures and equipment; and

(d) proper disposal of residues and sludge;

(4) testing for flammable and combustible vapors and oxygen content;

(5) closure in place, filling with inert substances such as sand, concrete slurries, or polyurethane-type foams;

(6) tank removal;

Approved by Revisor _____

(7) site assessment requirements:

(a) sampling equipment and methods;

(b) reporting requirements; and

(c) records; and

(8) disposal of tanks;

L. role of other consultants, including corrosion experts, environmental contamination consultants, and engineers;

M. contract specifications and discussion of key elements that are included in contract specifications;

N. demonstrations and hands-on training that gives actual experience performing tasks associated with tank projects:

(1) soap testing and leak detection procedures;

(2) cathodic protection demonstrations;

(3) tank and piping installation procedures; and

(4) safety considerations for installation, repair, and removal;

O. record keeping:

(1) records required by state and federal regulations in item A;

(2) records recommended for legal and insurance purposes; and

(3) use of photographs for installation and removal records;

P. supervisory techniques for tank activities to enforce and reinforce the required work practices and discourage unsafe work practices;

Q. a discussion of the possible environmental consequences resulting from improper installation, repair, and closure of underground storage tank systems;

R. course review covering the key aspects of the training course; and

S. other subjects that the commissioner determines should be taught to reflect advances in tank installation, repair, and removal methods or safety practices.

7105.0090 EXAMINATIONS AND DIPLOMAS.

Approved by Revisor _____

Subpart 1. **Administration of examinations.** Examinations must be conducted by the agency, or by personnel of colleges or educational institutes selected and designated by the agency.

Subp. 2. **Examination specifications.** The final examination administered under this chapter must be a written, comprehensive examination consisting of 100 multiple choice questions, covering the topics discussed in the training course.

Subp. 3. **Examination requirements.** A person seeking certification as a certified supervisor shall participate in all course requirements and pass a written final examination. An applicant shall score 75 percent or higher to pass the final examination. The final examination must be passed within ten days after completing the training course.

Subp. 4. **Retest.** If a person fails to pass the final examination, one retest may be taken. If a person fails to pass the retest, the full course must be attended again before further testing.

Subp. 5. **Diplomas.** The training provider shall issue a numbered diploma to each student who completes the training course and successfully passes the examination. The following information must be included on the diploma:

A. the name of the student;

B. the name of the course completed;

C. the dates of the course and the examination;

D. a statement indicating that the student attended the course and passed the examination;

E. an expiration date for accreditation that is two years after the date on which the student passed the examination; and

F. a diploma number.

If the person administering the examination is not the same person administering the course, both persons shall sign the diploma.

7105.0100 APPROVAL OF TRAINING COURSE.

Subpart 1. **Application procedures for training course**

Approved by Revisor _____

approval. The commissioner may approve training courses developed by persons other than the agency staff. The commissioner shall approve a course that meets the requirements of this part and parts 7105.0080 and 7105.0090. To apply for agency approval of a tank installer training course, the following information must be submitted to the commissioner:

A. the course sponsor's name, address, and phone number;

B. a list of states that currently approve the training course;

C. the course curriculum;

D. a letter from the training course sponsor that clearly indicates how the course meets parts 7105.0080 and 7105.0090, including:

(1) length of training in days;

(2) amount and type of hands-on training;

(3) examination, including length, format, and passing score; and

(4) topics covered in the course;

E. a copy of all course materials, such as student manuals, instructor notebooks, and handouts;

F. a detailed statement about development of the examination used in the course;

G. the names and qualifications of course instructors, as outlined in subpart 2; and

H. a description and an example of numbered diplomas issued to students who attend the course and pass the examination.

Subp. 2. Experience requirements for instructors. To be considered qualified, course instructors shall meet the following requirements:

A. field experience in storage tank installation, repair, and removal equal to a total of at least 4,000 hours, which may be met by just one instructor, or through a combination of experience held by a number of instructors; and

B. after meeting the requirement in item A, any

Approved by Revisor _____

additional instructors shall have directly related experience or academic credentials in a related field.

Subp. 3. **Suspension or revocation of course approval.** The agency shall suspend or revoke approval of a training course if the commissioner finds that the course is not providing training that meets the requirements of this chapter.

Subp. 4. **Renewal of course approval.** Except as provided in subpart 3, approval of a training course shall remain in effect until the agency notifies approved trainers that changes in the course are required. At that time, the training providers shall submit the revised course to the agency for approval.

7105.0110 SANCTIONS.

Subpart 1. **Criteria.** The commissioner may refuse to issue, renew, or reinstate a certificate or suspend or revoke a certificate for any of the following reasons:

A. submission of false or misleading information or credentials to obtain or renew a certificate;

B. failure to meet the requirements to obtain or renew a certificate in this chapter;

C. failure to meet the technical requirements of Code of Federal Regulations, title 40, part 280, or its counterpart in Minnesota rules when adopted, the requirements of this chapter including the Standards of Performance in part 7105.0070, or other law relating to storage tank projects; or

D. negligence in the performance of storage tank projects.

Subp. 2. **Investigation.** The commissioner may initiate an investigation upon receiving a signed written complaint alleging the existence of grounds for sanctions against a certified person or an applicant for certification, or whenever the commissioner has reason to believe that sanctions may be warranted.

Subp. 3. **Procedures.** Prior to revoking or suspending a certificate and subsequent to a refusal to issue, reissue, or

Approved by Revisor _____

reinstate a certificate, the person against whom the sanction is being imposed shall be given notice of the sanction, and the reasons for it, and the person shall have ten days from the date of receiving the notice to request that a contested case hearing be held on the matter. The commissioner shall not revoke or suspend a certificate until the contested case hearing has been completed or until the request for a hearing has been considered at an agency meeting and denied. If no request for a contested case hearing is received by the commissioner within the ten days, the sanction set forth in the notice shall go into effect, in the case of a certificate suspension or revocation, or shall become final, in the case of a refusal to issue, reissue, or reinstate a certificate.

Subp. 4. **Contested case requests.** Upon receipt of a contested case hearing request, the commissioner shall either grant the request and schedule a hearing or put the matter on the agenda for consideration at an agency meeting under part 7000.0500, subpart 6. If the matter is considered at an agency meeting, the provisions of part 7000.1000, subpart 3, shall govern whether a hearing request is granted. Contested case hearings under this part must comply with the contested case provisions of chapter 7000 and Minnesota Statutes, chapter 14.

Subp. 5. **Return of certificate.** Upon revocation or suspension, certified persons shall return to the agency their original certificate and current renewal certificates.

Subp. 6. Recertification. A person whose certificate has been revoked shall not be entitled to apply for recertification until at least one year following the effective date of revocation or for any longer period of time specified in the revocation order.

Subp. 7. Reinstatement after suspension. The commissioner shall reinstate a suspended certificate if the person whose certificate has been suspended fulfills the terms of the suspension order and meets all applicable requirements of the rules for obtaining a certificate.

Approved
by Revisor _____

7105.0120 FEES.

Subpart 1. **Certification fee.** The fee for each new, modified, or renewal application for contractor or supervisor certification is $50.

Subp. 2. **Refund of fees.** The agency commissioner shall only return fees received from individuals who are rejected for certification.

7105.0130 INCORPORATION BY REFERENCE.

Subpart 1. **Scope.** For purposes of this chapter, the documents in subparts 2 to 4 are incorporated by reference. They can be found at the Minnesota Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155. They are subject to frequent change. If any of the documents in subparts 2 to 4 are amended, and if the amendments are incorporated by reference or otherwise made a part of state or federal law applicable to the installation, repair, or closure of storage tank systems, then the amendments to the documents are also incorporated by reference into this chapter.

Subp. 2. **API documents.** The following documents are also available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005:

A. American Petroleum Institute, Removal and Disposal of Used Underground Petroleum Storage Tanks, API/RP 1604 (December 1987);

B. American Petroleum Institute, Installation of Underground Petroleum Storage Systems, API/RP 1615 (November 1987);

C. American Petroleum Institute, Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API/RP 1632 (December 1987); and

D. American Petroleum Institute, Cleaning Petroleum Storage Tanks, API/RP 2015 (September 1985).

Subp. 3. **NFPA documents** document. The following documents are document is also available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269:

Approved
by Revisor _____

~~A.--National-Fire-Protection-Association,-Flammable and-Combustible-Liquids-Code,-NFPA-30-(August-7,-1987),~~

~~B.--National-Fire-Protection-Association,-Automotive and-Marine-Service-Station-Code,-NFPA-30A-(June-10,-1987),~~

C. National Fire Protection Association, Cleaning Small Tanks and Containers, NFPA 327 (~~1982~~ 1987),~~-and~~

~~D.--National-Fire-Protection-Association,-Uniform-Fire Code,-NFPA-Article-79-(1988).~~

Subp. 4. **PEI document.** The following document is also available from the Petroleum Equipment Institute, P.O. Box 2380, Tulsa, Oklahoma 74101: Petroleum Equipment Institute, Recommended Practices for the Installation of Liquid Storage Systems, PEI/RP 100 (1987).

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 12 1989
Joan Anderson Growe
Secretary of State
11:40AM

APPROVED AS TO FORM AND LEGALITY
December 12 1989
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Approved
by Revisor _____

MJC

RULE REVIEW CHECKLIST

0694

File No. RR#1642 — Docket No. 05 0009 ~~F697~~

DATE RECEIVED 11-29-89 — ADOPTED W/O HEARING X

REVIEW DATE 12-8-89 — EMERGENCY RULE _____

DUE DATE 12-13-89 — TO REVISOR ON 12-4-89

REVISOR APPROVED ✓

APPROVED 12-12-89 mjc — REVISOR DISAPPROVED _____

DISAPPROVED _____ — FILED W/SEC. OF STATE 12-12-89

WITHDRAWN _____ — RETURNED TO AGENCY 12-12-89

---

4 Rule as adopted (4 copies) 2 not back from revisor

✓ Notice to Solicit Outside Information/Opinion (if applicable)
Dec 5, 1988 Date published in State Register
yes Comments

_____ Petition for Adoption of a Rule (if applicable)

✓ Board's Authorizing Resolution
Nov 28, 1989 Date adopted

✓ Proposed Rule
_____ Revisor's Certificate

_____ Notice of Intent to Adopt Rule
116.491 Statutory Authority
_____ Small Business Statement small bus. statement but doesn't apply
NA Expenditure of public money statement
8-25-89 Signature

_____ Statement of Need and Reasonableness (if applicable) looked into it
yes Small Business Statement
✓ Fees - § 16A.128 sent letter to Senate + House appropriations committee

_____ Affidavit of Mailing Notice of Intent to Adopt Rule
Sept 8, 89 ✓ Date 30/25 days before adoption
_____ Notice attached — indicates notice is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
Sept 11, 1989 Date (30)/25 days before adoption

_____ 180-day deadline from: more than 180 days
* NO Effective date of law requiring rule (14.12) (both rules Aug 1988, — 8-25-89
✓ end of comment period (§ 14.26) (rules without hearing) Oct 11 — Nov 29
_____ effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
11-28-89 Date adopted

_____ Findings of Fact, Conclusions & Order Adopting
11-28-89 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney
Barbara Frese Name of SAAG representing agency

NA Notice of Submission to Atty. Gen. (if applicable)

_____ Aff. of Mailing Notice to Atty. Gen. (if applicable)

* called going to send letters - Received letters in file 12-11-89

CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency Duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 28th day of November 1989, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Minnesota Pollution Control Agency hereby approves and adopts the attached rules governing the certification of underground storage tank installers, removers and repairers, Minn. Rules Ch. 7105, pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 116.491 (1988) and Minn. Stat. § 115.03, subd. 1(e) (1988).
>
> BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Commissioner is authorized to make any form changes to the rules that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the Revisor's certification as required by Minn. Stat. §§ 14.07, subd. 2 (1988) and 14.28 (1988).
>
> BE IT FURTHER RESOLVED, that the Minnesota Pollution Control Agency adopts the Findings of Fact, Conclusions, and Order Adopting Rules and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Minnesota Pollution Control Agency and to perform the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 28 day of Nov., 1989.

Gerald L. Willet

GERALD L. WILLET
Commissioner

FILE

Minnesota Pollution Control Agency

December 8, 1988

The Honorable Willard Munger
Minnesota State Representative
House Committee on Environment and
Natural Resources
100 Constitution Avenue
St. Paul, Minnesota 55155

Dear Representative Munger:

RE: Administrative Procedures Act
Minn. Stat. § 14.12 - Deadline to Publish Notice

The Minnesota Pollution Control Agency (MPCA) is hereby giving notice that it will not meet the 180-day deadline to publish notice of intent to adopt a rule with regard to Minn. Stat. § 116.491 (Supp. 1987). This statute directs the MPCA to adopt rules governing the training and certification of storage tank installers.

The delay in implementing these rules is due to a delay in the final federal regulations outlining tank installation requirements. The final federal regulations outlining the tank installation requirements were not published until September 23, 1988.

The MPCA has published a Notice of Intent to Solicit Outside Information in the December 5, 1988, issue of the State Register. A work group will then be established to assist in the development of the draft rules. Formal rule adoption procedures should begin early in the summer of 1989.

If you need further information, please contact Ms. Beth Lockwood, Compliance and Assistance Unit, Tanks and Spills Section at 612/297-3081.

Sincerely,

Gerald L. Willet
Commissioner

GLW:smm

Phone:
520 Lafayette Road, St. Paul, Minnesota 55155
Regional Offices • Duluth/Brainerd/Detroit Lakes/Marshall/Rochester
Equal Opportunity Employer

RECEIVED
DEC 1989
Office of the
Government
Capitol Office
525 Park
St. Paul Min

FILE

Minnesota Pollution Control Agency

December 8, 1988

The Honorable Bob Lessard
Minnesota State Senator
Senate Committee on Environment and
Natural Resources (III)
Capitol Building
St. Paul, Minnesota 55155

Dear Senator Lessard:

RE: Administrative Procedures Act
Minn. Stat. § 14.12 - Deadline to Publish Notice

The Minnesota Pollution Control Agency (MPCA) is hereby giving notice that it will not meet the 180-day deadline to publish notice of intent to adopt a rule with regard to Minn. Stat. § 116.491 (Supp. 1987). This statute directs the MPCA to adopt rules governing the training and certification of storage tank installers.

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If you need further information, please contact Ms. Beth Lockwood, Compliance and Assistance Unit, Tanks and Spills Section at 612/297-3081.

Sincerely,

Michael Robertson
for Gerald L. Willet
Commissioner Deputy

GLW:smm

Phone:
520 Lafayette Road, St. Paul, Minnesota 55155
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Equal Opportunity Employer

FILE

Minnesota Pollution Control Agency

December 8, 1988

The Honorable Rudy Perpich
Governor, State of Minnesota
Governor's Office, Room 130
Capitol Building
St. Paul, Minnesota 55155

Dear Governor Perpich:

RE: Administrative Procedures Act
Minn. Stat. § 14.12 - Deadline to Publish Notice

The Minnesota Pollution Control Agency (MPCA) is hereby giving notice that it will not meet the 180-day deadline to publish notice of intent to adopt a rule with regard to Minn. Stat. § 116.491 (Supp. 1987). This statute directs the MPCA to adopt rules governing the training and certification of storage tank installers.

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If you need further information, please contact Ms. Beth Lockwood, Compliance and Assistance Unit, Tanks and Spills Section at 612/297-3081.

Sincerely,

Michael Robertson
Deputy

Gerald L. Willet
Commissioner

GLW:smm

Phone:_____
520 Lafayette Road, St. Paul, Minnesota 55155
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FILE_____

Minnesota Pollution Control Agency

December 8, 1988

Ms. Maryanne Hruby, Director
Legislative Commission to Review
Administrative Rules
State Office Building, Room 55
100 Constitution Avenue
St. Paul, Minnesota 55155

Dear Ms. Hruby:

RE: Administrative Procedures Act
Minn. Stat. § 14.12 - Deadline to Publish Notice

The Minnesota Pollution Control Agency (MPCA) is hereby giving notice that it will not meet the 180-day deadline to publish notice of intent to adopt a rule with regard to Minn. Stat. § 116.491 (Supp. 1987). This statute directs the MPCA to adopt rules governing the training and certification of storage tank installers.

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If you need further information, please contact Ms. Beth Lockwood, Compliance and Assistance Unit, Tanks and Spills Section at 612/297-3081.

Sincerely,

Gerald L. Willet
for Commissioner

GLW:smm

Phone:_____
520 Lafayette Road, St. Paul, Minnesota 55155
Regional Offices • Duluth/Brainerd/Detroit Lakes/Marshall/Rochester
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FILE

Minnesota Pollution Control Agency

December 8, 1988

The Honorable Steven G. Novak
Minnesota State Senator
Capitol Building, Room 301
St. Paul, Minnesota 55155

Dear Senator Novak:

RE: Administrative Procedures Act
Minn. Stat. § 14.12 - Deadline to Publish Notice

The Minnesota Pollution Control Agency (MPCA) is hereby giving notice that it will not meet the 180-day deadline to publish notice of intent to adopt a rule with regard to Minn. Stat. § 116.491 (Supp. 1987). This statute directs the MPCA to adopt rules governing the training and certification of storage tank installers.

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The MPCA has published a Notice of Intent to Solicit Outside Information in the December 5, 1988, issue of the State Register. A work group will then be established to assist in the development of the draft rules. Formal rule adoption procedures should begin early in the summer of 1989.

If you need further information, please contact Ms. Beth Lockwood, Compliance and Assistance Unit, Tanks and Spills Section at 612/297-3081.

Sincerely,

Michael Robertson

Gerald L. Willet
Commissioner

for Deputy

GLW:smm

Phone:
520 Lafayette Road, St. Paul, Minnesota 55155
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RECEIVED
DEC 6 1989
Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

Findings of Fact, Conclusions, and Order

modications were made -

Missing 2010.0300 K (7)
no statement in Findings of Fact, Conclusions that the agency received no requests for a hearing or comments to A.G. ... does say in No 6 that there were no requests for notice of submission to AG - did submit an affidavit stating that

Rules = all new material

Stat Authority
MN 116.491 (1988)

~~Subd Rules~~
Subd 3 Rules. The agency shall adopt rules containing standards of competence for installers and to implement this section.

14.12
180 day deadline

~~mandatory~~ mandatory no letter ~~from~~ to leg. committees and GOO.

12-5-89 - called Beth Lockwood - Beth said letters were sent to the GOO and leg. committees explaining why they didn't send them within 180 days. Beth is going to send the letters

Minnesota Pollution Control Agency
520 Lafayette Road, Saint Paul, Minnesota 55155
Telephone (612) 296-6300

Celebrate MINNESOTA 1990

November 29, 1989

Ms. Christie Eller
Assistant Attorney General
Office of the Attorney General
515 Transportation Building
St. Paul, Minnesota 55155

Dear Ms. Eller:

RE: In the Matter of the Proposed Rules Governing Underground Storage Tank Training and Certification, Minn. Rules Chapter 7105

On November 28, 1989, the Minnesota Pollution Control Agency adopted the above-captioned rules governing underground storage tank training and certification, Minn. Rules Chapter 7105. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Findings of Fact, Conclusions, and Order Adopting Rules (two copies).

3. Certificate of Resolution Adopting Rules.

4. Notice of Intent to Solicit Outside Opinion (13 S.R. 1389, December 5, 1988).

5. Copies of written comments received pursuant to Notice of Intent to Solicit Outside Opinion.

6. Certificate of Authorizing Resolution.

7. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (14 S.R. 595, September 11, 1989).

8. Comments received during the comment period.

9. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.

10. Affidavit of Mailing the Notice of Intent to Adopt Rule Without a Public Hearing and Certificate of Mailing List.

11. Rules as proposed.

12. Statement of Need and Reasonableness.

13. Declaration of Counsel.

14. Affidavit of Receiving No Requests For Notification of Submission of the Rule to the Attorney General.

If you have any questions, please contact me at 297-3081.

Sincerely,

Beth G. Lockwood

Beth G. Lockwood
Pollution Control Specialist Senior
Tanks and Spills Section
Hazardous Waste Division

BGL:smm

Enclosures

Minnesota Pollution Control Agency

Minnesota Pollution Control Agency
Hazardous Waste Division
Tanks and Spills Section

Notice of Intent to Solicit Outside Opinions Regarding the Development of Regulations Governing the Training and Certification of Storage Tank Installers

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is seeking information or opinions from sources outside the MPCA for the purpose of developing and adopting rules applicable to installers of storage tanks in the state. The adoption of the rule is authorized by Minn. Stat. § 116.491 (1987), which requires the MPCA to adopt rules governing the training and certification of storage tank installers. An installer is defined by statute as "a person who places, constructs, or repairs an aboveground or underground tank, or permanently takes an aboveground or underground tank out of service."

The MPCA invites all interested persons or groups to submit information or comments on this subject to Beth G. Lockwood, MPCA, Hazardous Waste Division, Tanks and Spills Section, 520 Lafayette Road North, St. Paul, Minnesota 55155 (612/297-3081).

Any written material received by the MPCA by February 6, 1989, shall become part of the background record regarding these rules.

Gerald L. Willet
Commissioner

MPCA program requirements (*Minnesota Rules* parts 7075.1105 to 7075.1160) including eligibility and application requirements were published in the June 13, 1988 *State Register* (12 S.R. 2694) with modifications published in the November 21, 1988 *State Register* (12 S.R. 1238). Copies of the administrative rules are also available from the MPCA or the PFA.

Applications will be accepted for a 90 day period ending at 4:30 p.m. on March 6, 1989. If mailed, applications must be postmarked by March 6, 1989.

For additional information or an application packet, please contact:

Joan deMeurisse
Municipal Wastewater Treatment Section
Division of Water Quality
Minnesota Pollution Control Agency
520 Lafayette Rd.
St. Paul, Minnesota 55155
Phone: (612) 296-7211

Milan Thoreson
Public Facilities Authority
Minnesota Department of Trade and Economic Development
Community Development Division
900 American Center Building
150 East Kellogg Blvd.
St. Paul, Minnesota 55101-1421
Phone: (612) 297-1982

Minnesota Pollution Control Agency

Hazardous Waste Division
Tanks and Spills Section

Notice of Intent to Solicit Outside Opinions Regarding the Development of Regulations Governing the Training and Certification of Storage Tank Installers

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is seeking information or opinions from sources outside the MPCA for the purpose of developing and adopting rules applicable to installers of storage tanks in the state. The adoption of the rule is authorized by *Minnesota Statutes* § 116.491 (1987), which requires the MPCA to adopt rules governing the training and certification of storage tank installers. An installer is defined by statute as "a person who places, constructs, or repairs an aboveground or underground tank, or permanently takes an aboveground or underground tank out of service."

The MPCA invites all interested persons or groups to submit information or comments on this subject to Beth G. Lockwood, MPCA, Hazardous Waste Division, Tanks and Spills Section, 520 Lafayette Road North, St. Paul, Minnesota 55155 (612 297-3081).

Any written material received by the MPCA by February 6, 1989, shall become part of the background record regarding these rules.

Gerald L. Willet
Commissioner

State Board of Vocational Technical Education

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Rules for Licensure of Postsecondary Technical Education Personnel

NOTICE IS HEREBY GIVEN that the State Board of Vocational Technical Education is seeking information or opinions from sources outside the agency in preparing to amend Chapter Thirty-Five: Rules for Licensure of Vocational Technical Education Personnel and specifically in adult supplementary, marketing, and business and office occupations. The promulgation of these rules is authorized by *Minnesota Statutes* § 136C.04, subd. 9, and 125.185 subd. 4.

The State Board of Vocational Technical Education requests information and comments concerning the subject matter of these rules. Interested or affected persons may submit written statements of information or comment orally. Written comments should be addressed to:

Ms. Glenda Moyers
State Board of Vocational
Technical Education
101 Capital Square Bldg.
550 Cedar Street
St. Paul, MN 55101
(612) 296-9444

Ms. Georgia Pomroy
State Board of Vocational
Technical Education
101 Capital Square Bldg.
550 Cedar Street
St. Paul, MN 55101
(612) 296-3929

Minnesota Pollution Control Agency

December 23, 1988

Dear Interested Party:

The Minnesota Pollution Control Agency (MPCA) has begun the process of developing rules governing the training and certification of storage tank installers. An installer is defined by statute as "a person who places, constructs, or repairs an aboveground or underground storage tank, or permanently takes an aboveground or underground tank out of service."

The first three activities in this process are: 1) publication in the State Register of a notice of intent to solicit outside opinions regarding the development of the regulations, 2) development of a mailing list of potentially interested parties, and 3) formation of a small advisory workgroup to serve as a source of information for MPCA staff.

The Notice of Intent was published in the December 5, 1988, issue of the State Register. We would like to request your assistance in carrying out our next two tasks in the rules process.

Please complete the form on the reverse side of this letter and return it to the Tanks and Spills Section by February 6, 1989. If we have not received the form by this date, we will assume you are not interested in receiving additional information regarding tank installer certification and you will not be included on our certification mailing list.

The MPCA recognizes that many persons in the state not only have concerns as to the outcome of the rules process, but also have considerable expertise to lend to the process. We feel that it is to the benefit of all that we use this expertise to the fullest extent possible. To help assist us in this task, please include any suggestions you may have for potential workgroup members. The workgroup will meet approximately every two to three weeks between February 1989, and the end of April 1989.

I would be happy to answer any questions (612/297-3081) you may have concerning the development of the installer certification program.

Sincerely,

Beth G. Lockwood

Beth G. Lockwood,
Senior Pollution Control Specialist
Tanks and Spills Section
Hazardous Waste Division

BGL:kra

Phone:_____
520 Lafayette Road, St. Paul, Minnesota 55155
Regional Offices • Duluth/Brainerd/Detroit Lakes/Marshall/Rochester
Equal Opportunity Employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

December 13, 1988

Ms. Beth Lockwood
Tanks and Spills Section
Hazardous Waste Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

DEC 19

Dear Ms. Lockwood:

Subject: Notice of Intent to Solicit Outside Opinions Regarding the Development of Regulations Governing the Training and Certification of Storage Tank Installers

This is in response to your request for comments on the training and certification of storage tank installers.

The Minnesota Department of Health supports regulations for training and certification of storage tank installers. The Minnesota Department of Health is particularly concerned that:

1. The installation of monitoring devices which intersect groundwater, placed near storage tanks is regulated by the Minnesota Department of Health. Monitoring wells, piezometers, bore holes or other excavations which do not intersect groundwater are not regulated. Because of the concern for competent design and installation plus groundwater protection, we would recommend that the installation of these monitoring devices be regulated by the Minnesota Pollution Control Agency and that they be installed by certified storage tank installers.

2. We recommend that the Minnesota Pollution Control Agency conduct training on the installation of any monitoring devices. Training should stress proper applications of monitoring to protect the groundwater.

If you have any questions, please contact James Nye at 612/623-5339 or Roman Koch at 612/623-5404.

Sincerely yours,

Gary L. Englund, P.E., Chief
Section of Water Supply and Engineering

GLE:JDN:mr

an equal opportunity employer

2

B & H PETROLEUM EQUIPMENT CO.

SALES AND SERVICE

218 SOUTH VICTORY DRIVE
MANKATO, MN 56001

PHONE: (507) 387-6629

December 9, 1988

DEC 12. 88

Beth G. Lockwood
MN Pollution Control
Hazardous Waste Div.
Tanks & Spills Section
520 Lafayette Road North
St. Paul MN 55155

RE: Development of Regs. For Training & Certification of Storage Tank Installation.

1. All installers should be tested.
   1C. Backfill materials (type)
   Depth of bury for tanks
   Thickness of pad when traffic is a factor
   Depth of compacted fill underneath pad

2. Annual Permit Fee
   This should be a substanstial figure - perhaps $1,000.00.
   This would ascertain legimate installers doing the work.

3. Mandatory Soil Testing by licensed out side company for each excavation where a tank is being removed.

B & H Petroleum Equipment Company
230 South Victory Drive
Mankato MN 56001

GREAT WESTERN

GREAT WESTERN UTILITY CORPORATION

16141 SCANDIA TRAIL
SCANDIA, MINNESOTA 55073

612
433-2545

DEC 12

December 7, 1988

Ms. Beth Lockwood
MPCA Tanks and Spills Section
520 Lafayette Road
St. Paul, MN 55155

You and I discussed the impending certification program that will regulate installers of underground tanks. I offer these comments on the certification program.

1. Some of the most important decisions and considerations come up before the installer becomes involved. Design and manufacturing details should not be the installers responsibility unless he plays those roles. He should be required to ascertain that the designer and the manufacturer have certified to compliance with all rules and requirements before he installs the tank. If the installer is also the designer, provide him with the means to get guidance on design considerations such as strenght, coatings, bouyancy and cathodic protection.

2. Tank installers certification should stand alone. Other types of licenses or certifications should not be a prerequsite as that tends to let only the "Grandfathers" in. Let those who are currently doing this work continue, and let new installers in without impossible experience requirements.

3. Keep it simple and straightforward. Many tanks are installed as a part of the utility or excavating portion of a building project. Requirement of a "specialist" to do just the tank installation would raise the cost of the project without noticeable improvement in quality.

These are only general comments. I would be happy to elaborate if you desire.

Sincerely,

GREAT WESTERN UTILITY CORPORATION

Walter B. Boorsma

Walter B. Boorsma President

4

MARK T. BAUMGARDNER
Engineer - Environmental Services

ROADWAY SERVICES, INC.
1077 Gorge Blvd., P.O. Box 88
Akron, OH 44309-0088, 216-384-2359

ROADWAY SERVICES, INC.

1077 GORGE BOULEVARD
P.O. BOX 88
AKRON, OH 44309-0088
216-384-8184

December 9, 1988

DEC 12

Ms. Beth G. Lockwood
Minnesota Pollution Control Agency
Hazardous Waste Division
Tanks and Spills Section
520 Lafayette Road North
St. Paul, Minnesota 55155

Re: Comments on Requirements for Training and Certification of Storage Tank Installers

Dear Ms. Lockwood:

Roadway is a less-than-truckload motor freight carrier holding company which operates three companies and nine terminals in Minnesota.

Roadway favors mandatory training for storage tank installation and removal firms. This is because Roadway believes the quality of work must improve in this area.

Roadway does not favor certification unless:

(a) It is phased in over several years.

(b) It recognizes programs already in progress, such as the Owens-Corning Approved Contractor Program and reciprocity with other state programs (i.e., it does not reinvent the wheel).

(c) It leads to less regulatory oversite and intervention by the MPCA, especially paperwork.

(d) It does not interfere with a company developing and managing its own program in a competent manner.

Thank you for the opportunity to comment on this subject.

Very truly yours,

Roadway Services, Inc.

Mark T Baumgardner

Mark T. Baumgardner
Engineer - Environmental Services

MTB:rg
cc: J. L. Mihelick

5

Comments on certification rules:

Mr. Mark Hagen
Fossston Plumbing
Fossston, MN
218/435-1991

Certified installer should be on site at all times. Even when the final concrete is being poured.

Training Points:

Stress safety
Don't wear cleats around tanks (mar new protective finishes, cause sparks on old tanks)
Require sniffers at all excavations to monitor conditions
Info. on the proper methods for hauling tanks
Do not use ~~[illegible]~~ gasoline engines around excavations - use diesel only.

DAHL & ASSOCIATES, INC.
Environmental Operations
2303 Wycliff Street
St. Paul, MN 55114
Tel. 612-644-0013 • FAX 612-644-6370

December 13, 1988

DEC 14 [illegible]

Beth G. Lockwood
MPCA, Hazardous Waste Division
Tanks and Spills Section
520 Lafayette Road North
St. Paul, Minnesota 55155

Re: Regulations Governing Storage Tank Installers

Dear Ms. Lockwood,

Will the installation contractor for new underground storage tanks be required to " precision test " the tanks after installation? A tank which is certified by the " soap test " prior to installation can still leak due to installation mistakes during backfilling. Poorly selected or compacted backfill along with inadequately attached pipe fittings can create a leak in the tank after installation. If the new underground storage tanks are required to be "precision tested" after installation, will a contractor <u>independent</u> of the installation contractor be required to conduct the tank test?

Sincerely,

John Hall

John Hall
Tank Test Engineer
Dahl & Associates, Inc.

JH:ats

CENEX
LAND O LAKES

December 27, 1988

DEC 29

Ms Beth Lockwood
MPCA
Hazardous Waste Div
Tanks & Spills Section
520 Lafayette Rd North
St Paul MN 55155

Dear Ms Lockwood

In response to your notice of intent to solicit outside opinions regarding the development of regulations governing the training and certification of storage tank installers, Farmers Union Central Exchange Inc (CENEX) has the following comments.

Numerous companies, including ours, have competent maintenance staff who make repairs to the outside storage tanks to the extent that the repairs do not appreciably affect the overall structural integrity of the tanks such as heater core repairs, etc. It is our suggestion and recommendation that such people who make minor repairs to the tank should be exempted from any new rules applicable to installers of storage tanks in the state.

Sincerely

Anwer Hussain
Manager Lubricants Operations
Petroleum Division

cc Jay Debertin-570

AUTOMATED
PETROLEUM
SERVICES
INC.

1400 ENERGY PARK DRIVE
SUITE 20
ST. PAUL, MN 55108
612/645-8551

JAN 0 3 '89

December 28, 1988

Thomas P. Clark
Minnesota Pollution Control Agency
Hazardous Waste Division
Tanks and Spills Section
520 Lafayette Rd. North
St. Paul, Mn. 55115

Re: Underground Storage Tank Management

Dear Mr. Thomas P. Clark

I am a manager at Automated Petroleum Services, Inc. in St. Paul, Mn. APS is exclusively in the business of fuel storage and dispensing.

We believe licensing of contractors at a fee of $2,000.00 per year, will keep only people of expertise in our field and offset governmental costs of doing so.

Soil testing all sites that have tanks removed, so as to determine any clean up needed, along with tank testing every (5) years, will on new tanks and every year on tanks that are questionable as to their cathodic protection, will keep our environment clean.

Permits and tests as they stand presently for tank and piping installation are working well and should be kept.

All installation within (5) years should be licensed and brought up to the same guidelines as new installation.

I hope this will help your decision making in our field.

Sincerely,

John Landwehr

John Landwehr
JL/hk

9

MINNESOTA TRUCKING ASSOCIATION

– TRUCKS SERVE EVERYONE IN EVERY COMMUNITY –

January 11, 1989

JAN 12 89

Ms. Beth Lockwood
MN Pollution Control Agency
Hazardous Waste Division
Tanks and Spills Section
520 Lafayette Road North
St. Paul, MN 55155

Re: Opinions Regarding Training and Certification of Storage Tank Installers

Dear Ms. Lockwood

We have the Agency's recent notice soliciting opinions which will be used in developing rules for storage tank installers as required by Minnesota Statute Section 116.491.

The Minnesota Trucking Association is an organization that represents all types of truck operators including both large and small fleet operators, some of whom operate facilities (tanks) in a number of states.

We suggest the Agency's regulations of installers be written to include or allow for qualified fleet representatives who meet the Agency's standards to install/repair/remove tanks, and that they not be limited only to consultants and other commercial tank installation companies.

We also suggest that any fees and charges established be reasonable and not be so high that they will exclude opportunities for small fleet personnel to apply for certification.

It is our opinion that adoption of the above suggestions will enhance compliance by those firms that operate in interstate commerce and maintain tanks in various states.

Thank you for considering our comments.

Sincerely

Andrew A. Piilola
Chief Executive Officer

AP/kal

1821 UNIVERSITY AVENUE • SUITE 134 N. • ST. PAUL, MN 55104 • AREA CODE: 612 646-7351

AMERICAN TRUCKING AFFILIATE

10

Ashland Petroleum Company
DIVISION OF ASHLAND OIL, INC.
P.O. BOX 391 • ASHLAND, KENTUCKY 41114 • (606) 329-3333

JAY J. HILL
Manager, Environmental Affairs
(606) 329-4389

January 13, 1989

RECEIVED
JAN 19 89
MPCA Hazardous

Ms. Beth G. Lockwood
Minnesota Pollution Control Agency
Hazardous Waste Division
Tanks and Spill Section
520 Lafayette Road N.
St. Paul, MN 55155

Dear Ms. Lockwood:

In response to your recent request for input on training and certification on storage tanks installed, I would like to submit the following general comments:

- Installation of underground and above ground tanks are quite different and a person who might be qualified to install one type might not be qualified to install the other. Large above ground tanks require a degree of engineering that greatly exceeds that of smaller tanks.

- We would encourage the MPCA to write its rules so that the person who reviews the installation and certifies its correctness, does not necessarily have to be the physical installer. We are not necessarily against the actual installer being certified, but want to be able to install tanks through contractors, and have our own engineer certify that it was installed correctly. For example, in installing large above ground tanks the installation requires site preparation, installation of the foundation, steel erection, and testing of the completed tank. All the tasks require different skills and for industry to obtain the best economy it is desirable to be able to have separate contractors do each phase.

- We believe that in order to be certified that the installer only has to have certain course work and pass a test. We do not believe that prerequirements such as a BS or PE should be required.

- We would also want nothing in the regulations that would prevent the owner from certifying his own work.

We would like to have an opportunity to review any proposed regulations and may be able to help in the drafting stage to offer insight into industrial practice and standards.

Sincerely,

Jay J. Hill

JJH/pk/ldc

FEDERATED INSURANCE

121 East Park Square, Owatonna, Minnesota 55060
Telephone: (507) 455-5200

January 16, 1989

JAN 20 89

Beth G. Lockwood
MPCA, Hazardous Waste Division
Tanks and Spills Section
520 LaFayette Road North
ST. PAUL MN 55155

Thank you for your invitation to comment on the MPCA's plan to develop regulations governing the training and certification of storage tank installers. Our company's experience with underground storage tank insurance indicates that this is a necessary area of regulation to prevent contamination of the ground or water with materials stored in underground tanks.

At this time we do not have any specific comment on this area. However, we do feel that it is vitally important that part of the regulation of storage tank installers be a financial responsibility requirement. Even the most trained installer can still make an error which will result in a leak. Those people should be responsible for cleanups which are a result of their errors. The financial responsibility required for tank installers should be the same as that required for tank owners and operators. Many spills do result from installation errors and they are just as costly to clean up as other leaks and spills.

We appreciate this opportunity to comment.

Jeanne Hankerson
Environmental Coordinator
kms

12

Minnesota
Department of Transportation
District 1
1123 Mesaba Avenue,
Duluth, Minnesota 55811

(218) 723-4801

January 3, 1989

JAN 0 6 89

Mr. Thomas P. Clark
Minnesota Pollution Control Agency
Hazardous Waste Division
Tanks and Spills Section
520 Lafayette Road North
St. Paul, Minnesota 55155

SUBJECT: TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS COMMENTS

Dear Mr. Clark:

I am submitting the following comments, not as an authorized spokesman for the Minnesota Department of Transportation nor as Chairman of their Underground Tank Storage Task Force, but as a concerned citizen, based on information I gathered as Chairman of that Task Force:

1. It is believed that underground storage tanks used for storing heating oil for consumption use on the premises should be included in the underground storage tank regulations.

2. It is felt that only one (1) regulatory agent should be involved in underground tanks. The MPCA should be the lone agency regulating the installation and activity of the underground storage tanks and the State Fire Marshall should only be involved in above ground tanks.

3. I believe that more information should be provided regarding what is required during the permanent closure and change in services. This information should be spelled out in more detail, together with what records must be put together at the time of the closure.

4. The certification of persons to install and remove tanks should be anyone who can meet the requirements and not necessarily an independent installer. The state agencies should be permitted to qualify under this requirement. There should be some thought given to the idea that these people should be bonded to provide the liability aspect of installing tanks.

I am willing to meet with you to discuss the above comments.

Sincerely,

Edward J. Fleege

Edward J. Fleege
Engineering Coordinator

cc:
Bruce Larson John Sandahl
Rod Pletan Dave Trooien

An Equal Opportunity Employer

13

LAND OF QUALITY FOODS

90 W. PLATO BOULEVARD
SAINT PAUL, MN 55107

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

(612) 297-2614

January 19, 1989

RECEIVED
JAN 23 89
Hazardous Waste

Beth G. Lockwood
Minnesota Pollution Control Agency
Hazardous Waste Division, Tanks and Spills Section
520 Lafayette Road North
St. Paul, MN 55155

Dear Ms. Lockwood:

This letter is in regard to the announcement in the State Register, December 15, 1988, which solicited opinions from interested persons on a rule being proposed by the Minnesota Pollution Control Agency (MPCA) relating to the "training and certification" of storage tank installers.

Please be advised that the Minnesota Department of Agriculture (MDA) adopted rules in 1985 regulating the storage of liquid bulk fertilizer (Minnesota Rules 1510.0370-0380) and anhydrous ammonia (Minnesota Rules 1510.0480-1920), and will adopt rules for the storage of liquid bulk pesticides effective January 1, 1989.

In addition, a **MEMORANDUM OF AGREEMENT** (MOA) between MDA and MPCA, dated June 10, 1987, assigns responsibilities to MDA for the inspection and permitting of bulk fertilizer and pesticide storage. Copy of the MOA is attached for your reference.

Both the adopted rules for fertilizer storage and the proposed rules for pesticide storage contain stringent installation, performance, and maintenance standards for storage tanks, appurtenances, and containment areas.

To insure that affected persons are complying with installation, performance, and maintenance standards, the MDA has in place aggressive inspection and permitting programs for the storage of fertilizers and pesticides.

MDA is of the opinion that our combination of installation, performance, and maintenance standards, along with aggressive inspection and permitting programs, is sufficient to insure the protection of human health, welfare, and the environment; thus, it precludes the need for training and certification for installers of fertilizer and pesticide storage tanks.

MDA, therefore, requests that MPCA's proposed rule contain a specific exemption for installers of fertilizer and pesticide storage tanks.

If you need additional information, please call 297-2614.

Please send us a copy of the proposed rules as they become available.

Sincerely,

MINNESOTA DEPARTMENT OF AGRICULTURE

John Peckham

John Peckham
Pesticide Regulatory Consultant
Agronomy Services Division

JP:vs

Enclosure

Northern States Power Company

414 Nicollet Mall
Minneapolis, Minnesota 55401-1927
Telephone (612) 330-5500

February 6, 1989

FEB 0 7 89

Beth G Lockwood
Hazardous Waste Division
Tanks and Spills Section
Minnesota Pollution Control Agency
520 Lafayette Road North
St Paul, Minnesota 55155

TRAINING AND CERTIFICATION OF STORAGE TANK INSTALLERS
Development of State Rules

Northern States Power Company (NSP) is an electric utility with approximately 80 underground storage tanks (UST's) storing primarily fuel oils and gasoline. Regarding the MPCA request for outside opinion, NSP is taking this opportunity to comment on the development of state rules governing the training and certification of storage tank installers.

NSP feels that Minnesota Statute 116.491 pertains to work with the underground tank itself since the installation and repair of appurtenances such as instrumentation and pumps are at present capably performed by qualified specialists adhering to various codes of practice and association or institute standards; therefore NSP recommends that the rule language specify this differentiation.

Furthermore, due to the varying tasks needed to be performed and the various individuals available to perform them during an installation or repair, NSP recommends that work performed by an operating crew under the supervision of a certified installer be deemed in compliance with Minnesota Rules even though crew members may not be certified. NSP recommends that the rule language specifically address the acceptability of certified supervision.

Presently, NSP special construction crews, very capable in the required equipment handling, perform the removal of NSP UST's. A representative of NSP's Environmental and Regulatory Activities Department is on site to ensure compliance with EPA rules on UST technical requirements (40 CFR 280 Subpart G) and to perform a site-assessment, including any necessary sampling, per EPA rule 40 CFR 280.72. NSP feels that the EPA rules adequately delineate closure/removal procedures, and that adherence to these rules and enforcement of these rules should preclude the need for a

certification program for removers/closers of UST's. However, if certification of removers/closers is included in this rule making, we suggest that three separate phases of the program be established to handle the very different work functions and aspects associated with installation, repair, and closure/removal. Certification can be completed for each phase and does not have to be completed for all phases (ie a person may be a certified remover/closer and not necessarily be certified installer).

Presently, NSP does not intend to be on the advisory work group, but we wish to remain on the mailing lists as indicated on the attached forms.

If there are any questions, please call me at 330-6625.

J J Bodensteiner/KD

J J Bodensteiner
Assoc Regulatory Analyst

kd

cc ERAD Records Center
L W Eberley
R D Clough
D B Palmquist
Don Youngdahl
Jim Bollensen

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

FEB 16 89

Do you wish to be included on the Tanks and Spills list? Yes ✓ No ___
Do you wish to be included on the certification mailing list? Yes ✓ No SMM

Is the mailing label above completely correct? Yes ✓ No ___

The following is the correct mailing address:

Name RUSSELL MALONEY
Affiliation MALONEY CONSTRUCTION INC.
Address 16608 MEADOWBROOK LANE
WAYZATA, MINN 55391

Telephone: 612-473-1081

1PD

Suggested member for advisory workgroup:

Name: RUSSELL MALONEY
Affiliation/Interest: MALONEY CONSTRUCTION INC.
Telephone: 612-473-1081

General comments concerning installer certification program:

GENERAL BACKGROUND of RUSSELL MALONEY
GRADUATE U of M - BACHELOR of CIVIL ENGINEERING - 1967
CONSTRUCTION ENGINEER FOR TEXACO INC 1967-1971
OPERATIONS SUPERVISOR FOR TEXACO 1970 - 1971
OPERATE MALONEY CONSTRUCTION INC 1971 to PRESENT
HAVE COMPLETED NUMEROUS PROJECTS THRU OUT
USA IN A VARIETY of CONSTRUCTION FIELDS
INCLUDING NUMEROUS OIL COMPANY PROJECTS

Russell O. Maloney

✓

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Jim Tenhoff
Rollies Tank Service
Highway 27 West
Osakis, Minnesota 56360

FEB 0 6. 89

Do you wish to remain on the Tanks and Spills list? Yes X No KLA
Do you wish to be included on the certification mailing list? Yes X No SMM

Is the mailing label above completely correct? Yes X No ____

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: _____
Affiliation/Interest: _____
Telephone: _____

General comments concerning installer certification program:

I FEEL THAT THIS SHOULD BE DONE AS SOON AS POSSIBLE
IF TIME WOULD PERMIT, WOULD BE INTERESTED IN
WORKING WITH YOUR BOARD

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Roman J. Koch
Minnesota Department of Health
717 Delaware Street Southeast
Minneapolis, Minnesota 55440

FEB 15 89

Do you wish to remain on the Tanks and Spills list? Yes X No X Yes
Do you wish to be included on the certification mailing list? Yes X No Smm

Is the mailing label above completely correct? Yes X No ___

The following is the correct mailing address:

Name Roman Koch
Affiliation MN Depart of Health
Address 717 Delaware St SE
Minneapolis, Minn 55400

Telephone: 623 - 5404

Suggested member for advisory workgroup:

Name: ___
Affiliation/Interest: ___
Telephone: ___

General comments concerning installer certification program:

We would be willing to participate in discussion regarding monitoring for storage tank installation, [redacted]. Our concerns are with monitoring device in the saturated and unsaturated zones and who installs them. Also, how they relate to the requirements of the Minnesota Water Well Construction Code.

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Henry A. Hovey
Range Petroleum Equipment, Inc.
P.O. Box 1314
Virginia, Minnesota 55792

FEB 0 3 89

Do you wish to remain on the Tanks and Spills list? Yes X No Kept
Do you wish to be included on the certification mailing list? Yes X No Sent
Is the mailing label above completely correct? Yes X No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: _____
Affiliation/Interest: _____
Telephone: _____

General comments concerning installer certification program:

The certification program is long over due. After 34 years of installing tanks I have seen many installed improperly.

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Edward J. Fleece
Minnesota Dept. of Transportation
1123 Mesaba Avenue
Duluth, Minnesota 55811

FEB 0 2. 89

Do you wish to remain on the Tanks and Spills list? Yes X No Keep
Do you wish to be included on the certification mailing list? Yes X No Smm
Is the mailing label above completely correct? Yes X No ____

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: (218) 723-4845

Suggested member for advisory workgroup:

Name: _____
Affiliation/Interest: _____
Telephone: _____

General comments concerning installer certification program:

It is recommended that employees of Mn/DOT be able to become certified installers under the MPCA certification program.

Some thought might be given to require bonding of all certified installers.

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Stan Von Bokern
Paape Distributing Company
307 McKinzie
Mankato, Minnesota 56001

RECEIVED
JAN 17 89

Do you wish to remain on the Tanks and Spills list? Yes X No Kill
Do you wish to be included on the certification mailing list? Yes X No SMM

Is the mailing label above completely correct? Yes ___ No X

The following is the correct mailing address:

Name Stan Von Bokern
Affiliation Paape Distributing Company
Address 307 McKenzie
Mankato, MN 56001

Telephone: 1/507-345-4828

Suggested member for advisory workgroup:

Name: Stan Von Bokern
Affiliation/Interest: Installing Contractor/Service Company
Telephone: 1/507-345-4828

General comments concerning installer certification program:

An option for an installer certification program for petroleum products only VS all storage tanks.

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Eagle Construction Co., Inc.
50 E. Broadway
Little Falls, Minnesota 56345

DEC 2 9

Do you wish to remain on the Tanks and Spills list? Yes X No Kim
Do you wish to be included on the certification mailing list? Yes X No Sharon

Is the mailing label above completely correct? Yes X No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: 612-632-5429

Suggested member for advisory workgroup:

Name: John Kelley
Affiliation/Interest: Ryan Company - Wholesale distributer of Tanks & Equipment
Telephone: 870-4800

✓General comments concerning installer certification program:

We are glad to see you are initiating this Program and are very interested in getting involved with the certification Process

DEC 28

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Ms. Sherry Webb
City of St. Paul
Department of Fire & Safety
100 Est 11th
St. Paul, Minnesota 55101

Do you wish to remain on the Tanks and Spills list? Yes ✓ No KC17
Do you wish to be included on the certification mailing list? Yes ✓ No SMM

Is the mailing label above completely correct? Yes ✓ No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: _____
Affiliation/Interest: _____
Telephone: _____

✓ General comments concerning installer certification program:

Great Idea!

what about removal contractors

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Tom Kinnunen
MacNeil Environmental, Inc.
1611 NW 4th Street
Grand Rapids, Minnesota 55744

DEC 2 9.

Do you wish to remain on the Tanks and Spills list? Yes ✓ No KEEP
Do you wish to be included on the certification mailing list? Yes ✓ No SHARON

Is the mailing label above completely correct? Yes ✓ No ____

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: Tom KINNUNEN
Affiliation/Interest: MacNeil Environmental Inc. - Groundwater pollution + Stream & lake pollution
Telephone: (218) 326-1888 or 1-800-642-6330 (Watts)

✓ **General comments concerning installer certification program:**

Proper base & surrounding materials to prevent shifting (knowledge of)
Main cause of piping failure
Tank & pipe leak testing immediately after installation.
Instruction as to overfill alarms & catchment basins.
★ A type of certification schooling as we now have for asbestos abatement contractors.
(all the above plus much more should be included)

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Mike Eicher
1800 2nd Street S.
Hopkins, Minnesota 55343

RECEIVED
DEC 29

Do you wish to remain on the Tanks and Spills list? Yes ✓ No ___
Do you wish to be included on the certification mailing list? Yes ✓ No ___

Is the mailing label above completely correct? Yes ___ No ✓

The following is the correct mailing address:

Name Mike Eicher
Affiliation PUMP & METER SERVICE INC
Address 11303 EXCELSIOR BLVD
HOPKINS, MINN 55343

Telephone: 933-4800

Suggested member for advisory workgroup:

Name:
Affiliation/Interest:
Telephone:

✓General comments concerning installer certification program:

Would like some level of involvement from a PEI affiliated petroleum equipment contractor

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Mike Eicher
Pump & Meter ~~Company~~ Service, Inc.
11303 Excelsior Boulevard
Hopkins, Minnesota 55343

DEC 2 9

Do you wish to remain on the Tanks and Spills list? Yes X No Kept
Do you wish to be included on the certification mailing list? Yes X No SNUM

Is the mailing label above completely correct? Yes X No ____

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: LEE RADERMACHER
Affiliation/Interest: PUMP & METER SERVICE
Telephone: 933-4800

General comments concerning installer certification program:

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Brian Ettesvold, Exec. Dir.
Minnesota Service Station Association
1705 Marian Street
Roseville, Minnesota 55113

RECEIVED
DEC 29

Do you wish to remain on the Tanks and Spills list? Yes X No KEEP
Do you wish to be included on the certification mailing list? Yes X No SAME

Is the mailing label above completely correct? Yes ___ No X

The following is the correct mailing address:

Name _____
Affiliation _____
Address MARION ST - SPELLING INCORRECT
_____
_____
_____
Telephone: 612-457-1983

Suggested member for advisory workgroup:

Name: AS ABOVE on The Label
Affiliation/Interest: _____
Telephone: 612-457-1983

✓ **General comments concerning installer certification program:**

We Need To get this PROGRAM OPERATIONAL ASAP

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

~~Mrs. Amy Zahn~~ PATRICK M. RYAN
Petroleum Equipment Service
1850 Velp Avenue
P.O. Box 10915
Green Bay, Wisconsin 54307

JAN 0 3 89

Do you wish to remain on the Tanks and Spills list? Yes X No KEEP
Do you wish to be included on the certification mailing list? Yes X No SUMM

Is the mailing label above completely correct? Yes ___ No ___

The following is the correct mailing address:

Name PATRICK M. RYAN
Affiliation PETROLEUM EQUIPMENT SERVICE
Address P.O. BOX 10915
GREEN BAY, WI 54307-0915

Telephone: 414-499-5404

Suggested member for advisory workgroup:

Name: ___
Affiliation/Interest: ___
Telephone: ___

General comments concerning installer certification program:

RECIPROCITY BETWEEN STATES — MN/WI

Petroleum Equipment Service, Inc.
8th Street & Industry Avenue
Cloquet, Minnesota 55720

JAN 0 3 89

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Do you wish to remain on the Tanks and Spills list? Yes X No ~~X~~
Do you wish to be included on the certification mailing list? Yes ~~X~~ No ~~X~~
Is the mailing label above completely correct? Yes ~~X~~ No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: WILLIAM LINDQUIST
Affiliation/Interest: OWNER - INSTALLATION CO.
Telephone: 218-879-4538

✓ **General comments concerning installer certification program:**

WITH 12 YEARS EXPERIENCE AN the Petrol. Equip. INDUSTRY, AND STRONG BACKGROUND IN Science & management, I STRONGLY SUGGEST A CERTIFICATION Program be INITIATED,

Bill Lindquist.

✓

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. John Shepherd
Ag Processing, Inc.
11235 Davenport Street
Omaha, Nebraska 68154

FEB 01 89

Do you wish to remain on the Tanks and Spills list? Yes ✓ No Kept
Do you wish to be included on the certification mailing list? Yes ✓ No Smm

Is the mailing label above completely correct? Yes ✓ No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: _____
Affiliation/Interest: _____
Telephone: _____

General comments concerning installer certification program:

Keep it simple and honest.!

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

J & M Trucking
1769 Iglehart Avenue
St. Paul, Minnesota 55104

DEC 30

Do you wish to remain on the Tanks and Spills list? Yes X No Kept
Do you wish to be included on the certification mailing list? Yes X No SAME

Is the mailing label above completely correct? Yes X No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: DANA C Nelson
Affiliation/Interest: Owner
Telephone: 612-644-8018

General comments concerning installer certification program:

Would like to be on advisory work group, many comments and suggestions!

Thanks,
Dana C Nelson

✓

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

JAN 24 89

Hazardous Waste Division

Mr. Mark Larson
L. Lehman & Associates, Inc.
1103 W. Burnsville Pkwy., Suite 209
Burnsville, Minnesota 55337

Do you wish to remain on the Tanks and Spills list? Yes ✓ No Kept
Do you wish to be included on the certification mailing list? Yes ✓ No Sent

Is the mailing label above completely correct? Yes ___ No ___

The following is the correct mailing address:

DEC 27 1988

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: _____
Affiliation/Interest: _____
Telephone: _____

✓**General comments concerning installer certification program:**

Try to avoid "grand fathering" existing tank installers but rather give them an adequate period of time over which to be trained. This will avoid "business-as-usual" installations which have created many of the current situations of tank failure.

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. L. Kent Van Meter
Env. Safety Coordinator
St. Paul Public Schools
360 Colborne Street
St. Paul, Minnesota 55102

JAN 23 89

MPCA, Hazardous Waste Division

Do you wish to remain on the Tanks and Spills list? Yes x No KCA
Do you wish to be included on the certification mailing list? Yes x No SMM

Is the mailing label above completely correct? Yes x No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: Donald Heisterkamp
Affiliation/Interest: St. Paul School District 625
Telephone: 228-3684

✓**General comments concerning installer certification program:**

The St. Paul Public schools are replacing 63 UST's and are very concerned with the qualifications of installers. A certification program will assure us of competent installers. We will be able to use this in our bidding requirements.

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Daniel Croke
Minnesota Power & Light Company
Environmental Affairs Department
30 W. Superior Street
Duluth, Minnesota 55802

Do you wish to remain on the Tanks and Spills list? Yes X No ___
Do you wish to be included on the certification mailing list? Yes X No SAME
Is the mailing label above completely correct? Yes X No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: 218-722-2641

Suggested member for advisory workgroup:

Name: _____
Affiliation/Interest: _____
Telephone: _____

✓ **General comments concerning installer certification program:**

I believe The program is a good idea and will go a long way in preventing potential problems in The future.

RECEIVED
JAN 10 89
MPCA, Hazardous Waste Division

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Eugene Stoltenberg
Southern Minnesota Oil Equip.
Route 2, Box 200
Stewartville, Minnesota 55976

VED
JAN 18 89
Hazardous
Division

Do you wish to remain on the Tanks and Spills list? Yes X No Kill
Do you wish to be included on the certification mailing list? Yes X No Small

Is the mailing label above completely correct? Yes X No ___

The following is the correct mailing address:

Name ___
Affiliation ~~Southern Equipment Inst. (SEI)~~
Address ___
___
___
___

Telephone: 507-533-4251

Suggested member for advisory workgroup:

Name: Eugene Stoltenberg
Affiliation/Interest: ___
Telephone: Same as above

✓ **General comments concerning installer certification program:**

Having been in the business for a number of years both working for someone else and now having my own small by growing company, I have definite ideas and concerns about underground installation and preventing polution. I am glad that we are finally starting to become more aware of what has been happening and the need for a certification program.

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Bill Martin
Phillips Petroleum Company
7900 Xerxes Avenue, Suite 528
Minneapolis, Minnesota 55431

JAN 31 89

Hazardous Waste Division

Do you wish to remain on the Tanks and Spills list? Yes X No KCA
Do you wish to be included on the certification mailing list? Yes X No BKM

Is the mailing label above completely correct? Yes X No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____

Telephone: 612/566-2353

Suggested member for advisory workgroup:

Name: Rollies Tank Service
Affiliation/Interest: Tank Installer
Telephone: 612/859-4811

General comments concerning installer certification program:

I am all for it! Would like to see members of local tank manufacturing companies on the advisory group, also.

1

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Tim Kenyon
Twin City Testing
601 East 48th Street North
Sioux Falls, South Dakota 57104

JAN 0 3 89

Do you wish to remain on the Tanks and Spills list? Yes X No Kept
Do you wish to be included on the certification mailing list? Yes X No Same
Is the mailing label above completely correct? Yes X No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: 605-332-5371

Suggested member for advisory workgroup:

Name: Bob Wojciak
Affiliation/Interest: TCT
Telephone: 641-936Z

✓ General comments concerning installer certification program:

GOOD IDEA - IT HAS BEEN NEEDED FOR A LONG TIME. Certification should contain reference to liability of installer re: adequate insurance.

Duane Nelson
Circle C Foods, Inc.
245 North Ruth Street
St. Paul, Minnesota 55119

JAN 0 9 89

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Do you wish to remain on the Tanks and Spills list? Yes X No ____
Do you wish to be included on the certification mailing list? Yes X No smm

Is the mailing label above completely correct? Yes X No ____

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: _____
Affiliation/Interest: _____
Telephone: _____

General comments concerning installer certification program:

I would like to see a simple and concise uniform education program for installers.

Installers should be required to supply a Certificate of Insurance or financial responsibility to cover any costs of clean up due to improper procedures used during installation or removal.

Allow Petroleum Marketers to employ certified individuals to insure work is being done in their best interest.

Duane Nelson
Maintenance Supervisor
Circle C Foods

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

JAN 05 89

Independent Petroleum Service
Rural Route 10, Box 442A
Brainerd, Minnesota 56401

Do you wish to remain on the Tanks and Spills list? Yes X No Kill
Do you wish to be included on the certification mailing list? Yes X No Still

Is the mailing label above completely correct? Yes ___ No X

The following is the correct mailing address:

Name Orris A. Rodahl
Affiliation President of Independent Petroleum Services INC
Address 1609 So. 7th ST.
Brainerd, MN 56401

Telephone: 218-829-2745

We are engaged in Sales, Service + Installation of petroleum handling Equipment.

Suggested member for advisory workgroup:

Name: Orris A. Rodahl
Affiliation/Interest: Same as above
Telephone: 218-829-2745

✔ **General comments concerning installer certification program:**

First of all we have to figure out what we are going to have in the certification program, including Federal + State and possibly local regulations, then I think it should taught in classroom form and testing at the end of session to verify that individual installers know what exactly to do when they get out in the field.

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Ms. Terry Jensen
Xerxes Corporation
7901 Xerxes Ave., S.
Suite ~~201~~ 303
Minneapolis, MN 55431

JAN 0 5 89

Do you wish to remain on the Tanks and Spills list? Yes X No ~~X~~ KRF
Do you wish to be included on the certification mailing list? Yes X No 8MM

Is the mailing label above completely correct? Yes ~~X~~ No X
NOW CORRECTED

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: ED NIESHOFF
Affiliation/Interest: FIBERGLASS PETROLEUM TANK & PIPE INSTITUTE
Telephone: 419/247-5412 (TOLEDO, OHIO)

General comments concerning installer certification program:

XERXES BELIEVES THIS PROGRAM DEVELOPMENT IS EXCELLENT. WE WILL SEND FORMAL COMMENTS WITHIN A FEW WEEKS.

Terry Jensen

Mr. Vint Johnson
Deluxe Corporation
P.O. Box 64399
St. Paul, Minnesota 55164

JAN 06 89

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Do you wish to remain on the Tanks and Spills list? Yes ✓ No Kept
Do you wish to be included on the certification mailing list? Yes ✓ No Small
Is the mailing label above completely correct? Yes ✓ No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: (612) 483-7119

I am interested in finding out how/when, etc. of this group before February

Suggested member for advisory workgroup:

Name: VINT JOHNSON, SR. Industrial Hygienist
Affiliation/Interest: Deluxe Corporation (Deluxe Check Printers)
Telephone: 612-483-7119

✓ General comments concerning installer certification program:

I feel this certification program is needed. There are many construction or welding businesses who feel that they are qualified right now + sell themselves as such because they can dig a hole or weld. This program is necessary because with the new Regs coming up new businesses may emerge and we need to know that there is a standard level of knowledge + ability that these businesses meet/exceed. So much depends on a proper tank + large installation. A certification program would help small businesses' UST owners control their exposure and get their money's worth.

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Dean Moos
North Dakota Department of Health
Div. of Haz. Waste Mgmt. & Special Studies
1200 Missouri Avenue, Box 5520
Bismarck, North Dakota 58502

JAN 2 0 89

Do you wish to remain on the Tanks and Spills list? Yes X No Kim
Do you wish to be included on the certification mailing list? Yes X No Simm

Is the mailing label above completely correct? Yes ___ No X

The following is the correct mailing address:

Name Gary Berreth
Affiliation North Dakota State Department of Health
Address Division of Waste Management
PO BOX 5520
Bismarck, ND 58502-5520

Telephone: (701) 224-2366

Suggested member for advisory workgroup:

Name: _____
Affiliation/Interest: _____
Telephone: _____

General comments concerning installer certification program:

Will the Minnesota program provide for reciprocity with states with equivalent certification requirements? called him 1/20/89 They are behind us

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

RECEIVED
JAN 20 89
WPCA, Hazardous Waste Division

Mr. Patrick D. Graham
Kwik Trip, Inc.
1626 Oak Street
LaCrosse, Wisconsin 54602

Do you wish to remain on the Tanks and Spills list? Yes X No ___
Do you wish to be included on the certification mailing list? Yes X No SAME
Is the mailing label above completely correct? Yes X No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: 608-781-8988 EXT 252

Suggested member for advisory workgroup:

Name: PATRICK D GRAHAM OR CHARLES FRONK.
Affiliation/Interest: KWIK TRIP INC
Telephone: 608-781-8988 EXT 252.

✓ **General comments concerning installer certification program:**

We would like to see all Installer and repair man under 1 Certification. ~~All~~ Also make all repairman and Installer have a number and I think this number should be part of the Sealer pliers

Pat Graham

Sue + Kelly
This man wants to be on both lists
He may already be on the A-List. (check the address)
Thanks.

SMM
12/27

Rollies Sales & Service
Highway 27 West
Osakis, Minnesota 56360

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

January 25, 1989

Dear Sirs,

We are holding a meeting on February 9, 1989. Thomas Clark & Stan Kalinoski will be there. We would like them to listen to the concerns of our customers at the meeting, Their concerns are our concerns.

It is very important that we keep this affordable. I firmly believe the money being spent should be on good & or new Tanks & Spill prevention equipment. Not on trying to decipher if their may or may not, have been a spill.

If a consultant is necessary then he is necessary, But his fee is not cleaning up our environment. That is primarily what I mean by keeping this affordable.

The owner or any reliable firm or one of the Pollution Control Representatives, Should be able to send a soil sample in to the laboratory for approval. Their should be a guide line or exceptable analysis of the soil test, and as inexpensive as possible, and available to any one. So if in doubt the soil would be tested & Not covered or hidden. They may just try to get by because they are scared of a unbearable cost.

As far as license or certifying a tank installer, I feel it is very important. The tank install should have a plan. He should have piping experience and should have tank handling experience.

Any question feel free to call me. (612-859-4811)

Sincerely,

Rolly Walsh
Rollies Sales & Service

RW/jaf

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Hobb's ~~Pump Sales & Service~~ INC.
2009 13th Avenue N.
Grand Forks, North Dakota 58201

DEC 30

Do you wish to remain on the Tanks and Spills list? Yes ✓ No KVR
Do you wish to be included on the certification mailing list? Yes ✓ No SMM

Is the mailing label above completely correct? Yes ___ No ✓

The following is the correct mailing address:

Name _____
Affiliation HOBBS, INC.
Address 2009 13th Ave. No. ADVANCED POLLUTION CONTROL
Grand Forks, ND 58201 2009 13th AVENUE NORTH
GRAND FORKS, ND 58201

} subsidiary of Hobbs Inc

Telephone: (701) 772-5579

add both
See Sue

Suggested member for advisory workgroup:

Name: MARK KRENELKA
Affiliation/Interest:
Telephone: (701) 772-5579

✓ General comments concerning installer certification program:

1) Program is needed
2) Discuss how to deal with residual material left in tanks to be removed or abandoned

RECEIVED

DEC 28

Corrected

Mr. Steve [redacted] Murphy
Westside Equipment
902 Highway 55
Medina, Minnesota 55340

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Do you wish to remain on the Tanks and Spills list? Yes X No KILL
Do you wish to be included on the certification mailing list? Yes Y No SNMM

Is the mailing label above completely correct? Yes ___ No X

The following is the correct mailing address:

Name STEVE G MURPHY
Affiliation PRES. + ESTIMATOR
Address 902 Hwy 55
MEDINA MN 55340
Telephone: 612 428-9572

Suggested member for advisory workgroup:

Name: Joe Schmidt
Affiliation/Interest: Constr. Superintendent
Telephone: 612 428-9572

✓ General comments concerning installer certification program:

I am very much interested [redacted] in the installer certification program.

Suggest
(A) Certification of the Co. Not individual
(B) to be a PEI Member, these are the Petroleum equip. organizations who are Schooling there people on all phases of petro. Equip. that is Sales - Service and installation Installation to there, the manufacture specifications and in conjuction with State - PCA and local Codes.

DEC 29

Mr. Dennis Lahti
Zahl Equipment Company
3101 Spring Street, N.E.
Minneapolis, Minnesota 55413

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Do you wish to remain on the Tanks and Spills list? Yes X No Knot
Do you wish to be included on the certification mailing list? Yes X No SAME
Is the mailing label above completely correct? Yes X No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: GREG HENDERSON
Affiliation/Interest: CONSTRUCTION MANAGER - VICE-PRESIDENT - ZAHL EQUIP.
Telephone: 612 - 331 - 8550

✓ **General comments concerning installer certification program:**

EXCELLENT IDEA
NEEDS TO BE PUT TOGETHER & IMPLEMENTED IMMEDIATELY, ESPECIALLY FOR REMOVAL & CLOSURE OF TANKS

✓

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Terry Graumann
Ottertail Power Company
215 S. Cascade
Fergus Falls, Minnesota 56537

JAN 0 5 89

Do you wish to remain on the Tanks and Spills list? Yes ✓ No KILL
Do you wish to be included on the certification mailing list? Yes ✓ No SAME
Is the mailing label above completely correct? Yes ✓ No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: _____
Affiliation/Interest: _____
Telephone: _____

✓ **General comments concerning installer certification program:**

The certification program for installers and repairers ought to include provisions which would allow installation of small tanks ~~@~~ or the execution of minor repairs without requiring certification. This provision would reduce the regulatory burden ~~and~~ while regulating those activities most likely to affect the environment.

✓

RECEIVED

JAN 06 89

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Hobb's Pump Sales & Service
2009 13th Avenue N.
Grand Forks, North Dakota 58201

Do you wish to remain on the Tanks and Spills list? Yes X No KCA
Do you wish to be included on the certification mailing list? Yes X No SMM

Is the mailing label above completely correct? Yes ___ No X

The following is the correct mailing address:

1PPC

Name Hobbs · INC
Affiliation BRANCH OFFICE
Address HCO Route 4 Box 64
MANDAN ND 58554

Telephone: 701 663 6363

Suggested member for advisory workgroup:

Name: TODD KRENELKA
Affiliation/Interest: Installer/Remediation work Gen Manager
Telephone: 701 663 6363

✓General comments concerning installer certification program:

WE welcome Any certification program from both AN ENVIRONMENTAL & Small Business prospective. Such programs will help IN INSURING SOUND INSTALLATIONS throughout the AREA AS well AS Assist the Regulatory Agencies IN MAINTAINING Control.

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

F. A. Heinbaugh
American Crystal Sugar
Manager Environmental Control
101 North Third Street
Moorhead, MN 56560

00384

JAN 0 3 89

Do you wish to be included on the Tanks and Spills list? Yes ✓ No ___
Do you wish to be included on the certification mailing list? Yes ✓ No SMM
Is the mailing label above completely correct? Yes ✓ No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
_____
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: _____
Affiliation/Interest: _____
Telephone: _____

General comments concerning installer certification program:

12/29/88

American Crystal will consider developing program to qualify as our own "installer" vs using outside contractors. Either way the company needs to understand this area completely.

Tony Heinbaugh

RECEIVED

DEC 30

Hazardous Waste Division
Tanks and Spills Section
Installer Certification
RETURN BY: February 6, 1989

Mr. Manny Camilon, Health & Safety Inspector.
City of St. Louis Park
5005 Minnetonka Blvd.
St. Louis Park, Minnesota 55416

Do you wish to remain on the Tanks and Spills list? Yes ___ No KRA
Do you wish to be included on the certification mailing list? Yes ✓ No ___ USTMA

Is the mailing label above completely correct? Yes ___ No ___

The following is the correct mailing address:

Name _____
Affiliation _____
Address _____
all above
_____
_____
Telephone: _____

Suggested member for advisory workgroup:

Name: _____
Affiliation/Interest: _____
Telephone: _____

General comments concerning installer certification program:

Our dept is involved from the point we require a permit to install, remove, replace, or repair any underground tanks. We have compiled current lists of licensed fuel/gasoline tank operators. We also facilitate the removal, spill clean up, and mitigation to the PCA (Cradle-to-grave).

Sincerely,
Manny Camilon
Health & Safety Inspector.

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the state of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 22nd day of August, 1989, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Commissioner of the Minnesota Pollution Control Agency is hereby granted the authority to sign and to give notice of the Minnesota Pollution Control Agency's intent to adopt, without a public hearing, the attached proposed Underground Storage Tank Training and Certification Rules, Minn. Rules ch. 7105, to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and publish the notice and the rule in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1988).
>
> BE IT FURTHER RESOLVED, that in the event that a public hearing becomes necessary, the Commissioner is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order for and Notice of Hearing, as well as acting as the Minnesota Pollution Control Agency's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 22 day of August, 1989.

Gerald L. Willet

Gerald L. Willet
Commissioner

(2) owners and operators of used oil-fired space heaters that burn used oil fuel under item A, subitem (3); and

(3) burners who burn on-specification used oil that they generate.

C. Before a burner accepts the first shipment of off-specification used oil fuel from a marketer, the burner must provide the marketer with a one-time written and signed notice certifying that:

(1) the burner has notified the Environmental Protection Agency stating the location and general description of the burner's used oil management activities; and

(2) the burner will burn the used oil only in an industrial furnace or boiler identified in item A, subitems (1) and (2).

D. A person who burns used oil fuel that has been generated on-site is subject to regulation under this subpart unless that person obtains analysis or other information documenting that the oil is on-specification used oil.

E. Burners who process, blend, or otherwise manage off-specification used oil to meet the specifications provided under subpart 1, item B, must obtain analyses or other information documenting that the oil is on-specification used oil.

F. A burner must retain a copy of the invoice given from a marketer for three years from the date the invoice is received. Burners must also keep for three years copies of all analyses of used oil fuel as may be required by items D and E. In addition, the burner must keep a copy of each certification notice that the burner sends to a marketer for three years from the date the burner last received off-specification used oil fuel from that marketer.

G. Burners must abide by Minnesota and federal air quality regulations, including obtaining a permit if necessary. Compliance with this part does not release a burner from any obligation to comply with local air quality ordinances or codes.

REPEALER. *Minnesota Rules*, parts 7045.0100; and 7045.0125, subparts 10 and 11, are repealed.

Pollution Control Agency

Hazardous Waste Division

Proposed Permanent Rules Relating to Underground Storage Tank Training and Certification

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) 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* §§ 14.22 to 14.28 (1988). The MPCA's authority to adopt the rule is set forth in *Minnesota Statutes* § 116.491 (1988).

All persons have until 4:30 p.m. on October 11, 1989, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules 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 rules 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 (1988). Comments or written requests for a public hearing must be submitted to:

Beth G. Lockwood
Tanks and Spills Section
Hazardous Waste Division
Minnesota Pollution Control Agency

520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 297-3081

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The proposed rules 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 as noticed.

The proposed rules, if adopted, will establish a certification program for contractors involved in the installation, removal, or repair of underground storage tanks. A training and certification program will also be established for on-site supervisors of these projects. The proposed rules set forth the requirements and procedures for obtaining and renewing this certification. In addition, the rules outline the minimum training course requirements for on-site supervisors and the procedures for obtaining approval of a training course. The proposed rules are published below. One free copy of the rules is available upon request from Beth Lockwood at the address and telephone number stated above.

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

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 13.115 (1988), "Small business considerations in rulemaking," that the proposed rules will have a minimal effect on small businesses. In drafting the proposed rules, the MPCA considered the potential impact on small businesses. A discussion of these considerations can be found in the Statement of Need and Reasonableness.

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 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 as adopted, must submit a written request to Beth Lockwood of the Tanks and Spills Section.

Gerald L. Willet
Commissioner

Rules as Proposed (all new material)

7105.0010 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the following terms and abbreviations have the meanings given them. Terms that are not specifically defined have the meanings given them in *Minnesota Statutes*, sections 115.01, 115C.02, and 116.46.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. **Approved training provider.** "Approved training provider" means a person approved by the commissioner to provide the installer training course or the final examination.

Subp. 4. **Certificate.** "Certificate" means a document issued by the agency to a person who has met the certification requirements of this chapter.

Subp. 5. **Certified contractor.** "Certified contractor" means a contractor that has been certified by the agency under the requirements of this chapter to engage in the business of installing, repairing, or closing underground storage tank systems.

Subp. 6. **Certified supervisor or supervisor.** "Certified supervisor" or "supervisor" means an individual certified by the agency under the requirements of this chapter to perform one or more storage tank projects. This individual provides supervision and direction to workers engaged in a storage tank project.

Subp. 7. **Closure or removal.** "Closure" or "removal" means permanently taking an underground storage tank out of service by either closing it in place, removing it from the ground, or converting it to store a nonregulated substance, as required by Code of Federal Regulations, title 40, part 280, or its counterpart in *Minnesota Rules* when adopted.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of the agency.

Subp. 9. **Contractor.** "Contractor" means a corporation, partnership, or duly constituted individual proprietorship that holds itself as being qualified to engage in storage tank projects.

Subp. 10. **Critical junctures.**

A. "Critical junctures" in the case of an installation means the steps in the installation of an underground storage tank system that are important to the prevention of releases, including but not limited to:

(1) preparation of the excavation immediately before receiving backfill and the tank;

(2) setting of the tank and the piping, including placement of anchoring devices, backfill to the level of the tank, and strapping, if any;

(3) any time during the installation in which components of the piping are connected, field coated, or cathodically protected;

(4) all pressure testing of the tank system, including associated piping, performed during the installation; and

(5) completion of backfill and filling of the excavation.

B. "Critical junctures" in the case of a tank removal means the steps in the removal project that are important to the prevention of releases, including but not limited to:

(1) the cleaning and purging of the tank system;

(2) the actual excavation and removal of the tank system;

(3) all testing associated with the cleaning and purging processes; and

(4) any time during the removal in which components of the tank are disconnected or capped.

C. "Critical junctures" in the case of a repair means the steps in the repair project that are comparable to the steps listed for item A in terms of their importance in the prevention of releases, including but not limited to:

(1) the actual excavation of existing tanks or piping;

(2) the actual performance of the repairs to the tank system;

(3) any time during the repair project in which components of the piping are connected; and

(4) any time during the repair project in which the tank or its associated piping is tested.

Subp. 11. **Day.** "Day," when used to describe a day of training, equals eight hours including breaks and lunch.

Subp. 12. **Diploma.** "Diploma" means a document verifying the successful completion of the required training course.

Subp. 13. **Disciplines of certification or disciplines.** "Disciplines of certification" or "disciplines" means the categories of tank projects within which a person may be certified under the requirements of this chapter. Each discipline includes the storage tank projects listed in items A to C.

A. The discipline of "installation" includes installations as defined in subpart 15, as well as the correction, restoration, modification, or upgrading of tank system piping or appurtenances.

B. The discipline of "repair" includes the correction restoration, modification, or upgrading of the tank vessel itself, for example, repairing a hole in a tank or relining a tank. The discipline of repair does not include other storage tank projects defined as "repair" in subpart 21 which do not involve the tank vessel itself.

C. The discipline of "closure" includes the storage tank projects defined in subpart 7.

Subp. 14. **EPA.** "EPA" means the United States Environmental Protection Agency.

Subp. 15. **Installation.** "Installation" means the work involved in placing an underground storage tank in position and preparing it to be placed in service or the movement of an underground storage tank to a new position and preparing it to be placed in service.

Subp. 16. **Installer.** "Installer" means a person who installs, repairs, or closes an underground storage tank.

Subp. 17. **Operator.** "Operator" means a person in control of, or having responsibility for, the daily operation of a tank, and who was in control of, or had responsibility for, the daily operation of the tank immediately before discontinuation of its use.

Subp. 18. **Owner.** "Owner" means a person who holds title to, controls, or possesses an interest in a tank and who held title to, controlled, or possessed an interest in a tank immediately before discontinuation of its use. Owner does not include a person who holds an interest in a tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the tank.

Subp. 19. **Person.** "Person" means an individual, partnership, association, public or private corporation, or other legal entity, including the United States government, an interstate commission or other body, the state, or any agency, board, bureau, office, department, or political subdivision of the state, but does not include the Pollution Control Agency.

Subp. 20. **Regulated substance.** "Regulated substance" means:

A. a hazardous material listed in Code of Federal Regulations, title 49, section 172.101; or

B. petroleum, including:

(1) gasoline and fuel oil as defined in *Minnesota Statutes*, section 296.01, subdivisions 3 and 4;

(2) crude oil or a fraction of crude oil that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute;

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(3) constituents of gasoline and fuel oil under subitem (1) and constituents of crude oil under subitem (2); and

(4) petroleum-based substances that are comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, and used oils.

Subp. 21. **Repair.** "Repair" means the correction, restoration, modification, or upgrading of a tank system, including but not limited to the addition of cathodic protection systems; the replacement of piping, valves, fill pipes, or vents; the lining of a tank through the application of materials such as epoxy resins; and other similar activities that may affect the integrity of the tank system.

Subp. 22. **State.** "State" means the state of Minnesota.

Subp. 23. **Storage tank project.** "Storage tank project" means the installation, repair, or closure of an underground storage tank.

Subp. 24. **Tank or tank system.** "Tank" or "tank system" has the same meaning as underground storage tank.

Subp. 25. **Underground storage tank.** "Underground storage tank" means any one or a combination of containers including tanks, vessels, enclosures, or structures and underground appurtenances connected to them, that is used to contain or dispense an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected to them, is ten percent or more beneath the surface of the ground.

7105.0020 PURPOSE.

This chapter implements the requirement of *Minnesota Statutes*, section 116.491, that the agency require a person who installs, repairs, or takes an underground storage tank permanently out of service to first obtain a certificate of competency from the agency.

7105.0030 GENERAL PROVISIONS.

Subpart 1. **Certification requirements and deadlines.** No person may install, repair, or close a tank system after [insert date six months after the effective date of this chapter] unless:

A. a supervisor certified in the appropriate discipline is physically present on site at all critical junctures during the storage tank project; and

B. the certified supervisor in item A is also a certified contractor or is in the employ of a certified contractor.

Subp. 2. **Certificate availability.** A copy of the contractor's current certificate must be at the work location and posted in a conspicuous place. Certified supervisors must have copies of current certificates issued by the agency at the location where they are supervising work.

Subp. 3. **Tank owner or operator requirements.** Owners or operators of an underground storage tank must not allow a storage tank project to be performed on their tank system, except in compliance with subpart 1.

7105.0040 EXCLUSIONS.

The following underground storage tanks are excluded from the requirements of this chapter:

A. a wastewater treatment tank system that is part of a wastewater treatment facility regulated under United States Code, title 33, section 1317 or 1342;

B. equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tank systems and electrical equipment tank systems;

C. tank systems with a capacity of 110 gallons or less;

D. tank systems that contain a de minimus concentration of regulated substances;

E. an emergency spill or overfill containment tank system that is expeditiously emptied after use;

F. farm or residential tank systems of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

G. tank systems of 1,100 gallons or less capacity used for storing heating oil for consumptive use on the premises where stored;

H. septic tanks;

I. pipeline facilities, including gathering lines, regulated under United States Code, title 49, chapter 24 or 29;

J. surface impoundments, pits, ponds, or lagoons;

K. storm water or waste water collection systems;

L. flow-through process tank systems;

M. tank systems located in an underground area such as a basement, cellar, mine working, drift, shaft, or tunnel if the tank is located on or above the surface of the floor;

N. wastewater treatment tank systems;

O. tank systems containing radioactive material that is regulated under the Atomic Energy Act of 1954, United States Code, title 42, sections 2011 to 2296;

P. a tank system that is part of an emergency generator system at nuclear power generator facilities regulated by the Nuclear Regulatory Commission under Code of Federal Regulations, title 10, section 50, Appendix A;

Q. airport hydrant fuel distribution systems; and

R. underground storage tank systems with field constructed tanks.

7105.0050 CONTRACTOR CERTIFICATION.

Subpart 1. **Contractor certification requirements.** To obtain certification from the commissioner, an applicant for a contractor's certificate shall:

A. be, or have in its employ, a certified supervisor who will exercise responsible supervisory control over a given storage tank project and who will be physically present on site at the critical junctures in the tank project;

B. submit documentation showing that it has comprehensive general liability insurance, surety bonds, or liquid company assets that, in combination, represent a value of not less than five times the value of the largest storage tank project contract performed by the contractor during the previous two years; and

C. complete the application procedures in subpart 3 or 4.

Subp. 2. **Disciplines of contractor certification.** A contractor may be certified in one or more of the following disciplines providing it employs supervisors that are certified in the disciplines for which the contractor seeks certification, as defined in part 7105.0010, subpart 13:

A. installation;

B. repair; and

C. closure.

Subp. 3. **Application procedures for contractor certification.** To apply for certification as a certified contractor, the following information must be submitted to the agency on a form provided by the agency:

A. the full name, address, and telephone number of the firm;

B. any names held by the firm within the previous five years;

C. the discipline for which the applicant wishes certification;

D. the nature of the storage tank projects to be conducted;

E. a summary of the project history of the firm over the two-year period immediately preceding the application;

F. documentation that the contractor meets the financial responsibility requirements in subpart 1, item B;

G. identification of industry or government licenses held by the firm related to underground storage tanks;

H. the names of employees certified by the agency to perform and supervise storage tank projects, including identification of the specific disciplines for which they are certified, certification numbers, and expiration dates;

I. a statement signed and notarized by at least one active officer, partner, owner, or designated managerial representative of the contractor that certifies that:

(1) the person signing has obtained a copy of the applicable laws and rules pertaining to the regulation of underground storage tanks in the state, including the standards of performance in part 7105.0070;

(2) the person signing has read and understands the regulations in subitem (1) and will direct the employees and principals of the company to perform the storage tank projects rendered by the company in a manner that is consistent with their requirements; and

(3) on all storage tank projects a certified supervisor will exercise responsible supervisory control over the work and will be physically present on site at all critical junctures during the storage tank project; and

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J. remittance of the contractor certification fee.

The application must be specific to one contractor, but may include a request to be certified in more than one discipline.

Subp. 4. **Application procedures for contractor certification renewals and upgrades.** Certification renewals and upgrades must be applied for as outlined in subpart 3. In addition, a copy of the applicant's most recent contractor certificate must also accompany the application. Completed renewal applications should be submitted no later than 30 days before the expiration date.

Subp. 5. **Length of contractor certification.** Contractor certificates expire two years after the date of issuance.

7105.0060 SUPERVISOR CERTIFICATION.

Subpart 1. **Supervisor certification requirements.** To obtain certification from the commissioner, an applicant for a supervisor's certificate shall:

A. in the two-year period immediately before making the application, have successfully completed an approved five-day training course as outlined in parts 7105.0080 and 7105.0090, or a course approved by the commissioner under subpart 7;

B. have at least two years of tank service experience and have actively participated in the field on a minimum of five underground storage tank projects during the two-year period immediately before making the application, with at least four of these projects being in the discipline for which the individual wishes to be certified. Any experience obtained after [insert date six months after the effective date of this chapter], for the purposes of obtaining initial certification, must be in the employ of a certified contractor and under the immediate and personal supervision of a certified supervisor; and

C. complete the application procedures in subpart 4 or 5.

Subp. 2. **Successful completion of a training course.** Successful completion of a training course includes attending all training hours and passing the final examination.

Subp. 3. **Disciplines of supervisor certification.** An individual, with the appropriate training and experience, may be certified in one or more of the following disciplines, as defined in part 7105.0010, subpart 13:

A. installation;

B. repair; and

C. closure.

Subp. 4. **Application procedures for supervisor certification.** To apply for certification as a certified supervisor, the following information must be submitted to the agency on a form provided by the agency:

A. the applicant's full name, social security number, job title, name of business, business address, and business phone number;

B. a copy of the most recent training course diploma;

C. the date of the final examination and documentation that a passing score was received, if not included on the course diploma;

D. the discipline for which the applicant wishes certification;

E. documentation that the experience requirements in subpart 1 have been met; and

F. a signed, notarized statement that the applicant has obtained a copy, read, understands, and will comply with all applicable laws and rules pertaining to the regulation of underground storage tanks in the state, including the standards of performance in part 7105.0070.

The application must be specific to one individual, but may include a request to be certified in more than one discipline.

Subp. 5. **Additional application procedures for supervisor certification renewals and upgrades.** Certification renewals and upgrades must be applied for as outlined in subpart 4. In addition, a copy of the applicant's most recent certificate must accompany the application. Completed renewal applications should be submitted no later than 30 days before the expiration date.

Subp. 6. **Length of supervisor certification.** Supervisor certificates expire two years after the applicant successfully completes the final training course examination.

Subp. 7. **Reciprocity.** The commissioner shall approve a tank installer certification course sponsored by a state or organization other than an approved training provider if the commissioner determines that the course is comparable to the program outlined in parts 7105.0080 and 7105.0090. Persons seeking reciprocity under this subpart shall be required by the commissioner to pass an examination to verify their familiarity with Minnesota's laws pertaining to underground storage tank systems if the commissioner finds that their courses did not adequately address Minnesota's statutes and rules. This examination may be taken any time after the completion of the approved training course and before applying for certification. However, the certificate expires two years after the final day of the approved training course.

7105.0070 STANDARDS OF PERFORMANCE.

Subpart 1. **Standards of performance for contractors and supervisors.** Certified contractors and supervisors shall comply with the standards of performance in items A and B.

A. Certified contractors and supervisors shall perform or undertake only those storage tank projects that conform to accepted industry standards and federal, state, and local laws and safeguard the public life, health, safety and welfare, and the environment.

B. Certified contractors and supervisors must not offer, give, solicit, or receive, either directly or indirectly, any commission, gift, or other valuable consideration to secure work, and shall not make any political contribution with the intent to influence the award of a contract by public authority.

Subp. 2. **Additional standards of performance for supervisors.** In addition to the standards in subpart 1, certified supervisors:

A. shall perform all storage tank projects so that there is no release of the contents of the tank;

B. must not affix the supervisor's signature or certification number to a storage tank project unless it was accomplished under the supervisor's direct control and personal supervision and the supervisor was present at all critical junctures during the storage tank project; and

C. must not certify to an owner that a storage tank project is complete unless it complies with *Minnesota Statutes*, sections 116.46 to 116.50, Code of Federal Regulations, title 40, part 280, subparts A to G, and state technical tank rules adopted under *Minnesota Statutes*, section 116.49, subdivision 1, when adopted. Where storage tank projects are being performed for an owner or operator on a contract basis, both the certified supervisor and the certified contractor for whom the supervisor works are responsible for the accuracy of the representations made.

7105.0080 TRAINING COURSE REQUIREMENTS.

Subpart 1. **Storage tank installer training course requirements.** The storage tank installer training course must be at least five days in length and must include lectures, demonstrations, four hours of hands-on training, course review, and a final written examination. Publications cited are incorporated by reference in part 7105.0130. The following topics must be included in the course:

A. regulatory review providing familiarity with the following codes, statutes, rules, and recommended practices and how they relate to the other course requirements, with particular emphasis on subitem (10):

(1) PEI's Recommended Practices for Installation of Underground Liquid Storage Systems (PEI/RP 100);

(2) API's Installation of Underground Petroleum Storage Systems (API Recommended Practice 1615);

(3) API's Removal and Disposal of Used Underground Petroleum Storage Tanks (API Recommended Practice 1604);

(4) NFPA's Flammable and Combustible Liquids Code (ANSI/NFPA 30);

(5) NFPA's Automotive and Marine Service Station Code (ANSI/NFPA 30A);

(6) EPA's Underground Storage Tanks - Technical Requirements at Code of Federal Regulations, title 40, part 280, subparts A to G;

(7) parts 7001.0580, 7045.0020, 7045.0528, 7045.0580, 7045.0628, and 7045.0629, relating to hazardous waste tanks;

(8) *Minnesota Statutes*, sections 116.46 to 116.50;

(9) *Minnesota Statutes*, chapter 115C; and

(10) state technical tank rules adopted under *Minnesota Statutes*, section 116.49, subdivision 1, when adopted;

B. legal liabilities and defenses:

(1) responsibilities of the contractor;

(2) a discussion of comprehensive general liability policies, claims-made and occurrence policies, and environmental and pollution liability policy clauses;

(3) state tank contractor liability insurance requirements;

(4) bonding and the relationship of insurance availability to bond availability;

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(5) a discussion of EPA's Underground Storage Tanks Containing Petroleum - Financial Responsibility Requirements at Code of Federal Regulations, title 40, part 280, subpart H; and

(6) third party liabilities and defenses;

C. safety aspects, including discussions on:

(1) OSHA's Safety and Health standards relating to excavations, trenching, and shoring at Code of Federal Regulations, title 29, part 1926, subpart P;

(2) Minnesota Department of Labor and Industry Employee Right-to-Know training standards in part 5206.0700;

(3) fire and explosion hazards;

(4) working around heavy equipment, excavations, hazardous materials, vehicular traffic, overhead and underground obstacles such as power and sewer lines, and other hazardous situations;

(5) personal protective equipment and its proper use; and

(6) safety considerations and precautions, including erecting physical barriers and signs, and trench shoring;

D. underground storage tank installation:

(1) project management:

(a) establishing lines of responsibility;

(b) financial parameters;

(c) planning and mobilization, including lining up work crews and tools, calling subcontractors, and picking up materials;

(d) site visit before bidding;

(e) project team, assigning a project leader;

(f) timing, including completion date and schedules for equipment, materials, and crews;

(g) subcontractors and material suppliers, including coordination of schedules and ordering materials, with consideration given to material compatibility between other equipment and product to be stored;

(h) job site management and allocation of work areas, including areas to safely stockpile materials such as backfill, tanks, and piping, and safe and effective traffic flow for heavy equipment as well as civilian traffic;

(i) safety, including assessing hazards and planning for proper safety equipment;

(j) employee training, including informal field training and formal in-house or outside training;

(k) contingency planning;

(l) progress reports; and

(m) plans and specifications, as-built drawings;

(2) material handling:

(a) transportation, unloading, lifting, lowering, and storage;

(b) steel, fiberglass, and composite tanks and pipe handling requirements; and

(c) single-wall versus double-wall;

(3) preinstallation inspection and testing:

(a) inspection of tanks, pipes, and other materials for size, as well as scratches, dents or other damages, and minor repairs;

(b) preinstallation "soap test" on single-wall and double-wall tanks, including proper soaping techniques, selection of gauges, and proper pressures;

(c) preinstallation testing of tanks shipped under a vacuum;

(d) holiday testing techniques for composite tanks;

(e) isolating and soap testing pipe runs before backfilling;

(f) inspection and testing of impervious liners before backfilling; and

(g) testing and visual inspection of cathodic protection systems, secondary containment, monitoring systems, and overfill prevention systems before placing the tank facility into operation;

(3) material compatibility;

(4) manifolded tanks; and

(5) vapor recovery systems;

F. electrical installation:

(1) regulatory review, including:

(a) NFPA's National Fire Code (ANSI/NFPA Article 79); and

(b) API's Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems (API Recommended Practice 1632);

(2) NFPA Class I liquids, Divisions I and II, requirements and restrictions;

(3) definitions, including explosion proof apparatus and intrinsically safe equipment and wiring;

(4) general installation considerations, including trenching, cover, grounding, backfill, seals, bushings, supports, and stray currents;

(5) circuit disconnects;

(6) accessibility of circuit breakers for monitoring devices and impressed cathodic protection systems by unauthorized personnel; and

(7) as-built drawings;

G. ancillary equipment placement and installation:

(1) fuel dispensing systems;

(2) emergency power cutoffs;

(3) suction and remote pumping systems;

(4) fill-pipe and spill catchment basin;

(5) tank fittings;

(6) observation and monitoring wells, including a discussion of Minnesota Department of Health's Water Well Construction Code in chapter 4725;

(7) interstitial tank and piping monitors; and

(8) identification of wells, manholes, and fill pipes;

H. tank system testing:

(1) methods and appropriate uses:

(a) a detailed discussion of how to conduct a proper "soap" or air test;

(b) hydrostatic pressure, tightness, or precision tests;

(c) spark testing for holidays on composite steel tanks;

(d) testing of new cathodic protection systems for continuity and isolation;

(e) vapor testing during tank closure;

(f) testing impervious liners according to the manufacturers' instructions; and

(g) testing of other associated equipment for proper installation and operation;

(2) testing considerations:

(a) new versus existing tanks or piping;

(b) single-wall versus double-wall tanks or piping;

(c) manufacturers' instructions;

(d) safeguards;

(e) tank deflection; and

(f) variables specific to certain tests, such as pressure, temperature, and vapor traps; and

(3) documentation and record keeping requirements;

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Permanent Rules Relating to Underground Storage Tank Training and Certification, Minn. Rules Chapter 7105

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) 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 Minn. Stat. §§ 14.22 to 14.28 (1988). The MPCA's authority to adopt the rule is set forth in Minn. Stat. § 116.491 (1988).

(2) All persons have until 4:30 p.m. on October 11, 1989, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. (3) Each comment should identify the portion of the proposed rules 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. (4) 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. (5) Any (6) person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the MPCA will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1988).

Comments or written requests for a public hearing must be submitted to: (5) (6)

Beth G. Lockwood
Tanks and Spills Section
Hazardous Waste Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 297-3081

(8) The proposed rules 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 as noticed.

(11) The proposed rules, if adopted, will establish a certification program for contractors involved in the installation, removal, or repair of underground storage tanks. A training and certification program will also be established for on-site supervisors of these projects. The proposed rules set forth the requirements and procedures for obtaining and renewing this certification. In addition, the rules outline the minimum training course requirements for on-site supervisors and the procedures for obtaining approval of a training course. One free copy of the rules is available upon request from Beth Lockwood at the address and telephone number stated above.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Beth Lockwood upon request.

(14) You are hereby advised, pursuant to Minn. Stat. § 13.115 (1988), "Small Business Considerations in Rulemaking," that the proposed rules will have a minimal effect on small businesses. In drafting the proposed rules, the MPCA considered the potential impact on small businesses. A discussion of these considerations can be found in the Statement of Need and Reasonableness.

(9) 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 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 as adopted, must submit a written request to Beth Lockwood of the Tanks and Spills Section.

Date: 8-25-89

Barbara Lindsay Sims
for Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing Underground Storage Tank Training and Certification, Minn. Rules Chapter 7105

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Beth G. Lockwood, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1(a) and 14.22 (1988) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of this 8th day of September, 1989.

That on the 8th day of September, 1989, at the city of St. Paul, county of Ramsey, state of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the state of Minnesota Central Mail System or in the United States mail for first class mailing a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Beth G. Lockwood

Subscribed and sworn to before me
this 8th day of September, 1989.

Jodi D. Rasmussen
Notary Public

JODI D. RASMUSSEN
NOTARY PUBLIC — MINNESOTA
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My commission expires 10-23-94

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STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing Underground Storage Tank Training and Certification, Minn. Rules Chapter 7105

AFFIDAVIT OF SENDING NOTICE AND PROPOSED RULES TO CHAIRS OF HOUSE APPROPRIATIONS AND SENATE FINANCE COMMITTEES

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Beth G. Lockwood, being duly sworn says:

That on the 28th day of August, 1989, prior to submitting the Notice of Intent to Adopt Rules Without a Public Hearing to the State Register, I mailed a copy of the Notice of Intent to Adopt Rules Without a Public Hearing and the proposed rules, along with the attached cover letters, to the chairs of the House Appropriations Committee and the Senate Finance Committee by depositing them in the United States Mail, properly enveloped and with first class postage prepaid.

Beth G. Lockwood

Subscribed and sworn to before me
this 28th day of August, 1989.

Jodi D. Rasmusse
Notary Public

JODI D. RASMUSSEN
NOTARY PUBLIC — MINNESOTA
RAMSEY CO.
My commission expires 10-25-94

Minnesota Pollution Control Agency
520 Lafayette Road, Saint Paul, Minnesota 55155
Telephone (612) 296-6300

Celebrate MINNESOTA 1990

August 28, 1989

The Honorable Gene Merriam
Chair, Senate Finance Committee
Minnesota State Senator
122 Capitol
St. Paul, Minnesota 55155

Dear Senator Merriam:

RE: Minnesota Pollution Control Agency Intent to Adopt Minn. Rules Ch. 7105 Governing the Certification of Underground Storage Tank Installers, Removers, and Repairers and Fees Connected to the Certification Program

The Minnesota Pollution Control Agency (MPCA) is required by Minn. Stat. § 116.491 to adopt rules establishing a training and certification program for persons who install, repair, or remove underground storage tanks. The proposed rules include a $50 certification fee to cover the projected costs of processing applications, and issuing and renewing certificates. As directed in the legislation, the fees received will be credited to the petroleum tank release cleanup fund.

Minn. Stat. § 16A.128, subd. 2(a) requires the MPCA to send a copy of the notice and the proposed rules to the Chairs of the House Appropriations Committee and the Senate Finance Committee before the MPCA submits notice to the State Register of its intent to adopt rules that establish or adjust fees.

Enclosed are copies of the notices for publication in the State Register and the proposed rules.

Please feel free to contact Barbara Lindsey Sims, Deputy Commissioner at 612/296-7303 if you have any questions.

Sincerely,

Gerald L. Willet
Commissioner

GLW:smm

Enclosures

Minnesota Pollution Control Agency
520 Lafayette Road, Saint Paul, Minnesota 55155
Telephone (612) 296-6300

Celebrate MINNESOTA 1990

August 28, 1989

The Honorable Glen H. Anderson
Chair, House Appropriations Committee
Minnesota State Representative
365 State Office Building
St. Paul, Minnesota 55155

Dear Representative Anderson:

RE: Minnesota Pollution Control Agency Intent to Adopt Minn. Rules Ch. 7105 Governing the Certification of Underground Storage Tank Installers, Removers, and Repairers and Fees Connected to the Certification Program

The Minnesota Pollution Control Agency (MPCA) is required by Minn. Stat. § 116.491 to adopt rules establishing a training and certification program for persons who install, repair, or remove underground storage tanks. The proposed rules include a $50 certification fee to cover the projected costs of processing applications, and issuing and renewing certificates. As directed in the legislation, the fees received will be credited to the Petroleum Tank Release Cleanup Account.

Minn. Stat. § 16A.128, subd. 2(a) requires the MPCA to send a copy of the notice and the proposed rules to the Chairs of the House Appropriations Committee and the Senate Finance Committee before the MPCA submits notice to the State Register of its intent to adopt rules that establish or adjust fees.

Enclosed are copies of the notices for publication in the State Register and the proposed rules.

Please feel free to contact Barbara Lindsey Sims, Deputy Commissioner at 612/296-7303 if you have any questions.

Sincerely,

Gerald L. Willet
Commissioner

GLW:smm

Enclosures

Minnesota Pollution Control Agency

Proposed Permanent Rules Relating to Underground Storage Tank Training and Certification, Minn. Rules Chapter 7105

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) 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 Minn. Stat. §§ 14.22 to 14.28 (1988). The MPCA's authority to adopt the rule is set forth in Minn. Stat. § 116.491 (1988).

All persons have until 4:30 p.m. on October 11, 1989, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules 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 rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1988). Comments or written requests for a public hearing must be submitted to:

Beth G. Lockwood
Tanks and Spills Section
Hazardous Waste Division
Minnesota Pollution Control Agency
520 Lafayette road North
St. Paul, Minnesota 55155
(612) 297-3081

The proposed rules 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 as noticed.

The proposed rules, if adopted, will establish a certification program for contractors involved in the installation, removal, or repair of underground storage tanks. A training and certification program will also be established for on-site supervisors of these projects. The proposed rules set forth the requirements and procedures for obtaining and renewing this certification. In addition, the rules outline the minimum training course requirements for on-site supervisors and the procedures for obtaining approval of a training course. The proposed rules are published below. One free copy of the rules is available upon request from Beth Lockwood at the address and telephone number stated above.

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

You are hereby advised, pursuant to Minn. Stat. § 13.115 (1988), "Small business considerations in rulemaking," that the proposed rules will have a minimal effect on small businesses. In drafting the proposed rules, the MPCA considered the potential impact on small businesses. A discussion of these considerations can be found in the Statement of Need and Reasonableness.

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 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 as adopted, must submit a written request to Beth Lockwood of the Tanks and Spills Section.

GERALD L. WILLET

Commissioner

ATTACHMENT 1

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Underground Storage Tank Training and Certification

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7105

INCORPORATIONS BY REFERENCE:
Part 7105.0130 --
American Petroleum Institute: Removal and Disposal of Used Underground Petroleum Storage Tanks, API/RP 1604 (December 1987); Installation of Underground Petroleum Storage Systems, API/RP 1615 (November 1987); Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API/RP 1632 (December 1987); Cleaning Petroleum Storage Tanks, API/RP 2015 (September 1985).
National Fire Protection Association: Flammable and Combustible Liquids Code, NFPA 30 (August 7, 1987); Automotive and Marine Service Station Code, NFPA 30A (June 10, 1987); Cleaning Small Tanks and Containers, NFPA 327 (1982); Uniform Fire Code, NFPA Article 79 (1988).
Petroleum Equipment Institute: Recommended Practices for the Installation of Liquid Storage Systems, PEI/RP 100 (1987).

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

Pollution Control Agency

Hazardous Waste Division

Proposed Permanent Rules Relating to Underground Storage Tank Training and Certification

Rules as Proposed (all new material)

7105.0010 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the following terms and abbreviations have the meanings given them. Terms that are not specifically defined have the meanings given them in Minnesota Statutes, sections 115.01, 115C.02, and 116.46.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. **Approved training provider.** "Approved training provider" means a person approved by the commissioner to provide the installer training course or the final examination.

Subp. 4. **Certificate.** "Certificate" means a document issued by the agency to a person who has met the certification requirements of this chapter.

Subp. 5. **Certified contractor.** "Certified contractor" means a contractor that has been certified by the agency under the requirements of this chapter to engage in the business of installing, repairing, or closing underground storage tank systems.

Subp. 6. **Certified supervisor or supervisor.** "Certified supervisor" or "supervisor" means an individual certified by the agency under the requirements of this chapter to perform one or more storage tank projects. This individual provides supervision and direction to workers engaged in a storage tank project.

Subp. 7. **Closure or removal.** "Closure" or "removal" means permanently taking an underground storage tank out of service by either closing it in place, removing it from the ground, or converting it to store a nonregulated substance, as required by

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Code of Federal Regulations, title 40, part 280, or its counterpart in Minnesota rules when adopted.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of the agency.

Subp. 9. **Contractor.** "Contractor" means a corporation, partnership, or duly constituted individual proprietorship that holds itself as being qualified to engage in storage tank projects.

Subp. 10. **Critical junctures.**

A. "Critical junctures" in the case of an installation means the steps in the installation of an underground storage tank system that are important to the prevention of releases, including but not limited to:

(1) preparation of the excavation immediately before receiving backfill and the tank;

(2) setting of the tank and the piping, including placement of anchoring devices, backfill to the level of the tank, and strapping, if any;

(3) any time during the installation in which components of the piping are connected, field coated, or cathodically protected;

(4) all pressure testing of the tank system, including associated piping, performed during the installation; and

(5) completion of backfill and filling of the excavation.

B. "Critical junctures" in the case of a tank removal means the steps in the removal project that are important to the prevention of releases, including but not limited to:

(1) the cleaning and purging of the tank system;

(2) the actual excavation and removal of the tank system;

(3) all testing associated with the cleaning and purging processes; and

(4) any time during the removal in which components of the tank are disconnected or capped.

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C. "Critical junctures" in the case of a repair means the steps in the repair project that are comparable to the steps listed for item A in terms of their importance in the prevention of releases, including but not limited to:

(1) the actual excavation of existing tanks or piping;

(2) the actual performance of the repairs to the tank system;

(3) any time during the repair project in which components of the piping are connected; and

(4) any time during the repair project in which the tank or its associated piping is tested.

Subp. 11. **Day.** "Day," when used to describe a day of training, equals eight hours including breaks and lunch.

Subp. 12. **Diploma.** "Diploma" means a document verifying the successful completion of the required training course.

Subp. 13. **Disciplines of certification or disciplines.** "Disciplines of certification" or "disciplines" means the categories of tank projects within which a person may be certified under the requirements of this chapter. Each discipline includes the storage tank projects listed in items A to C.

A. The discipline of "installation" includes installations as defined in subpart 15, as well as the correction, restoration, modification, or upgrading of tank system piping or appurtenances.

B. The discipline of "repair" includes the correction restoration, modification, or upgrading of the tank vessel itself, for example, repairing a hole in a tank or relining a tank. The discipline of repair does not include other storage tank projects defined as "repair" in subpart 21 which do not involve the tank vessel itself.

C. The discipline of "closure" includes the storage tank projects defined in subpart 7.

Subp. 14. **EPA.** "EPA" means the United States Environmental Protection Agency.

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Subp. 15. **Installation.** "Installation" means the work involved in placing an underground storage tank in position and preparing it to be placed in service or the movement of an underground storage tank to a new position and preparing it to be placed in service.

Subp. 16. **Installer.** "Installer" means a person who installs, repairs, or closes an underground storage tank.

Subp. 17. **Operator.** "Operator" means a person in control of, or having responsibility for, the daily operation of a tank, and who was in control of, or had responsibility for, the daily operation of the tank immediately before discontinuation of its use.

Subp. 18. **Owner.** "Owner" means a person who holds title to, controls, or possesses an interest in a tank and who held title to, controlled, or possessed an interest in a tank immediately before discontinuation of its use. Owner does not include a person who holds an interest in a tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the tank.

Subp. 19. **Person.** "Person" means an individual, partnership, association, public or private corporation, or other legal entity, including the United States government, an interstate commission or other body, the state, or any agency, board, bureau, office, department, or political subdivision of the state, but does not include the Pollution Control Agency.

Subp. 20. **Regulated substance.** "Regulated substance" means:

A. a hazardous material listed in Code of Federal Regulations, title 49, section 172.101; or

B. petroleum, including:

(1) gasoline and fuel oil as defined in Minnesota Statutes, section 296.01, subdivisions 3 and 4;

(2) crude oil or a fraction of crude oil that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute;

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(3) constituents of gasoline and fuel oil under subitem (1) and constituents of crude oil under subitem (2); and

(4) petroleum-based substances that are comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, and used oils.

Subp. 21. **Repair.** "Repair" means the correction, restoration, modification, or upgrading of a tank system, including but not limited to the addition of cathodic protection systems; the replacement of piping, valves, fill pipes, or vents; the lining of a tank through the application of materials such as epoxy resins; and other similar activities that may affect the integrity of the tank system.

Subp. 22. **State.** "State" means the state of Minnesota.

Subp. 23. **Storage tank project.** "Storage tank project" means the installation, repair, or closure of an underground storage tank.

Subp. 24. **Tank or tank system.** "Tank" or "tank system" has the same meaning as underground storage tank.

Subp. 25. **Underground storage tank.** "Underground storage tank" means any one or a combination of containers including tanks, vessels, enclosures, or structures and underground appurtenances connected to them, that is used to contain or dispense an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected to them, is ten percent or more beneath the surface of the ground.

7105.0020 PURPOSE.

This chapter implements the requirement of Minnesota Statutes, section 116.491, that the agency require a person who installs, repairs, or takes an underground storage tank permanently out of service to first obtain a certificate of competency from the agency.

7105.0030 GENERAL PROVISIONS.

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Subpart 1. **Certification requirements and deadlines.** No person may install, repair, or close a tank system after [insert date six months after the effective date of this chapter] unless:

A. a supervisor certified in the appropriate discipline is physically present on site at all critical junctures during the storage tank project; and

B. the certified supervisor in item A is also a certified contractor or is in the employ of a certified contractor.

Subp. 2. **Certificate availability.** A copy of the contractor's current certificate must be at the work location and posted in a conspicuous place. Certified supervisors must have copies of current certificates issued by the agency at the location where they are supervising work.

Subp. 3. **Tank owner or operator requirements.** Owners or operators of an underground storage tank must not allow a storage tank project to be performed on their tank system, except in compliance with subpart 1.

7105.0040 EXCLUSIONS.

The following underground storage tanks are excluded from the requirements of this chapter:

A. a wastewater treatment tank system that is part of a wastewater treatment facility regulated under United States Code, title 33, section 1317 or 1342;

B. equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tank systems and electrical equipment tank systems;

C. tank systems with a capacity of 110 gallons or less;

D. tank systems that contain a de minimus concentration of regulated substances;

E. an emergency spill or overfill containment tank system that is expeditiously emptied after use;

F. farm or residential tank systems of 1,100 gallons or less capacity used for storing motor fuel for noncommercial

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purposes;

G. tank systems of 1,100 gallons or less capacity used for storing heating oil for consumptive use on the premises where stored;

H. septic tanks;

I. pipeline facilities, including gathering lines, regulated under United States Code, title 49, chapter 24 or 29;

J. surface impoundments, pits, ponds, or lagoons;

K. storm water or waste water collection systems;

L. flow-through process tank systems;

M. tank systems located in an underground area such as a basement, cellar, mine working, drift, shaft, or tunnel if the tank is located on or above the surface of the floor;

N. wastewater treatment tank systems;

O. tank systems containing radioactive material that is regulated under the Atomic Energy Act of 1954, United States Code, title 42, sections 2011 to 2296;

P. a tank system that is part of an emergency generator system at nuclear power generator facilities regulated by the Nuclear Regulatory Commission under Code of Federal Regulations, title 10, section 50, Appendix A;

Q. airport hydrant fuel distribution systems; and

R. underground storage tank systems with field constructed tanks.

7105.0050 CONTRACTOR CERTIFICATION.

Subpart 1. Contractor certification requirements. To obtain certification from the commissioner, an applicant for a contractor's certificate shall:

A. be, or have in its employ, a certified supervisor who will exercise responsible supervisory control over a given storage tank project and who will be physically present on site at the critical junctures in the tank project;

B. submit documentation showing that it has comprehensive general liability insurance, surety bonds, or liquid company assets that, in combination, represent a value of

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not less than five times the value of the largest storage tank project contract performed by the contractor during the previous two years; and

C. complete the application procedures in subpart 3 or 4.

Subp. 2. **Disciplines of contractor certification.** A contractor may be certified in one or more of the following disciplines providing it employs supervisors that are certified in the disciplines for which the contractor seeks certification, as defined in part 7105.0010, subpart 13:

A. installation;

B. repair; and

C. closure.

Subp. 3. **Application procedures for contractor certification.** To apply for certification as a certified contractor, the following information must be submitted to the agency on a form provided by the agency:

A. the full name, address, and telephone number of the firm;

B. any names held by the firm within the previous five years;

C. the discipline for which the applicant wishes certification;

D. the nature of the storage tank projects to be conducted;

E. a summary of the project history of the firm over the two-year period immediately preceding the application;

F. documentation that the contractor meets the financial responsibility requirements in subpart 1, item B;

G. identification of industry or government licenses held by the firm related to underground storage tanks;

H. the names of employees certified by the agency to perform and supervise storage tank projects, including identification of the specific disciplines for which they are certified, certification numbers, and expiration dates;

I. a statement signed and notarized by at least one

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active officer, partner, owner, or designated managerial representative of the contractor that certifies that:

(1) the person signing has obtained a copy of the applicable laws and rules pertaining to the regulation of underground storage tanks in the state, including the standards of performance in part 7105.0070;

(2) the person signing has read and understands the regulations in subitem (1) and will direct the employees and principals of the company to perform the storage tank projects rendered by the company in a manner that is consistent with their requirements; and

(3) on all storage tank projects a certified supervisor will exercise responsible supervisory control over the work and will be physically present on site at all critical junctures during the storage tank project; and

J. remittance of the contractor certification fee.

The application must be specific to one contractor, but may include a request to be certified in more than one discipline.

Subp. 4. **Application procedures for contractor certification renewals and upgrades.** Certification renewals and upgrades must be applied for as outlined in subpart 3. In addition, a copy of the applicant's most recent contractor certificate must also accompany the application. Completed renewal applications should be submitted no later than 30 days before the expiration date.

Subp. 5. **Length of contractor certification.** Contractor certificates expire two years after the date of issuance.

7105.0060 SUPERVISOR CERTIFICATION.

Subpart 1. **Supervisor certification requirements.** To obtain certification from the commissioner, an applicant for a supervisor's certificate shall:

A. in the two-year period immediately before making the application, have successfully completed an approved five-day training course as outlined in parts 7105.0080 and 7105.0090, or a course approved by the commissioner under

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subpart 7;

B. have at least two years of tank service experience and have actively participated in the field on a minimum of five underground storage tank projects during the two-year period immediately before making the application, with at least four of these projects being in the discipline for which the individual wishes to be certified. Any experience obtained after [insert date six months after the effective date of this chapter], for the purposes of obtaining initial certification, must be in the employ of a certified contractor and under the immediate and personal supervision of a certified supervisor; and

C. complete the application procedures in subpart 4 or 5.

Subp. 2. **Successful completion of a training course.** Successful completion of a training course includes attending all training hours and passing the final examination.

Subp. 3. **Disciplines of supervisor certification.** An individual, with the appropriate training and experience, may be certified in one or more of the following disciplines, as defined in part 7105.0010, subpart 13:

A. installation;

B. repair; and

C. closure.

Subp. 4. **Application procedures for supervisor certification.** To apply for certification as a certified supervisor, the following information must be submitted to the agency on a form provided by the agency:

A. the applicant's full name, social security number, job title, name of business, business address, and business phone number;

B. a copy of the most recent training course diploma;

C. the date of the final examination and documentation that a passing score was received, if not included on the course diploma;

D. the discipline for which the applicant wishes certification;

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E. documentation that the experience requirements in subpart 1 have been met; and

F. a signed, notarized statement that the applicant has obtained a copy, read, understands, and will comply with all applicable laws and rules pertaining to the regulation of underground storage tanks in the state, including the standards of performance in part 7105.0070.

The application must be specific to one individual, but may include a request to be certified in more than one discipline.

Subp. 5. **Additional application procedures for supervisor certification renewals and upgrades.** Certification renewals and upgrades must be applied for as outlined in subpart 4. In addition, a copy of the applicant's most recent certificate must accompany the application. Completed renewal applications should be submitted no later than 30 days before the expiration date.

Subp. 6. **Length of supervisor certification.** Supervisor certificates expire two years after the applicant successfully completes the final training course examination.

Subp. 7. **Reciprocity.** The commissioner shall approve a tank installer certification course sponsored by a state or organization other than an approved training provider if the commissioner determines that the course is comparable to the program outlined in parts 7105.0080 and 7105.0090. Persons seeking reciprocity under this subpart shall be required by the commissioner to pass an examination to verify their familiarity with Minnesota's laws pertaining to underground storage tank systems if the commissioner finds that their courses did not adequately address Minnesota's statutes and rules. This examination may be taken any time after the completion of the approved training course and before applying for certification. However, the certificate expires two years after the final day of the approved training course.

7105.0070 STANDARDS OF PERFORMANCE.

Subpart 1. **Standards of performance for contractors and**

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supervisors. Certified contractors and supervisors shall comply with the standards of performance in items A and B.

A. Certified contractors and supervisors shall perform or undertake only those storage tank projects that conform to accepted industry standards and federal, state, and local laws and safeguard the public life, health, safety and welfare, and the environment.

B. Certified contractors and supervisors must not offer, give, solicit, or receive, either directly or indirectly, any commission, gift, or other valuable consideration to secure work, and shall not make any political contribution with the intent to influence the award of a contract by public authority.

Subp. 2. **Additional standards of performance for supervisors.** In addition to the standards in subpart 1, certified supervisors:

A. shall perform all storage tank projects so that there is no release of the contents of the tank;

B. must not affix the supervisor's signature or certification number to a storage tank project unless it was accomplished under the supervisor's direct control and personal supervision and the supervisor was present at all critical junctures during the storage tank project; and

C. must not certify to an owner that a storage tank project is complete unless it complies with Minnesota Statutes, sections 116.46 to 116.50, Code of Federal Regulations, title 40, part 280, subparts A to G, and state technical tank rules adopted under Minnesota Statutes, section 116.49, subdivision 1, when adopted. Where storage tank projects are being performed for an owner or operator on a contract basis, both the certified supervisor and the certified contractor for whom the supervisor works are responsible for the accuracy of the representations made.

7105.0080 TRAINING COURSE REQUIREMENTS.

Subpart 1. **Storage tank installer training course requirements.** The storage tank installer training course must

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be at least five days in length and must include lectures, demonstrations, four hours of hands-on training, course review, and a final written examination. Publications cited are incorporated by reference in part 7105.0130. The following topics must be included in the course:

A. regulatory review providing familiarity with the following codes, statutes, rules, and recommended practices and how they relate to the other course requirements, with particular emphasis on subitem (10):

(1) PEI's Recommended Practices for Installation of Underground Liquid Storage Systems (PEI/RP 100);

(2) API's Installation of Underground Petroleum Storage Systems (API Recommended Practice 1615);

(3) API's Removal and Disposal of Used Underground Petroleum Storage Tanks (API Recommended Practice 1604);

(4) NFPA's Flammable and Combustible Liquids Code (ANSI/NFPA 30);

(5) NFPA's Automotive and Marine Service Station Code (ANSI/NFPA 30A);

(6) EPA's Underground Storage Tanks - Technical Requirements at Code of Federal Regulations, title 40, part 280, subparts A to G;

(7) parts 7001.0580, 7045.0020, 7045.0528, 7045.0580, 7045.0628, and 7045.0629, relating to hazardous waste tanks;

(8) Minnesota Statutes, sections 116.46 to 116.50;

(9) Minnesota Statutes, chapter 115C; and

(10) state technical tank rules adopted under Minnesota Statutes, section 116.49, subdivision 1, when adopted;

B. legal liabilities and defenses:

(1) responsibilities of the contractor;

(2) a discussion of comprehensive general liability policies, claims-made and occurrence policies, and environmental and pollution liability policy clauses;

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(3) state tank contractor liability insurance requirements;

(4) bonding and the relationship of insurance availability to bond availability;

(5) a discussion of EPA's Underground Storage Tanks Containing Petroleum - Financial Responsibility Requirements at Code of Federal Regulations, title 40, part 280, subpart H; and

(6) third party liabilities and defenses;

C. safety aspects, including discussions on:

(1) OSHA's Safety and Health standards relating to excavations, trenching, and shoring at Code of Federal Regulations, title 29, part 1926, subpart P;

(2) Minnesota Department of Labor and Industry Employee Right-to-Know training standards in part 5206.0700;

(3) fire and explosion hazards;

(4) working around heavy equipment, excavations, hazardous materials, vehicular traffic, overhead and underground obstacles such as power and sewer lines, and other hazardous situations;

(5) personal protective equipment and its proper use; and

(6) safety considerations and precautions, including erecting physical barriers and signs, and trench shoring;

D. underground storage tank installation:

(1) project management:

(a) establishing lines of responsibility;

(b) financial parameters;

(c) planning and mobilization, including lining up work crews and tools, calling subcontractors, and picking up materials;

(d) site visit before bidding;

(e) project team, assigning a project leader;

(f) timing, including completion date and

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schedules for equipment, materials, and crews;

(g) subcontractors and material suppliers, including coordination of schedules and ordering materials, with consideration given to material compatibility between other equipment and product to be stored;

(h) job site management and allocation of work areas, including areas to safely stockpile materials such as backfill, tanks, and piping, and safe and effective traffic flow for heavy equipment as well as civilian traffic;

(i) safety, including assessing hazards and planning for proper safety equipment;

(j) employee training, including informal field training and formal in-house or outside training;

(k) contingency planning;

(l) progress reports; and

(m) plans and specifications, as-built drawings;

(2) material handling:

(a) transportation, unloading, lifting, lowering, and storage;

(b) steel, fiberglass, and composite tanks and pipe handling requirements; and

(c) single-wall versus double-wall;

(3) preinstallation inspection and testing:

(a) inspection of tanks, pipes, and other materials for size, as well as scratches, dents or other damages, and minor repairs;

(b) preinstallation "soap test" on single-wall and double-wall tanks, including proper soaping techniques, selection of gauges, and proper pressures;

(c) preinstallation testing of tanks shipped under a vacuum;

(d) holiday testing techniques for composite tanks;

(e) isolating and soap testing pipe runs before backfilling;

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(f) inspection and testing of impervious liners before backfilling; and

(g) testing and visual inspection of cathodic protection systems, secondary containment, monitoring systems, and overfill prevention systems before placing the tank facility into operation;

(4) excavating and trenching:

(a) excavation size, depth, bedding, and backfill;

(b) filter fabrics, sloping, and water problems;

(c) storage and disposal of excavated materials, contaminated versus uncontaminated;

(d) adjacent structures;

(e) safety considerations, including properly sized equipment; and

(f) piping trench slope and depth considerations;

(5) supplemental restraints:

(a) reasons for supplemental restraints;

(b) types and proper installation of supports, foundations, and anchorage;

(c) water table, flooding, and weather considerations; and

(d) factors influencing buoyancy, including flotation and anchorage calculation exercises;

(6) backfilling and compaction:

(a) ballasting;

(b) types and sizes of backfill materials suitable for composite tanks and steel and fiberglass tanks and piping;

(c) placement of tanks and piping, including bedding depth and distances between tanks or pipes;

(d) backfilling and compaction procedures, including the special compaction requirements of sand;

(e) measuring tank deflection;

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(f) prevention of backfill migration using filter fabrics; and

(g) grading and paving precautions;

(7) secondary containment:

(a) types, including double-walled tanks and piping, impervious liners, catchment basins, piping sumps, and concrete vaults;

(b) installation methods and considerations; and

(c) material compatibility;

E. piping:

(1) leak statistics concerning improperly installed piping;

(2) installation methods:

(a) types and specific installation requirements, including galvanized steel, fiberglass, coated, and single-walled and double-walled;

(b) piping layout and design;

(c) pipe trenches, backfilling, compaction, and paving;

(d) pipefitting, including curing times for fiberglass adhesives, compatibility of product with pipe dope, minimizing fittings, tightness, and pipe support;

(e) swing joints and flexible connectors;

(f) emergency shutoff valves;

(g) tank fittings and bushings;

(h) vent capacity, location, arrangement, and height; and

(i) visual inspections;

(3) material compatibility;

(4) manifolded tanks; and

(5) vapor recovery systems;

F. electrical installation:

(1) regulatory review, including:

(a) NFPA's National Fire Code (ANSI/NFPA Article 79); and

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(b) API's Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems (API Recommended Practice 1632);

(2) NFPA Class I liquids, Divisions I and II, requirements and restrictions;

(3) definitions, including explosion proof apparatus and intrinsically safe equipment and wiring;

(4) general installation considerations, including trenching, cover, grounding, backfill, seals, bushings, supports, and stray currents;

(5) circuit disconnects;

(6) accessibility of circuit breakers for monitoring devices and impressed cathodic protection systems by unauthorized personnel; and

(7) as-built drawings;

G. ancillary equipment placement and installation:

(1) fuel dispensing systems;

(2) emergency power cutoffs;

(3) suction and remote pumping systems;

(4) fill-pipe and spill catchment basin;

(5) tank fittings;

(6) observation and monitoring wells, including a discussion of Minnesota Department of Health's Water Well Construction Code in chapter 4725;

(7) interstitial tank and piping monitors; and

(8) identification of wells, manholes, and fill pipes;

H. tank system testing:

(1) methods and appropriate uses:

(a) a detailed discussion of how to conduct a proper "soap" or air test;

(b) hydrostatic pressure, tightness, or precision tests;

(c) spark testing for holidays on composite steel tanks;

(d) testing of new cathodic protection

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systems for continuity and isolation;

(e) vapor testing during tank closure;

(f) testing impervious liners according to the manufacturers' instructions; and

(g) testing of other associated equipment for proper installation and operation;

(2) testing considerations:

(a) new versus existing tanks or piping;

(b) single-wall versus double-wall tanks or piping;

(c) manufacturers' instructions;

(d) safeguards;

(e) tank deflection; and

(f) variables specific to certain tests, such as pressure, temperature, and vapor traps; and

(3) documentation and record keeping requirements;

I. release detection:

(1) leak detection:

(a) interstitial monitoring;

(b) observation wells located in the excavation zone and collection sumps of secondary containment systems;

(c) automatic tank gauging;

(d) vapor monitoring;

(e) groundwater monitoring;

(f) inventory control; and

(g) line pressure monitoring;

(2) spill and overfill prevention:

(a) catchment basins;

(b) automatic shutoff devices; and

(c) ball float valves; and

(3) identification and security considerations for monitoring systems;

J. corrosion protection:

(1) requirements for external corrosion

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protection in Code of Federal Regulations, title 40, part 280, subparts A to G, and state technical tank rules adopted under Minnesota Statutes, section 116.49, subdivision 1, when adopted;

(2) a discussion of API's Cathodic Protection of Underground Storage Tanks and Piping Systems (API Recommended Practice 1632);

(3) coatings for external corrosion protection:

(a) desirable characteristics;

(b) handling, inspection, and installation; and

(c) minor, on-site repairs according to the manufacturers' instructions;

(4) cathodic protection:

(a) sacrificial anode versus impressed current;

(b) isolation of tank and piping;

(c) rule of thumb and mathematical determination of adequate corrosion protection;

(d) periodic inspections and testing;

(e) considerations when choosing a cathodic protection system;

(f) stray current corrosion;

(g) proper installation of a cathodic protection system, including an in-depth discussion of the installation of the factory-installed cathodic protection systems; and

(h) installation and use of test cells and monitoring ports;

K. tank closure and removal:

(1) regulatory discussion:

(a) requirements for external corrosion protection in EPA's Underground Storage Tanks - Technical Requirements at Code of Federal Regulations, title 40, part 280, subparts A to G;

(b) API's Removal and Disposal of Used Underground Petroleum Storage Tanks (API Recommended Practice

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1604);

(c) API's Cleaning Petroleum Storage Tanks (API Recommended Practice 2015);

(d) NFPA's Cleaning Small Tanks and Containers (NFPA Standard 327);

(e) requirements for tank closure in NFPA's Uniform Fire Code, Article 79; and

(f) state technical tank rules adopted under Minnesota Statutes, section 116.49, subdivision 1, when adopted;

(2) temporary and permanent closure requirements;

(3) tank cleaning methods:

(a) purging procedures, pros and cons:

i. inert gas: carbon dioxide (CO_2) or nitrogen (N_2);

ii. solid carbon dioxide (dry ice);

iii. compressed air;

iv. diffused air;

v. water; and

vi. steam;

(b) compatibility of method with product;

(c) safety procedures and equipment; and

(d) proper disposal of residues and sludge;

(4) testing for flammable and combustible vapors and oxygen content;

(5) closure in place, filling with inert substances such as sand, concrete slurries, or polyurethane-type foams;

(6) tank removal;

(7) site assessment requirements:

(a) sampling equipment and methods;

(b) reporting requirements; and

(c) records; and

(8) disposal of tanks;

L. role of other consultants, including corrosion experts, environmental contamination consultants, and engineers;

M. contract specifications and discussion of key

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elements that are included in contract specifications;

N. demonstrations and hands-on training that gives actual experience performing tasks associated with tank projects:

(1) soap testing and leak detection procedures;

(2) cathodic protection demonstrations;

(3) tank and piping installation procedures; and

(4) safety considerations for installation, repair, and removal;

O. record keeping:

(1) records required by state and federal regulations in item A;

(2) records recommended for legal and insurance purposes; and

(3) use of photographs for installation and removal records;

P. supervisory techniques for tahk activities to enforce and reinforce the required work practices and discourage unsafe work practices;

Q. a discussion of the possible environmental consequences resulting from improper installation, repair, and closure of underground storage tank systems;

R. course review covering the key aspects of the training course; and

S. other subjects that the commissioner determines should be taught to reflect advances in tank installation, repair, and removal methods or safety practices.

7105.0090 EXAMINATIONS AND DIPLOMAS.

Subpart 1. **Administration of examinations.** Examinations must be conducted by the agency, or by personnel of colleges or educational institutes selected and designated by the agency.

Subp. 2. **Examination specifications.** The final examination administered under this chapter must be a written, comprehensive examination consisting of 100 multiple choice questions, covering the topics discussed in the training course.

Subp. 3. **Examination requirements.** A person seeking

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certification as a certified supervisor shall participate in all course requirements and pass a written final examination. An applicant shall score 75 percent or higher to pass the final examination. The final examination must be passed within ten days after completing the training course.

Subp. 4. **Retest.** If a person fails to pass the final examination, one retest may be taken. If a person fails to pass the retest, the full course must be attended again before further testing.

Subp. 5. **Diplomas.** The training provider shall issue a numbered diploma to each student who completes the training course and successfully passes the examination. The following information must be included on the diploma:

A. the name of the student;

B. the name of the course completed;

C. the dates of the course and the examination;

D. a statement indicating that the student attended the course and passed the examination;

E. an expiration date for accreditation that is two years after the date on which the student passed the examination; and

F. a diploma number.

If the person administering the examination is not the same person administering the course, both persons shall sign the diploma.

7105.0100 APPROVAL OF TRAINING COURSE.

Subpart 1. **Application procedures for training course approval.** The commissioner may approve training courses developed by persons other than the agency staff. The commissioner shall approve a course that meets the requirements of this part and parts 7105.0080 and 7105.0090. To apply for agency approval of a tank installer training course, the following information must be submitted to the commissioner:

A. the course sponsor's name, address, and phone number;

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B. a list of states that currently approve the training course;

C. the course curriculum;

D. a letter from the training course sponsor that clearly indicates how the course meets parts 7105.0080 and 7105.0090, including:

(1) length of training in days;

(2) amount and type of hands-on training;

(3) examination, including length, format, and passing score; and

(4) topics covered in the course;

E. a copy of all course materials, such as student manuals, instructor notebooks, and handouts;

F. a detailed statement about development of the examination used in the course;

G. the names and qualifications of course instructors, as outlined in subpart 2; and

H. a description and an example of numbered diplomas issued to students who attend the course and pass the examination.

Subp. 2. **Experience requirements for instructors.** To be considered qualified, course instructors shall meet the following requirements:

A. field experience in storage tank installation, repair, and removal equal to a total of at least 4,000 hours, which may be met by just one instructor, or through a combination of experience held by a number of instructors; and

B. after meeting the requirement in item A, any additional instructors shall have directly related experience or academic credentials in a related field.

Subp. 3. **Suspension or revocation of course approval.** The agency shall suspend or revoke approval of a training course if the commissioner finds that the course is not providing training that meets the requirements of this chapter.

Subp. 4. **Renewal of course approval.** Except as provided in subpart 3, approval of a training course shall remain in

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effect until the agency notifies approved trainers that changes in the course are required. At that time, the training providers shall submit the revised course to the agency for approval.

7105.0110 SANCTIONS.

Subpart 1. **Criteria.** The commissioner may refuse to issue, renew, or reinstate a certificate or suspend or revoke a certificate for any of the following reasons:

A. submission of false or misleading information or credentials to obtain or renew a certificate;

B. failure to meet the requirements to obtain or renew a certificate in this chapter;

C. failure to meet the technical requirements of Code of Federal Regulations, title 40, part 280, or its counterpart in Minnesota rules when adopted, the requirements of this chapter including the Standards of Performance in part 7105.0070, or other law relating to storage tank projects; or

D. negligence in the performance of storage tank projects.

Subp. 2. **Investigation.** The commissioner may initiate an investigation upon receiving a signed written complaint alleging the existence of grounds for sanctions against a certified person or an applicant for certification, or whenever the commissioner has reason to believe that sanctions may be warranted.

Subp. 3. **Procedures.** Prior to revoking or suspending a certificate and subsequent to a refusal to issue, reissue, or reinstate a certificate, the person against whom the sanction is being imposed shall be given notice of the sanction, and the reasons for it, and the person shall have ten days from the date of receiving the notice to request that a contested case hearing be held on the matter. The commissioner shall not revoke or suspend a certificate until the contested case hearing has been completed or until the request for a hearing has been considered at an agency meeting and denied. If no request for a contested

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case hearing is received by the commissioner within the ten days, the sanction set forth in the notice shall go into effect, in the case of a certificate suspension or revocation, or shall become final, in the case of a refusal to issue, reissue, or reinstate a certificate.

Subp. 4. **Contested case requests.** Upon receipt of a contested case hearing request, the commissioner shall either grant the request and schedule a hearing or put the matter on the agenda for consideration at an agency meeting under part 7000.0500, subpart 6. If the matter is considered at an agency meeting, the provisions of part 7000.1000, subpart 3, shall govern whether a hearing request is granted. Contested case hearings under this part must comply with the contested case provisions of chapter 7000 and Minnesota Statutes, chapter 14.

Subp. 5. **Return of certificate.** Upon revocation or suspension, certified persons shall return to the agency their original certificate and current renewal certificates.

Subp. 6. **Recertification.** A person whose certificate has been revoked shall not be entitled to apply for recertification until at least one year following the effective date of revocation or for any longer period of time specified in the revocation order.

Subp. 7. **Reinstatement after suspension.** The commissioner shall reinstate a suspended certificate if the person whose certificate has been suspended fulfills the terms of the suspension order and meets all applicable requirements of the rules for obtaining a certificate.

7105.0120 FEES.

Subpart 1. **Certification fee.** The fee for each new, modified, or renewal application for contractor or supervisor certification is $50.

Subp. 2. **Refund of fees.** The agency commissioner shall only return fees received from individuals who are rejected for certification.

7105.0130 INCORPORATION BY REFERENCE.

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Subpart 1. **Scope.** For purposes of this chapter, the documents in subparts 2 to 4 are incorporated by reference. They can be found at the Minnesota Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155. They are subject to frequent change. If any of the documents in subparts 2 to 4 are amended, and if the amendments are incorporated by reference or otherwise made a part of state or federal law applicable to the installation, repair, or closure of storage tank systems, then the amendments to the documents are also incorporated by reference into this chapter.

Subp. 2. **API documents.** The following documents are also available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005:

A. American Petroleum Institute, Removal and Disposal of Used Underground Petroleum Storage Tanks, API/RP 1604 (December 1987);

B. American Petroleum Institute, Installation of Underground Petroleum Storage Systems, API/RP 1615 (November 1987);

C. American Petroleum Institute, Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API/RP 1632 (December 1987); and

D. American Petroleum Institute, Cleaning Petroleum Storage Tanks, API/RP 2015 (September 1985).

Subp. 3. **NFPA documents.** The following documents are also available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269:

A. National Fire Protection Association, Flammable and Combustible Liquids Code, NFPA 30 (August 7, 1987);

B. National Fire Protection Association, Automotive and Marine Service Station Code, NFPA 30A (June 10, 1987);

C. National Fire Protection Association, Cleaning Small Tanks and Containers, NFPA 327 (1982); and

D. National Fire Protection Association, Uniform Fire Code, NFPA Article 79 (1988).

Subp. 4. **PEI document.** The following document is also

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available from the Petroleum Equipment Institute, P.O. Box 2380, Tulsa, Oklahoma 74101: Petroleum Equipment Institute, Recommended Practices for the Installation of Liquid Storage Systems, PEI/RP 100 (1987).

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STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules
Governing Underground Storage Tank
Training and Certification, Minn. Rules
Chapter 7105.

DECLARATION OF COUNSEL

I, Barbara Freese, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four digit docket client code is F697.

Barbara Freese
Special Assistant Attorney
General

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing Underground Storage Tank Training and Certification, Minn. Rules Chapter 7105.

NOTICE OF RECEIVING NO REQUESTS FOR NOTIFICATION OF SUBMISSION OF THE RULE TO THE OFFICE OF THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Bill D. Lockwood, being duly sworn, deposes and says:

I hereby certify that the Minnesota Pollution Control Agency received no requests from any persons or associations for notification that the rules in the above-entitled matter have been submitted to the Attorney General.

Bill D. Lockwood

Subscribed and sworn before me
this 28th day of November, 1989.

Jodi D. Rasmussen
Notary Public

JODI D. RASMUSSEN
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires 10-23-94

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing Underground Storage Tank Training and Certification, Minn. Rules Chapter 7105.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the 28th day of November 1989. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the MPCA, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the MPCA, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the MPCA's intent to adopt the above-entitled rule rule without a public hearing was published in the State Register on September 11, 1989. In addition, on September 8, 1989, a copy of the notice of the MPCA's intent to adopt rules without a public hearing was sent by mail to all persons on the list maintained by the Public Information Office pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1988) and the mailing list maintained by the Tanks and Spills Section.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. On August 28, 1989, a copy of the notice of intent to adopt rules and the proposed rule was sent to the chairs of the house appropriations committee and senate finance committee. This was done prior to submitting the notice to adopt rules to the State Register.

4. All persons were given the opportunity to submit comments on the rule for 30 days after notice of the proposed rulemaking. The 30-day comment period, as set out in the notice, expired on October 11, 1989.

5. No requests for pubic hearing were received during the comment period.

6. No requests for notice of submission to the Attorney General were received by the MPCA.

7. During the comment period the MPCA staff received four written comment letters. One additional letter was received after the close of the comment period. All comment letters were given equal consideration. The MPCA finds that five modifications to the proposed rules are justified by the record in this proceeding, as follows:

a. Minn. Rules pt. 7105.0060, subp. 1, items A. and B.

One of the comments concerning the proposed rules addressed subpart 5 of this part dealing with the requirements for renewal of a supervisor's certificate. The individual felt that, as proposed, it was unclear that the five-day training was also required prior to renewal of a supervisor's certificate. To clarify this point, the MPCA staff has amended items A and B of Minn. Rules pt. 7105.0060, subp. 1 as follows:

> Subp. 1. **Supervisor certification requirements.** To obtain certification from the commissioner, an applicant for a supervisor's certificate shall:
>
> A. in the two year period immediately before making ~~the~~ initial or renewal application, have successfully completed an approved five-day training course as outlined in parts 7105.0080 and 7105.0090, or a course approved by the commissioner under subpart 7;
>
> B. have at least two years of tank service experience and have actively participated in the field on a minimum of five underground storage tank projects during the two-year period immediately before making ~~the~~ initial or renewal application, with at least four of these projects being in the discipline for which the individual wishes to be certified. Any experience obtained after [insert date six months after the effective date of this chapter], for the purposes of obtaining initial certification, must be in the employ of a certified contractor and under the immediate and personal supervision of a certified supervisor; and
>
> C. [Unchanged].

The changes are reasonable because they clarify the training requirements for supervisors. The modifications are not substantive in nature because they merely provide for the original intent of the requirement.

b. Minn. Rules pt. 7105.0080, subp. 1, item A.

In review of the proposed rule, the State Fire Marshal Division recommended that the MPCA replace the ANSI/NFPA 30 and 30A documents in subitems (4) and (5) with a reference to the Minnesota Uniform Fire Code (MUFC) found in parts 7510.3120 and 7510.3240. The MUFC incorporates the NFPA Standards 30 and 30A with some additional requirements unique to Minnesota tanks. In Minnesota, the requirements relating to flammable and combustible liquids and underground storage tank installations found in MUFC Article 79 prevail over those found in the NFPA Standards 30 and 30A. The MPCA agrees that to provide training in the NFPA documents would create inconsistencies between rules in two state agencies and result in unnecessary confusion to tank installers.

The MPCA has amended item A of Minn. Rules pt. 7105.0080, subp. 1 as follows (Please note that the modified language includes the renumbering of subitems as required by the Revisor of Statutes.):

> subp. 1, item A. Regulatory review providing familiarity with the following codes, statutes, rules, and recommended practices and how they relate to the other course requirements, with particular emphasis on subitem ~~(10)~~(9):

(1) PEI's Recommended Practices for Installation of Underground Liquid Storage Systems (PEI/RP 100);

(2) API's Installation of Underground Petroleum Storage Systems (API Recommended Practice 1615);

(3) API's Removal and Disposal of Used Underground Petroleum Storage Tanks (API Recommended Practice 1604);

~~(4) NFPA's Flammable and Combustible Liquids Code (ANSI/NFPA 30)~~

~~(5) NFPA's Automotive and Marine Service Station Code (ANSI/NFPA 30A);~~

~~(6)~~(4) EPA's Underground Storage Tanks - Technical Requirements at Code of Federal Regulations, title 40, part 280, subparts A to G;

(5) parts 7510.3120 and 7510.3240, incorporating by reference and amending Article 79 of the Uniform Fire Code;

~~(7)~~(6) parts 7001.0580, 7045.0020, 7045.0528, 7045.0580, 7045.0628, and 7045.0629, relating to hazardous waste tanks;

~~(8)~~(7) Minnesota Statutes, sections 116.46 to 116.50;

~~(9)~~(8) Minnesota Statutes, chapter 115C; and

~~(10)~~(9) state technical tank rules adopted under Minnesota Statutes, section 116.49, subdivision 1, when adopted;

The changes are reasonable because they clarify the applicable State Fire Marshal requirements. The modifications are not substantive in nature because they merely provide for the original intent of the requirement and equivalency with the State Fire Marshal Division regulations.

c. Minn. Rules pt. 7105.0080, subp. 1, item F.

In its review of the proposed rule, the State Fire Marshal Division commented that, as written, the reference to ANSI/NFPA Article 79 mixes two separate documents (NFPA and Uniform Fire Code). It was recommended to change all such references to the Minnesota Uniform Code, Article 79. The State Fire Marshal also recommended the word liquids in item F, subitem (2) be changed to locations, which is a more appropriate term.

The MPCA has amended item F of Minn. Rules pt. 7105.0080, subs. 1 and 2 as follows:

item F. electrical installation:

(1) regulatory review, including:

(a) ~~NFPA's National Fire Code (ANSI/NFPA Article 79)~~ parts 7510.3120 and 7510.3240, incorporating by reference and amending Article 79 of the Uniform Fire Code;

(b) [Unchanged]

(2) ~~NFPA~~ Class I ~~liquids~~ locations, Divisions I and II, requirements and restrictions, as described in parts 7510.0400 and 7510.2300, incorporating by reference and amending Article 79 of the Uniform Fire Code;

(3) to (7) [Unchanged]

These changes are reasonable in that they provide for clarity and consistency with the State Fire Marshal requirements. The changes are editorial in nature and do not constitute a substantial change.

d. Minn. Rules pt. 7105.0080, subp. 1, item K, subitem (1)(e).

As mentioned in Findings No. 7b and 7c above, the State Fire Marshal Division recommended changing all references to the Uniform Fire Code to the Minnesota Uniform Fire Code. The MPCA has amended subitem (1)(e) of Minn. Rules pt. 7105.0080, subp. 1, item K as follows:

> item K. tank closure and removal:
>
> (1) regulatory discussion:
> (a) to (d) [Unchanged];
> (e) requirements for tank closure in ~~NFPA's Uniform Fire Code, Article 79~~ parts 7510.3120 and 7510.3240, incorporating by reference and amending Article 79 of the Uniform Fire Code; and
> (f) [Unchanged];

As discussed in Findings No. 7b and 7c above, these changes are reasonable in that they provide for clarity and consistency with the State Fire Marshal requirements. The changes are editorial in nature and do not constitute a substantial change.

e. Minn. Rules pt. 7105.0130, subp. 3.

As discussed in Finding No. 6b, the references to NFPA Standards 30 and 30A are no longer necessary. I n addition, the most recent edition of NFPA's document, Cleaning Small Tanks and Containers was published in 1987, not 1982. The MPCA has amended subpart 3 of Minn. Rules pt. 7105.0130 as follows:

> subp. 3. **NFPA documents~~.~~**. The following document~~s are~~ is also available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269: National Fire Protection Association, Cleaning Small Tanks and Containers, NFPA 327 ~~(1982)~~ (1987).
>
> ~~A. National Fire Protection Association, Flammable and Combustible Liquids Code, NFPA 30 (August 7, 1987);~~
> ~~B. National Fire Protection Association, Automotive and Marine Service Station Code, NFPA 30A (June 10, 1987);~~
> ~~C. National Fire Protection Association, Cleaning Small Tanks and Containers, NFPA 327 (1982); and~~
> ~~D. National Fire Protection Association, Uniform Fire Code, NFPA Article 79 (1988).~~

These modifications are not substantive because they provide for the MPCA's original intent which was to be consistent with State Fire Marshal codes and cite the latest editions of all appropriate guidance documents.

(8) 8. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding No. 7 above.

(9) 9. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Minnesota Pollution Control Agency published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rules are supported by the record and do not result in a substantial change in the proposed rules.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules pts. 7105.0010 to 7105.0130 governing the Underground Storage Tank Training and Certification program are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 116.491 (1988) and Minn. Stat. § 115.03, subd. 1(e) (1988).

MINNESOTA POLLUTION CONTROL AGENCY

11/28/89 (9)
Dated

Gerald L. Willet
Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing Underground Storage Tank Training and Certification, Minn. Rules Chapter 7105.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the 28th day of November 1989. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the MPCA, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the MPCA, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the MPCA's intent to adopt the above-entitled rule rule without a public hearing was published in the State Register on September 11, 1989. In addition, on September 8, 1989, a copy of the notice of the MPCA's intent to adopt rules without a public hearing was sent by mail to all persons on the list maintained by the Public Information Office pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1988) and the mailing list maintained by the Tanks and Spills Section.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. On August 28, 1989, a copy of the notice of intent to adopt rules and the proposed rule was sent to the chairs of the house appropriations committee and senate finance committee. This was done prior to submitting the notice to adopt rules to the State Register.

4. All persons were given the opportunity to submit comments on the rule for 30 days after notice of the proposed rulemaking. The 30-day comment period, as set out in the notice, expired on October 11, 1989.

5. No requests for pubic hearing were received during the comment period.

6. No requests for notice of submission to the Attorney General were received by the MPCA.

7. During the comment period the MPCA staff received four written comment letters. One additional letter was received after the close of the comment period. All comment letters were given equal consideration. The MPCA finds that five modifications to the proposed rules are justified by the record in this proceeding, as follows:

a. Minn. Rules pt. 7105.0060, subp. 1, items A. and B.

One of the comments concerning the proposed rules addressed subpart 5 of this part dealing with the requirements for renewal of a supervisor's certificate. The individual felt that, as proposed, it was unclear that the five-day training was also required prior to renewal of a supervisor's certificate. To clarify this point, the MPCA staff has amended items A and B of Minn. Rules pt. 7105.0060, subp. 1 as follows:

> Subp. 1. **Supervisor certification requirements.** To obtain certification from the commissioner, an applicant for a supervisor's certificate shall:
>
> A. in the two year period immediately before making ~~the~~ initial or renewal application, have successfully completed an approved five-day training course as outlined in parts 7105.0080 and 7105.0090, or a course approved by the commissioner under subpart 7;
>
> B. have at least two years of tank service experience and have actively participated in the field on a minimum of five underground storage tank projects during the two-year period immediately before making ~~the~~ initial or renewal application, with at least four of these projects being in the discipline for which the individual wishes to be certified. Any experience obtained after [insert date six months after the effective date of this chapter], for the purposes of obtaining initial certification, must be in the employ of a certified contractor and under the immediate and personal supervision of a certified supervisor; and
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> C. [Unchanged].

The changes are reasonable because they clarify the training requirements for supervisors. The modifications are not substantive in nature because they merely provide for the original intent of the requirement.

b. Minn. Rules pt. 7105.0080, subp. 1, item A.

In review of the proposed rule, the State Fire Marshal Division recommended that the MPCA replace the ANSI/NFPA 30 and 30A documents in subitems (4) and (5) with a reference to the Minnesota Uniform Fire Code (MUFC) found in parts 7510.3120 and 7510.3240. The MUFC incorporates the NFPA Standards 30 and 30A with some additional requirements unique to Minnesota tanks. In Minnesota, the requirements relating to flammable and combustible liquids and underground storage tank installations found in MUFC Article 79 prevail over those found in the NFPA Standards 30 and 30A. The MPCA agrees that to provide training in the NFPA documents would create inconsistencies between rules in two state agencies and result in unnecessary confusion to tank installers.

The MPCA has amended item A of Minn. Rules pt. 7105.0080, subp. 1 as follows (Please note that the modified language includes the renumbering of subitems as required by the Revisor of Statutes.):

> subp. 1, item A. Regulatory review providing familiarity with the following codes, statutes, rules, and recommended practices and how they relate to the other course requirements, with particular emphasis on subitem ~~(10)~~(9):

(1) PEI's Recommended Practices for Installation of Underground Liquid Storage Systems (PEI/RP 100);

(2) API's Installation of Underground Petroleum Storage Systems (API Recommended Practice 1615);

(3) API's Removal and Disposal of Used Underground Petroleum Storage Tanks (API Recommended Practice 1604);

~~(4) NFPA's Flammable and Combustible Liquids Code (ANSI/NFPA 30)~~

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(5) parts 7510.3120 and 7510.3240, incorporating by reference and amending Article 79 of the Uniform Fire Code;

~~(7)~~(6) parts 7001.0580, 7045.0020, 7045.0528, 7045.0580, 7045.0628, and 7045.0629, relating to hazardous waste tanks;

~~(8)~~(7) Minnesota Statutes, sections 116.46 to 116.50;

~~(9)~~(8) Minnesota Statutes, chapter 115C; and

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The changes are reasonable because they clarify the applicable State Fire Marshal requirements. The modifications are not substantive in nature because they merely provide for the original intent of the requirement and equivalency with the State Fire Marshal Division regulations.

c. Minn. Rules pt. 7105.0080, subp. 1, item F.

In its review of the proposed rule, the State Fire Marshal Division commented that, as written, the reference to ANSI/NFPA Article 79 mixes two separate documents (NFPA and Uniform Fire Code). It was recommended to change all such references to the Minnesota Uniform Code, Article 79. The State Fire Marshal also recommended the word liquids in item F, subitem (2) be changed to locations, which is a more appropriate term.

The MPCA has amended item F of Minn. Rules pt. 7105.0080, subs. 1 and 2 as follows:

item F. electrical installation:

(1) regulatory review, including:

(a) ~~NFPA's National Fire Code (ANSI/NFPA Article 79)~~ parts 7510.3120 and 7510.3240, incorporating by reference and amending Article 79 of the Uniform Fire Code;

(b) [Unchanged]

(2) ~~NFPA~~ Class I ~~liquids~~ locations, Divisions I and II, requirements and restrictions, as described in parts 7510.0400 and 7510.2300, incorporating by reference and amending Article 79 of the Uniform Fire Code;

(3) to (7) [Unchanged]

These changes are reasonable in that they provide for clarity and consistency with the State Fire Marshal requirements. The changes are editorial in nature and do not constitute a substantial change.

d. Minn. Rules pt. 7105.0080, subp. 1, item K, subitem (1)(e).

As mentioned in Findings No. 7b and 7c above, the State Fire Marshal Division recommended changing all references to the Uniform Fire Code to the Minnesota Uniform Fire Code. The MPCA has amended subitem (1)(e) of Minn. Rules pt. 7105.0080, subp. 1, item K as follows:

item K. tank closure and removal:

(1) regulatory discussion:
(a) to (d) [Unchanged];
(e) requirements for tank closure in ~~NFPA's Uniform Fire Code, Article 79~~ parts 7510.3120 and 7510.3240, incorporating by reference and amending Article 79 of the Uniform Fire Code; and
(f) [Unchanged];

As discussed in Findings No. 7b and 7c above, these changes are reasonable in that they provide for clarity and consistency with the State Fire Marshal requirements. The changes are editorial in nature and do not constitute a substantial change.

e. Minn. Rules pt. 7105.0130, subp. 3.

As discussed in Finding No. 6b, the references to NFPA Standards 30 and 30A are no longer necessary. I n addition, the most recent edition of NFPA's document, Cleaning Small Tanks and Containers was published in 1987, not 1982. The MPCA has amended subpart 3 of Minn. Rules pt. 7105.0130 as follows:

subp. 3. **NFPA documents.** The following documents ~~are~~ is also available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269: National Fire Protection Association, Cleaning Small Tanks and Containers, NFPA 327 ~~(1982)~~ (1987).

~~A. National Fire Protection Association, Flammable and Combustible Liquids Code, NFPA 30 (August 7, 1987);~~
~~B. National Fire Protection Association, Automotive and Marine Service Station Code, NFPA 30A (June 10, 1987);~~
~~C. National Fire Protection Association, Cleaning Small Tanks and Containers, NFPA 327 (1982); and~~
~~D. National Fire Protection Association, Uniform Fire Code, NFPA Article 79 (1988).~~

These modifications are not substantive because they provide for the MPCA's original intent which was to be consistent with State Fire Marshal codes and cite the latest editions of all appropriate guidance documents.

8. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding No. 7 above.

9. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Minnesota Pollution Control Agency published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rules are supported by the record and do not result in a substantial change in the proposed rules.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules pts. 7105.0010 to 7105.0130 governing the Underground Storage Tank Training and Certification program are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 116.491 (1988) and Minn. Stat. § 115.03, subd. 1(e) (1988).

MINNESOTA POLLUTION CONTROL AGENCY

11/28/89
Dated

Gerald L. Willet
Gerald L. Willet
Commissioner

ATTACHMENT 2

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the matter of the Proposed
Underground Storage Tank Training
And Certification Rules Chapter 7105.

STATEMENT OF NEED
AND REASONABLENESS

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

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I. INTRODUCTION

The Minnesota Pollution Control Agency (MPCA) was authorized and directed by the 1987 Minnesota Legislature to adopt rules containing standards of competence for persons who install, repair, or take an aboveground or underground storage tank (UST) out of service. The term "installer" refers to a person who conducts any of the activities listed above. Minn. Stat. § 116.491 directs the MPCA to require installers to obtain a certificate of competency from the MPCA, to conduct examinations to test the competency of applicants, and to require certificate renewal. The MPCA may also conduct training programs for installers and charge fees as necessary to cover the actual costs of the certification program.

On December 5, 1988, the MPCA published a Notice of Intent to Solicit Outside Opinion on the development of the tank installer certification program. A letter was also sent to all persons on the MPCA's Tanks and Spills mailing list and the Public Information Office mailing list of persons interested in new rules. The letter requested comments on the program development, as well as, names of persons that may wish to be part of an advisory work group.

From responses to the mailing above, the MPCA staff formed an advisory work group to aid in the formulation of the draft rules. The advisory work group consisted of representatives from the St. Paul Fire Department, two tank manufacturers, an environmental consulting firm, the St. Paul School District (nonprofit tank owner), a major gas station chain (for-profit tank owner), an environmental group, and six tank installers, removers and repairers. Six meetings, open to the public, were held from March through June of 1989. Tank installation, removal and repair issues were discussed at these meetings.

Many recommendations were made by the advisory work group regarding the proposed rules. Rule changes were based on these work group recommendations, comments from other MPCA personnel and from responses to the Notice to Solicit Outside Opinions. The end result of the work group meetings is the proposed rules for the certification of underground storage tank installers. Due to the differences in technical procedures and regulatory status between aboveground and underground tanks, it was decided to pursue only the certification of underground tank installers at this time.

The proposed rules establish a certification program for UST contractors, as well as, a training and certification program for on-site UST supervisors. The rules establish the requirements and procedures for obtaining and renewing this certification. In addition, the rules outline the minimum training course requirements for UST supervisors and the procedures for obtaining approval of an UST training course.

The proposed rules were presented to the MPCA Hazardous and Special Waste Committee during their July 24, 1989, meeting.

II. STATEMENT OF MPCA'S STATUTORY AUTHORITY

The MPCA's statutory authority to adopt the rules is set forth in Minn. Stat. § 116.491 (1988), which provides:

Subd. 1. Requirement. (a) After the effective date of rules adopted under subdivision 3, a person may not install, repair, or take an aboveground or underground tank permanently out of service without first obtaining a certification of competence issued by the agency.

(b) The agency shall conduct examinations to test the competence of applicants for certification, issue documentation of certification, and require certification to be renewed at reasonable intervals. The agency may conduct training programs for installers.

Subd. 2. Fees. The agency may charge fees as are necessary to cover the actual costs of processing applications, conducting examinations, issuing and renewing certificates, and providing training programs. The fees received under this section must be credited to the petroleum release cleanup fund.

Subd. 3. Rules. The agency shall adopt rules containing standards of competence for installers and to implement this section.

The MPCA also has general authority to adopt rules to control water pollution, including rules prohibiting the storage of any liquid in a manner that could pollute the waters, under Minn. Stat. § 115.03, subd. 1(e) (1988).

Under these statutes, the MPCA has the necessary statutory authority to adopt the proposed rules.

III. STATEMENT OF NEED

Minn. Stat. §§ 14.14, subd. 2 and 14.23 (1988) require the MPCA to make an affirmative presentation of facts establishing the need for and the reasonableness of the proposed rules. In general terms, this means that the MPCA must set forth the reasons for proposing rules and the reasons must not be arbitrary or capricious. However, to the extent that the need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the MPCA is a proper one. The need for the rules is discussed below.

The need for these rules arises from the following sources:

1. The need to protect the environment from tank releases in compliance with the UST Technical Requirements established by the U.S. Environmental Protection Agency (EPA) in 40 CFR Part 280, in turn, creates a need for a population of qualified UST installers.
2. The need to comply with the requirements of Minn. Stat. § 116.491 (1988).
   A. Environmental protection compliance with EPA's technical requirements for USTs.

It is estimated that there are three to five million USTs in the United States. Approximately 35,000 of these tanks are registered in Minnesota. Leaks from USTs can cause serious health and environmental effects. Fires and explosions have occurred during the improper removal of tanks and when vapors from leaking tanks have entered sewers and basements. In addition, many city and private water supplies have been contaminated by leaking USTs.

On September 23, 1988, EPA published its final rule outlining technical requirements for USTs and state UST program approval, at 53 Federal Register, 37082 (to be codified at 40 CFR part 280). (The MPCA is currently in the process of adopting a modified version of these technical rules and applying for UST program approval.) The preamble to EPA's rules describes the scope of the problem created by leaking USTs. EPA concludes "that approximately 25 percent of existing UST systems are found to be non-tight when tested using current methods and that loose tank fittings or faulty piping causes 84 percent of these tightness test failures" (53 Federal Register 37086).

The major causes of releases from UST systems are due to failures of unprotected tanks, leaks in delivery lines, leaks from vent pipes and fittings on top of the tank, and spill and overfill errors. Industry studies show that a

major cause of these releases can be attributed to improper installation and repair practices.

For example, improper installation is considered the major cause of fiberglass tank failure. Releases also occur when tank fittings, such as bung hole plugs, fill tubes or vent lines, are not tightened sufficiently during installation or after a repair.

Piping releases occur twice as often as releases from the tank portion of an UST system. Again, some of the major reasons attributed to piping failures are poor installation techniques, poor workmanship and accidents. It has been estimated that piping is damaged 10 percent of the time at new installations between the installation of equipment and completion of paving.

Improper removal can also result in adverse health and environmental impacts. Explosions caused by the build-up of toxic vapors, have resulted in injury and deaths in Minnesota and across the United States. The practice of removing tanks without first pumping the contents has caused unnecessary releases to the environment. Education is also needed on the proper disposal of tanks and the associated tank "bottom sludges".

The tank installation business has seen some drastic changes with the advent of the new EPA technical requirements and the major advances made by industry in corrosion protection and leak detection in the past few years. Proper UST system installation, repair and removal now requires specialized knowledge, training and experience.

The EPA rules require that a new tank and its associated piping be equipped with corrosion protection, leak detection, and spill and overfill devices. In turn, the rules require the tank installer to certify, on the tank notification form, that the tank and all this associated equipment were installed in accordance with the performance standards outlined in the rules.

The proposed UST Training and Certification rules will help provide qualified, competent individuals to conduct this work. Therefore, there is a need to establish this program in the state of Minnesota.

B. Need to comply with the requirements of Minn. Stat. § 116.491 (1988).

After identifying the need for an UST Training and Certification program in Minnesota, the MPCA sought from the Minnesota Legislature the enactment of legislation establishing such a program in Minnesota. Minn. Stat. § 116.491 (1988), establishes the authority for the program and charges the MPCA with the necessary powers and duties to establish and administer the program.

In order for the MPCA to comply with the directive of Minn. Stat. § 116.491, there is a need for the MPCA to adopt rules to establish and administer an UST Training and Certification program in Minnesota.

IV. STATEMENT OF REASONABLENESS

The MPCA is required by Minn. Stat. ch. 14 to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the MPCA's proposed action. The reasonableness of the proposed rules is discussed below.

A. Reasonableness of the Rules as a Whole

The MPCA approached the need to adopt rules for an UST Training and Certification program by closely examining its rulemaking authority set forth in Minn. Stat. § 116.491 (1988). The statute requires that the rules establish:

(a) standards of competence for installers;

(b) examinations to test the competence of applicants;

(c) procedures for issuing documentation of certification; and

(d) certification renewal procedures.

In addition, the statute states the the MPCA may conduct training programs for installers and charge fees as necessary to cover specified costs associated with the certification program.

The MPCA has addressed all of these requirements in the proposed rules and has, in addition, drafted rules to be consistent with program requirements specified in Minn. Stat. §§ 116.46 to 116.50 (1988). This approach to addressing the need for an UST Training and Certification program in Minnesota is therefore reasonable.

B. Reasonableness of Individual Rules

The following discussion addresses the specific provisions of the proposed rules.

Part 7105.0010, Definitions

This part of the proposed rules sets forth 25 definitions of words or phrases used within the rules. The definitions are discussed below.

Subpart 1. Scope. This subpart states that the definitions in Minn. Stat. §§ 115.01, 115C.02, and 116.46 apply to the terms used in chapter 7105, unless the terms are defined in this part. Because all of these chapters apply to the Minnesota storage tank program, it is reasonable to use the same definitions throughout the program in order to achieve consistency within the program.

Subp. 2. Agency. "Agency" is defined in the proposed rule as the Minnesota Pollution Control Agency. It is reasonable to define this term in order to define which agency within Minnesota state government is responsible for the program implementation.

Subp. 3. Approved training provider. "Approved training provider" is defined as a person approved by the commissioner to provide the installer training course or the final examination. It is reasonable to define this term

because the proposed rules require that UST supervisors attend an approved training course.

Subp. 4. Certificate. The proposed rules define "certificate" as a document issued by the MPCA to a person who has met the certification requirements of the rules. It is reasonable to define this term in order to clarify the differences between a diploma and a certificate.

Subp. 5. Certified contractor. The term "certified contractor" is defined as a contractor who has been certified by the MPCA to engage in the business of installing, repairing, or closing underground storage tank systems. It is reasonable to define this term to clarify the difference between a certified contractor and a certified supervisor under the proposed rules.

Subp. 6. Certified supervisor or supervisor. "Certified supervisor" and "supervisor" are defined as an individual certified by the MPCA to perform one or more storage tank projects. This individual provides supervision and direction to workers engaged in a storage tank project. It is reasonable to define this term to clarify the difference between a certified supervisor and a certified contractor. The definition also points out the supervision and work direction responsibilities of a certified supervisor.

Subp. 7. Closure or removal. The terms "closure" and "removal" are both defined as permanently taking an UST out of service by either closing it in place, removing it from the ground, or converting it to store a nonregulated substance, as required by the Code of Federal Regulations, title 40, part 280 and state law. It is reasonable to define these terms because the proposed rules require that persons engaged in these practices be certified by the MPCA. The definition also references the federal regulations and state law to provide consistency among the various regulations.

Subp. 8. Commissioner. "Commissioner" is defined as the Commissioner of the agency. It is reasonable to define this term because the legislature has changed the title of the MPCA's chief executive officer from "Director" to "Commissioner." See 1987 Minn. Laws ch. 186, section 15.

Subp. 9. Contractor. A "contractor" is defined in the proposed rules as a corporation, partnership, or duly constituted individual proprietorship which holds itself as being qualified to engage in UST projects. It is reasonable to define this term because contractors will be required to be certified and have their supervisors certified.

Subp. 10. "Critical junctures:"

A. The proposed rules define the term "critical junctures" in the case of a tank installation as the steps in the installation of an UST which are important to the prevention of releases. The definition goes on to list some of these critical steps. The steps indicated are important in the prevention of leaks, require technical expertise, or have been found typically to be problem points. It is reasonable to define this term because the proposed rules require that a certified supervisor be on-site during all critical junctures of an tank installation project.

B. "Critical junctures" in the case of a tank removal is defined as the steps in a removal project which are important to the prevention of releases. A list of some of these critical steps is included in the definition. The steps indicated are important in the prevention of leaks, require technical expertise, or have been found typically to be problem points. It is reasonable to define this term because the proposed rules require that a certified supervisor be on-site during all critical junctures of an UST removal.

C. "Critical junctures" in the case of a tank repair project is defined as the steps in the tank repair project which are comparable to the critical

steps listed for tank installation in term of their importance in the prevention of releases. The definition includes a list of some of these critical steps for a repair project. The steps indicated are important in the prevention of leaks, require technical expertise, or have been found typically to be problem points. It is reasonable to define this term because the proposed rules require that a certified supervisor be on-site during all critical junctures of a tank repair project. Many of the critical steps of an installation project may be the same as the critical steps of a repair project. For this reason, the definition refers back to the definition of critical junctures for tank installations.

Subp. 11. Day. "Day" is defined in terms of a day of training equaling eight hours including breaks and lunch. It is reasonable to define this term because under the proposed rules an approved training course must be at least five days in length. By defining the term day, a training provider knows the minimum amount of hours the courses must be and can offer innovative methods of training, such as offering the course over ten evenings of four hours each.

Subp. 12. Diploma. The proposed rules define "diploma" as a document verifying the successful completion of the required training course. It is reasonable to define this term to clarify the differences between a diploma and a certificate.

Subp. 13. Disciplines of certification. There are three "disciplines of certification" defined in this subpart of the proposed rules. "Installation" has the same definition as subpart 15 of the proposed rules, but also includes the correction, restoration, modification, or upgrading of tank system piping or appurtenances. "Repair" means the correction, restoration, modification, or upgrading of the tank itself, such as repairing a hole in a tank or lining a tank. "Closure" has the same meaning given it in subpart 7 of the proposed rules. It is reasonable to define the disciplines of certification because the

same terms are used in other parts of the proposed rules, but with slightly different definitions. The variation in the definitions are found in the repairs aspect of UST projects. Under these definitions, persons supervising the more specialized repairs to a tank system, such as lining, will be required to have more specific experience. In contrast, individuals repairing a section of piping would need the same experience as an installer. The definitions also reference definitions in other subparts of the proposed rules to provide consistency within the rules.

Subp. 14. EPA. The acronym "EPA" is defined as the United States Environmental Protection Agency. It is reasonable to define this term because the EPA is the agency that developed the national technical requirements for USTs on which the state technical rules will be based. Much of the training course will be focused on these requirements.

Subp. 15. Installation. "Installation" is defined as the work involved in placing an UST in position and preparing it to be placed in service or the movement of an UST to a new position and preparing it to be placed in service. It is reasonable to define installation to clarify how the MPCA interprets the term.

Subp. 16. Installer. The term "installer" is defined as a person who installs, repairs or closes an UST. This definition is similar to the definition used in Minn. Stat. § 116.46, excluding the reference to aboveground tanks. It is reasonable to use this definition to provide consistency within the program.

Subp. 17. Operator. "Operator" is defined as a person in control of, or having responsibility for, the daily operation of a tank, and a person who is in control of, or had responsibility for, the daily operation of the tank immediately before discontinuation of its use. This term is used throughout the

Minnesota storage tank program. It is reasonable to define this term to clarify who is considered an operator of a tank and to provide consistency within the program regulations.

Subp. 18. Owner. The term "owner" is defined as a person who holds title to, controls, or possesses an interest in a tank and a person who held title to, controlled, or possessed an interest in a tank immediately before discontinuation of its use. This does not include a person who holds an interest in a tank solely for financial security, unless through foreclosure or other related actions, the holder of a security interest has taken possession of the tank. This definition is compatible with the definition of owner in Minn. Stat. ch. 115C and the EPA tank rules, Code of Federal Regulations title 40, section 280.12. It is reasonable to define this term to clarify the difference between an owner and an operator and to provide consistency within the program regulations.

Subp. 19. Person. "Person" is defined as an individual, partnership, association, public or private corporation, or legal entity, including the United States government, an interstate commission or other body, the state, or any agency, board, bureau, office, department, or political subdivision of the state, but does not include the Pollution Control Agency. This definition encompasses the definitions in Minn. Stat. chs. 115C and 116. It is reasonable to define this term to clarify its meaning and to provide consistency within the program regulations.

Subp. 20. Regulated substance. The proposed rules define "regulated substance as:

A. a hazardous material listed in Code of Federal Regulations, title 49, section 172.101; or

B. petroleum, including:

(1) gasoline and fuel oil as defined in Minn. Stat. § 296.01, subd. 3 and 4;

(2) crude oil or a fraction that is liquid at a temperature of 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute;

(3) constituents of gasoline and fuel oil under subitem (1) and constituents of crude oil under subitem (2); and

(4) petroleum-based substances which are comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, and used oils.

The definition of hazardous material is that used in Minn. Stat. ch. 116. The definition of petroleum is a combination of the definitions found in EPA's technical rule and Minn. Stat. chs. 115C, 116 and § 296.01. A release of any of these substances from an underground storage tank would be considered detrimental to the environment. The basic techniques of an UST installation, removal or repair do not vary based on the substance that is stored. Therefore, it is reasonable to require persons conducting tank projects involving tanks holding any of these substances to be trained and certified.

Subp. 21. Repair. The proposed rules define "repair" as the correction, restoration, modification, or upgrading of a tank system, including but not limited to the addition of cathodic protection systems, the replacement of piping, valves, fill pipes or vents, the lining of a tank through the application of such materials as epoxy resins, and other similar activities that may affect the integrity of the tank system. It is reasonable to define this

term to clarify what types of repairs would require a certified installer under the proposed rules. By using the term tank system, this definition limits the need for a certified installer to those repairs that are underground, and therefore cannot be easily viewed.

Subp. 22. State. "State" is defined as the state of Minnesota. It is reasonable to define this term to provide clarification when statements such as state rules or state program are used in the proposed rules.

Subp. 23. Storage tank project. The proposed rules define "storage tank project" as the installation, repair or closure of an UST. It is reasonable to define this term to simplify the rules by providing a term that refers to all of the listed activities. This prevents the need to continuously list the different activities.

Subp. 24. Tank or tank system. "Tank" and "tank system" are given the same meaning as an UST in the proposed rules. It is reasonable to define these terms to simplify the rules by providing shorter phrases to replace UST, yet maintain the same meaning.

Subp. 25. Underground storage tank. An "underground storage tank" is defined in the proposed rules as any one or a combination of containers including tanks, vessels, enclosures, or structures and underground appurtenances connected to them, that is used to contain or dispense an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected to them, is ten percent or more beneath the surface of the ground. It is reasonable to define this term to provide consistency with the EPA definition of an UST and Minn. Stat. ch 116.

Part 7105.0020, Purpose

This part, which specifies to whom the requirements of the proposed rules apply, is reasonable because it informs affected persons, the public, and other

governmental units of the applicability of the proposed rules in a clear and concise manner at the beginning of the rules document.

Part 7105.0030, General Provisions

This part sets forth the general requirements of the proposed rules. The specifics of each subpart are discussed below.

Subpart 1. Certification requirements and deadlines. This subpart specifies the effective date of the certification requirements. It also specifies that after this date only certified contractors can conduct storage tank projects and certified supervisors must be present on-site during all critical junctures of a storage tank project.

The effective date of the certification requirements is six months after the effective date of the chapter to allow time for persons needing to be certified to obtain the training required by the proposed rules. It is reasonable to allow this time for persons to work the training into their schedules.

As mentioned in the Statement of Need (section III.), leaks from USTs can cause serious health and environmental problems. Many of these problems can be attributed to improper installations, removals and repairs. To obtain certification under the proposed rule, supervisors must attend an approved training course and demonstrate to the MPCA that they have applicable experience for the work they intend to do. A certified contractor must be, or have on staff, a certified supervisor for the tank projects he undertakes. Therefore, to help prevent these health and environmental problems from occurring in the future, it is reasonable to require that only certified contractors conduct storage tank projects and that their trained and experienced employees (i.e. certified supervisors) be on-site during the critical junctures of the tank project.

Subp. 2. Certificate availability. This subpart requires that a copy of the contractor's current certificate be conspicuously posted at the work location and that certified supervisors have copies of their current certificates at the work site. The MPCA Board Hazardous and Special Waste Committee suggested that a copy of the contractor's certificate be posted similar to that of a building permit. The contractor certificates will be approximately 8½ x 11 inches and include the name of the contractor, the certificate's expiration date, and MPCA's toll-free telephone number. This posting requirement is reasonable because it will allow interested individuals to easily determine if there is a certified contractor responsible for a particular tank project. The supervisor certificates issued by the MPCA will be wallet-size, similar to a driver's license. It is reasonable to require that the certificates be on-site because it is a simple requirement that will allow for immediate verification of their certification by MPCA inspectors and tank owners that contract with these individuals.

Subp. 3. Tank owner or operator requirements. This subpart requires tank owners or operators to allow only certified contractors and supervisors to perform storage tank projects on their tank systems. To help insure that only qualified persons conduct these activities, it is reasonable to require tank owners or operators to use only certified individuals.

Part 7105.0040, Exclusions

This part of the proposed rules sets forth those USTs that are excluded from the rules. The specific exclusions are discussed below.

The exclusions listed in items A through E are the same exclusions found in EPA's technical rules, title 40, section 280.10(a). The exclusions listed in items F through M are identical to the statutory exemptions provided by Minn. Stat. § 116.47 (1988). These eight exclusions are also identical to those

excluded under EPA's definition of an UST, title 40, section 280.12. The tanks excluded by items N through R are identical to those tanks deferred in EPA's technical rule, title 40, section 280.10(c).

EPA's reasons for exempting or deferring these tanks from the current regulations can be found in the preamble to their technical rules, 53 Federal Register pages 37107 through 37121. The reasons for the exclusions vary. Some tanks are already being regulated under other programs, such as the exclusion for pipeline facilities. Some of the excluded tanks, such as field constructed tanks, are technically different to such an extent that they did not conform with the program. The agency believes these exclusions to be appropriate.

It is reasonable to exclude these tanks from the proposed rules to provide compatibility with the federal technical rules and consistency within Minnesota's tank program.

Part 7105.0050, Contractor Certification

This part of the proposed rules sets forth the requirements for contractor certification, as well as the disciplines in which a contractor can seek certification, application procedures for initial and renewal certification and the length of certification. The specific requirements are discussed below.

Subpart 1. Contractor certification requirements. This subpart requires a contracting company:

A. to be, or have in its employ a certified supervisor that will be on-site during the critical junctures of a tank project;

B. to submit documentation of insurance, surety bonds, or liquid assets equal to at least five times the value of the contractor's largest project within the previous two years; and

C. to complete the application procedures outlined in subparts 3 or 4.

One of the major concerns of the MPCA's advisory work group was to ensure that both the contractor, as well as the on-site supervisor, be certified. By requiring contractors to be certified, the responsibility for a proper tank project is extended to the company, as well as the supervisor and tank owner.

Minnesota's contractor certification requirements outlined in items A and B are based on the Petroleum Equipment Institute's (PEI) Model Act for certifying contractors. The PEI is an international trade association composed of companies that primarily manufacture, distribute, install and service petroleum marketing equipment. Many of their published documents have been referenced in EPA's technical rule for use in complying with the technical requirements. PEI has developed a Model Act for the Licensing of Persons who Install, Repair, and Remove Underground Liquid Storage Systems. The Model Act was written by PEI's Tank System Installer Certification Committee made up of PEI members.

Under the proposed rules, a certified supervisor must be on-site during all critical junctures of a storage tank project. As an employer of these people, it is reasonable to require the contractors to ensure that their supervisors are indeed on-site during these critical phases of a tank project.

The advisory work group felt there was a need to include the financial responsibility requirements, outlined in item B, to ensure that all storage tank projects were financially covered in some manner. According to members of the work group, this is already required by many of the larger cities in the state. They felt that it was needed and reasonable to extend this requirement to all tank projects.

The MPCA is continually being asked for a list of contractors that perform storage tank projects. There is currently no control over the names that are included on this list. The certification of contractors will make it possible for the MPCA to provide a list of certified contractors. Through the

certification process, these contractors will have provided the MPCA with information about the training and experience of their supervisors and their company's insurance or financial capabilities to cover accidents.

Subp. 2. Disciplines of contractor certification. This subpart specifies the three disciplines for which a contractor can be certified. For example, if a contractor is not himself certified to supervise tank repairs or does not employ a supervisor certified to oversee tank repairs, the contractor cannot be certified as a tank repair contractor. This subpart is necessary and reasonable because it provides clarification to contractors as to who can be certified and for what type of projects.

Subp. 3. This subpart specifies what information will be required from contractors when applying to the MPCA for certification. The information will be requested on an application form provided by the MPCA, thereby allowing the MPCA to provide additional instructions to help clarify how the MPCA wishes certain items to be documented. This subpart is reasonable because it tells those persons affected by the rules what information the MPCA will be requesting from applicants.

Subp. 4. This subpart specifies what information is required for renewal applications. It is suggested that an applicant apply for renewal at least 30 days prior to expiration to avoid a lapse in certification. For tracking purposes, it is reasonable to require the same information as required in subpart 3, as well as a copy of the contractor's previous certificate.

Subp. 5. This subpart specifies that a contractor's certificate expires two years after the date of issuance. According to a survey conducted by MPCA staff of other state tank certification programs, the length of certification ranges from one to three years, with the average being two years. Based on this information, and concerns for the changes within a company that can occur during

a two year period, it was felt that yearly renewal would be unnecessary and three years would not adequately address the company and industry changes. The PEI Model Act also suggests two years for renewal intervals. Therefore, the advisory work group considered two years to be a reasonable length for certification.

Part 7105.0060, Supervisor Certification

This part of the proposed rules sets forth the requirements for supervisor certification, as well as the disciplines in which a supervisor can seek certification, application procedures for initial and renewal certification, the length of certification, and reciprocity. The specific requirements are discussed below.

Subpart 1. Supervisor certification requirements. This subpart specifies the training and experience requirements for certified supervisors. An applicant must:

A. successfully complete an approved five-day training course every two years,

B. have at least two years of tank service experience and have field experience on a minimum of five tank projects. At least four of these projects must be in the discipline for which the applicant is seeking certification. (Experience obtained after supervisors and contractors are required to be certified must be under the employ and direction of a certified individual); and

C. complete the application procedures outlined in subpart 4 or 5.

As explained in General Provisions, subpart 2, a major cause of UST health and environmental problems can be attributed to improper installation, repair and removal practices. Therefore, it is reasonable to require certification of the on-site supervisors that are overseeing these projects. It is the opinion

of the advisory work group that no one action or ability of an individual should qualify that person for certification. For this reason, certification is a multifaceted process that must include training, examination and experience.

The training requirements, indicated in item A, have been set at at least five days because existing tank training courses have shown that this amount of time is needed to cover the necessary material. Three major universities in the United States currently offer a tank installer training course. Each of these courses is four days in length. These courses focus on installation of USTs and barely touch on removal or repair techniques. Taking into account that the course must not become unreasonably long, yet ensuring that it still cover the necessary topics, it was felt that five days would be a reasonable length for a training course that will address tank installation, repair and removal.

Supervisors are required to successfully complete the training course every two years. This requirement is considered reasonable due to the many changes and advances being made by industry in this field.

Item B. outlines the experience requirements for certified supervisors. The advisory work group felt there was a need to require both a certain number of years experience and specific field experience. The need for a specific number of years experience addresses the work group's concerns about the true qualifications of an individual, and would, for example, prevent a high school student hired for the summer from obtaining enough experience in one season to qualify for certification. The requirement for field experience addresses their interest in preventing an "office" person who has never really seen a tank project because they were employed as an accountant for a tank contractor for two years from being certified. It is reasonable to require both employment experience and field experience because this combination is needed to adequately address the concerns expressed above.

At least four out of five field projects must be specific to the discipline for which the individual seeks certification. Some supervisors oversee various types of tank projects and all experience is considered beneficial. By breaking the certification process into disciplines, this will help ensure that individuals supervising installations actually have experience in tank installation, as opposed to having all their experience in tank removal. This same approach is used by New Mexico, Oklahoma and Utah in their state programs. This requirement is reasonable because it requires that at least a minimum amount of a person's experience be specific to the discipline for which person is certified.

Subp. 2. This subpart specifies that to successfully complete a training course a person must attend all training hours and pass the examination. This is reasonable because it clarifies what the MPCA considers successful completion of a training course. A person cannot take and pass the examination without attending the entire course. The MPCA feels that both the course discussions and pursuant student interactions are as important as the final examination.

Subp. 3. Disciplines of supervisor certification. This subpart specifies the three disciplines for which a supervisor can be certified. This subpart is necessary and reasonable because it provides clarification to supervisors as to who can be certified and for what type of projects.

Subp. 4. This subpart specifies what information will be required from supervisors when applying to the MPCA for certification. The information will be requested on an application form provided by the MPCA, thereby allowing the MPCA to provide additional instructions to help clarify how the MPCA wishes certain items to be documented. This is reasonable because it tells those persons affected by the rules what information the MPCA will be requesting from applicants.

Subp. 5. This subpart specifies what information is required for renewal applications. It is suggested that an applicant apply for renewal at least 30 days prior to expiration to avoid a lapse in certification. For tracking purposes, it is reasonable to require the same information as required in subpart 4, as well as a copy of the supervisor's most recent training diploma to verify that the individual has successfully completed an approved training course within the previous two years.

Subp. 6. This subpart specifies that a supervisor's certificate expires two years after the applicant successfully completes the final training course examination. The same reasoning can be applied to this subpart as that attributed to the length of contractor certification mentioned previously. In addition, it is reasonable to require recertification every two years to provide consistency within the program. Under the proposed rules, a supervisor's training diploma and certificate will expire on the same day. This will ensure that no more than two years passes between course attendance. Contractor certificates will also expire every two years.

Subp. 7. Reciprocity. Subpart 7 allows for the approval of courses other than those provided by an approved training provider if the commissioner determines that the course is comparable to the course outlined in parts 7105.0080 and 7105.0090. This part also outlines the steps that must be taken by individuals wishing to be certified as supervisors in Minnesota and seeking reciprocity under this subpart. The certificate issued by the MPCA under this subpart will expire two years after the final day of the approved training course.

Some individuals may attend a similar tank training course in another state and then apply to be certified to conduct storage tank projects in Minnesota. This provision of the proposed rule will enable persons that have attended

comparable training to substitute this training for a program already approved by the MPCA. The applicant would still need to meet the other requirements for certification before a certificate would be issued. If the course does not specifically address Minnesota's UST regulations, but is otherwise determined by the commissioner to be comparable, the applicant will be required to pass an examination pertaining to Minnesota's program.

It is reasonable to provide for reciprocity of training courses because as long as the courses are comparable, the goal of the program to have trained individuals overseeing the tank projects will still be met. Because UST programs can vary considerably from state to state, it is also reasonable to require individuals whose courses have not covered Minnesota's regulations to take an examination to demonstrate their knowledge of Minnesota's tank program.

Part 7015.0070, Standards of Performance

This part outlines standards of performance or "ethical standards" for contractors and supervisors. Subpart 1 specifies two standards that would apply to both contractors and supervisors. Subpart 2 specifies standards that would be specific to only supervisors.

The states of Maine, New Mexico and Utah all establish minimum standards of performance in their tank certification programs. The advisory work group reviewed these programs and felt that standards of performance would also be appropriate to include in Minnesota's certification rule. They chose the standards outlined in this part because they felt that it was reasonable to require both the contractors and the supervisors to only engage in projects that conform to regulation and not to take bribes. In addition, they felt that supervisors should not be certifying projects they did not actually supervise. Supervisors should perform projects so that there is no release of the contents of the tank and they must complete projects in accordance with all applicable

regulations. This part is reasonable because it sets and clarifies the minimum standards of practice expected and ties these into the certification program through sanctions in part 7105.0110.

Part 7105.0080, Training Course Requirements

This part of the proposed rules sets forth the requirements for a storage tank installer training course. It requires that the course be at least five days in length and include lectures, demonstrations, four hours of hands-on training, course review, and a final examination. Subparts A. through S. outline the specific topics that must be covered during the five days.

The reasoning behind a five-day training course was discussed previously under part 7105.0060, supervisor certification, subpart 1. Five days can be a long time, especially for individuals not accustomed to spending long periods of time sitting at a desk. For this reason, the proposed rules require that the course include lectures, demonstrations, and hands-on training. It is reasonable to require this diversity because it will not only make the course more enjoyable, but also encourage interaction among class participants and enhance the learning process.

The basic outline of topics found in subparts A. through S. was derived from the course outlines taught by the three universities currently offering tank installer training courses. Additional information was added to address repair and removal techniques, hands-on training specifics, and Minnesota's rules dealing with USTs. It is reasonable to specify what topics must be covered so if an individual wishes to become an approved training provider the individual will know MPCA's minimum requirements for an approved training course.

Subparts A, B, and O require the teaching of applicable state and federal laws and several major industry standards and codes relating to tank installation, repair and removal. Installers should be familiar with the

applicable laws since they must comply with them, and the industry codes are incorporated into those laws. Other industry codes are also incorporated into federal regulations, and will probably be incorporated in upcoming state rules, and some of these are listed in the other course subject areas. However, not all the relevant industry codes can be taught in a five-day course, nor need they all be taught since they generally represent alternatives to the codes that are being taught.

Subparts C - K, and M cover the basic technical requirements of proper tank installation, repair, and removal. Improper procedures in any of these areas could result in a violation of the federal and upcoming state technical rules or in a release from the tank system. Subparts D, L, and P regard management of the tank project and working with employees and contractors. It is reasonable to require training of these subjects in order to prevent mistakes on tank projects which could result from mismanagement or miscommunication, and to alert supervisors to areas where experts from other fields must be called in. Subpart N requires demonstrations and hands-on training to ensure that students properly interpret the written and oral information received in the class.

Subpart Q requires students to study the possible environmental consequences of improperly installing, repairing, and removing tanks. This is reasonable so that students understand the importance of the technical information they are learning, and so they know which standards are the most critical. Subpart R requires a course overview to re-emphasize the most important aspects of the course.

Subpart S allows the Commissioner to require that additional subjects be addressed to reflect advances in tank installation, repair, and removal methods or safety practices. The area of tanks technology is rapidly advancing, and since the goal of the course is to train installers in the best installation,

repair, and removal methods available, the courses should reflect these advances as they are made.

Part 7105.0090, Examinations and Diplomas

This part of the proposed rules sets forth the requirements for development and administration of examinations and the information required on diplomas issued by training providers. The specific requirements are discussed below.

Subpart 1. This subpart specifies who can administer examinations. The rules as proposed would allow anyone to become approved training providers as long as they met the requirements outlined in parts 7105.0080, 7105.0090 and 7105.0100. For example, a contracting company could apply to become an approved training provider and offer the training course to his own employees. This subpart allows final examinations to be administered only by the MPCA, or personnel of colleges or educational institutes selected by the MPCA. It is reasonable to limit the administration of examinations to the institutions mentioned, thereby eliminating a possible conflict of interest between a contractor approved as a training provider and his employee that may need to pass the examination to maintain his certification.

Subp. 2. This subpart requires that the final examination be a written, comprehensive examination consisting of 100 multiple-choice questions, covering the topics discussed in the training course. Taking into consideration the audience and the amount of topics to be covered in the course, 100 multiple-choice questions is the standard amount and type of questions asked on an examination for a course of this type. One goal of the examination is to increase attendance and attentiveness during the course. The other goal for the examination is to test the level of knowledge of participants. These goals are reasonable to establish a minimum level of competency for certified supervisors.

Subp. 3. This subpart requires that an individual score 75 percent or higher on the final examination to pass. The exam must be passed within 10 days after completing the training course. Seventy-five percent is the cut-off for passing in PEI's Model Act as well as the cut-off used by many of the other state programs requiring examinations for certification.

This subpart requires that the examination be passed within 10 days of completing the course. This is reasonable because it allows for emergencies that may come up. For example, if a person completes a course but cannot stay for the examination because of an emergency at home, the individual would still have 10 days to take the examination. This also limits the amount of time a person has to complete a retest if the person fails the first examination. This examination date is important because it not only is the course completion date, but also the certification date. It is reasonable to set a limit on how long tests and retests can be extended out.

Subp. 4. This subpart allows a person to take one retest. Since the goal of the examination is to test the person's ability to conduct storage tank projects, as opposed to their ability to take tests, it is reasonable to allow a person to take a retest if the first test is failed.

Subp. 5. This subpart outlines the information required by the MPCA on course diplomas issued by approved training providers. This information is needed to simplify the course verification process when a person applies to become a certified supervisor. It is reasonable to specify this information because it tells those persons that may wish to become approved training providers what the diploma must include.

Since there may be times when a course is given by a person other than the person that administers the examination, it is reasonable to require both individuals to sign the diploma. The course provider will sign to verify the

information on the diploma pertaining to the course, i.e., dates of the course, student name, etc. The person who administers the examination will sign to verify the information on the diploma pertaining to the test, i.e., date of the examination, score, and student name.

Part 7105.0100, Approval of Training Course

This part of the proposed rule sets forth the procedures for approval of a training course, the experience requirements for course instructors, the criteria for suspension of course approval, and the requirements for renewal of course approval. The specific requirements are discussed below.

Subpart 1. This subpart states that the commissioner may approve training courses developed by persons other than the MPCA staff. The subpart outlines the information that must be submitted to the MPCA by persons wishing to have their training course approved. This subpart is reasonable because it tells those persons that may wish to become approved training providers what information must be submitted for review. The information requested is information the staff will need to determine if the training meets the requirements of chapter 7105.

Subp. 2. This subpart specifies the minimum type and amount of experience course instructors must have. The instructors must have a total of at least 4,000 hours of field experience in tank installation, repair, and removal. This requirement may be met by just one instructor, or through a combination of experience held by a number of instructors. Additional instructors shall have directly related experience or academic credentials. This subpart is reasonable because it ensures that instructors actually have field experience in what they are teaching. It prevents persons from providing the training without having adequate knowledge of the subject. The 4,000 hours of experience is equivalent to what instructors for the vocational technical colleges must have to become

instructors. It was considered reasonable to require the same number of hours for instructors of this course.

The requirement for additional instructors to have related experience or academic credentials provides a method to approve instructors that may be "experts" in their field, such as a corrosion expert, but may lack actual field experience. An attorney that specializes in environmental law would be another example of such an instructor that may lack field experience, but would be well qualified to teach the section covering legal liabilities and defenses. This subpart is reasonable because it allows these qualified individuals to be approved as course instructors.

Subp. 3. This subpart allows the commissioner to suspend or revoke approval of a training course if the commissioner finds that that course is not meeting the requirements of chapter 7105. This subpart is reasonable because it provides a mechanism for the commissioner to suspend or revoke approval of a substandard course.

Subp. 4. This subpart states that approval of a training course remains in effect until the commissioner notifies the training provider that changes in the course are required. This subpart is reasonable because it does not require the training provider to periodically seek approval of training that has not changed, but it does provide a mechanism for the MPCA to ensure that changes are made when needed through a renewal process.

Part 7105.0110, Sanctions

This part of the proposed rule provides a mechanism for revocation or suspension of certificates if warranted. It also outlines the due process procedures that an individual is entitled to. The specific requirements are discussed below.

Subpart 1. The following actions may result in sanctions being imposed on an individual.

A. submission of false or misleading information or credentials in order to obtain or renew a certificate;

B. failure to meet the requirements to obtain or renew a certificate;

C. failure to meet the requirements of EPA's technical regulations or Minnesota's storage tank program; and

D. negligence in the performance of storage tank projects.

The outline above reiterates requirements set forth in these proposed rules and other regulations already in place. The items clarify the basic requirements that must be adhered to by all certified contractors and supervisors. This subpart is reasonable because the potential for imposition of sanctions is needed to provide credibility to any certification program.

Subp. 2. This subpart specifies that the commissioner may initiate an investigation for the existence of grounds for sanctions when the commissioner receives a signed written complaint or when the commissioner has reason to believe that sanctions may be warranted. This subpart is reasonable because it states when the MPCA may begin an investigation for the existence of grounds for sanctions.

Subp. 3. This subpart specifies the procedures for notifying a person against whom a sanction is going to be imposed. The person has ten days from the date of receipt of the notice to request a contested case hearing on the matter. Sanctions cannot be imposed upon a person until a hearing request has been considered by the agency or the ten days has passed without a hearing request. This subpart is reasonable because it allows persons ten days to decide if they wish to have a hearing on the matter. Taking into account the limited construction season, a lot of business can be conducted in a short period of time. Ten days is a sufficient amount of time to make this decision.

Subp. 4. This subpart specifies the procedures for a contested case hearing. This subpart is reasonable because it references existing procedures, provides due process, procedural fairness, and consistency within the agency. This subpart references the appropriate Minn. Rules and the Administrative Procedure Act, Minn. Stat. ch. 14 which establish detailed procedures for the preparation of meeting agendas, for the agency decisions to hold contested case hearings, and for the actual contested case hearings.

Subp. 5. This subpart requires previously certified individuals that have had their certificates revoked or suspended to return all their certificates to the MPCA. This is reasonable because these documents could otherwise be falsely used to imply that the individual was still certified.

Subp. 6. This subpart requires at least a one year waiting period after a certificate has been revoked, before an individual may be recertified. This is reasonable because it sets a minimum standard for a revocation period and specifies this period so potentially affected individuals know well in advance what they may be risking if they do not comply with the regulations.

Subp. 7. This subpart specifies that the commissioner will reinstate a suspended certificate if the person fulfills the terms of the suspension order and meets all applicable requirements of the proposed rules. It is reasonable to reinstate a person's certificate if the person has complied with all the regulations and requirements of the sanction.

Part 7105.0120, Fees

This part of the proposed rules sets forth the fee for certification and the circumstances when the fee will be refunded. The fee for each new, modified, or renewal application for contractor or supervisor certification is $50. Refunds will be made to individuals who are rejected for certification. This part is reasonable because it establishes a fee for certification that is projected to

cover the the costs of processing applications, and issuing and renewing certificates. The fee is consistent with certification programs in other states and with Minn. Stat. § 116.491, subd. 2.

Part 7105.0130, Incorporation by Reference

This part of the proposed rules lists those documents that are incorporated by reference in the proposed rule. This part is reasonable because it informs those persons affected by the rules that these documents can be found in the State of Minnesota Law Library, as well as providing an address where they can be obtained. Because these documents can be subject to frequent change, this is also indicated to alert individuals of this fact and to inform them that amendments to these documents are also incorporated by reference.

This rule incorporates by reference several technical industry codes and standards (including standards by independent testing laboratories) to be taught in the training program. These rules and standards have already been incorporated by reference or otherwise made a part of the federal technical regulations at 40 CFR part 280 or the state fire code, and most will also be incorporated into the pending state technical rules. In order to ensure that the course remains up-to-date in teaching the standards required or allowed by law, this rule will automatically incorporate future amendments to the codes and standards, but only to the extent that the amendments are made a part of these other, substantive laws governing this subject area. This approach reasonably assures that the training course remains consistent with the most current legal standards.

The legislature has indicated its approval of this approach in Minn. Stat. § 645.31, subd. 2 (1988), which states that a statute (or rule) that adopts another law by reference "also adopts by reference any subsequent amendments of such other law, except where there is clear legislative intention to the

contrary." By only adopting those amendments to the industry codes and standards which are adopted by the substantive federal or state laws, the rule falls within the limits of what the legislature has explicitly approved in § 645.31. The Minnesota Supreme Court has twice in recent years acknowledged that adoption of future amendments to standards being incorporated by reference is particularly appropriate when, as in this case, the goal is to coordinate state and federal requirements. Minnesota Recipients Alliance v. Noot, 313 N.W. 2d 584, 586-87 (Minn. 1981); Minn. Energy & Economic Dev. Auth. v. Printy, 351 N.W.2d 319, 351-52 (Minn. 1984).

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. § 14.115, subd. 2 (1988) requires the MPCA, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

The proposed rules may effect small businesses as defined in Minn. Stat. § 14.115 (1988). As a result, the MPCA has considered the above-listed methods for reducing the impact of the rule on small businesses.

In drafting the proposed rules the MPCA considered the feasibility of establishing lesser requirements for contractors and supervisors of small businesses but concluded that, because tanks improperly installed, removed or repaired by small contractors have equally deleterious impacts on the environment and public health, the purposes of the rule would be defeated by such a measure.

The proposed rules are not expected to have a significant impact on small businesses because the certification fee is low ($50 every two years for the contractor and each supervisor). The MPCA does not believe that this fee will be an economic burden to the small business.

To become a certified supervisor an individual must attend a five-day training course every two years. The MPCA is initiating a contract with the State Board of Vocational Technical Institutes to help ensure that the required training is readily available and at a reasonable cost. Under the agreement, the Technical Institutes will be required to offer the course in a number of locations in greater Minnesota, as well as the metro area. The Legislature regulates the fees that the State Technical Institutes can charge per credit. It has been estimated that this training would be equivalent to a four credit course. At $35-$50 per credit, the Technical Institutes have estimated that they would charge between $140-$200 for the five day course. This is considered to be very reasonable for a course of this type and length. The three other universities that are offering similar courses, but only four days in length, are charging $560, $600 and $725. Because the course will be accessible and reasonably priced, the MPCA does not believe that this requirement will be a burden to small businesses.

VI. CONSIDERATIONS OF ECONOMIC FACTORS

In exercising its powers, the MPCA is required by Minn. Stat. § 116.07, subd. 6 (1988) to give consideration to economic factors. The statute provides:

> In exercising all its powers the pollution control agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

In proposing the rules governing the certification of UST tank installers, repairers and removers, the MPCA has given due consideration to available information as to any economic impacts the proposed rules would have.

No significant adverse economic impacts are anticipated to result from the adoption of the proposed rules. As discussed in section V. above, the fee for certification and costs associated with the training requirements are not expected to be a significant burden on small businesses.

There may be some beneficial economic impacts from the proposed rules. By increasing the technical expertise and environmental awareness of contractors conducting these tank projects there should be less releases to the environment in the future. When considering the economic impacts that result from the cleanup costs associated with contamination, this rule should result in cost savings to municipalities, small businesses and the general public as a whole.

Statement of Need and Reasonableness
Addendum

As per Minn. Stat. 16A.128, I have reviewed the Minnesota Pollution Control Agency's fee schedule for the Underground Storage Tank Training and Certification program and provide my approval that the proposed satisfies the direction and intent of pertinent legislations.

Thomas Triplett, Commissioner
Department of Finance

8-3-89
Date

VII. CONCLUSION

Based on the foregoing, the Minn. Rules pts. 7105.0010 to 7105.0130 are both needed and reasonable.

Dated: August 11, 1989

Barbara Lindsey Sims
for Gerald L. Willet
Commissioner