

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : March 12, 1990

TO : PEGGI WHITE, Office Manager
Admin. - Building Codes & Standards
408 Metro Square Bldg. (55101)

FROM : MARTHA J. CASSERLY mjc
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE : 296-6839

SUBJECT : In the Matter of the Adopted Permanent Rule
Relating to State Building Code

The above-referenced Permanent rule has been approved as to its legality by the Attorney General on March 5, 1990.

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 " "
Charlene Hatcher " "

MJC

RULE REVIEW CHECKLIST

File No. 1669

Docket No. 05.0009.0004

DATE RECEIVED 2-22-90

ADOPTED W/O HEARING X

REVIEW DATE ~~3-3-90~~ 3-5-90

EMERGENCY RULE _____

DUE DATE 3-8-90

To REVISOR: 2-23-90

REVISOR APPROVED 3-8-90

APPROVED 3-5-90 MJC

REVISOR DISAPPROVED _____

DISAPPROVED _____

FILED W/SEC. OF STATE 3-12-90

WITHDRAWN _____

RETURNED TO AGENCY _____

---

4 Rule as adopted (4 copies)

_____ Notice to Solicit Outside Information/Opinion (if applicable)
- _____ Date published in State Register
- _____ Comments

_____ Petition for Adoption of a Rule (if applicable)

_____ Board's Authorizing Resolution
- _____ Date adopted

✓ Proposed Rule
- ✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule 326.241
- 16B.6(a) Statutory Authority
- ✓ Small Business Statement
- ✓ Expenditure of public money statement
- Dec 14, 89 Signature

✓ Statement of Need and Reasonableness (if applicable)
- NA Small Business Statement
- NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- Dec 29, 89 Date 30/25 days before adoption
- _____ Notice attached sent copy of State Reg.
- _____ Copy of rule or summary attached

✓ Publication in State Register
- Jan 2, 90 Date 30/25 days before adoption

_____ 180-day deadline from:
- NA Effective date of law requiring rule (14.12) (both rules) not new
- ✓ end of comment period (§ 14.26) (rules without hearing) Feb 2 - Feb 6
- _____ effective date of statutory authority (§ 14.29) (emergency rules)

~~✓~~ Resolution Adopting
- _____ Date adopted

_____ Findings of Fact, Conclusions & Order Adopting
- Feb 6, 1990 Date

_____ Written requests, submissions or comments — 3 ask Peggy

✓ Declaration of attorney
- Charlene Haberer Name of SAAG representing agency

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

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

3-8-90 called Revisor need them today

Department of Administration

Adopted Permanent Rules Relating to State Building Code

Rules as Adopted

1315.0200 SCOPE.

Subpart 1. **Electrical code.** All new electrical wiring, apparatus, and equipment for electric light, heat, power, and alarm and communication systems must comply with the regulations contained in the 1990 edition of the National Electrical Code (NEC) as approved by the American National Standards Institute (ANSI/NFPA 70-1990), Minnesota Statutes, section 326.243, and the Minnesota State Building Code as promulgated by the commissioner of administration.

'90 JAN -9 P2:

DEPT. OF ADMIN.
BLDG. CODES & STDS. DIV.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 12 1990
Joan Anderson Growe
Secretary of State

11:45

APPROVED AS TO FORM AND LEGALITY
March 5 19 90
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Stat Auth

16B.61

Subject to sections 16B.59 to 16B.73 the commissioner shall by rule establish a code of standards for the construction reconstruction, alteration and repair of State owned buildings

326.241 Board of Electrical

(6) Adopt reasonable rules to carry out its duties under section 326.241 to 326.248 and to provide for the amount and collection of fees for inspection and other services. All rules shall be adopted in accordance with chapter 14.

2010.0300 E (11)

Doesn't state that rule is attached states that the 1990 National Electrical Code is in circulation and the copy may be obtained from the State Board of Electrical - doesn't say free

Ask for comments - states there are comments in Findings of Fact

2-20-90 Elroy Berdahl said there were no comments

2-21-90 Peggy White said Elroy talked to the Electrical Board and the would send an affadavit

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
BUILDING CODES AND STANDARDS DIVISION

In the Matter of the Proposed Adoption of the National Electrical Code 1990 Edition

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Administration, Building Codes and Standards Division in cooperation with the State Board of Electricity 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, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes 16B.61 and 326.241 to 326.248.

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

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdrew their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. If no hearing is requested, the agency will adopt the proposed rule to be effective no sooner than July 1, 1990.

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

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

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

A copy of the proposed rule is available from the Building Codes and Standard Division.

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

Copies of the 1990 National Electrical Code are in general distribution and may be reviewed at the Minnesota Building Codes and Standard Division and obtained from the State Board of Electricity.

You are advised, pursuant to Minnesota Statutes, Section 14.11 "Special Notice of Rulemaking", the adoption of these rules will not have nay impact on agricultural land nor should the expenditure of public money exceed $100,000 in either of the two years following the adoption of these rules. Also, pursuant to Minnesota Statutes, Section 14.115, Subd. 2, the Building Codes and Standards Division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed. The proposed rules do not require businesses so make reports to the requirements for reporting required in items (a), (b) and (c) are not applicable. Compliance requirements of items (a), (b), (c) and (e) are not appropriate because the purpose of rules is to establish a minimum standard for the application and installation of electrical wiring and its associated materials in all public, private, commercial, industrial and residential structures within the State of Minnesota to protect life, limb, health, property, and public welfare of the residents at the least possible cost consistent with recognized standards. Minnesota Statute Section 16B.59 (1984). To exempt small businesses from any or all requirements of the rules would be contrary to statutory obligations that are the basis of the proposed rulemaking, Minnesota Statutes Section 16B.59, 16B.61 and 16B.64. The legislature has specifically mandated that the uniformity of construction standards is in the public interest. Minnesota Statute Section 16B.61 states in part: The code must conform insofar as practicable to model codes generally accepted and in use throughout the United States.

Minnesota Statutes Section 14.115 Subd. 2(d) calls for the establishment of performance standards for small businesses as one method of reducing the adverse impact of rules upon them. The National Electrical Code is based on the application of scientific principles, approved tests and professional judgement; and to the extent practicable are terms or results rather than requiring specific methods and materials.

Since performance standards apply across the board to all entities subject to the code, the methods of reducing the impact of rules provided by Subd. 2(d) has been utilized. No special changes are necessary for small businesses.

Pursuant to MN Stat. 14.115, subd. 4(a) the statements in the preceding three paragraphs constitute the statement of the impact of the rule on small businesses, and the probable qualitative and quantitative effect of its rules.

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

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01 Subdivision 11 as an individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislation or administrative action by communicating or urging others to communicate with public officials; or,

(b) Who spends more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 N. Robert St. , St. Paul, Minnesota 55101, (612) 296-5148.

(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's Office for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit written request to the Building Codes and Standards Division.

Date:
12-14-89

James L. Robinson

Sandra J. Hale, Commissioner
Department of Administration

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

BUILDING CODES & STANDARDS DIVISION

In the Matter of the Proposed Adoption of the Rule of the State Department of Administration Governing the Adoption of the National Electrical Code 1990 Edition	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE, WITHOUT A PUBLIC HEARING

(1) Notice of the Commissioner of Administration's intent to adopt the above-entitled rule was published in the State Register on Tuesday, January 2, 1990 and was sent to all persons of the list maintained by the Building Codes and Standards Division pursuant to Minnesota Statutes, Sections 14.14, subdivision 1a and 14.22 on December 29, 1989. (3) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing and was published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (5) No requests for a public hearing on the rule were received by the Building Codes and Standards Division.

(6) No requests for notice of submission to the attorney general were received by the Building Codes and Standards Division.

(7) Based on the comments and evidence in the record before the Building Codes and Standards Division, I find the following:

(8) The above-captioned rule is needed and reasonable.

NOW, THEREFORE AS (8) ORDERED, that the rule identified as proposed is adopted this 16th day of February, 1990, pursuant to authority vested in me by Minnesota Statutes Section 16B.61.

STATE OF MINNESOTA

(9) James L. Pedersen, Asst. Commr

for SANDRA J. HALE, COMMISSIONER
DEPARTMENT OF ADMINISTRATION

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Administration Department

Building Code & Standards Division

Notice of Solicitation of Outside Information or Opinions Regarding the Proposed Adoption of the 1990 Edition of the National Electrical Code

NOTICE IS HEREBY GIVEN that the State Building Codes and Standards Division is seeking information or opinions from sources outside the agency in preparing to adopt the 1990 Edition of the National Electrical Code as adopted by National Fire Protection Association (NFPA) on May 18, 1989, and released by the STANDARDS COUNCIL July 14, 1989, and approved by the American National Standards Institute on August 7, 1989. The adoption of the rule is authorized by *Minnesota Statutes* section 16B.59 which permits the commissioner of administration to adopt and amend the State Building Code, and section 16B.64 which authorizes the commissioner of administration to hold all state hearings in regard to the State Building Code including rules proposed by another state agency.

The State Building Codes and Standards Division requests information and opinions concerning the subject matter of the rule. This rule is intended to replace the 1987 Edition of the National Electrical Code. The National Electrical Code is administered and enforced by the State Board of Electricity and certain municipalities. Interested persons or groups may submit data or views on the subject matter of concern in writing. Written statements should be addressed to Margaret White, Building Codes and Standards Division, 408 Metro Square Building, St. Paul, Minnesota 55101.

All statements of information and opinions shall be accepted until October 11, 1989. Any written material received by the State Building Codes and Standards Division shall become part of the rulemaking record to be submitted to the attorney general or the administrative law judge in the event the rule is adopted.

Department of Commerce

Notice to Solicit Outside Opinion Regarding Proposed Rules Regarding Currency Exchanges Including the Impact of Rules on Small Business

NOTICE IS HEREBY GIVEN that the Department of Commerce is seeking information or opinions from persons outside the agency to determine whether rules should be adopted in regard to the regulation of currency exchanges pursuant to *Minnesota Statutes*, Chapter 53A and if so what those rules should be. Promulgation of these Rules Regarding Currency Exchanges is authorized by *Minnesota Statutes*, sections 53A.12 and 45.023.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by *Minnesota Statutes* Section 14.115, subdivision 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to:

James G. Miller
Deputy Commissioner
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-2715

Oral statements will be received during regular business hours over the telephone at (612) 296-2715.

All statements of information and comment shall be accepted until October 15, 1989. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Administration

Proposed Permanent Rules Relating to State Building Code

Rules as Proposed

1315.0200 SCOPE.

Subpart 1. **Electrical code.** All new electrical wiring, apparatus, and equipment for electric light, heat, power, and alarm and communication systems must comply with the regulations contained in the ~~1987~~ 1990 edition of the National Electrical Code (NEC) as approved by the American National Standards Institute (ANSI/NFPA ~~70-1987~~ 70-1990), Minnesota Statutes, section 326.243, and the Minnesota State Building Code as promulgated by the commissioner of administration.

Approved by Revisor

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to State Building Code

AGENCY: Department of Administration

MINNESOTA RULES: Chapter 1315

The attached rules are approved for publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
BUILDING CODES AND STANDARDS DIVISION

In the Matter of the Proposed Adoption of the National Electrical Code 1990 Edition

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Statement of Need and Reasonableness

The Minnesota State Building Code Chapter 1300 includes the adoption of current model codes and amendments to these model codes. One of these model codes is the National Electrical Code (ANSI/NFPA 70) copyright National Fire Protection Association, One Battery March Park, Post Office Box 9101, Quincy, Massachusetts 02269-9101, that provides for electrical design and construction. The National Electrical Code is updated and printed every three years.

The Minnesota Electrical Act MN Stats. 326.243 Safety Standards; requires that the "most recently published edition of the National Electrical Codes as approved by the United States of America Standard Institute and the National Electrical Safety Code as issued by the National Bureau of Standards shall be prima facie evidence of accepted standards of construction for safety to life and property...Minnesota building code shall also constitute compliance with the section...." Therefore the new 1990 edition is the most recent edition of the National Electrical Code and must be incorporated in the Minnesota State Building Code. Authorization for building code adoption of the National Electrical Code is provided in MN Stats. Sec. 16B.64.

Adopting the 1990 Edition of the National Electrical Code complies with the intent of MN Stats. Sec. 16B.64 and Sec. 326.243, for the safety of Minnesota citizens.

Date: 12-14-89

Sandra J. Hale, Commissioner
Department of Administration

In the Matter of Proposed
Adoption of the National Electrical
Code 1990 Edition

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Sue Dopkins, being first duly sworn, deposes and says:

That on the 29th day of December, 1989, at the City of St. Paul, County of Ramsey, State of Minnesota, she mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing, by labeling the copy of the State Register, Volume 14, Number 27, dated January 2, 1990 which contained the copy thereof, on all persons and associations who have requested that their names be placed on file with the State Building Codes and Standards Division for the purpose of receiving notice of the proposed adoption of rules by this division.

Sue Dopkins

Subscribed and sworn to before me
this 31st day of January, 1990.

JANICE G. JOHNSON
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
My Comm. Expires Jan. 21, 1996

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of Proposed
Adoption of the National Electrical Code
Code 1990 Edition

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to MN Stat. § 14.14, subd. 1A, that their names be placed on file with and maintained by the State Building Codes and Standards Division for the purpose of receiving notice of the proposed adoption of rules by this division is accurate and complete as of 8:00 a.m., Monday, December 18, 1989.

Margaret A. White

Office of the Revisor of Statutes
Administrative Rules

Craig E. Lindeke
Senior Assistant Revisor
296-0946

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

January 3, 1990

Mr. Alvin Kleinbeck
Department of Administration
Building Codes and Standards
408 Metro Square
7th and Roberts Sts.
St. Paul, MN 55101

RE: File No. 1587

Dear Mr. Kleinbeck:

Enclosed is a stripped copy of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

If your emergency rules or rules adopted without public hearing are adopted without modification, please submit the required number of copies of this document to the Attorney General for final approval. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will then input the changes, approve the document as to form, and provide you with copies to submit to the Attorney General.

If your rules are adopted after public hearing without modification, please submit one copy of this document to our office for final approval as to form. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will input the changes, approve the document as to form, and provide you with copies.

Very truly yours,

Craig

Craig E. Lindeke

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

BUILDING CODE AND STANDARDS DIVISION

In the Matter of the Proposed Adoption of the Rule of the State Department of Administration Governing the Adoption of the National Electrical Code 1990 Edition

DECLARATION OF COUNSEL

I, CHARLENE W. HATCHER, 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 Procedures Act and Minnesota Rules, chapter 2010, have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit client code is 0004.

Charlene W. Hatcher

CHARLENE W. HATCHER
Special Assistant
Attorney General

Dated: February 22, 1990.

SF-00006-03

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT of Administration
BUILDING CODES & STANDARDS

TO: FILE

DATE: 8/15/89

FROM: Elroy Berdahl
Supervisor, Code Consultants

PHONE: 6-9991

RECEIVED

FEB 22 1990

Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

SUBJECT: 1990 NATIONAL ELECTRICAL CODE ADOPTION/COMMENT

I spoke with John Quinn, Executive Director, State Board of Electricity, and it is his recommendation that the Building Codes and Standards Division proceed with the adoption of the 1990 Edition of the National Electrical Code.

EB:p

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT of Administration Building Codes & Standards Division **Office Memorandum**

TO: Charlene Hatcher DATE: 1/26/90

FROM: Alvin Kleinbeck PHONE: 6-4633

SUBJECT: Proposed Code Amendments.

Here is the information we discussed today on our proposed code amendments.

The question concerns the Language that the proposal has that states "--- is amended to read as follows:"

or.

If an existing section of the code is to be deleted and Language is to be substituted in its place should the action desired be stated in the format "---- is deleted and replaced with the following:" ?

Please call me on Wednesday with your answer if possible.

Thks.

AlK

RECEIVED

JAN 29 1990

Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : February 1, 1990

TO : ALVIN KLEINBECK
Code Administrator
Building Code & Standards Division

FROM : CHARLENE W. HATCHER
Special Assistant
Attorney General

PHONE : 296-9422

SUBJECT : Proposed Minnesota State Building Code Rules

This memorandum is written in response to your request of January 26, 1990 for an opinion concerning the interpretation of the proposed modifying language of Minnesota Rules 1346.2215, Section 2215 of the Uniform Mechanical Code. This section of the proposed rules states as follows:

> UMC Appendix B, Section 2215, is amended to read as follows:
>
> Section 2215. In addition to the requirements of this chapter, the facilities and piping for use with liquified petroleum gas must comply with Minnesota Rules, part 7510.3260.

It is our opinion that this modification deletes Section 2215, replacing it with the language stated above in the proposed rules. In support of this position, it was noted that this type of modifying language was used throughout the proposed rules.

CWH:pje

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : February 1, 1990

TO : ALVIN KLEINBECK
Code Administrator
Building Code & Standards Division

FROM : CHARLENE W. HATCHER
Special Assistant
Attorney General

PHONE : 296-9422

SUBJECT : Proposed Minnesota State Building Code Rules

This memorandum is written in response to your request of January 26, 1990 for an opinion concerning the interpretation of the proposed modifying language of Minnesota Rules 1346.2215, Section 2215 of the Uniform Mechanical Code. This section of the proposed rules states as follows:

> UMC Appendix B, Section 2215, is amended to read as follows:
>
> Section 2215. In addition to the requirements of this chapter, the facilities and piping for use with liquified petroleum gas must comply with Minnesota Rules, part 7510.3260.

It is our opinion that this modification deletes Section 2215, replacing it with the language stated above in the proposed rules. In support of this position, it was noted that this type of modifying language was used throughout the proposed rules.

CWH:pje

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : February 1, 1990

TO : ALVIN KLEINBECK
Code Administrator
Building Code & Standards Division

FROM : CHARLENE W. HATCHER
Special Assistant
Attorney General

PHONE : 296-9422

SUBJECT : Proposed Minnesota State Building Code Rules

This memorandum is written in response to your request of January 26, 1990 for an opinion concerning the interpretation of the proposed modifying language of Minnesota Rules 1346.2215, Section 2215 of the Uniform Mechanical Code. This section of the proposed rules states as follows:

> UMC Appendix B, Section 2215, is amended to read as follows:
>
> Section 2215. In addition to the requirements of this chapter, the facilities and piping for use with liquified petroleum gas must comply with Minnesota Rules, part 7510.3260.

It is our opinion that this modification deletes Section 2215, replacing it with the language stated above in the proposed rules. In support of this position, it was noted that this type of modifying language was used throughout the proposed rules.

CWH:pje

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : February 1, 1990

TO : ALVIN KLEINBECK
Code Administrator
Building Code & Standards Division

FROM : CHARLENE W. HATCHER
Special Assistant
Attorney General

PHONE : 296-9422

SUBJECT : Proposed Minnesota State Building Code Rules

This memorandum is written in response to your request of January 26, 1990 for an opinion concerning the interpretation of the proposed modifying language of Minnesota Rules 1346.2215, Section 2215 of the Uniform Mechanical Code. This section of the proposed rules states as follows:

> UMC Appendix B, Section 2215, is amended to read as follows:
>
> Section 2215. In addition to the requirements of this chapter, the facilities and piping for use with liquified petroleum gas must comply with Minnesota Rules, part 7510.3260.

It is our opinion that this modification deletes Section 2215, replacing it with the language stated above in the proposed rules. In support of this position, it was noted that this type of modifying language was used throughout the proposed rules.

CWH:pje

1. If the incorporation is in one part and the amendments are in other parts, be sure the incorporation tells where the amendments are.

Example:

The Uniform Fire Code, 1979 edition, issued by the International Conference of Building Officials and the Western Fire Chiefs Association is incorporated by reference subject to the amendments in parts 1050.0400 to 1050.2000.

2. Put each section of the document being amended in a separate part. Do not combine several sections being amended in one part.

3. Use as part headnote the title of the document being amended and the section number being amended.

4. Represent headnotes in the document being amended with the same words they contain in that document.

5. After the headnote, insert introductory language to suit the situation, as shown in these examples:

Section 2.101 of the Uniform Fire Code is amended to read:

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

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

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

6. Use a complete title, not initials, every time you refer to the document. In the definitions section, define a short form of title of the document. See the example on Second and Later References, page 101.

7. Keep capitalization, punctuation, and reference number style exactly as they are in the incorporated document. Do not change them to conform to the style of Minnesota Rules. You might submit a copy of a few sections of the document so that the revisor's office will have a sample of the document's style.

MN Rules Drafting Manual

5. Aluminum alloy connectors may be used only in interior locations where they shall not be in contact with masonry, plaster or insulation or are not subject to repeated corrosive wettings.

6. The connection of an indoor appliance with any type of gas hose is prohibited, except when used for laboratory or shop equipment or equipment that requires mobility during operation. Such connections shall have the shutoff or stopcock installed at the connection to the building piping. When gas hose is used, it shall be of the minimum practical length, but not to exceed 6 feet, except for hand torches and special mobile equipment, and shall not extend from one room to another nor pass through walls, partitions, ceilings or floors. Gas hose shall not be concealed from view or used in a concealed location. Only listed gas hose shall be used in accordance with its listing. Gas hose shall not be used where it is likely to be subject to temperatures exceeding 125°F., nor shall it be used as a substitute for a standard appliance connector.

7. Outdoor portable appliances may be connected with an approved outdoor hose connector not to exceed 15 feet in length, provided it connects outdoors to approved gas piping including an approved valve at the inlet of the hose connector.

Liquefied Petroleum Gas Facilities and Piping

Sec. 2215. In addition to the requirements of this chapter for gas piping, the facilities and piping for use with liquefied petroleum gas shall meet the following requirements:

Liquefied petroleum gas facilities shall conform to approved standards. Liquefied petroleum gas facilities and their locations shall be approved by the building official and shall conform to state and local fire-prevention regulations.

Where liquefied petroleum gas facilities serve more than one customer through separate piping systems, each system shall be identified in a manner satisfactory to the building official.

Liquefied petroleum gas facilities shall be so placed as to be readily accessible for inspection, reading, testing and shutting off the gas supply. Service piping and main supply shutoff valves shall be outside of the building. Main supply valves shall be of approved type and readily accessible.

Gas piping inlets shall be located with respect to the proposed liquefied petroleum gas facility location in accordance with the requirements of this section.

Liquefied petroleum gas facilities shall not be located in any pit or basement, under show windows or interior stairways, in engine, boiler, heater or electric meter rooms. When not prohibited by another regulation, approved liquefied petroleum gas metering devices may be located in the open under exterior stairways.

Liquefied petroleum gas piping shall not serve appliances located in a pit or basement where heavier-than-air gas might collect to form a flammable mixture.

Pipe-joint compounds used on threaded connections shall be insoluble in liquefied petroleum gas.

Every valve and appurtenance used in liquefied petroleum gas systems shall be designed and approved for use with liquefied petroleum gas.

Discharge from relief valves shall be into open air and shall be not less than 5 feet horizontally away from any opening into a building which is below the discharge.

Leaks

Sec. 2216. Leaks in gas piping shall be located by applying soapy water to the exterior of the piping.

Fire or acid shall not be used to locate or repair leaks, nor shall substances other than air be introduced into the gas piping.

It shall not be permissible to repair defects in gas piping or fittings, but upon having been located, the defective pipe or fitting shall be removed and replaced with sound material.

Interconnections of Gas Piping Systems

Sec. 2217. It shall be unlawful to connect a gas appliance in such a manner that the appliance may receive gas from more than one system of gas piping.

The installation, use or maintenance of a gas valve which makes it possible to turn on, control or otherwise direct the flow of gas from one system of gas piping to another, where the systems are supplied with gas from separate meters, is prohibited, and valves or other interconnection between separate systems of gas piping shall be removed upon order of the building official.

Required Gas Supply

Sec. 2218. (a) **General.** Natural gas regulations and tables are based on the use of gas having a specific gravity of 0.60 supplied at 6 to 8 inches water column pressure at the outlet of the meter. For undiluted liquefied petroleum gas, gas piping may be sized for 2500 Btu per cubic foot at 11 inches water column and specific gravity of 1.52.

Where gas of a different specific gravity is to be delivered, the serving gas supplier should be contacted for conversion factors or revised capacity tables to use in sizing piping systems.

(b) **Determining Volume.** The hourly volume of gas required at each piping outlet shall be taken as not less than the maximum hourly rating as specified by the manufacturer of the appliance or appliances to be connected to each such outlet.

Where the gas appliances to be installed have not been definitely specified, Table No. 22-C may be used to estimate requirements of typical appliances.

To obtain the cubic feet per hour of gas required, divide Btu per hour input of appliances by the average Btu heating value per cubic foot of the gas. The average Btu per cubic foot of the gas in the area of the installation may be obtained from the serving gas supplier.

(c) **Minimum Size.** The size of the supply piping outlet for a gas appliance shall be not less than 1/2 inch.

The minimum size piping outlet for a freestanding gas range or a mobile home shall be 3/4 inch.

Extra copy

TABLE NO. 21-C--CONTROLS AND LIMIT DEVICES FOR AUTOMATIC BOILERS

BOILER GROUP	FUEL	FUEL INPUT RANGE 1 (Inclusive)	TYPE OF PILOT 2	Safety Control Timing (Nominal Maximum Time in Seconds)				ASSURED FUEL SUPPLY CONTROL 4	ASSURED AIR SUPPLY CONTROL 5	LOW FIRE START UP CONTROL 6	PRE-PURGING CONTROL 7	HOT WATER TEMPERATURE AND LOW WATER LIMIT CONTROLS 8	STEAM PRESSURE AND LOW WATER LIMIT CONTROLS 9	APPROVED FUEL SHUTOFF 10	POC 10	CONTROL AND LIMIT DEVICE SYSTEM DESIGN 11
				TRIAL FOR PILOT	Trial For Main Burner Flame		MAIN BURNER FLAME FAILURE 3									
					DIRECT ELECTRIC IGNITION	FLAME PILOT										
A	GAS	0-400,000 BTU/h	Interrupted Intermittent or Continuous	90	Not Allowed	90	90	Not Required	Required	Not Required	Not Required	Required	Required	Required	Not Required	Required
B	Gas	400,001 999,999 BTU/h	Interrupted Intermittent	15	Not Allowed	15	2-4	Hi Gas Required	Required	Not Required	Required	Required	Required	Required	Not Required	Required
C	Gas	1,000,000 2,499,999 BTU/h	Interrupted	15	Not Allowed	15	2-4	Lo/Hi Gas Required	Required	Required	Required	Required	Required	Required	Required	Required
D	Gas	2,500,000 over BTU/h	Interrupted	10	Not Allowed	10	2-4	Lo/Hi Gas Required	Required	Required	Required	Required	Required	Required	Required	Required
E	Oil	0-5 GPM	Any Type	15	90	90	90	Not Required	Required	Not Required	Not Required	Required	Required	Required	Not Required	Required
F	Oil	Over 5 GPM	Interrupted	15	Not Allowed	15	2-4	Required	Required	Not Required	Required	Required	Required	Required	Not Required	Required
G	Oil	7 to 10 GPM	Interrupted	15	Not Allowed	10/15	2-4	Lo - Oil Required	Required	Required	Required	Required	Required	Required	Not Required	Required
H	Oil	Over 10 GPM	Interrupted	15	Not Allowed	10/15	2-4	Lo - Oil Required	Required	Required	Required	Required	Required	Required	Not Required	Required
K	Electric	All	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Required	Required	Not Required	Not Required	Required

STATE OF MINNESOTA

Department of Administration

OFFICE OF THE COMMISSIONER

Architectural Design
Building Code
Building Construction
Contracting
Data Practices
Data Processing
Employee Assistance
Energy Conservation
Fleet Management
Information Management
Inventory Management
Local Government Systems
Management Analysis
Plant Management
Printing & Mailing
Public Documents
Purchasing
Real Estate Management
Records Management
Resource Recycling
State Bookstore
Telecommunications
Volunteer Services

200 Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155
(612) 296-3862

April 12, 1990

William G. Brown
Chief Administrative Law Judge
Administrative Hearings Office
Fifth Floor, Flour Exchange Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415

Re: Proposed Rules 69-0210-4325-1, Mechanical Code, Building Code, Plumbing Code and Elevator Code.

Dear Mr. Brown:

We have examined the report of Steve M. Mihalchick, Administrative Law Judge on the subject matter heard at public hearing on January 22, 1990 relating to the rules proposed for adoption by the Department of Administration, Building Codes and Standards Division.

With this correspondence, we are indicating the action we choose to take and believe that such action is in keeping with the legal prerogatives that we have in the adoption of the rules.

Our response will be in concert with the findings of fact sections of the rules.

Mechanical Code.

13. We will add the suggested statement to bring the proposal in keeping with Minnesota Statute 14.07, subd., 4(a).

Rule 1346.0710 Roof Access

16. We have deliberated on this item and have determined that we would let Rule 1305.1750 stand as is presently in the State Building Code. To do this we will withdraw it from the repealer section.

In making this concession, we believe it is necessary to

modify proposed rule 1346.0710, Roof Access, with the following amendment,

MUMC Section 710(h) is amended to read as follows:

(h) Access.
1. Every furnace installed in or on an exterior wall of a building, which is designed so that the burners or controls must be serviced from the outside of the building, ~~[shall]~~ must be ~~[readily]~~ accessible.

2. Mechanical equipment installed on the roof of a building must be provided with access as required by the State Building Code, Rule 1305.1750.

The balance of UMC Section 710(h) would be deleted.

Regarding the exceptions to UBC Section 3306(a) and (g) we believe that they do not conflict with the access permission of Rule 1305.1750 because they are addressing different applications. We believe that the exceptions to UBC 3306 would be exceptions to a complying stairway designed and constructed to the requirements of the section. Because of this position, we see no need to delete the exceptions.

19. Rule 1346.2127 Steam, Liquid, and Piping Systems. We have reconsidered the issue and are opting to leave the language of the UMC unamended at Sections 2127, 2(A)(1) and section 2127, 3, as proposed. Therefore, the end result will be as published in the UMC unamended at Sections 2127, 2(A)(1) and section 2127, 3, as proposed. Therefore, the end result will be as published in the UMC and not amended as originally proposed.

21. Rule 1346.2215 Liquified Petroleum Gas Facilities Piping.

The Division agreed with the proposal offered by the Minnesota Propane Gas Association at the hearing and will include the proposal in the adoption of the UMC rules. This proposal eliminates the sixth and seventh paragraph of the UMC language in Section 2215 and adds a paragraph that reflects that the Liquified petroleum Gas installation is also regulated by the Minnesota Uniform Fire Code.

We concur with the Administrative law Judges findings on items, 14, 15, 17, 18, and 20 and thus have not commented on the items.

Building Code

13. Rule 1301.0200 Building Official Certification. We appreciate the concerns of those who desire that the "Class I" certification remain in place, however, we have chosen to

delete it because it was originally created to fill a need following a statutory provision establishing a statewide building code enforcement program in 1978. Unfortunately, in the legislative session of 1979 that statute was repealed and statewide building code enforcement has not taken place. The "Class I" classification was established to allow small communities, township or counties to employ an individual with limited construction knowledge to administer the code in its application to evaluate and inspect one and two family dwellings and their associated structures. This "Class I" Classification has never been intended to be a position used as a stepping stone for an inspector to be employed as a trainee and move up through various positions that a community may establish.

Current Statute 16B.65 requires only the person appointed to administer the building code in a municipality be certified by the current certification process to provide a full spectrum evaluation and inspection administration for all types of structures within the scope of the code. A person so certified to perform that function has met the criteria for a "Class II" Certification or possesses a previously granted state certification other than Class I.

We feel that there is no longer a need for the "Class I" certification program and have proposed the new process for an individual to become certified.

Cities that have created a scheme of employment that requires all of the people that do code enforcement or use it as a stepping stone for new employees have done this of their own volition and not as a requirement of the statute on certification.

We desire to allow the proposed rule 1301.0200 to stand as published in the State Register.

14. Rule 1301.0300 Certification Prerequirements.

The new prerequisites proposed for certification are deemed to be necessary to allow the applicant to demonstrate that he/she has a knowledge of the codes, their application, and administration. The requirement for a person to demonstrate proficiency in code knowledge by passing a nationally prepared test in building code inspection and application matters will provide for a better prepared cadre' of personnel to be available for hire by municipalities.

The Building Inspection Technology program that is established through the community college system, currently being offered at North Hennepin Community College and Inver Hills Community Colleges, was developed to provide a program of advanced training in code technologies for those who desire such

training.

In the early days of the program development courses were offered at satellite locations around the state so that more people could be reached. Costs and the availability of instructors knowledgeable in the program has currently reduced it to the metropolitan area.

We believe that the prerequisites established in Rule 1301.0300 A to E are reasonable and necessary because they should reveal that a person desiring certification will demonstrate knowledge in the codes and rules that he/she would be required to administer.

The suggestion was offered that the prerequisites be expanded to include those who have a degree in architecture, engineering, or five years experience as a contractor, in lieu of the community college certificate or associate of applied science degree from a community college.

You ask that we consider this proposal in our deliberation and to that we offer the following information as we know it.

Presently the University of Minnesota School of Architecture and Engineering do not offer courses that are directly teaching building code requirements. The School of Interior Design has a three credit hour course taught by current building officials as part of their extension school. There is no schooling for a contractor apart from the vocational schools limited application in construction techniques and trade schools to meet certain union qualifications.

On the other hand, the certificate in Building Inspection Technologies offered through the community college, requires a minimum of 40 credit hours of class work directly relates to building code application and the Associate of Applied Science Degree in Building Inspection Technologies requires a minimum of 43 credit hours in courses directly related to building code application.

Based on the forgiving information it is our desire to leave the proposed Rule 1301.0300 stand as published.

15. Rule 1301.0100 Adoption of the Uniform Building Code by Reference. We will incorporate the recommended language to bring this proposed in line with Minnesota Stats. Chapter 14.

17. Rule 1305.1750 Roof Access. We will honor the desires of those who wish this rule to be retained instead of having it repealed. The response made to the Mechanical Code Report in respect to UMC item 16 is also applicable to this section regarding UBC 3306 (a) and (g)., therefore, we will not repeat the comment here.

We appreciate the findings of concurrence with the other comments in items 16, 18, 19, 20, and 21.

Plumbing Code

14. Rule 4715.0810 Plastic Joints.

The department will include the requirement that the primer to be used in the plastic joint solvent weld will accept primer meeting the National Sanitation Foundation Standard #14 requirements.

16. Rule 4715.2100 Blackflow Preventers and proposed Rules 4715.2110 Types of Division Where an Air Gap Cannot Be Provided.

The Department of Health has reviewed Finding 16 pertaining to proposed amendments to the Minnesota Plumbing Code and understands it to take exception to the requirement of backflow preventers on class 1- and 2- type fire sprinkler systems. To remedy this defect, the Department proposes to modify part 4715.2100 by adding the footnote, "Installations must comply with AWWA-M14, section 6.3,1966."

The department believes the modifications would address concerns presented at the hearing and in written comments, but still allow the plumbing code to clarify the cross-connection control issue with respect to fire sprinkler systems. The department prefers the proposed modification to the deletion of the phrase "fire sprinkler system," because deletion of the phrase would still leave a gray area for designers and enforcement jurisdictions. The need for the proposed amendments to part 4715.2100 was to provide clarification and eleminate inconsistent administration of the standard.

Adoption of AWWA-M14 standard was initially proposed during the hearing and comment period by representatives of the fire sprinkler industry. Adoption of this standard should therefore alleviate their concerns. With the proposed modification, the code would generally not require a backflow preventer in class 1- or 2- type systems. Backflow devices would be required in class 3- through 6- type systems. The American Water Works Association Manual M14, 1966 is already part of the hearing record. The American Water Works Association (AWWA) is listed in part 4715.0420 as a standards setting organization which may have standards referenced in the code. Part 4715.2100 would thus be modified as follows.

4715.2100 TYPES OF DEVICES REQUIRED WHERE AN AIR GAP CANNOT BE PROVIDED. *1

		RPZ	DCV IAV	DCVA	PVB	AVB	Hose VB
					Only allowed where no back back pressure is possible.		
A.	Boiler commercial	X					
B.	Boiler, residential (R-3 occupancy)	X	X				
C.	Car wash	X		X	X		
D.	Carbonated beverage machine (post-mix) (see part 4715.2163)		X				
E.	Chemical line	X					
F.	Chemical tank	X		X	X		
G.	Chiller	X					
H.	Cooling tower	X	X		X	X	
I.	Dental units	X	X		X	X	
J.	Dishwasher, commercial				X	X	
K.	Fire sprinkler system *2	X	X	X			
L.	Flush tank (water closet, urinal, similar) (see part 4715.2150)	X	X	X	X		
M.	Flush valve (water closet, urinal similar) (see part 4715.2150)	X			X	X	
N.	Food and beverage equipment or system	X	X	X	X	X	
O.	Garbage can washer	X			X	X	
P.	Glycol or other antifreeze system	X					
Q.	Lab equipment	X					
R.	Lab faucet					X	
S.	Laundry machine, commercial	X	X		X	X	
T.	Lawn, garden or greenhouse sprinkler system	X			X	X	
U.	Operating, dissection, embalming or mortuary table (see part 4715.1950)	X			X	X	
V.	Private potable water supply (where permitted by administrative authority.)	X	X	X			
W.	Private nonpotable water supply (w.p.h.a.a.)	X					
X.	Process line	X	X				
Y.	Process tank	X			X	X	
Z.	RV dump station	X	X		X	X	
AA.	Sewage treatment	X		X	X		
BB.	Soap treatment	X	X		X	X	
CC.	Swimming pool, fountain, pond, baptistery, aquarium or similar	X	X		X	X	X
DD.	Threaded hose connections, including: hose bibbs, hydrants, service sinks, laundry trays						X
EE.	Truck fill	X		X	X		
FF.	Vacuum systems or aspirators	X		X	X		

1. For installations not listed above, review with the Administrative Authority.
2. Installations must comply with AWWA-M14, section 6.3, 1966.

Along with the modification proposed above, the Department also proposes to withdraw the modification proposed in response to comment that the fire sprinkler provision in part 4715.2100 apply to "new or total replacement installations only." Since part 4715.210, as modified, would no longer require a backflow preventer for a "standard" type system with mostly aesthetic concerns regarding water quality (class 1- and 2- type systems), it is thus appropriate to allow the Administrative Authority to invoke the provisions of part 4715.0340, subpart 1, for those systems which pose serious health concerns such as the use of glycol or other chemicals in the system, or fire sprinkler systems which include pumping of grossly contaminated water, "light water" or foaming chemicals into the system, even for an existing system. For example, the ability to invoke part 4715.0340, subpart 1 is necessary to prevent situations which would add a glycol loop on an existing system without adding a backflow preventer. This approach is reasonable because it provides for adoption of a nationally recognized standard which is acceptable to the industry while still allowing the administrative authority the latitude to address serious concerns in new, altered or existing systems.

The department does not believe the proposed modifications to Finding 16 to be substantial.

Again we appreciate the concurrence expressed by the Administrative Law Judge in relation to the other listed items 13, 15, 17, 18, and 19.

Elevator Code.

14. Rule 1305.5103 AWSI Code Adopted by Reference. At this point in time we do not propose to adopt ASME/ANSI - A17.1b-1989 because it will not become effective on the national application basis until May 31, 1990.

The Elevator Code Advisory Committee also wishes to review it before it is considered for adoption. It will be reconsidered in the future when it has had it's study and is officially accepted.

We would like to include the existing requirements, that were suggested as errata to Rule 1305.5112 Amendments to ANSI A17.1 -1987, in the location of Rule 1305.5103 ANSI Code Adopted by Reference. These were previously listed in Rule 1320.0600 as Subparts 3,4,5, and 9. We feel it is appropriate to locate them in this section by making the general statement as Subpart 1 and the four subjects as subparts 2,3,4, and 5 to this section. These are general requirements that would be applicable to the various locations and we feel it would be

sufficient to make it a general application than to inadvertently omit some area where it would be listed specifically.

We have experienced no problem of enforcement as it is currently listed in Rule 1320.0600. We do not feel that this change is substantive and would keep the rules as we are currently accustomed to in their application.

15. Rule 1305.5104 - Definition. We will include the recommended language "by local government" in the appropriate location.

20. Rule 1305.5112 Amendments to ANSI A17.1-1987 We will agree to accept the proposed recommendations offered by Mr. Berg, Director of Code Enforcement, Department of Labor and Industry and the fire service personnel that met to resolve issued of the sprinkler application in lieu of automatic disconnection of primary power to the elevator in the amendment to ANSI A17.1 Rule 102.2 and the amendment to ANSI A17.1 Rule 211.3d regarding the location of a lock box which would house the keys to be used in case of an emergency as well as the selection of the type of key to be used to unlock the box. The selection of these items to be the responsibility of the local fire chief rather than by the jurisdiction having authority as used generally in the code.

22. Proposed Rule 1305.5113-Inclined and Vertical Wheelchair Lifts. Proposed rule 1305.5113 contains the same requirements as existing rule 1320.2001, ANSI A17.1, Rule 2001. It is a proposed rule only for the purpose of rule relocation (re-numbering).

Administrative Rule Chapter 1340 contains the requirements for facilities for the handicapped. Proposed Rules 1305.5101 to 1305.5118 (Existing Rules Chapter 1320) contain the requirements for elevators and related devices. One deals with accessibility features the other with equipment design and safety.

Chapter 1340 specifies that when access is "required" it shall be by "ramp" or "elevator." (Initial Adoption 11-18-75). The Department of Administration promulgated standards for wheelchair lifts as a result of legislative testimony requesting their use (Initial Adoption 9-9-80). The permitted use of wheelchair lifts was (and is) limited to existing buildings where the owner chose to provide "limited access" as compared to "required access" (Chapter 1340). Wheelchair lifts can also be utilized to access levels of a building that are not "required" to be accessible via Chapter 1340. The inclusion in the rule of "Wheelchair lifts do not meet the

accessibility requirements contained in Chapter 1340." was deemed necessary because of the limitations imposed on their use.

Wheelchair lifts do not provide barrier-free access to disabled persons because of the requirement for key or attendant operation (ASME/ANSI A 17.1, Rules 2000.10a, 2000.10b, 2001.10a and 2001.10b). Elevators and ramps do not require keys or attendants and do provide barrier-free/equal access to disabled persons. Note: The last sentence of 16B.61, Subd.5(g) States: "Compliance with this provision by itself does not mean other handicapped accessibility requirements have been met."

Individuals representing the interests of disabled persons contacted the Department of Administration regarding these proposed rules and were informed that the proposed rules did not include any changes to access issues.

The Department has published a "notice to solicit outside opinion regarding proposed amendments to... Chapter 1340..." (State Register 14S.R.2133, 2-26-90). The department deems that the rule change process associated with Chapter 1340 is the appropriate time to evaluate issues involving access.

The Department views the unlimited use of wheelchair lifts as a substantial change to the rules in existence and as proposed and is in opposition to the ALJ recommended change.

The provision for requiring a guardrail separating an inclined wheelchair lift from a stairway or ramp was included at the request of the elevator industry, building officials and fire officials. This inclusion serves to qualify how "egress is maintained" (Initial adoption 2-9-87). Both the building code and the fire code state that exits must be unobstructed and maintain the minimum widths required. The guardrail accomplishes this and serves to limit the potential for personal injury of persons using the stairways, ramps and wheelchair lifts (see enclosed letter from Dept. of Labor and Industry dated April 12, 1990).

Minn. Stat. 16B.61, Subd. 5(g) (Supp. 1989) resulted from a proposal that originally included the permitted use of inclined stairway chairlifts. The proponent also sought to eliminate the guardrail requirement by specifying a light or sound signaling device and requiring the bright color marking on the ramp or stairway. Chairlifts were deleted from the proposal as a direct result of testimony from access advocates opposed to the use of the devices. The Department of Administration did not oppose the bill as modified because it had application only to "Public Buildings" (Minn., Stat. 16B,

60, Subd. 6 - Supp. 1989) which are state buildings. The state, as the owner, will not permit the use of an inclined wheelchair lift without a guardrail because of the potential for personal injury and resultant liability. Additionally the "light or sound signalling device" brings into question a human rights issue dealing with the dignity of disabled persons using the device as well as their rights to equal access.

The department wishes to retain the requirements of Rule 1305.5113, ANSI A17.1, Rule 2001.1a as proposed and eliminate the statutory conflict by adding to the proposed rule, second paragraph, second sentence:

".. except as provided by Minn. Stat. 16B.61, Subd. 5(g).

The Department of Administration, Building Code Division, believes that the foregoing response is in keeping with our legal responsibility in the promulgation of rules and will proceed with having the revisors office make the necessary changes as approved so that the rules as adopted may be published in the State Register.

Thank you for your deliberation on our behalf.

Yours truly,

Sandra J. Hale

Sandra J. Hale
Commissioner of Administration

SH:AK:ME

enclosures

cc: Milton Bellin
Elroy Berdahl
B. James Berg
Richard Brooks
Charlotte Hatcher
Al Kleinbeck
Steve Mihalchick

Minnesota
Department of Labor and Industry

443 Lafayette Road
St. Paul, Minnesota 55155
(612) 296-6107
Telecommunication Device for the Deaf (612) 297-4198
FAX (612) 297-1329

RB
RH ✓
EB
TJ
PW
ROUTE TO STAFF
REVIEW & SEE ME
TAKE ACTION
FILE

April 12, 1990

The Honorable Steve M. Mihalchick, Administrative Law Judge
Administrative Hearings Office
5th Floor, Flour Exchange Building
310 4th Avenue South
Minneapolis, Minnesota 55415

RE: 69-0210-4325-1 (Elevator Code)

The Department of Labor and Industry has reviewed, and concurs with, the Report of the Administrative Law Judge on the proposed Elevator Rules with the following exception.

Proposed Rule 1305.5113 -- Inclined and Vertical Wheelchair Lifts. Finding 22.

The Administrative Law Judge found the proposed rule to be inconsistent with the language of M.S. 16B.61, Subdivision 5(g) (1989 Supplement). The Department of Labor and Industry does not dispute this point. However, the Department believes the proposed rule is reasonable and necessary as the requirements of M.S. 16B.61, Subdivision 5(g) (1989 Supplement) create a public hazard for both employees, and the general public, at the site of installation of inclined, and in some cases vertical, wheelchair lifts.

The law, while well-intentioned in intending to allow the retro-fitting of buildings for handicapped access that did not require accessibility at the time of construction, could not have intended the creation of a safety hazard.

Vertical wheelchair lifts generally travel in an enclosed space. This reduces the likelihood of the creation of possible "pinch points" where it may be possible for a person to get a hand or foot caught between the lifting device and stairs, walls or other fixed hazards.

However, inclined wheelchair lifts operating on a common stairway or ramp with pedestrian traffic, with only sound and visual warnings, create possible "pinch point" hazards for anyone next to the traveling unit. The point between the unit undercarriage and the point of the stair riser and tread creates a "pinchpoint", as does the close space between the under carriage and a ramp. Visual and audible warnings are acceptable for knowledgeable employees, but do not provide adequate protection for mobility, hearing or visually handicapped persons who may need to be walking on the common stairway while the unit is in use.

Celebrate

An Equal Opportunity Employer

The American Society of Mechanical Engineers/American National Standards Institute (ASME/ANSI) A17.1 Safety Code for Elevators and Escalators Rule 2000.1a(1) states:

> The runway shall be guarded by a solid enclosure extending from the lower landing to a height of at least 42 in. above the upper landing.

Occupational Safety and Health Standards 29 CFR 1910.212 states in part that:

> One or more methods of machine guarding shall be provided to protect the operator and other employees...from hazards such as those created by ...nip points....

The 42 inch barrier creates such a guarding from a nip or pinch point.

The Occupational Safety and Health Administration, U.S. Department of Labor, is limited in its authority to provide protection from hazards to employees. The ASME/ANSI A17.1 Committee is concerned with safety standards for elevators and escalators in public and non-public facilities. This committee is compromised of experts in the field of elevator construction and safety and includes manufacturers, engineers, specialized consultants in the field, and inspection authority representatives among its membership.

Based on the above, it is the position of the Department of Labor and Industry that the portion of Proposed Rule 1305.5113 that adopts the existing ASME/ANSI Rule 2000.1a(1) should be adopted as needed and reasonable.

Sincerely,

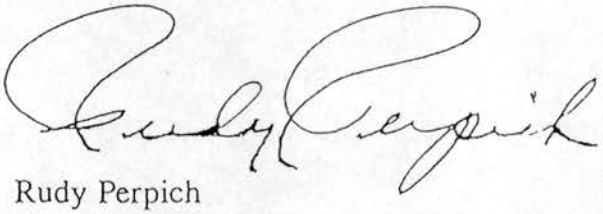
B. James Berg, Director
Code Enforcement

cc: Building Code and Standards Division
Department of Administration
Linda Finney, Assistant Commissioner

Executive Order 88-7 is rescinded.

Pursuant to *Minnesota Statutes 1988*, Section 4.035, Subdivision 2, this Order shall be effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State, and shall remain in effect until rescinded by proper authority or it expires in accordance with *Minnesota Statutes 1988*, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I have set my hand this 20th day of February, 1990.



Rudy Perpich
Governor

Official Notices

Pursuant to the provisions of Minnesota Statutes §14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Administration

Building Codes & Standards Division

Notice to Solicit Outside Opinion Regarding Proposed Amendments to Minnesota State Building Code, Chapter 1340, Facilities for the Handicapped

NOTICE IS HEREBY GIVEN that the State Building Codes and Standards Division is seeking information or opinions from sources outside the agency in preparing to amend the current rules relating to facilities for the handicapped. The adoption of the rule is authorized by *Minnesota Statutes* section 16B.59 which permits the commissioner of administration to adopt and amend the State Building Code, and section 16B.64 which authorizes the commissioner of administration to hold all state hearings in regard to the State Building Code including rules proposed by another state agency.

The State Building Codes and Standards Division requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing. Written statements should be addressed to Margaret White, Building Codes and Standards Division, 408 Metro Square Building, St. Paul, Minnesota 55101.

All statements of information and opinions shall be accepted until July 2, 1990. Any written material received by the State Building Codes and Standards Division shall become part of the rulemaking record to be submitted to the attorney general or the administrative law judge in the event the rule is adopted.

Minnesota State Arts Board

Notice of Board Meeting

A meeting of the Minnesota State Arts Board will take place at 10:00 a.m. on Thursday, March 1, 1990 at the Arts Board offices, 432 Summit Avenue in Saint Paul. The public is invited to attend. Open meeting law guidelines will be in effect.

Agenda items will include recommendations on Artist Assistance Fellowship grants for Music and Dance. For information on this meeting or other programs, contact the Arts Board at 432 Summit Avenue, Saint Paul, MN 55102, (612) 297-2603 or toll-free from greater Minnesota at (800) 652-9747.

VERTICAL WHEELCHAIR LIFTS

the car after it travels past the normal terminal stopping device and before striking an obstruction. A slack-rope device conforming to the requirements of Rule 210.2(a) may be used as the final lower terminal stopping device.

(c) If the driving machine is of the winding drum or sprocket and chain suspension type, a final terminal stopping device operated by the driving machine shall also be provided.

(d) The final terminal stopping device shall prevent movement of the car in both directions of travel. The normal and final terminal stopping devices shall not control the same switches on the controller unless two or more separate and independent switches are provided, and two of which shall be closed to complete the motor and brake circuit in each direction of travel.

(e) Final terminal stopping devices are not required where the limitations of the machine or runway limit the travel of the car (e.g., a direct-plunger hydraulic, or a platform at rest on the bottom terminal landing).

Rule 2000.10 Operating Devices and Control Equipment

2000.10a Key Operation. Operation of the car from the upper or lower landing and from the car shall be controlled by a key. The key-operated control shall be operated by a lock having a five-pin or five-disk combination with the key removable only in the "off" position. A key-operated switch shall be provided at each station which will allow a control switch at that station to become effective only when the key is in the "on" position. "Up" and "down" control switches at all stations shall be by means of a continuous pressure device. Controls shall be in accordance with the requirements of ANSI A117.1. Operating devices shall be designed so that both the "up" and "down" circuits cannot be operated at the same time.

2000.10b Attendant Operation

(1) Where applicable, and where approved by the authority having jurisdiction, the lift may be attendant-operated. The attendant shall be summoned by means of a clearly labeled attendant-call device located at each landing.

[85a] *(2)* The attendant shall operate the lift by means of a continuous-pressure switch so located that the attendant has full view of the floor area under the lift and full view of the lift throughout its travel. A manually reset emergency stop switch shall also be provided at that location.

(3) No controls, other than an emergency stop switch, shall be provided in the car.

2000.10c Control and Operating Circuit Requirements. The design and installation of the control and operating circuits shall conform to the following.

(1) Control systems which depend on the completion or maintenance of an electric circuit shall not be used for:

(a) interruption of the power and application of the machine brake at terminal landings;

(b) stopping the machine when the safety applies.

(2) If springs are used to actuate switches, contactors, or relays to break the circuit to stop the lift at the terminal landings, they shall be of the restrained compression type.

(3) The failure of any single magnetically operated switch, relay, or contactor to release in the intended manner, or the occurrence of a single accidental ground shall not permit the car to start if the runway door or car door or gate is not in the closed position. It shall not permit the platform to move more than 2 in. (51 mm) away from a landing sill with the entrance door unlocked.

2000.10d Motor Reversal Protection. Where a noninstantaneous reversible motor is used, a protective circuit or device shall be provided to prevent the motor from continuing in the same direction if the reversing control is activated.

2000.10e Phase Reversal and Failure Protection. If a polyphase alternating current power supply is used, phase reversal and failure protection shall be provided in accordance with Rule 210.6.

2000.10f Emergency Stop Switch. An emergency stop switch conforming to Rule 210.2(e) shall be provided in the car.

2000.10g Slack-Rope and Slack-Chain Devices for Winding Drum and Roller-Chain-Type Driving Machines. Winding drum driving machines with rope suspension shall be provided with a slack-rope device of the manually reset type that will remove power from the motor and brake if the car is obstructed in its descent and the suspension ropes slacken.

Lifts with roller chain suspension means shall be provided with a slack-chain device which will remove power from the motor and brake if the car is obstructed in its descent and the suspension means slacken. This device is not required to be of the manually reset type if the chain sprockets are guarded to prevent the chain from becoming disengaged from the sprockets.

2000.10h Release and Application of Driving-Machine Brake. [85b] Driving-machine brakes shall not be electrically released until power has been applied to the driving-machine motor. All power feed lines to the brake shall be opened and the brake shall apply automatically when:

VERTICAL WHEELCHAIR LIFTS

motor and the brake shall be provided, except as specified in Rule 2000.9(g). They shall be set to stop the car after it travels past the normal terminal stopping device and before striking an obstruction. A slack-rope device conforming to the requirements of Rule 210.2(a) may be used as the lower final terminal stopping device.

(d) Final terminal stopping devices shall conform to the requirements of Rules 209.3a(1) and (3).

(e) If the driving machine is of the winding drum or sprocket and chain suspension type, a final terminal stopping device operated by the driving machine shall also be provided.

(f) The final terminal stopping device shall conform to the requirements of Rule 209.3d.

(g) Final terminal stopping devices are not required for direct plunger hydraulic driving machines. Lower final terminal stopping devices are not required where the limitations of the machine or runway limit the travel of the car (e.g., a platform at rest on the bottom terminal landing).

Rule 2000.10 Operating Devices and Control Equipment

2000.10a Key Operation. Operation of the car from the upper or lower landing and from the car shall be controlled by a key. The key-operated control shall be operated by a lock having a five-pin or five-disk combination with the key removable only in the "off" position. A key-operated switch shall be provided at each station which will allow a control switch at that station to become effective only when the key is in the "on" position. "Up" and "down" control switches at all stations shall be by means of a continuous pressure device. Controls shall be in accordance with the requirements of ANSI A117.1. Operating devices shall be designed so that both the "up" and "down" circuits cannot be operated at the same time.

2000.10b Attendant Operation

(1) Where applicable, and where approved by the authority having jurisdiction, the lift may be attendant-operated. The attendant shall be summoned by means of a clearly labeled attendant-call device located at each landing.

[85a] *(2)* The attendant shall operate the lift by means of a continuous-pressure switch so located that the attendant has full view of the floor area under the lift and full view of the lift throughout its travel. A manually reset emergency stop switch shall also be provided at that location.

(3) No controls, other than an emergency stop switch, shall be provided in the car.

2000.10c Control and Operating Circuit Requirements. The design and installation of the control and operating circuits shall conform to the following.

(1) Control systems which depend on the completion or maintenance of an electric circuit shall not be used for:

(a) interruption of the power and application of the machine brake at terminal landings;

(b) stopping the machine when the safety applies.

(2) If springs are used to actuate switches, contactors, or relays to break the circuit to stop the lift at the terminal landings, they shall be of the restrained compression type.

(3) The failure of any single magnetically operated switch, relay, or contactor to release in the intended manner, or the occurrence of a single accidental ground shall not permit the car to start if the runway door or car door or gate is not in the closed position. It shall not permit the platform to move more than 2 in. (51 mm) away from a landing sill with the entrance door unlocked.

2000.10d Motor Reversal Protection. Where a noninstantaneous reversible motor is used, a protective circuit or device shall be provided to prevent the motor from continuing in the same direction if the reversing control is activated.

2000.10e Phase Reversal and Failure Protection. If a polyphase alternating current power supply is used, phase reversal and failure protection shall be provided in accordance with Rule 210.6.

2000.10f Emergency Stop Switch. An emergency stop switch conforming to Rule 210.2(e) shall be provided in the car.

2000.10g Slack-Rope and Slack-Chain Devices for Winding Drum and Roller-Chain-Type Driving Machines. Winding drum driving machines with rope suspension shall be provided with a slack-rope device of the manually reset type that will remove power from the motor and brake if the car is obstructed in its descent and the suspension ropes slacken.

Lifts with roller chain suspension means shall be provided with a slack-chain device which will remove power from the motor and brake if the car is obstructed in its descent and the suspension means slacken. This device is not required to be of the manually reset type if the chain sprockets are guarded to prevent the chain from becoming disengaged from the sprockets.

2000.10h Release and Application of Driving-Machine Brake. Driving-machine brakes shall not be electrically released until power has been applied to the driving-machine motor. All power feed lines to the brake shall be opened and the brake shall apply automatically when: [85b]

INCLINED WHEELCHAIR LIFTS

name. Letters and numerals shall be not less than ¼ in. (6.4 mm) in height.

[ED] **Rule 2001.8 Safeties and Speed Governors**

All platforms shall be provided with a safety, except platforms of direct-plunger hydraulic lifts. The safety shall be of the inertia or other approved type operated by the breakage or slackening of the suspension means or by the action of a speed governor. If of the speed governor type, the governor shall operate the safety at a maximum speed of 75 ft/min (0.38 m/s). On the breakage or slackening of the suspension means, the safety shall operate without delay and independently of the speed governor action. A slack-rope or chain device shall be provided which will remove the power from the motor and brake if the hoisting rope or chain fails or slackens.

Safeties shall conform to Rule 205.12 except that the rope used as a connection from the safety to the governor rope may be ⅛ in. (3.2 mm) steel aircraft cable in lieu of ⅜ in. (9.5 mm) diameter rope specified in Rule 205.12.

[ED] **Rule 2001.9 Terminal Stopping Devices**

(a) Upper and lower normal terminal stopping devices operated by the platform shall be provided, and shall be set to stop the car at or near the upper and lower terminal landings.

(b) Upper and lower final terminal stopping devices operated by the platform to remove power from the motor and the brake shall be provided, except as specified in Rule 2001.9(e). They shall be set to stop the car after it travels past the normal terminal stopping device and before striking an obstruction. A slack-rope device conforming to the requirements of Rule 210.2(a) may be used as the lower final terminal stopping device.

(c) If the driving machine is of the winding drum or sprocket and chain suspension type, a final terminal stopping device operated by the driving machine shall also be provided.

(d) The final terminal stopping device shall prevent movement of the car in both directions of travel. The normal and final terminal stopping devices shall not control the same switches on the controller unless two or more separate and independent switches are provided, and two of which shall be closed to complete the motor and brake circuit in each direction of travel.

(e) Final terminal stopping devices are not required where the limitations of the machine or runway limit the travel of the platform (e.g., a direct-plunger hydraulic, or a platform at rest on the bottom terminal floor).

Rule 2001.10 Operating Devices and Control Equipment

2001.10a Key Operation. Operation of the platform from the upper or lower landing and from the platform shall be controlled by a key. The key-operated control shall be operated by a cylinder-type lock having a five-pin or five-disk combination with the key removable only from the "off" position. A key-operated switch shall be provided at each station which will allow a control switch at that station to become effective only when the key is in the "on" position. "Up" and "down" control switches at all stations shall be by means of a continuous-pressure device. Controls shall be in accordance with the requirements of A117.1. Operating devices shall be designed so that both the "up" and "down" circuits cannot be operated at the same time.

2001.10b Attendant Operation

(1) Where applicable, and where approved by the authority having jurisdiction, the lift may be attendant-operated. The attendant shall be summoned by means of clearly labeled attendant call stations placed at each landing.

(2) The attendant shall operate the lift by means of a continuous-pressure switch located in a control box on the free end of a detachable, flexible cord not more than 5 ft (1524 mm) in length. A manually reset emergency stop switch shall also be provided in the control box.

(3) No controls, other than an emergency stop switch, shall be provided on the lift.

(4) Where the equipment operates on a straight flight of stairs, and where the platform is within sight during its entire travel, provisions may be made for the attendant to operate the unit from the top or bottom of the stairs.

2001.10c Control and Operating Circuit Requirements. The design and installation of the control and operating circuits shall conform to the following.

(1) Control systems which depend on the completion or maintenance of an electric circuit shall not be used for:

(a) interruption of the power and application of the machine brake at terminal landings;

(b) stopping the machine when the safety applies.

(2) If springs are used to actuate switches, contactors, or relays to break the circuit to stop the lift at the terminal landing, they shall be of the restrained compression type.

(3) The failure of any single magnetically operated switch, relay, or contactor to release in the intended manner, or the occurrence of a single accidental ground shall not permit the car to start if the runway door or platform door or gate is not in the closed position. It shall not permit the platform to move more

INCLUDED WHEELCHAIR LIFTS

2001.7d Data Plates. A data plate shall be provided by the manufacturer and securely fastened in a conspicuous place. The plate shall state the rated speed, rated load, weight of car, suspension or support means, date of manufacture, and manufacturer's name. Letters and numerals shall be not less than ¼ in. (6.4 mm) in height.

Rule 2001.8 Safeties and Speed Governors

All platforms shall be provided with a safety, except platforms of direct-plunger hydraulic lifts. The safety shall be of the inertia or other approved type operated by the breakage or slackening of the suspension means or by the action of a speed governor. If of the speed governor type, the governor shall operate the safety at a maximum speed of 75 ft/min (0.38 m/s). On the breakage or slackening of the suspension means, the safety shall operate without delay and independently of the speed governor action. A slack-rope or chain device shall be provided which will remove the power from the motor and brake if the hoisting rope or chain fails or slackens.

Safeties shall conform to Rule 205.12 except that the rope used as a connection from the safety to the governor rope may be ⅛ in. (3.2 mm) steel aircraft cable in lieu of ⅜ in. (9.5 mm) diameter rope specified in Rule 205.12.

[88a] **Rule 2001.9 Terminal Stopping Devices**

(a) Terminal stopping devices shall conform to the requirements of Rule 209.1.

(b) Upper and lower normal terminal stopping devices operated by the car shall be provided, and shall be set to stop the car at or near the upper and lower terminal landings.

(c) Upper and lower final terminal stopping devices operated by the car to remove power from the motor and the brake shall be provided, except as specified in Rule 2001.9(g). They shall be set to stop the car after it travels past the normal terminal stopping device and before striking an obstruction. A slack-rope device conforming to the requirements of Rule 210.2(a) may be used as the lower final terminal stopping device.

(d) Final terminal stopping devices shall conform to the requirements of Rules 209.3a(1) and (3).

(e) If the driving machine is of the winding drum or sprocket and chain suspension type, a final terminal stopping device operated by the driving machine shall also be provided.

(f) The final terminal stopping device shall conform to the requirements of Rule 209.3d.

(g) Final terminal stopping devices are not required for direct-plunger hydraulic driving machines. Lower final terminal stopping devices are not required where the limitations of the machine or runway limit the travel of the car (e.g., a platform at rest on the bottom terminal landing).

Rule 2001.10 Operating Devices and Control Equipment

2001.10a Key Operation. Operation of the platform from the upper or lower landing and from the platform shall be controlled by a key. The key-operated control shall be operated by a cylinder-type lock having a five-pin or five-disk combination with the key removable only from the "off" position. A key-operated switch shall be provided at each station which will allow a control switch at that station to become effective only when the key is in the "on" position. "Up" and "down" control switches at all stations shall be by means of a continuous-pressure device. Controls shall be in accordance with the requirements of A117.1. Operating devices shall be designed so that both the "up" and "down" circuits cannot be operated at the same time.

2001.10b Attendant Operation

(1) Where applicable, and where approved by the authority having jurisdiction, the lift may be attendant-operated. The attendant shall be summoned by means of clearly labeled attendant call stations placed at each landing.

(2) The attendant shall operate the lift by means of a continuous-pressure switch located in a control box on the free end of a detachable, flexible cord not more than 5 ft (1524 mm) in length. A manually reset emergency stop switch shall also be provided in the control box.

(3) No controls, other than an emergency stop switch, shall be provided on the lift.

(4) Where the equipment operates on a straight flight of stairs, and where the platform is within sight during its entire travel, provisions may be made for the attendant to operate the unit from the top or bottom of the stairs.

2001.10c Control and Operating Circuit Requirements. The design and installation of the control and operating circuits shall conform to the following.

(1) Control systems which depend on the completion or maintenance of an electric circuit shall not be used for:

(a) interruption of the power and application of the machine brake at terminal landings;

(b) stopping the machine when the safety applies.

(2) If springs are used to actuate switches, contactors, or relays to break the circuit to stop the lift at the terminal landing, they shall be of the restrained compression type.

RECEIVED

APR 25 1990

Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

FIFTH FLOOR, FLOUR EXCHANGE BUILDING
310 FOURTH AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55415
(612) 341-7600

RECEIVED
APR 2 1990
Office of the Attorney General
Government Services Section
Capitol Office Bldg. - Suite 500
525 Park Street
St. Paul, MN 55103

March 30, 1990

Sandra J. Hale
Commissioner,
Department of Administration
Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Re: In the Matter of Proposed Permanent Rules Relating to Minnesota State Building Code; OAH Docket No. 69-0210-4325-1

Dear Commissioner Hale:

Enclosed and served upon you by mail, please find the Report of the Administrative Law Judge and the Report of the Chief Administrative Law Judge in the above-entitled matter. The official record will be sent to Alvin E. Kleinbeck at the Building Codes & Standards Division next week.

Sincerely,

STEVE M. MIHALCHICK
Administrative Law Judge

Telephone: 612/349-2544

SMM:lc
enclosure

cc: Charlene Hatcher
Elroy Berdahl
Alvin Kleinbeck
Milton Bellin
James Berg

69-0210-4325-1
(Mechanical Code)

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF ADMINISTRATION

In the Matter of
Proposed Permanent
Rules Relating to
Minnesota State
Building Code.

REPORT OF THE
CHIEF ADMINISTRATIVE LAW JUDGE

The above-entitled matter came on for review by the Chief Administrative Law Judge pursuant to the provisions of Minn. Stat. § 14.15, subds. 3 and 4, which provide:

> Subd. 3. Finding of substantial change. If the [administrative law judge's] report contains a finding that a rule has been modified in a way which makes it substantially different from that which was originally proposed, or that the agency has not met the requirements of sections 14.131 to 14.18, it shall be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves the finding of the administrative law judge, the chief administrative law judge shall advise the agency and the revisor of statutes of actions which will correct the defects. The agency shall not adopt the rule until the chief administrative law judge determines that the defects have been corrected.
>
> Subd. 4. Need or reasonableness not established. If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to delay adoption longer than 30 days after the commission has received the agency's submission. Advice of the commission shall not be binding on the agency.

Based upon a review of the record in this proceeding, the Chief Administrative Law Judge hereby approves the Report of the Administrative Law Judge in all respects.

In order to correct the defects enumerated by the Administrative Law Judge, the agency shall either take the action recommended by the Administrative Law Judge or reconvene the rule hearing if appropriate. If the agency chooses to reconvene the rule hearing, it shall do so as if it is initiating a new rule hearing, complying with all substantive and procedural requirements imposed on the agency by law or rule.

If the agency chooses to take the action recommended by the Administrative Law Judge, it shall submit to the Chief Administrative Law Judge a copy of the rules as initially published in the State Register, a copy of the rules as proposed for final adoption in the form required by the State Register for final publication, and a copy of the agency's Findings of Fact and Order Adopting Rules. The Chief Administrative Law Judge will then make a determination as to whether the defects have been corrected and whether the modifications in the rules are substantial changes.

Should the agency make changes in the rules other than those recommended by the Administrative Law Judge, it shall also submit the complete record to the Chief Administrative Law Judge for a review on the issue of substantial change.

Dated: March 30th, 1990.

William G. Brown

WILLIAM G. BROWN
Chief Administrative Law Judge

69-0210-4325-1
(Mechanical Code)

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF ADMINISTRATION

In the Matter of
Proposed Permanent
Rules Relating to
Minnesota State
Building Code.

REPORT OF THE
ADMINISTRATIVE LAW JUDGE

The above-entitled matter came on for hearing before Administrative Law Judge Steve M. Mihalchick on February 2, 1990, at 9:00 a.m. at the Sheraton Airport Hotel, 2525 East 78th Street, Bloomington, Minnesota.

This report is part of a rulemaking proceeding held pursuant to Minn. Stat. §§ 14.131 to 14.20, to hear public comment, to determine whether the Minnesota Department of Administration (Department) has fulfilled all relevant substantive and procedural requirements of law or rule, to determine whether the proposed rules are needed and reasonable, and whether or not the rules, if modified, are substantially different from those originally proposed.

Charlene Hatcher, Special Assistant Attorney General, 1100 Bremer Tower, St. Paul, Minnesota 55101 appeared on behalf of the Department at the hearing. The agency panel appearing in support of the proposed rules consisted of Elroy Berdahl, Technical Services Section Supervisor; Alvin Kleinbeck, Code Administrator; Milton Bellin, Minnesota Health Department Plumbing Unit; and James Berg, Department of Labor and Industry Code Enforcement Division Director.

Approximately one hundred persons attended the hearing. Eighty persons signed the hearing register. The Administrative Law Judge received eight exhibits as evidence during the hearing. The hearing continued until all interested persons, groups or associations had an opportunity to be heard concerning the adoption of these rules.

The record remained open for the submission of written comments for twenty calendar days following the date of the hearing or February 22, 1990. Pursuant to Minn. Stat. § 14.15, subd. 1 (1988), three business days were allowed for the filing of responsive comments. On February 27, 1990, the rulemaking record closed for all purposes.

Beyond the oral comments at the hearing, the Administrative Law Judge received 313 post-hearing written comments from interested persons. The Department submitted a written comment responding to matters discussed at the hearing. Eleven comments were received after the record closed and, therefore, those comments were not considered.

The Department must wait at least five working days before taking any final action on the rules; during that period, this Report must be made available to all interested persons upon request.

Pursuant to the provisions of Minn. Stat. § 14.15, subd. 3 and 4, this Report has been submitted to the Chief Administrative Law Judge for his approval. If the Chief Administrative Law Judge approves the adverse findings of this Report, he will advise the Commissioner of Administration (Commissioner) of actions which will correct the defects and the Commissioner may not adopt the rule until the Chief Administrative Law Judge determines that the defects have been corrected. However, in those instances where the Chief Administrative Law Judge identifies defects which relate to the issues of need or reasonableness, the Commissioner may either adopt the Chief Administrative Law Judge's suggested actions to cure the defects or, in the alternative, if the Commissioner does not elect to adopt the suggested actions, she must submit the proposed rule to the Legislative Commission to Review Administrative Rules for the Commission's advice and comment.

If the Commissioner elects to adopt the suggested actions of the Chief Administrative Law Judge and makes no other changes and the Chief Administrative Law Judge determines that the defects have been corrected, then the Commissioner may proceed to adopt the rule and submit it to the Revisor of Statutes for a review of the form. If the Commissioner makes changes in the rule other than those suggested by the Administrative Law Judge and the Chief Administrative Law Judge, then she shall submit the rule, with the complete record, to the Chief Administrative Law Judge for a review of the changes before adopting it and submitting it to the Revisor of Statutes.

When the Department files the rule with the Secretary of State, it shall give notice on the day of filing to all persons who requested that they be informed of the filing.

Based upon all the testimony, exhibits and written comments, the Administrative Law Judge makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On December 20, 1989, the Department filed the Notice of Hearing proposed to be issued with the Chief Administrative Law Judge.

2. On January 2, 1989, the Department filed the following documents with the Chief Administrative Law Judge:

(a) A copy of the proposed rules certified by the Revisor of Statutes.
(b) The Statement of Need and Reasonableness.

3. On January 2, 1990, a Notice of Hearing and a copy of the proposed rules were published at 14 State Register 1612.

4. On December 29, 1989, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Department for the purpose of receiving such notice.

5. On January 30, 1990, less than 25 days prior to the hearing, the Department filed the following documents with the Administrative Law Judge:

(a) The Notice of Hearing as mailed.
(b) The Agency's certification that its mailing list was accurate and complete.
(c) The Order for Hearing.
(d) The names of Commission personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.
(e) A copy of the State Register containing the proposed rules with the Administrative Law Judge.
(f) The comments received following the Department's request for comments and a copy of the Department's request for comments.

6. On January 31, 1990, the Department filed the Affidavit of Mailing the Notice to all persons on the Agency's list with the Administrative Law Judge.

The documents were available for inspection and copying at the Office of Administrative Hearings from the date of filing to February 27, 1990, the date the record closed.

The Department did not comply precisely with the filing deadlines of Minn. Rules 1400.0300 and .0600. However, no members of the public inquired of the Administrative Law Judge to inspect or copy the documents required to be filed under those rules. No one expressed any objection or claimed to be prejudiced by the Department's late filing. The Administrative Law Judge finds that the Department's noncompliance with Minn. Rules 1400.0300 and .0600 is not a defect in the rulemaking proceeding.

Nature of the Proposed Rules.

7. The proposed rules repeal the presently existing code governing standards for heating, ventilating and air-conditioning (HVAC) and refrigeration installation and maintenance, and adopts the 1988 edition of the Uniform Mechanical Code, with some alterations of the uniform code provisions to meet climatic and construction needs in Minnesota.

Statutory Authority.

8. In its Notice of Hearing, the Department cites Minn. Stat. § 16B.61 (1989) as authorizing the Department to adopt the proposed rules.

This statute requires the Department to promulgate rules establishing a code "for the construction, reconstruction, alteration, and repair of state-owned buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety." Minn. Stat. § 16B.61. The Department has general authority to adopt these rules.

Small Business Considerations in Rulemaking.

9. Minn. Stat. § 14.115, subd. 2 (1988), requires state agencies proposing rules affecting small businesses to consider methods for reducing adverse impact on those businesses. In the Statement of Need and Reasonableness (SONAR), the Department stated it had evaluated the effect of the proposed rules on small business and considered each of the methods set forth in that statute. The Department asserts that the purpose of the rules is to establish a minimum standard and to exempt small businesses would defeat that purpose. Similarly, reducing the obligation of compliance for small business is inappropriate since those entities would fall below the minimum standard intended to protect the health and safety of the public. No reporting requirements, beyond requesting modifications for non-conforming devices, the rules cannot be made less rigorous when applied to small businesses. The Department has met the requirements of Minn. Stat. § 14.115, subd. 2, with respect to the impact of the proposed rules on small businesses.

Fiscal Note.

10. Minn. Stat. § 14.11, subd. 1, requires proposers of rules requiring the expenditure of public funds in excess of $100,000 per year by local public bodies to publish an estimate of the total cost to local public bodies for a two-year period. The proposed rules will not require any expenditure of funds by a local agency or school district.

Impact on Agricultural Land.

11. Minn. Stat. § 14.11, subd. 2, requires proposers of rules that have a "direct and substantial adverse impact on agricultural land in this state" to comply with additional statutory requirements. These rules have no impact on agricultural land and, therefore, the additional statutory provisions do not apply.

Substantive Provisions.

12. The portions of the proposed rules which received comment or otherwise need to be examined will be discussed below. Any rule not mentioned is found to be needed and reasonable. Also, any rule not mentioned is found to be authorized by statute.

Proposed Rule 1346.0050 -- Incorporation by Reference.

13. Proposed Rule 1346.0050 incorporates by reference chapters 1 to 20 and appendixes A, B, and C of the 1988 edition of the Uniform Mechanical Code (UMC). This document is published by the International

Conference of Building Officials (ICBO) and the International Association of Plumbing and Mechanical Officials (IAPMO). The proposed rule part contains the names and addresses of these organizations. The Revisor of Statutes has approved the rule as to form, and this approval constitutes a finding by the Revisor that the document incorporated by reference is conveniently available to the public. Minn. Stat. § 14.07, subd. 4(a). However, the proposed rule part lacks: 1) a statement that the document incorporated by reference is not subject to frequent change; and, 2) a statement of where the incorporated document is made available. These two statements are required by Minn. Stat. § 14.07, subd. 4(a). Not including either of those statements constitutes a defect in the rules for failure fulfill a statutory requirement. The defect may be corrected by adding to the end of the proposed rule part language similar to the following:

> The UMC is not subject to frequent change and a copy of the UMC, with amendments for use in Minnesota, is available in the office of the commissioner of administration.

Adding the foregoing to the proposed rule part will meet the requirements of Minn. Stat. Ch. 14. The proposed rule, with that change, is needed and reasonable. The change would be made to comply with a statutory requirement and does not constitute a substantial change.

Proposed Rule 1346.0304 -- Permit Fees.

14. This proposed rule states that the local authority establishes permits fees within its area of enforcement. The rule recites the formula which sets the maximum limit at which a permit fee may be set. The Department is not setting a fee by rule in proposed rule 1346.0304 and, therefore, need not comply with Minn. Stat. § 16A.128. The proposed rule part is needed and reasonable to eliminate a potential conflict between the UMC and Minn. Stat. §§ 16B.62, subd. 1 (setting the maximum permit amount that could be assessed on single family dwellings) or 16B.70, subd. 1 (allowing surcharges by the administering authority).

Proposed Rule 1346.0404 -- Boilers.

15. Proposed rule 1346.0404 amends the definitions of "Boiler, high pressure" and "Boiler, low pressure" to change the difference between the two from more or less than 160 pounds per square inch (psi) to more or less than 30 psi. Any boiler higher than 30 psi is defined as high pressure and any boiler not exceeding 30 psi is defined as low pressure. Glen Gausman of BKBM consulting engineers objected to the boiler definition on the ground that the American National Standard Safety Code (ANSI) and the UMC both use 160 psi as the distinction. Minnesota law places any boiler with a pressure over 30 psi under the regulatory authority of the Department of Labor and Industry. Minn. Stat. § 326.461, subd. 2. The Department has amended the UMC to conform with the statutory scheme established in Minnesota. The Department has shown that the proposed rule part is needed and reasonable.

Proposed Rule 1346.0710 -- Roof Access.

16. The only change in language between this proposed rule part and the language contained in the UMC is the deletion of the word "readily" from the phrase "readily accessible" as used in UMC § 710(h). This change has engendered objections from fire fighters and municipalities because the uniform language of the UMC would displace the existing provisions of Minn. Rule 1305.1750. That rule requires a stairway leading to a scuttle or bulkhead, as opposed to ladder access as provided for in the proposed rule part. The objection expressed by Dennis Chada on behalf of the City of St. Paul is representative of all the objections. Mr. Chada asserted that the proposed rule makes reaching equipment in an emergency when roofs are icy or snow-laden both difficult and hazardous. The SONAR only addressed the reason for deleting "readily." The Department is required to adopt a code which "must conform insofar as practicable to model building codes generally accepted and in use throughout the United States." Minn. Stat. § 16B.61, subd. 1. The Department has complied with this statutory obligation in adopting the UMC and no facts have been presented to show that using ladders in lieu of a stairway is hazardous or renders the rooftop equipment inaccessible. One may assume that using a stairway to gain access to the roof is easier than using a ladder, but no evidence was presented to indicate that problems exist in gaining access through a ladder. No one has shown that the proposed rule part is unreasonable. The Department has shown that the proposed rule is needed and reasonable.

Despite the foregoing finding of need and reasonableness of the rule as proposed, the Administrative Law Judge urges the Department to consider retaining Rule 1305.1750. The number and consistency of comments submitted by fire fighters in opposition to the proposed rule suggest there are valid reasons to keep the existing rule in effect. Retention of an existing rule, in the absence of a direct conflict, does not require a showing of need or reasonableness. Further, retention of the rule would not constitute a substantial change from the rule as published in the State Register. The Department should note, if it decides to retain Rule 1305.1750, the exemptions located at section 3306(a) and (g) of the Uniform Building Code (UBC) and determine whether either of those exemptions should be deleted. Such deletions could be made in the companion rulemaking proceeding on the UBC to render the proposed rules consistent and could not constitute a substantial change in the rulemaking proceeding for the UMC.

Proposed Rule 1346.2003 -- Compensating Hoods.

17. This proposed rule part alters UMC § 2003(i) to add a requirement for tempered air and increases the percentage of extracted air from the kitchen area to 80% of the required airflow (up from 20% in the UMC). Only the increased percentage of airflow was objected to in comments received as part of this proceeding. The SONAR asserts that this increase is required to ensure venting of air from across the cooking area. None of the commentators who objected showed that the increase is unreasonable. The Department is emphasizing one aspect of the rule on compensating hoods and has articulated a reason for its action. The Department has shown that the proposed rule part is needed and reasonable.

Proposed Rule 1346.2108 -- Pressure Relief or Safety Valve.

18. Proposed rule part 1346.2108 amends UMC Appendix B, section 2108 to provide for pressure relief valves on hot water boilers and safety valves on steam boilers. This proposed rule part received no adverse comment, but the Department wishes to change the word "damage" in subpart 1 to "injury," for esthetic reasons. The proposed rule part is reasonable and necessary to prevent injury to persons near boilers and the change is not a substantial change.

Proposed Rule 1346.2127 -- Steam, Liquid, and Piping Systems.

19. This proposed rule part amends the UMC to establish the jurisdictional boundaries between these rules and the high pressure piping code, Minn. Rules Ch. 5230. As discussed in Finding 15, above, the jurisdiction of the Department and the Department of Labor and Industry is determined by statute. The clarification of which code governs which systems is needed and reasonable.

In addition to determining jurisdiction, the proposed rule sets out material specifications for piping systems that fall under the Department's jurisdiction. The only specification that attracted adverse comment appears in proposed rule 1364.2127, sections 2127, 2(A)(i) and 2127, 3. The first portion is identical to the UMC provision, except for the addition of the following:

> Plastic pipe must not be used in any service of 120 degrees Fahrenheit or more.

Section 2127, 3 of the UMC is altered by the Department to permit the use of polybutylene piping or tubing of SDR-11 which conforms to specification ASTM D 3309 in piping systems. The temperature restriction of 120 degrees Fahrenheit placed on these piping systems is repeated in this portion of the proposed rules.

The original language in section 2127, 3 of the UMC provides a series of ratios of temperature to pressure for which conforming polybutylene pipe or tubing is approved for use. The ratios are as follows:

TEMPERATURE (^{O}F)	PRESSURE (PSI)
73	200
180	100
200	80

Clearly, the UMC has approved use of polybutylene pipe at temperatures exceeding 120° Fahrenheit. These proposed rules govern only systems with a design pressure of 30 psi or less. See, Finding 15, supra. If the UMC temperature table were followed, it would seem that the temperature restriction, if altered, should be raised to something above 200° Fahrenheit, not lowered to 120° Fahrenheit.

The SONAR is silent on the reasons for choosing 120° Fahrenheit as an upper limit on the temperature for polybutylene piping systems. The Department cited no facts at the hearing or in post hearing comment to show a rational relationship between the temperature limitation and the intended outcomes of the proposed rules.

This restriction was vigorously opposed by Wirsbo Company, Infloor Heating Systems, Vanguard Plastics, Inc., Floor Systems Distributor, Inc., Gyp-crete Corporation, the Plastics Pipe Institute, and Trio Sales Co., Inc. These entities submitted voluminous data that tends to show polybutylene pipe that conforms to ASTM D 3309 is capable of safely exceeding the 120° Fahrenheit limitation in building applications requiring less than 80 psi of pressure. The commentators suggested that, in heating applications, the design temperature requires an upper limit of, at minimum, 140° Fahrenheit. The evidence in the rule hearing record, while not conclusive, suggests that the upper temperature limit for polybutylene piping is higher yet, at the low pressures within the jurisdiction of these proposed rules.

The Administrative Law Judge in a rulemaking proceeding is required to make a "'searching and careful' inquiry of the hearing record to ensure that the agency action has a rational basis." Manufactured Housing Institute v. Peterson, 347 N.W.2d 238, 244 (Minn. 1984). "Further, the agency must explain on what evidence it is relying and how that evidence connects rationally with the agency's choice of action to be taken." Id. at 244. Having conducted such an inquiry, the Judge has not discovered a rational basis for the 120° standard. The Department has neither disclosed its evidence for the proposed rule, nor shown any connection between the temperature standard and purpose of the rule. The Department has not demonstrated the need for or reasonableness of the 120° Fahrenheit standard and this failure constitutes a defect in the proposed rule part.

The evidence in the hearing record does not establish any particular temperature (other than the ratios recited in this Finding) above which polybutylene pipe conforming to specification ASTM D 3309 cannot be used. To cure the defect found in the proposed rule part, the Department must delete the last sentence of proposed rule 1346.2127, section 2127, 2(A)(i). In proposed rule 1346.2127, section 2127, 3 of the UMC, the Department may cure the defect by replacing the proposed language with the following:

> 3. Hot water piping systems may be constructed of polybutylene pipe or tubing of SDR-11 conforming to specification ASTM D 3309.

In the alterative, the Department may opt to leave the UMC unamended with respect to section 2127, 2(A)(i) and section 2127, 3. Using either option, the Department can rely upon the express statutory authority of Minn. Stat. 16B.61, subd. 1 to adopt a uniform code, without making a specific finding with respect to polybutylene pipe and use as a standard the existing language of the UMC which sets ASTM D 3309 as the standard in piping systems. The conflicting language in the unamended UMC would

not take precedence over the original jurisdictional statement in this proposed rule part. The standard, as set forth in the UMC, is needed and reasonable to establish a minimum standard for the use of polybutylene piping and tubing for use in piping systems. The changes were fully discussed at the hearing and in post hearing comment. Neither of the suggested changes constitute a substantial change.

Proposed Rule 1346.2133 -- Table 21-C.

20. Proposed Rule 1346.2133 amends table 21-C of Appendix B of the UMC. The Department noted in an errata sheet that the wrong table 21-C was published and is amending the proposed rule part by substituting the correct table 21-C. No one objected to the replacement of the new table 21-C for the published version. This change does not constitute a substantial change and is needed and reasonable.

Proposed Rule 1346.2215 -- Liquified Petroleum Gas Facilities Piping.

21. This proposed rule would have deleted the UMC provisions contained in Appendix B, section 2215 regarding liquified petroleum (LP) gas facilities and piping. William Mahre of Suburban Gas Company and the Minnesota Propane Gas Association suggested the existing language of the UMC be retained, except for the sixth and seventh paragraphs, which would be deleted. A further sentence would also be added which would read as follows:

> LP gas appliances, LP gas applications, and installations must be in accordance with the rules of the Minnesota State Fire Marshal and this code.

The Department agreed to these suggestions at the hearing. The alteration of the proposed rule will retain needed language protecting the health and safety of propane users and the general public. Deleting paragraphs six and seven will permit the continued placement of LP facilities and piping below grade (underground) and allow existing below grade LP facilities to be serviced. Since LP usage is widespread in Minnesota and thousand of users would be affected by prohibiting below grade LP facilities, the deletion of those paragraphs is reasonable. These changes do not constitute a substantial change and are both needed and reasonable.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

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

2. That the Department has fulfilled the procedural requirements of Minn. Stat. §§ 14.14, subds. 1, 1a and 14.14, subd. 2, and all other procedural requirements of law or rule.

3. That the Department has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 14.05, subd. 1, 14.15, subd. 3 and 14.50 (i)(ii), except as noted at Finding 13.

4. That the Department has documented the need for and reasonableness of its proposed rules with an affirmative presentation of facts in the record within the meaning of Minn. Stat. §§ 14.14, subd. 2 and 14.50 (iii), except as noted at Finding 19.

5. That the amendments and additions to the proposed rules which were suggested by the Department after publication of the proposed rules in the State Register do not result in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. § 14.15, subd. 3, and Minn. Rule 1400.1000, Subp. 1 and 1400.1100.

6. That the Administrative Law Judge has suggested action to correct the defects cited in Conclusions 3 and 4 as noted at Findings 13 and 19.

7. That due to Conclusions 3 and 4, this Report has been submitted to the Chief Administrative Law Judge for his approval pursuant to Minn. Stat. § 14.15, subd. 3.

8. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

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

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted except where specifically otherwise noted above.

Dated: March 29, 1990.

STEVE M. MIHALCHICK
Administrative Law Judge

69-0210-4325-1
(Plumbing Code)

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF ADMINISTRATION

In the Matter of
Proposed Permanent
Rules Relating to
Minnesota State
Building Code.

REPORT OF THE
CHIEF ADMINISTRATIVE LAW JUDGE

The above-entitled matter came on for review by the Chief Administrative Law Judge pursuant to the provisions of Minn. Stat. § 14.15, subds. 3 and 4, which provide:

> Subd. 3. Finding of substantial change. If the [administrative law judge's] report contains a finding that a rule has been modified in a way which makes it substantially different from that which was originally proposed, or that the agency has not met the requirements of sections 14.131 to 14.18, it shall be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves the finding of the administrative law judge, the chief administrative law judge shall advise the agency and the revisor of statutes of actions which will correct the defects. The agency shall not adopt the rule until the chief administrative law judge determines that the defects have been corrected.
>
> Subd. 4. Need or reasonableness not established. If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to delay adoption longer than 30 days after the commission has received the agency's submission. Advice of the commission shall not be binding on the agency.

Based upon a review of the record in this proceeding, the Chief Administrative Law Judge hereby approves the Report of the Administrative Law Judge in all respects.

In order to correct the defects enumerated by the Administrative Law Judge, the agency shall either take the action recommended by the Administrative Law Judge or reconvene the rule hearing if appropriate. If the agency chooses to reconvene the rule hearing, it shall do so as if it is initiating a new rule hearing, complying with all substantive and procedural requirements imposed on the agency by law or rule.

If the agency chooses to take the action recommended by the Administrative Law Judge, it shall submit to the Chief Administrative Law Judge a copy of the rules as initially published in the State Register, a copy of the rules as proposed for final adoption in the form required by the State Register for final publication, and a copy of the agency's Findings of Fact and Order Adopting Rules. The Chief Administrative Law Judge will then make a determination as to whether the defects have been corrected and whether the modifications in the rules are substantial changes.

Should the agency make changes in the rules other than those recommended by the Administrative Law Judge, it shall also submit the complete record to the Chief Administrative Law Judge for a review on the issue of substantial change.

Dated: March 30th, 1990.

William G. Brown

WILLIAM G. BROWN
Chief Administrative Law Judge

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF ADMINISTRATION

In the Matter of
Proposed Permanent
Rules Relating to
Minnesota State
Building Code.

REPORT OF THE
ADMINISTRATIVE LAW JUDGE

The above-entitled matter came on for hearing before Administrative Law Judge Steve M. Mihalchick on February 2, 1990, at 9:00 a.m. at the Sheraton Airport Hotel, 2525 East 78th Street, Bloomington, Minnesota.

This report is part of a rulemaking proceeding held pursuant to Minn. Stat. §§ 14.131 to 14.20, to hear public comment, to determine whether the Minnesota Department of Administration (Department) has fulfilled all relevant substantive and procedural requirements of law or rule, to determine whether the proposed rules are needed and reasonable, and whether or not the rules, if modified, are substantially different from those originally proposed.

Charlene Hatcher, Special Assistant Attorney General, 1100 Bremer Tower, St. Paul, Minnesota 55101 appeared on behalf of the Department at the hearing. The agency panel appearing in support of the proposed rules consisted of Elroy Berdahl, Technical Services Section Supervisor; Alvin Kleinbeck, Code Administrator; Milton Bellin, Minnesota Health Department Plumbing Unit; and James Berg, Department of Labor and Industry Code Enforcement Division Director.

Approximately one hundred persons attended the hearing. Eighty persons signed the hearing register. The Administrative Law Judge received eight exhibits as evidence during the hearing. The hearing continued until all interested persons, groups or associations had an opportunity to be heard concerning the adoption of these rules.

The record remained open for the submission of written comments for twenty calendar days following the date of the hearing or February 22, 1990. Pursuant to Minn. Stat. § 14.15, subd. 1 (1988), three business days were allowed for the filing of responsive comments. On February 27, 1990, the rulemaking record closed for all purposes.

Beyond the oral comments at the hearing, the Administrative Law Judge received 313 post-hearing written comments from interested persons. The Department submitted a written comment responding to matters discussed at the hearing. Eleven comments were received after the record closed in this proceeding and, therefore, those comments were not considered.

The Department must wait at least five working days before taking any final action on the rules; during that period, this Report must be made available to all interested persons upon request.

Pursuant to the provisions of Minn. Stat. § 14.15, subd. 3 and 4, this Report has been submitted to the Chief Administrative Law Judge for his approval. If the Chief Administrative Law Judge approves the adverse findings of this Report, he will advise the Commissioner of Administration (Commissioner) of actions which will correct the defects and the Commissioner may not adopt the rule until the Chief Administrative Law Judge determines that the defects have been corrected. However, in those instances where the Chief Administrative Law Judge identifies defects which relate to the issues of need or reasonableness, the Commissioner may either adopt the Chief Administrative Law Judge's suggested actions to cure the defects or, in the alternative, if the Commissioner does not elect to adopt the suggested actions, she must submit the proposed rule to the Legislative Commission to Review Administrative Rules for the Commission's advice and comment.

If the Commissioner elects to adopt the suggested actions of the Chief Administrative Law Judge and makes no other changes and the Chief Administrative Law Judge determines that the defects have been corrected, then the Commissioner may proceed to adopt the rule and submit it to the Revisor of Statutes for a review of the form. If the Commissioner makes changes in the rule other than those suggested by the Administrative Law Judge and the Chief Administrative Law Judge, then she shall submit the rule, with the complete record, to the Chief Administrative Law Judge for a review of the changes before adopting it and submitting it to the Revisor of Statutes.

When the Department files the rule with the Secretary of State, it shall give notice on the day of filing to all persons who requested that they be informed of the filing.

Based upon all the testimony, exhibits and written comments, the Administrative Law Judge makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On December 20, 1989, the Department filed the Notice of Hearing proposed to be issued with the Chief Administrative Law Judge.

2. On January 2, 1989, the Department filed the following documents with the Chief Administrative Law Judge:

(a) A copy of the proposed rules certified by the Revisor of Statutes.
(b) The Statement of Need and Reasonableness.

3. On January 2, 1990, a Notice of Hearing and a copy of the proposed rules were published at 14 State Register 1612.

4. On December 29, 1989, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Department for the purpose of receiving such notice.

5. On January 30, 1990, less than 25 days prior to the hearing, the Department filed the following documents with the Administrative Law Judge:

(a) The Notice of Hearing as mailed.
(b) The Agency's certification that its mailing list was accurate and complete.
(c) The Order for Hearing.
(d) The names of Commission personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.
(e) A copy of the State Register containing the proposed rules with the Administrative Law Judge.
(f) The comments received following the Department's request for comments and a copy of the Department's request for comments.

6. On January 31, 1990, the Department filed the Affidavit of Mailing the Notice to all persons on the Agency's list with the Administrative Law Judge.

The documents were available for inspection and copying at the Office of Administrative Hearings from the date of filing to February 27, 1990, the date the record closed.

The Department did not comply precisely with the filing deadlines of Minn. Rules 1400.0300 and .0600. However, no members of the public inquired of the Administrative Law Judge to inspect or copy the documents required to be filed under those rules. No one expressed any objection or claimed to be prejudiced by the Department's late filing. The Administrative Law Judge finds that the Department's noncompliance with Minn. Rules 1400.0300 and .0600 is not a defect in the rulemaking proceeding.

Nature of the Proposed Rules.

7. The proposed rules repeal portions of the presently existing code governing standards for plumbing installation and maintenance, and alter some of the remaining code provisions.

Statutory Authority.

8. In its Notice of Hearing, the Department cites Minn. Stat. § 16B.61 (1989) as authorizing the Department to adopt the proposed rules. This statute requires the Department to promulgate rules establishing a code "for the construction, reconstruction, alteration, and repair of state-owned buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety." Minn. Stat. § 16B.61. The Department has general authority to adopt these rules.

Small Business Considerations in Rulemaking.

9. Minn. Stat. § 14.115, subd. 2 (1988), requires state agencies proposing rules affecting small businesses to consider methods for reducing adverse impact on those businesses. In the Notice of Hearing, the Department stated that the effect of the proposed rules on small business was evaluated in light of the methods suggested in that statute. The Building Codes Division (of the Department) feels the proposed rules will not have an impact on small businesses. Testimony received at the hearing indicates that the proposed rules could have a large impact on small businesses, insofar as the installation of plumbing devices and pipe is largely done by small businesses. Reduction of compliance for small business is inappropriate since the rules establish a minimum standard intended to protect the health and safety of the public while using potable water. Similarly, exempting small businesses from the proposed rule is inappropriate since the rules are intended to be a minimum standard. Since there are no reporting requirements, beyond receiving approvals for devices not listed in the rules, the rules cannot be made less rigorous when applied to small businesses. The Department has met the requirements of Minn. Stat. § 14.115, subd. 2, with respect to the impact of the proposed rules on small businesses.

Fiscal Note.

10. Minn. Stat. § 14.11, subd. 1, requires proposers of rules requiring the expenditure of public funds in excess of $100,000 per year by local public bodies to publish an estimate of the total cost to local public bodies for a two-year period. One commentator suggested that these rules will require such an expenditure since municipalities will have increased costs in complying with the standards set forth in the rules. The fiscal note is required when promulgation of rules will cause the direct expenditure of funds to carry out the mandate of the rules. In this case, any increased expenditure of public funds would be incidental to construction performed by the local public body and thereby discretionary on the part of the local public body. The proposed rules will not, of themselves, require any expenditure of funds by a local agency or school district.

Impact on Agricultural Land.

11. Minn. Stat. § 14.11, subd. 2, requires proposers of rules that have a "direct and substantial adverse impact on agricultural land in this state" to comply with additional statutory requirements. These rules have no impact on agricultural land and, therefore, the additional statutory provisions do not apply.

Substantive Provisions.

12. The portions of the proposed rules which received comment or otherwise need to be examined will be discussed below. Any rule not mentioned is found to be needed and reasonable. Also, any rule not mentioned is found to be authorized by statute.

Proposed Rule 4715.0310 -- Use of Public Sewer and Water Systems Required.

13. Proposed Rule 4715.0310 alters the rule requiring the use of public facilities rather than wells by including a requirement that the well be used for irrigation, or sealed and abandoned as required by the Water Well Code. This additional language was requested to extend jurisdiction for well abandonment, in these instances, to building officials. The proposed rule received no adverse comment, and is needed and reasonable.

Proposed Rule 4715.0810 -- Plastic Joints.

14. This proposed rule establishes the proper technique for creating joints in plastic piping. Subpart 2 requires the use of a primer in a contrasting color to the pipe and cement used in solvent weld joints of PVC and CPVC pipe. The Department asserted in its Statement of Need and Reasonableness (SONAR) that the contrasting color would aid the inspector in determining that a particular weld had been done properly. Ed Worley objected to the proposed rule part, on the basis that the standard set forth by the National Sanitation Foundation (NSF) for primers was not adopted as part of the proposed rule. The Department responded to the objection by altering the proposed Subpart 2 to add a requirement that primers comply with NSF Standard 14. The Department asserts that compliance with this standard ensures the primer has been tested and certified safe for use in potable water systems. The Department has shown that using a contrasting color of primer is needed and reasonable and the change does not constitute a substantial change.

Proposed Rule 4715.1380 -- Showers.

15. The only new language in this proposed rule part is Subpart 5, which requires showers and combination shower-bath fixtures in new and remodeled installations to have an anti-scald type shower control valve. Subpart 5 permits the choice of control valve between the thermostatic or pressure balancing varieties. Either type must conform to ANSI/ASSE standard 1016-79. The Department justifies this requirement by the documented cases of burns and falls which occur when manual mixing systems fail. Randy Schenk of A.J. O'Conner Sales Co. submitted written comments including Research Report 88-01 of the American Society of Plumbing Engineers (ASPE) and the Scald Burn Prevention Position Paper from the Burn Prevention Committee of the American Burn Association. Both of these documents recommend stricter requirements for the mixing valves of showers.

The usual cause of the failure is a sudden drop in cold water pressure. In the manual mixing methods, there is no reduction in hot water pressure to compensate for the loss of cold water. The temperature of the water leaving the shower head rises, causing the bather sudden and unexpected discomfort. If the bather moves rapidly away from the shower spray, there is a substantial risk of injury from falling. If the bather remains under the shower spray and cannot stop the flow of hot water, the bather will be burned.

The Department asserts that burns from scalding, particularly among children and the elderly form a serious hazard in the home. The ASPE report indicates that a first degree burn (the least serious type) can occur within 8 minutes when skin is in contact with water at 120 degrees fahrenheit. This time drops to 3 seconds when the temperature reaches 140 degrees fahrenheit. An alternative to a valve requirement would be to limit the maximum temperature of water heaters. Water between 60 and 120 degrees fahrenheit provides an ideal breeding ground for legionella pneumophila, the bacteria which causes Legionnaire's disease. The ASPE report recommends that a minimum temperature of 135 degrees fahrenheit be maintained to prevent the spread of this bacteria.

The Department has shown that anti-scald devices are needed to protect bathers from burns caused by overheated water. The Department has shown that the less restrictive alternative, lowering the maximum temperature of the hot water supply, poses a serious health risk. Mr. Schenk submitted a price list of available valves, both pressure balancing and ordinary mixing types. The costs range from $25.25 to $73.06 for all types of valves. The least expensive pressure balanced valve costs $42.65. This amounts to an increased cost of $15.00. This increased cost is not unreasonable in light of the protection afforded by these devices. The Department has shown that the proposed rule is needed and reasonable.

Proposed Rule 4715.2100 -- Backflow Preventers and Proposed Rule 4715.2110 -- Types of Devices Where an Air Gap Cannot Be Provided.

16. Proposed rule 4715.2100 deletes the existing language (which governs the installation of vacuum breakers) and replaces it with a list of specifications for the installation of atmospheric vacuum breakers (AVB), pressure vacuum breakers (PVB), double check valves with intermediate atmospheric vent (DCVIAV), double check valve assemblies (DCVA) and reduced pressure zone backflow preventers (RPZ). Rule 4715.1920 regulates cross connections between potable water and systems containing substances of questionable safety. Rule 4715.1920 is not part of this rulemaking proceeding. Proposed rule 4715.2110 lists which backflow preventers are required for different systems. The only systems for which the backflow device requirement received critical comment are post-mix carbonated beverage machines and fire sprinkler systems. The rule regarding carbonated beverage machines will be discussed at Finding 17, below.

Fire marshals, fire chiefs and fire inspectors from 15 municipalities objected to proposed rule 4715.2110 insofar as it would require RPZ, DCVIAV or DCVA backflow prevention on all new or remodeled fire sprinkler systems. Numerous installers and manufacturers of sprinkler systems also objected. The Department asserts that backflow prevention is necessary to prevent contamination of potable water supplies from stagnant water retained within sprinkler systems. The standard device to prevent backflow in most sprinkler systems is the check valve. The Department argues that the check valve permits migration of metal and bacteria-laden water into the potable water supply of buildings. The proposed rule would only apply on sprinkler systems which draw their water supply from the potable water line within the affected building. Sprinkler systems which draw their water supply directly from the municipal mains would not be required to meet proposed rule 4715.2110.

Commentators have objected that the Department has not shown persons have been harmed through a water supply contaminated by a sprinkler system. The Department is not required to show evidence of actual injury and may rely on imperfect data to reach its conclusions. However, the Department must explain on what evidence it is relying and how that evidence connects rationally with the proposed rule. Manufactured Housing Institute v. Peterson, 347 N.W.2d 238, 244 (Minn. 1984). The Department's evidence in this case is pure conjecture and does not meet that burden.

The Department has introduced a document denoting several instances of some contamination found to have originated from "fire lines." The Department has not shown that these instances arose from the types of sprinklers sought to be regulated by the proposed rule. The American Water Works Association (AWWA) has categorized sprinkler systems into six classes in its manual entitled Distribution System Requirements for Fire Protection (known as M31). The AWWA has a manual entitled Backflow Prevention and Cross-Connection Control (known as M14), but only the 1966 edition of that manual is a part of this hearing record. M31 sets forth examples of sprinkler systems which include specific backflow protection. Classes 4 through 6 require RPZ protection. Those classes include systems which are connected to water mains and either: 1) introduce chemical additives; 2) are interconnected to two or more water supplies; or, 3) are within 1700 feet of another water supply. Class 3, consisting of a system directly connected to water mains and drawing auxiliary water from a cover reservoir or tanks, uses DCVA or DCVIAV to prevent backflow. With regard to class 1 (water main to sprinklers which vent to air) and class 2 (water main and booster pump to sprinklers which vent to air), M31 states that "[g]enerally, classes 1 and 2 fire protection systems will not require backflow protection at the service connection." M31, at 46. The Department has not shown that the cited instances of contamination occurred in class 1 or class 2 systems.

Where the burden imposed by the proposed rule is light, the Department's burden of proving that the standard is reasonable is also light. However, the burden imposed by this proposed rule will significantly increase costs to building owners who choose to install a sprinkler system. Each backflow prevention device installed on a system decreases the water pressure available to the remainder of the system. When a new system is originally designed, this pressure loss can be accounted for in the system specifications. Retro-fitting existing systems with a RPZ, DCVA or DCVIAV could cause those sprinkler heads furthest from the water source to fail, owing to a lack of water pressure. This problem may be corrected through the installation of a fire pump, but this further increases the cost of the sprinkler system and could induce building owners to abandon the use of sprinklers rather than incur that cost. It is reasonable to assume that the proposed rule would increase the risk of fire in our state. Such a result is not in keeping with the statutory purpose of the rules, to ensure public safety.

The Department, recognizing the hardship this rule would place on existing systems, has proposed to alter the rule to add a restriction, that the backflow prevention devices would apply only to "new or total replacement installations only." This amendment does resolve the issue

regarding existing systems, and should the rule be finally adopted, this alteration is needed and reasonable and does not constitute a substantial change.

The Department has made no showing that the present system of check valves for class 1 and class 2 sprinkler systems is likely to cause harm through contaminating potable water supplies. The United States Environmental Protection Agency (EPA) has listed fire sprinkler systems as potential sources of backflow contamination, but the only example provided in its Cross-Connection Manual is a class 3 sprinkler system. EPA Cross-Connection Manual, at 40. The Department has not shown that the requirement of RPZ, DCVA or DCVIAV backflow protection is needed or reasonable. To cure this defect, the Department must delete "Fire sprinkler system" from proposed rule 4715.2110.

The Department has proposed altering the rule to add letters to designate each different application of backflow prevention. This change is needed and reasonable to ensure accurate citation of the rule. The change is not a substantial change. The remainder of the proposed rule is needed and reasonable.

The Department has suggested that Minn. Rule 4715.1920 must be altered to avoid conflicting application of the rules if the proposed rule regarding fire sprinklers is found to be defective. Minn. Rule 4715.1920 is both already promulgated and not part of this rule proceeding. The Administrative Law Judge notes that, if the Department is correct in its assertion that Minn. Rule 4715.1920 already applies to fire sprinkler systems, the Department has established a precedent of using check valves on class 1 and class 2 sprinkler systems. In any event, that rule cannot be altered now since it is beyond the scope of this proceeding and would deny notice to the regulated public.

Proposed Rule 4715.2163 -- Carbonated Beverage Machines.

17. This proposed rule part requires the use of DCVIAV for the line preceding the carbonator in carbonated beverage machines. Dave Locey of the Minnesota Soft Drink Association objected to this requirement on the basis that it would increase costs, reduce reliability of soft drink systems and that the protection is not needed. The Department has presented evidence that several instances of illness were caused by contaminated water and that proper backflow prevention would have averted this harm. No figures were presented by any commentator to show how this proposed rule would affect costs. Mr. Locey suggested that replacing existing equipment on drink systems would result in incompatible equipment that would reduce system reliability. The Department responded to the reliability argument by asserting that the required backflow preventer would be in addition to any existing device on the equipment, not replacing existing valves. Proposed rule 4715.2163 is needed and reasonable to prevent backflow in carbonated drink systems that could contaminate potable water supplies and cause illness when such contaminated water is consumed.

Proposed Rule 4715.2190 -- Combination Water and Space Heating Equipment.

18. Proposed rule part 4715.2190 permits installation of devices to heat domestic or service water and provide space heating, so long as the devices meet requirements for mixing valves, isolation valves, drainage port (or automatic stagnation prevention) and manufacturer approval for use as a combination water and space heater. The majority of those who objected to this provision were concerned about jurisdictional disputes between the plumbing and pipefitting trades. The Department noted in its posthearing comment that combination water and space heaters are presently being installed in Minnesota without any restrictions. The Department emphasized that the proposed rule takes no position on any jurisdictional disputes which may occur.

The proposed rule seeks only to specify health and safety requirements the devices must meet. The mixing valve requirement is linked to the anti-scald provisions referred to in Finding 15, above. The drainage port or automatic stagnation prevention requirement is imposed to permit removal of stagnant water from the system. Removing such water reduces potential bacteria or potability problems. Requiring manufacturer approval for combination water and space heaters prevents a heating loop from being added to a device designed only as a water heater. Proposed rule 4715.2190 is needed and reasonable to protect public health, safety and prevent use of unsafe equipment.

Other Comments.

19. An additional change was suggested by the Department to proposed rule 4715.0420, subpart 3, VI, to add NSF Standard 14 as a reference to 6K polybutylene water pipe. This change, suggested by a commentator, was not objected to. This change does not constitute a substantial change and is needed and reasonable.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

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

2. That the Department has fulfilled the procedural requirements of Minn. Stat. §§ 14.14, subds. 1, 1a and 14.14, subd. 2, and all other procedural requirements of law or rule.

3. That the Department has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 14.05, subd. 1, 14.15, subd. 3 and 14.50 (i)(ii).

4. That the Department has documented the need for and reasonableness of its proposed rules with an affirmative presentation of facts in the record within the meaning of Minn. Stat. §§ 14.14, subd. 2 and 14.50 (iii), except as noted at Finding 16.

5. That the amendments and additions to the proposed rules which were suggested by the Department after publication of the proposed rules in the State Register do not result in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. § 14.15, subd. 3, and Minn. Rule 1400.1000, Subp. 1 and 1400.1100.

6. That the Administrative Law Judge has suggested action to correct the defects cited in Conclusion 4 as noted at Finding 16.

7. That due to Conclusion 4, this Report has been submitted to the Chief Administrative Law Judge for his approval pursuant to Minn. Stat. § 14.15, subd. 3.

8. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

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

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted except where specifically otherwise noted above.

Dated: March 29, 1990.

STEVE M. MIHALCHICK
Administrative Law Judge

69-0210-4325-1
(Elevator Code)

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF ADMINISTRATION

In the Matter of
Proposed Permanent
Rules Relating to
Minnesota State
Building Code.

REPORT OF THE
CHIEF ADMINISTRATIVE LAW JUDGE

The above-entitled matter came on for review by the Chief Administrative Law Judge pursuant to the provisions of Minn. Stat. § 14.15, subds. 3 and 4, which provide:

> Subd. 3. Finding of substantial change. If the [administrative law judge's] report contains a finding that a rule has been modified in a way which makes it substantially different from that which was originally proposed, or that the agency has not met the requirements of sections 14.131 to 14.18, it shall be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves the finding of the administrative law judge, the chief administrative law judge shall advise the agency and the revisor of statutes of actions which will correct the defects. The agency shall not adopt the rule until the chief administrative law judge determines that the defects have been corrected.
>
> Subd. 4. Need or reasonableness not established. If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to delay adoption longer than 30 days after the commission has received the agency's submission. Advice of the commission shall not be binding on the agency.

Based upon a review of the record in this proceeding, the Chief Administrative Law Judge hereby approves the Report of the Administrative Law Judge in all respects.

In order to correct the defects enumerated by the Administrative Law Judge, the agency shall either take the action recommended by the Administrative Law Judge or reconvene the rule hearing if appropriate. If the agency chooses to reconvene the rule hearing, it shall do so as if it is initiating a new rule hearing, complying with all substantive and procedural requirements imposed on the agency by law or rule.

If the agency chooses to take the action recommended by the Administrative Law Judge, it shall submit to the Chief Administrative Law Judge a copy of the rules as initially published in the State Register, a copy of the rules as proposed for final adoption in the form required by the State Register for final publication, and a copy of the agency's Findings of Fact and Order Adopting Rules. The Chief Administrative Law Judge will then make a determination as to whether the defects have been corrected and whether the modifications in the rules are substantial changes.

Should the agency make changes in the rules other than those recommended by the Administrative Law Judge, it shall also submit the complete record to the Chief Administrative Law Judge for a review on the issue of substantial change.

Dated: March 30th, 1990.

William G. Brown

WILLIAM G. BROWN
Chief Administrative Law Judge

69-0210-4325-1
(Elevator Code)

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF ADMINISTRATION

In the Matter of
Proposed Permanent
Rules Relating to
Minnesota State
Building Code.

REPORT OF THE
ADMINISTRATIVE LAW JUDGE

The above-entitled matter came on for hearing before Administrative Law Judge Steve M. Mihalchick on February 2, 1990, at 9:00 a.m. at the Sheraton Airport Hotel, 2525 East 78th Street, Bloomington, Minnesota.

This report is part of a rulemaking proceeding held pursuant to Minn. Stat. §§ 14.131 to 14.20, to hear public comment, to determine whether the Minnesota Department of Administration (Department) has fulfilled all relevant substantive and procedural requirements of law or rule, to determine whether the proposed rules are needed and reasonable, and whether or not the rules, if modified, are substantially different from those originally proposed.

Charlene Hatcher, Special Assistant Attorney General, 1100 Bremer Tower, St. Paul, Minnesota 55101 appeared on behalf of the Department at the hearing. The agency panel appearing in support of the proposed rules consisted of Elroy Berdahl, Technical Services Section Supervisor; Alvin Kleinbeck, Code Administrator; Milton Bellin, Minnesota Health Department Plumbing Unit; and James Berg, Department of Labor and Industry Code Enforcement Division Director.

Approximately one hundred persons attended the hearing. Eighty persons signed the hearing register. The Administrative Law Judge received eight exhibits as evidence during the hearing. The hearing continued until all interested persons, groups or associations had an opportunity to be heard concerning the adoption of these rules.

The record remained open for the submission of written comments for twenty calendar days following the date of the hearing or February 22, 1990. Pursuant to Minn. Stat. § 14.15, subd. 1 (1988), three business days were allowed for the filing of responsive comments. On February 27, 1990, the rulemaking record closed for all purposes.

Beyond the oral comments at the hearing, the Administrative Law Judge received 313 post-hearing written comments from interested persons. The Department submitted a written comment responding to matters discussed at the hearing. Eleven written comments were received after the record closed in this matter and were not considered.

The Department must wait at least five working days before taking any final action on the rules; during that period, this Report must be made available to all interested persons upon request.

Pursuant to the provisions of Minn. Stat. § 14.15, subd. 3 and 4, this Report has been submitted to the Chief Administrative Law Judge for his approval. If the Chief Administrative Law Judge approves the adverse findings of this Report, he will advise the Commissioner of Administration (Commissioner) of actions which will correct the defects and the Commissioner may not adopt the rule until the Chief Administrative Law Judge determines that the defects have been corrected. However, in those instances where the Chief Administrative Law Judge identifies defects which relate to the issues of need or reasonableness, the Commissioner may either adopt the Chief Administrative Law Judge's suggested actions to cure the defects or, in the alternative, if the Commissioner does not elect to adopt the suggested actions, she must submit the proposed rule to the Legislative Commission to Review Administrative Rules for the Commission's advice and comment.

If the Commissioner elects to adopt the suggested actions of the Chief Administrative Law Judge and makes no other changes and the Chief Administrative Law Judge determines that the defects have been corrected, then the Commissioner may proceed to adopt the rule and submit it to the Revisor of Statutes for a review of the form. If the Commissioner makes changes in the rule other than those suggested by the Administrative Law Judge and the Chief Administrative Law Judge, then she shall submit the rule, with the complete record, to the Chief Administrative Law Judge for a review of the changes before adopting it and submitting it to the Revisor of Statutes.

When the Department files the rule with the Secretary of State, it shall give notice on the day of filing to all persons who requested that they be informed of the filing.

Based upon all the testimony, exhibits and written comments, the Administrative Law Judge makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On December 20, 1989, the Department filed the Notice of Hearing proposed to be issued with the Chief Administrative Law Judge.

2. On January 2, 1989, the Department filed the following documents with the Chief Administrative Law Judge:

(a) A copy of the proposed rules certified by the Revisor of Statutes.
(b) The Statement of Need and Reasonableness.

3. On January 2, 1990, a Notice of Hearing and a copy of the proposed rules were published at 14 State Register 1612.

4. On December 29, 1989, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Department for the purpose of receiving such notice.

5. On January 30, 1990, the Department filed the following documents with the Administrative Law Judge:

(a) The Notice of Hearing as mailed.
(b) The Agency's certification that its mailing list was accurate and complete.
(c) The Order for Hearing.
(d) The names of Commission personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.
(e) A copy of the State Register containing the proposed rules with the Administrative Law Judge.
(f) The comments received following the Department's request for comments and a copy of the Department's request for comments.

6. On January 31, 1990, the Department filed the Affidavit of Mailing the Notice to all persons on the Agency's list with the Administrative Law Judge.

The documents were available for inspection and copying at the Office of Administrative Hearings from the date of filing to February 27, 1990, the date the record closed.

The Department did not comply precisely with the filing deadlines of Minn. Rules 1400.0300 and .0600. However, no members of the public inquired of the Administrative Law Judge to inspect or copy the documents required to be filed under those rules. No one expressed any objection or claimed to be prejudiced by the Department's late filing. The Administrative Law Judge finds that the Department's noncompliance with Minn. Rules 1400.0300 and .0600 is not a defect in the rulemaking proceeding.

Nature of the Proposed Rules.

7. The proposed rules repeal the presently existing code governing standards for elevator construction, operation and maintenance, and put in its place the 1987 edition of the American National Standard Safety Code for Elevators and Escalators A17.1-1987, the A17.1a-1988 supplement, and the A17.3-1986 supplement (hereinafter, "ANSI"). In addition, the proposed rules specify variances from the national code; set additional standards for elevator construction and operation; require permits for any work to be performed on elevators; establish tests; and set procedures to followed in case of accidents.

Statutory Authority.

8. In its Statement of Need and Reasonableness (SONAR), the Department cites Minn. Stat. § 16B.61 (1989) as authorizing the Department to adopt the proposed rules. This statute requires the Department to promulgate rules establishing a code "for the construction, reconstruction, alteration, and repair of state-owned buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety." Minn. Stat. § 16B.61. The Department has general authority to adopt these rules.

Small Business Considerations in Rulemaking.

9. Minn. Stat. § 14.115, subd. 2 (1988), requires state agencies proposing rules affecting small businesses to consider methods for reducing adverse impact on those businesses. In the SONAR, the Department stated that the effect of the proposed rules on small business was evaluated. No reporting requirements, except in the case of accidents, are imposed by the rules. In any event, the reporting requirement established by the rule is minimal and cannot be reduced without eliminating the requirement. The Department considered reduction of compliance inappropriate since the rules establish a minimum standard intended to protect the health and safety of the public while using elevators. Similarly, exempting small businesses from the proposed rule is inappropriate since the rules are intended to be a minimum standard. The Department has concluded that the rules cannot be made less rigorous when applied to small businesses. The Department has met the requirements of Minn. Stat. § 14.115, subd. 2, with respect to the impact of the proposed rules on small businesses.

Fiscal Note.

10. Minn. Stat. § 14.11, subd. 1, requires proposers of rules requiring the expenditure of public funds in excess of $100,000 per year by local public bodies to publish an estimate of the total cost to local public bodies for a two-year period. The proposed rules will not require any expenditure of funds by a local agency or school district.

Impact on Agricultural Land.

11. Minn. Stat. § 14.11, subd. 2, requires proposers of rules that have a "direct and substantial adverse impact on agricultural land in this state" to comply with additional statutory requirements. These rules have no impact on agricultural land and, therefore, the additional statutory provisions do not apply.

Substantive Provisions.

12. The portions of the proposed rules which received comment or otherwise need to be examined will be discussed below. Any rule not mentioned is found to be needed and reasonable. Also, any rule not mentioned is found to be authorized by statute.

Proposed Rule 1305.5102 -- Scope.

13. Proposed Rule 1305.5102 sets the scope of the proposed rules as applying to all new and existing installations of elevators and related devices. Further, the proposed rule part delegates administrative responsibility for Part XXI of ANSI (governing wheelchair and chair lifts in private residences) to municipal building officers. Also, the Department of Labor and Industry is exempted by statute from enforcement of these rules in cases of owner-occupied dwellings of four units or less. Municipal enforcement is specifically authorized by Minn. Stat. § 16B.62, subd. 1. The proposed rule part is needed and reasonable to clearly denote municipal administrative authority.

Proposed Rule 1305.5103 -- ANSI Code Adopted by Reference.

14. This proposed rule part adopts the American National Safety Code for Elevators and Escalators A17.1-87, supplement A17.1a-1988 and ANSI A17.3-1986, with alterations by these proposed rules, as the substantive rule on elevators, escalators and related devices. This adoption by reference is specifically authorized by Minn. Stat. § 16B.61, subd. 1. The statute requires that the code so adopted be "based on the application of scientific principles, approved tests and professional judgment." Minn. Stat. § 16B.61, subd. 1. The ANSI code meets these requirements. The Department has stated that the adopted code is not subject to change without prior deliberation. SONAR, at 3. Minn. Stat. § 16B.64, subd. 3, requires only that the adopted code be filed with the Secretary of State and that a complete copy of the code be kept on file in the office of the Commissioner. The Department is exempted from distributing the adopted reference (or incorporating the actual text of that reference) within its proposed rule. Minn. Stat. § 16B.64, subd. 2.

B. James Berg, Director of Code Enforcement for the Minnesota Department of Labor and Industry commented that the Department should adopt by reference supplement A17.1b-1989 in addition to the other parts of the ANSI code to bring the proposed rule up to date prior to its adoption. The Department has not chosen to incorporate this latest update into the rulemaking process. The Department is not required to adopt rule provisions and is free to decline to do so. The Department has met the requirements of Minn. Stat. § 16B.64 in this proposed rule part. The incorporation by reference of this proposed rule part is needed, reasonable and specifically authorized by statute.

Proposed Rule 1305.5104 -- Definitions.

15. Subpart (a) of proposed rule 1305.5104 defines "ANSI Code" as the ANSI/ASME A17.1 Code-1987, with supplement A17.1a-1988 and ANSI A17.3-1986, Safety Code for Elevators and Escalators, an American National Standard published by the American Society of Mechanical Engineers. Owing to the incorporation by reference of this document, defining the shortened name "ANSI Code" is needed and reasonable.

Subpart (b) defines "authority having jurisdiction" as the building code enforcement agency of local government where the code is enforced or

the Department of Labor and Industry, depending on whether the work site is within or outside the enforcement sphere of local government. The Administrative Law Judge suggests that the Department add "by local government" after "where the code is enforced" to clarify the exact scope of local jurisdiction. The existing language does not constitute a defect and this Subpart is needed and reasonable to define a term which appears frequently throughout the proposed rules. Should the Department alters the definition, the new language would not constitute a substantial change.

Proposed Rule 1305.5105 -- Permits.

16. Proposed rule 1305.5105 was not objected to by any of those who submitted written comments or testimony at the hearing. The proposed rule part requires permits for work on, or operation of, elevators, escalators or other related devices, except when the device is installed in a dwelling unit for the sole use of the occupant. In that instance, no permit is required. Subpart (f) specifies that a fee shall accompany any application to obtain a permit under these rules. This Subpart does not set the fee, rather, the authority having jurisdiction sets the appropriate fee. This method of requiring and setting the appropriate fee is authorized by Minn. Stat. § 16B.71, which references the "building permit fees . . . the inspecting municipality customarily imposes for its administration and enforcement of the code." In the Department's errata sheet, a change is listed to delete the word "major" from "major alterations" in Subpart (a). The Department justifies this deletion on the ground that there is no definition of "major alterations" in the proposed rules. The deletion of "major" does not significantly alter the meaning of the rule, will reduce confusion over the rule's meaning and may discourage attempts to evade the permit requirement. Proposed rule 1305.5105 is needed and reasonable. The change in the rule part does not constitute a substantial change.

Proposed Rule 1305.5106 -- Inspections, Tests, and Approvals.

17. This proposed rule part establishes the procedure for approving plans, conducting inspections, conducting tests, issuing certificates of approval and authorizing limited use of elevators prior to completion of the surrounding building. No one objected to any of the provisions contained in this proposed rule part. Proposed rule 1305.5106 is needed and reasonable to establish a process for testing and inspecting elevators.

Proposed Rule 1305.5107 -- Accidents.

18. Proposed rule part 1305.5107 requires reporting of any accident involving an elevator or related device and establishes a procedure to investigate the particular device involved and remove that device from service until its reuse is approved by the authority having jurisdiction. No one objected to this proposed rule part. Proposed rule 1305.5107 is needed and reasonable to protect public safety and remove unsafe equipment from use.

Proposed Rule 1305.5108 -- Design; Special Provisions.

19. This portion of the proposed rules sets particular requirements that must be incorporated into the design of elevators or related devices, as applicable. The Department has altered the last sentence in Subpart (a) of proposed rule 1305.5108 to add the word "are." In Subpart (e)(3), the Department has deleted UBC and changed the reference to section 5108(e)(6), as being the correct cross reference. These changes are made to clarity effect or correct grammar and do not constitute a substantial change. The matters governed by this proposed rule part range from the type of carpeting acceptable for elevator use to the length of delay between the "hall call" (indication of elevator arrival) and the closure of the elevator doors. No objections were made to these varied design provisions. Proposed rule 1305.5108 is needed and reasonable to set particular requirements not already created by the ANSI code.

Proposed Rule 1305.5112 -- Amendments to ANSI A17.1-1987.

20. Proposed rule 1305.5112 sets forth provisions that are to be changed from the present language appearing in the ANSI Code. B. James Berg, Director of Code Enforcement, Department of Labor and Industry, summarized the comments of many fire prevention officials who suggest that ANSI A17.1-1987 211.3d be changed to permit the fire chief, rather than the authority having jurisdiction, to direct placement of lock boxes containing keys for key-operated elevators. Further, the fire chief would determine what key would open the lock box. This suggestion stems from the need, in the event of fire, to have each elevator controlled by the fire department. The Department has agreed to follow this suggestion. In its posthearing comment submitted by Mr. Berg, the Department has proposed that Rule 211.3d be amended to place lock box location under the jurisdiction of the local fire chief. Further, the Department proposed to change Rule 211.3d to grant the right of approval of the key used in lock boxes to the local fire chief. Although these amendments could create problems in implementing the elevator rules insofar as the fire departments have no enforcement authority under the proposed rules, granting local fire chiefs the authority to locate and regulate lock boxes is needed and reasonable. Local fire departments must be able to find and use the lock box in an emergency and this provision ensures efficiency by permitting local uniformity of lock box operation. The proposed amendment was fully discussed at the hearing and in the comments and the change does not constitute a substantial change.

Fire protection officials also suggested that ANSI A17.1-1987 rule 102.2 be amended to not require use of automatic disconnect of the main power supply when sprinklers are in the machine room only, the sprinklers are equipped with cycling heads (on/off type), and the elevator has Phase I emergency recall. Their rationale is that power need not be disconnected from the elevators where the sprinklers are activated on only an intermittent basis. The damage to electrical components in the machine room would be minimized and the sprinkler would automatically deactivate. Under the system required by ANSI A17.1-1987 rules 102.2 and 211.3, the sprinklers would remain on in the machine room until emergency

personnel arrived to shut them off and power would remain off to the elevators until manually reactivated. The Department, through Mr. Berg, has adopted the proposed amendment. Following the new language, as opposed to the model code, is appropriate because it permits the use of available technology to decrease damage in the event of fire, without increasing risk factors to persons in the building during the emergency. Under the Department's approach, in the event of fire in the machine room, the main power source will not be disconnected from the elevators, but the elevators would be removed from normal service. The sprinklers would operate only until the heat sensor indicated a drop in temperature below a pre-set level. Less water would be used, reducing the risk of damaging components in the machine room. The proposed rule, as amended, is needed and reasonable. The proposed change was discussed at the hearing and does not constitute a substantial change.

The Department proposes to amend ANSI A17.1-1987 rule 208.1 to retain the prohibition against winding drum machines present in the existing rules. No one objected to this provision; it is needed and reasonable; and the amendment does not constitute a substantial change.

Proposed Rule 1305.5113 -- Inclined and Vertical Wheelchair Lifts.

22. Proposed rule 1305.5113 states that wheelchair lifts do not meet the accessibility requirements of chapter 1340 of Minnesota Rules. However, the Legislature has expressly approved the use of wheelchair lifts in public buildings. Minn. Stat. § 16B.61, subd. 5(g) (Supp. 1989) states:

> (g) Equipment allowed. The code must allow the use of vertical wheelchair lifts and inclined stairway wheelchair lifts in public buildings. An inclined stairway wheelchair lift must be equipped with light or sound signalling device for use during operation of the lift. The stairway or ramp shall be marked in a bright color that clearly indicates the outside edge of the lift when in operation. The code shall not require a guardrail between the lift and the stairway or ramp. Compliance with this provision by itself does not mean other handicap accessibility requirements have been met.

Building accessibility requirements of Minn. Rules ch. 1340 appear to apply to most buildings used by the public, which includes public buildings. While the proposed rule does not prohibit the use of wheelchair lifts, the fact that it does not allow them to be used to comply with any accessibility requirements conflicts with the statutory requirement, at least as to public buildings.

Under Minn. Stat. § 645.16, when interpreting statutes, each word must be interpreted to have meaning, if possible. The only interpretation that gives meaning to the entire last sentence of the statute is that wheelchair lifts may be used to meet certain accessibility requirements.

The only handicap accessibility requirements that wheelchair lifts could meet are: 1) accessibility to all levels of the floor of building access and 2) accessibility of other stories or levels under Minn. Rules 1340.0300, subps. 3 and 4. The Department's exclusion of wheelchair lifts from meeting these standards operates to prohibit these devices in public buildings despite the statutory permission to use these devices. Thus, the rule is invalid because it conflicts with the statute. J.C. Penny Co., Inc. v. Comm'r of Economic Security, 353 N.W.2d 243 (Minn.App. 1984). To cure this defect, a provision excluding public buildings must be added.

Because the Legislature has approved the use of wheelchair lifts in public buildings, it would seem that they would also be acceptable in private buildings. However, the SONAR does not provide any reason or cite any authority upon which to base its exclusion of wheelchair lifts from fulfilling the requirements of chapter 1340 in private buildings used by the public. The Department has not shown that barring wheelchair lifts from meeting the requirements of chapter 1340 is needed or reasonable. The Department must delete the second sentence of proposed rule 1305.5113 to cure this defect.

The Department must change an additional section of proposed rule 1305.5113 in light of the provision of Minn. Stat. § 16B.61, subd. 5(g), which states that "the code shall not require guardrail between the lift and the stairway or ramp." The Department is amending ANSI A17.1 rule 2001.1a to require such lifts to be "separated from the ramp or stair by a solid guard rail not less than 42 inches in height. Handrails complying with the requirements of the UBC Section 3306(j) must be provided on the ramp or stairway side of the guardrail." The Department has not shown that this provision is needed and reasonable, particularly in the face of the statutory prohibition against such a requirement with regard to public buildings. The Department must delete the proposed rule amending ANSI A17.1 rule 2001.1a to cure this defect.

Proposed Rule 1305.5118 -- Existing Installations.

23. This proposed rule part establishes rights, obligations and procedures under which devices presently operating may continue to do so and what must be done in the event of damage or unsafe conditions. No objections were raised to this proposed rule part. The Department seeks to amend the language of the proposed rule to include language presently in the existing elevator rule. The new language would define "material change" for the purpose of determining what code must be complied with when a device is altered. The new language does not constitute a substantial change. The proposed rule, as amended, is needed and reasonable to permit older devices to continue in operation without constant remodeling, so long as the devices remain in a safe condition.

Other Comments.

24. Additional changes were suggested by the Department to ANSI A17.1-1987 Rule 110.13 (Entrances, Swing Type); Rule 210.1a (Types of Operating Devices); and, Rules 204.2d, 301.7, 1603.6, 1708.3b, 1708.3c

and 1803.4 (prohibiting side emergency exits). None of these changes were objected to. The prohibition against side emergency exits is retained from the existing rules. None of these changes constitute a substantial change.

Raymond Albrecht objected to the minimum size provisions for wheelchair lifts contained in ANSI A17.1-1986. He related his experience with a wheelchair lift with interior dimensions of 33 inches by 50 inches. Mr. Albrecht suggests that an additional 8 inches of clearance is needed for those who cannot alter the position of the foot supports on power wheelchairs. This might also permit an attendant to ride the lift with the chair-bound passenger. The Department responded that the proposed minimum dimensions are identical to those set forth in the uniform code. The Administrative Law Judge is sympathetic to the difficulties presented to individuals when using wheelchair lifts. The Judge recognizes that, in many instances, a few inches can render an elevator, a wheelchair lift, or an entire building inaccessible. Nevertheless, the need for a uniform rule is clear. When lift manufacturers and those who manufacture wheelchairs can refer to a common frame of reference, conflicts of size can be reduced. The uniform minimum size is needed and reasonable.

Judd Jacobson of Minnesota Home Elevator objects to the provision contained in ANSI A17.1a, Rule 2000.10a permitting key operation of elevators for the handicapped. Mr. Jacobson commented that this objection is supported by the Community Living Committee of the Minnesota State Council on Disability. The Department responded that the key operation requirements are reasonable and necessary to maximize elevator availability and prevent vandalism. Mr. Judd bases the objection to key operation on the physical inability of some persons to use the key system. While total accessibility to all building space with the least possible inconvenience is a worthwhile goal, the Department has articulated sufficient facts to demonstrate that permitting key operation is needed and reasonable.

Michael Carlson of Medical Aids, Inc. proposed language which would permit the use of chair lifts in public buildings. The Department opposes this suggestion, asserting that such chair lifts are not safe for use in such settings. Chair lifts do not come within the scope of Minn. Stat. § 16B.61, subd. 5(g) and, therefore, the Department is not required to allow the use of such devices. The Department is entitled to exercise its expertise, within the limits of its statutory mandate and the rule's necessity and reasonability. Mr. Carlson has not rebutted the Department's finding that such devices are not safe in public settings. Further, Mr. Carlson has not shown that such devices will assist building owners in meeting the requirements of Minn. Rule Chapter 1340. The prohibition of chair lifts in public buildings is needed and reasonable.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

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

2. That the Department has fulfilled the procedural requirements of Minn. Stat. §§ 14.14, subds. 1, 1a and 14.14, subd. 2, and all other procedural requirements of law or rule.

3. That the Department has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 14.05, subd. 1, 14.15, subd. 3 and 14.50 (i)(ii), except as noted at Finding 22.

4. That the Department has documented the need for and reasonableness of its proposed rules with an affirmative presentation of facts in the record within the meaning of Minn. Stat. §§ 14.14, subd. 2 and 14.50 (iii), except as noted at Finding 22.

5. That the amendments and additions to the proposed rules which were suggested by the Department after publication of the proposed rules in the State Register do not result in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. § 14.15, subd. 3, and Minn. Rule 1400.1000, Subp. 1 and 1400.1100.

6. That the Administrative Law Judge has suggested action to correct the defects cited in Conclusions 3 and 4 as noted at Finding 22.

7. That due to Conclusions 3 and 4, this Report has been submitted to the Chief Administrative Law Judge for his approval pursuant to Minn. Stat. § 14.15, subd. 3.

8. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

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

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted except where specifically otherwise noted above.

Dated: March 29, 1990.

STEVE M. MIHALCHICK
Administrative Law Judge

69-0210-4325-1
(Building Code)

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF ADMINISTRATION

In the Matter of
Proposed Permanent
Rules Relating to
Minnesota State
Building Code.

REPORT OF THE
CHIEF ADMINISTRATIVE LAW JUDGE

The above-entitled matter came on for review by the Chief Administrative Law Judge pursuant to the provisions of Minn. Stat. § 14.15, subds. 3 and 4, which provide:

> Subd. 3. Finding of substantial change. If the [administrative law judge's] report contains a finding that a rule has been modified in a way which makes it substantially different from that which was originally proposed, or that the agency has not met the requirements of sections 14.131 to 14.18, it shall be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves the finding of the administrative law judge, the chief administrative law judge shall advise the agency and the revisor of statutes of actions which will correct the defects. The agency shall not adopt the rule until the chief administrative law judge determines that the defects have been corrected.
>
> Subd. 4. Need or reasonableness not established. If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to delay adoption longer than 30 days after the commission has received the agency's submission. Advice of the commission shall not be binding on the agency.

Based upon a review of the record in this proceeding, the Chief Administrative Law Judge hereby approves the Report of the Administrative Law Judge in all respects.

In order to correct the defects enumerated by the Administrative Law Judge, the agency shall either take the action recommended by the Administrative Law Judge or reconvene the rule hearing if appropriate. If the agency chooses to reconvene the rule hearing, it shall do so as if it is initiating a new rule hearing, complying with all substantive and procedural requirements imposed on the agency by law or rule.

If the agency chooses to take the action recommended by the Administrative Law Judge, it shall submit to the Chief Administrative Law Judge a copy of the rules as initially published in the State Register, a copy of the rules as proposed for final adoption in the form required by the State Register for final publication, and a copy of the agency's Findings of Fact and Order Adopting Rules. The Chief Administrative Law Judge will then make a determination as to whether the defects have been corrected and whether the modifications in the rules are substantial changes.

Should the agency make changes in the rules other than those recommended by the Administrative Law Judge, it shall also submit the complete record to the Chief Administrative Law Judge for a review on the issue of substantial change.

Dated: March 30th, 1990.

William G. Brown

WILLIAM G. BROWN
Chief Administrative Law Judge

69-0210-4325-1
(Building Code)

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF ADMINISTRATION

In the Matter of
Proposed Permanent
Rules Relating to
Minnesota State
Building Code.

REPORT OF THE
ADMINISTRATIVE LAW JUDGE

The above-entitled matter came on for hearing before Administrative Law Judge Steve M. Mihalchick on February 2, 1990, at 9:00 a.m. at the Sheraton Airport Hotel, 2525 East 78th Street, Bloomington, Minnesota.

This report is part of a rulemaking proceeding held pursuant to Minn. Stat. §§ 14.131 to 14.20, to hear public comment, to determine whether the Minnesota Department of Administration (Department) has fulfilled all relevant substantive and procedural requirements of law or rule, to determine whether the proposed rules are needed and reasonable, and whether or not the rules, if modified, are substantially different from those originally proposed.

Charlene Hatcher, Special Assistant Attorney General, 1100 Bremer Tower, St. Paul, Minnesota 55101 appeared on behalf of the Department at the hearing. The agency panel appearing in support of the proposed rules consisted of Elroy Berdahl, Technical Services Section Supervisor; Alvin Kleinbeck, Code Administrator; Milton Bellin, Minnesota Health Department Plumbing Unit; and James Berg, Department of Labor and Industry Code Enforcement Division Director.

Approximately one hundred persons attended the hearing. Eighty persons signed the hearing register. The Administrative Law Judge received eight exhibits as evidence during the hearing. The hearing continued until all interested persons, groups or associations had an opportunity to be heard concerning the adoption of these rules.

The record remained open for the submission of written comments for twenty calendar days following the date of the hearing or February 22, 1990. Pursuant to Minn. Stat. § 14.15, subd. 1 (1988), three business days were allowed for the filing of responsive comments. On February 27, 1990, the rulemaking record closed for all purposes.

Beyond the oral comments at the hearing, the Administrative Law Judge received 313 post-hearing written comments from interested persons. The Department submitted a written comment responding to matters discussed at the hearing. Eleven comments were received after the record closed and, therefore, those comments were not considered.

The Department must wait at least five working days before taking any final action on the rules; during that period, this Report must be made available to all interested persons upon request.

Pursuant to the provisions of Minn. Stat. § 14.15, subd. 3 and 4, this Report has been submitted to the Chief Administrative Law Judge for his approval. If the Chief Administrative Law Judge approves the adverse findings of this Report, he will advise the Commissioner of Administration (Commissioner) of actions which will correct the defects and the Commissioner may not adopt the rule until the Chief Administrative Law Judge determines that the defects have been corrected. However, in those instances where the Chief Administrative Law Judge identifies defects which relate to the issues of need or reasonableness, the Commissioner may either adopt the Chief Administrative Law Judge's suggested actions to cure the defects or, in the alternative, if the Commissioner does not elect to adopt the suggested actions, she must submit the proposed rule to the Legislative Commission to Review Administrative Rules for the Commission's advice and comment.

If the Commissioner elects to adopt the suggested actions of the Chief Administrative Law Judge and makes no other changes and the Chief Administrative Law Judge determines that the defects have been corrected, then the Commissioner may proceed to adopt the rule and submit it to the Revisor of Statutes for a review of the form. If the Commissioner makes changes in the rule other than those suggested by the Administrative Law Judge and the Chief Administrative Law Judge, then she shall submit the rule, with the complete record, to the Chief Administrative Law Judge for a review of the changes before adopting it and submitting it to the Revisor of Statutes.

When the Department files the rule with the Secretary of State, it shall give notice on the day of filing to all persons who requested that they be informed of the filing.

Based upon all the testimony, exhibits and written comments, the Administrative Law Judge makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On December 20, 1989, the Department filed the Notice of Hearing proposed to be issued with the Chief Administrative Law Judge.

2. On January 2, 1989, the Department filed the following documents with the Chief Administrative Law Judge:

(a) A copy of the proposed rules certified by the Revisor of Statutes.
(b) The Statement of Need and Reasonableness.

3. On January 2, 1990, a Notice of Hearing and a copy of the proposed rules were published at 14 State Register 1612.

4. On December 29, 1989, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Department for the purpose of receiving such notice.

5. On January 30, 1990, less than 25 days prior to the hearing, the Department filed the following documents with the Administrative Law Judge:

(a) The Notice of Hearing as mailed.
(b) The Agency's certification that its mailing list was accurate and complete.
(c) The Order for Hearing.
(d) The names of Commission personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.
(e) A copy of the State Register containing the proposed rules with the Administrative Law Judge.
(f) The comments received following the Department's request for comments and a copy of the Department's request for comments.

6. On January 31, 1990, the Department filed the Affidavit of Mailing the Notice to all persons on the Agency's list with the Administrative Law Judge.

The documents were available for inspection and copying at the Office of Administrative Hearings from the date of filing to February 27, 1990, the date the record closed.

The Department did not comply precisely with the filing deadlines of Minn. Rules 1400.0300 and .0600. However, no members of the public inquired of the Administrative Law Judge to inspect or copy the documents required to be filed under those rules. No one expressed any objection or claimed to be prejudiced by the Department's late filing. The Administrative Law Judge finds that the Department's noncompliance with Minn. Rules 1400.0300 and .0600 is not a defect in the rulemaking proceeding.

Nature of the Proposed Rules.

7. The proposed rules modify the presently existing code governing standards for regulating design, construction occupancy and maintenance of structures by adopting and amending the Uniform Building Code (UBC), 1988 edition.

Statutory Authority.

8. In its Notice of Hearing, the Department cites Minn. Stat. § 16B.61 (1989) as authorizing the Department to adopt the proposed rules. This statute requires the Department to promulgate rules establishing a code "for the construction, reconstruction, alteration, and repair of

state-owned buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety." Minn. Stat. § 16B.61. The Department has general authority to adopt these rules.

Small Business Considerations in Rulemaking.

9. Minn. Stat. § 14.115, subd. 2 (1988), requires state agencies proposing rules affecting small businesses to consider methods for reducing adverse impact on those businesses. In the Statement of Need and Reasonableness (SONAR), the Department stated it had evaluated the effect of the proposed rules on small business and considered each of the methods set forth in that statute. The Department asserts that the purpose of the rules is to establish a minimum standard and to exempt small businesses would defeat that purpose. Similarly, reducing the performance standards for small business is inappropriate since those entities would fall below the minimum standard intended to protect the health and safety of the public. The proposed rules impose no reporting requirements, so the rules cannot be made less rigorous when applied to small businesses. The Department has met the requirements of Minn. Stat. § 14.115, subd. 2, with respect to the impact of the proposed rules on small businesses.

Fiscal Note.

10. Minn. Stat. § 14.11, subd. 1, requires proposers of rules requiring the expenditure of public funds in excess of $100,000 per year by local public bodies to publish an estimate of the total cost to local public bodies for a two-year period. The proposed rules will not require any expenditure of funds by a local agency or school district.

Impact on Agricultural Land.

11. Minn. Stat. § 14.11, subd. 2, requires proposers of rules that have a "direct and substantial adverse impact on agricultural land in this state" to comply with additional statutory requirements. These rules have no impact on agricultural land and, therefore, the additional statutory provisions do not apply.

Substantive Provisions.

12. The portions of the proposed rules which received comment or otherwise need to be examined will be discussed below. Any rule not mentioned is found to be needed and reasonable. Also, any rule not mentioned is found to be authorized by statute.

Proposed Rule 1301.0200 -- Building Official Certification.

13. This proposed rule requires all building officials meet the prerequisites for Class II certification, except for those who qualify for the grandfathered certification of proposed rule 1301.0200, subpart 2. Those building officials who hold a Class I certification may continue to hold that classification. No new Class I certifications will be issued after July 1, 1990. Numerous municipalities, building

officials and the Lake Country Chapter of the International Conference of Building Officials objected to the termination of Class I certification. Jan Gasterland, Building Code Officer for the City of St. Paul, asserted that municipalities use Class I certified building official positions as entry level positions and that no rationale exists for eliminating Class I certification. The SONAR does not directly address this issue, but it does state that Class I certification is granted to individuals with "a minimal amount of education and training". In its post-hearing comment, the Department bases discontinuing Class I certification on its limited application, as opposed to the general applicability of Class II certification. The Department is granted the express statutory authority to certify building officials and "may establish classes of certification that will recognize the varying complexities of code enforcement". Minn. Stat. § 16B.65, subd. 3. The language of the statute clearly grants the Department discretion to establish several classes or only one. The proposed rule part is needed and reasonable to establish a classification standard for building officials. Nonetheless, the comments suggest that there is some need for the Class I certification and it is recommended that the Department consider those comments again.

Proposed Rule 1301.0300 -- Certification Prerequisites.

14. Several commentators objected to the level of certification required as a prerequisite to Class II certification. Under proposed rule 1301.0300, the applicant for certification must have a degree or certificate from a listed organization, or one that is comparable to those organizations listed, prior to applying for Class II certification. Orrion Roisen, Building Official of the City of Albert Lea, suggested that smaller communities would not be able to hire persons who meet the requirements of this proposed rule part and suggested that an experience alternative be retained instead. No one has suggested that the duties of inspecting work done in smaller towns makes a lesser certification standard reasonable.

Jan Gasterland suggested the educational prerequisite be expanded to permit "equivalent education", or a bachelors degree (in civil engineering, structural engineering, or architecture), or five years of experience as a contractor, in lieu of the community college certificate requirement or the associate degree requirement. No facts are present in the record to show that the alternatives offered by Jan Gasterland are the equivalent to the standards set by the Department. The Department has shown that the rule, as proposed, is needed and reasonable to establish minimum prerequisites for Class II certification. Despite this finding of need and reasonableness, however, the Administrative Law Judge recommends that the Department compare the background provided by a bachelors degree in civil engineering, structural engineering, or architecture to that provided by the associate degree in building inspection. If the education provided for the purpose of building inspection is comparable, it would be reasonable to include those degrees in the certification portion of the proposed rules. This addition would not constitute a substantial change.

Proposed Rule 1305.0100 -- Adoption of the Uniform Building Code by Reference.

15. Proposed Rule 1305.0100 incorporates by reference chapters 1 to 60 and appendixes of the 1988 edition of the Uniform Building Code (UBC). This document is published by the International Conference of Building Officials (ICBO). The proposed rule part contains the name and address of this organization. The Revisor of Statutes has approved the rule as to form, and this approval constitutes a finding by the Revisor that the document incorporated by reference is conveniently available to the public. Minn. Stat. § 14.07, subd. 4(a). However, the proposed rule part lacks: 1) a statement that the document incorporated by reference is not subject to frequent change; and, 2) a statement of where the incorporated document is made available. These two statements are required by Minn. Stat. § 14.07, subd. 4(a). Not including either of those statements constitutes a defect in the rules for failure fulfill a statutory requirement. The defect may be corrected by adding to the end of the proposed rule part language similar to the following:

> The Uniform Building Code is not subject to frequent change and a copy of the Uniform Building Code, with amendments for use in Minnesota, is available in the office of the commissioner of administration.

Adding the foregoing to the proposed rule part will meet the requirements of Minn. Stat. Ch. 14. The proposed rule, with that change, is needed and reasonable. The change would be made to comply with a statutory requirement and does not constitute a substantial change.

Proposed Rule 1305.1795 -- Required Sanitation Fixtures Based on Occupant Load (1) (2) (6); 5-E.

16. Proposed rule 1305.1795 adds a table, denoted 5-E to chapter 5 of the UBC. This provision did not receive any adverse comment, but the Department seeks to amend the table to delete "(6)" from the first line of the table. The change was not opposed and does not constitute a substantial change. The Department has shown that the proposed rule part is needed and reasonable.

Rule 1305.1750 -- Roof Access.

17. The Department proposes to delete this rule part owing to the adoption of the language in the Uniform Mechanical Code § 704(h) (hereinafter "UMC"). This change has engendered objections from fire fighters and municipalities because the uniform language of the UMC does not require access standards as stringent as existing provisions of Minn. Rule 1305.1750. That rule requires a stairway leading to a scuttle or bulkhead, as opposed to ladder access as provided for in the UMC. In a companion report to this proceeding, the Administrative Law Judge has upheld the Department's authority to make that change in the UMC. Report of the Administrative Law Judge, No. 69-0210-4325-1 (Mechanical Code)(issued March 29, 1990). The Department's deletion of this rule merely conforms the UBC with the UMC and is needed and reasonable.

As noted in the foregoing finding, a companion rulemaking proceeding relating to the UMC has been instituted by the Department. In the report to that proceeding, the Administrative Law Judge has urged the Department to consider retaining Rule 1305.1750. Since Rule 1305.1750 is not a part of this rulemaking proceeding, retention of the rule cannot constitute a substantial change from the rule as published in the State Register. The Department should note, if it decides to retain Rule 1305.1750, the exemptions located at section 3306(a) and (g) of the UBC and determine whether either of those exemptions should be deleted. Such deletions would be needed and reasonable to render the proposed rules consistent and does not constitute a substantial change.

Proposed Rule 1305.3860 -- Section 1215.

18. This proposed rule part alters UBC § 1215 to add a new section for sound control. No objections were raised to this proposed rule part. The Department seeks to delete the word "Division" from the new section to maintain consistent language throughout the rule. The Department has shown that the proposed rule part is needed and reasonable and that the change is not a substantial change.

Proposed Rule 1305.6430 -- Table 38-A.

19. Proposed rule 1305.6430 amends Table 38-A of the UBC by adding footnote 8. This footnote sets the standpipe requirement at four stories or more in buildings equipped with approved automatic fire extinguishing devices (sprinklers). Many fire marshals and fire chiefs objected to this change, asserting that standpipes are needed, even in buildings with automatic fire extinguishing devices, because fire departments frequently must "damp down" embers remaining from extinguished fires. The commentators have not supported these assertions with specific facts. Further, the UBC, prior to being amended in an earlier rulemaking proceeding, changed the original four story height (in the UBC), to a three story limit. This more restrictive requirement is being loosened by the Department, in accordance with the UBC, where an additional safety factor is present. The Department has shown that the proposed rule is needed and reasonable.

Uniform Building Code Section 1204 -- Exits and Emergency Escapes.

20. Section 1204 of the UBC requires basements in every dwelling unit to have at least one operable window or door (approved for emergency escape) which opens directly into a street, alley, yard or exit court. Many commentators, most of whom are engaged in the business of home construction, objected to this portion of the UBC. The grounds for these objections are: 1) in winter, these exits will become unusable due to unremoved snow; 2) the presence of these excavations could present a danger to persons, absent guardrails or other barriers; 3) security for occupants could be compromised by permitting ingress, as well as emergency escape; and, 4) the cost of residential housing would be increased. The Department asserted that more than 1000 deaths have been attributed to persons trapped in basements in fires, without an adequate means of escape. The objections raised by the commentators are valid

concerns, but the obligation of the Department to protect the lives of persons occupying buildings constructed under the UBC justifies enforcement of this uniform provision. The Department has shown that UBC section 1204 is needed and reasonable.

Other Comment.

21. The Department notified the Commissioner of Finance, pursuant to Minn. Stat. § 16A.128, that fees would be charged pursuant to the proposed rule. The Commissioner of Finance, through a representative, has approved the proposed fees. The statutory requirements for establishing a fee by rule have been met.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

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

2. That the Department has fulfilled the procedural requirements of Minn. Stat. §§ 14.14, subds. 1, 1a and 14.14, subd. 2, and all other procedural requirements of law or rule.

3. That the Department has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 14.05, subd. 1, 14.15, subd. 3 and 14.50 (i)(ii), except as noted at Finding 15.

4. That the Department has documented the need for and reasonableness of its proposed rules with an affirmative presentation of facts in the record within the meaning of Minn. Stat. §§ 14.14, subd. 2 and 14.50 (iii).

5. That the amendments and additions to the proposed rules which were suggested by the Department after publication of the proposed rules in the State Register do not result in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. § 14.15, subd. 3, and Minn. Rule 1400.1000, Subp. 1 and 1400.1100.

6. That the Administrative Law Judge has suggested action to correct the defects cited in Conclusion 3 as noted at Finding 15.

7. That due to Conclusion 3, this Report has been submitted to the Chief Administrative Law Judge for his approval pursuant to Minn. Stat. § 14.15, subd. 3.

8. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

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

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted except where specifically otherwise noted above.

Dated: March 29, 1990.

STEVE M. MIHALCHICK
Administrative Law Judge

RECEIVED
APR 2 1990
Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

CHAPTER 1400
OFFICE OF ADMINISTRATIVE HEARINGS
HEARINGS

ADMINISTRATIVE RULEMAKING HEARINGS
1400.0200 SCOPE.
1400.0250 SIZE OF MATERIALS.
1400.0300 INITIATION OF HEARING.
1400.0400 NOTICE OF HEARING.
1400.0500 STATEMENT OF NEED AND REASONABLENESS.
1400.0600 DOCUMENTS TO BE PREFILED.
1400.0700 ADMINISTRATIVE LAW JUDGE DISQUALIFICATION.
1400.0800 CONDUCT OF HEARINGS.
1400.0850 RECEIPT OF WRITTEN MATERIALS.
1400.0900 RULEMAKING RECORD.
1400.0950 AVAILABILITY OF TRANSCRIPT; USE OF COURT REPORTERS.
1400.1000 REPORT OF ADMINISTRATIVE LAW JUDGE.
1400.1100 SUBSTANTIAL CHANGE.
1400.1200 RULE ADOPTION.
1400.1300 EFFECTIVE DATE.
1400.1500 MEDIATION.
CONTESTED CASE HEARINGS
1400.5100 DEFINITIONS.
1400.5200 SCOPE; CONVERSION OF CONTESTED CASE.
1400.5275 DOCUMENTS FILED.
1400.5300 REQUEST FOR ADMINISTRATIVE LAW JUDGE.
1400.5400 ASSIGNMENT OF ADMINISTRATIVE LAW JUDGE.
1400.5500 DUTIES OF ADMINISTRATIVE LAW JUDGE.
1400.5600 NOTICE AND ORDER FOR HEARING.
1400.5700 NOTICE OF APPEARANCE.
1400.5800 RIGHT TO COUNSEL.
1400.5900 CONSENT ORDER, SETTLEMENT, OR STIPULATION.
1400.5950 MEDIATION.
1400.6000 DEFAULT.
1400.6100 TIME.
1400.6200 INTERVENTION IN PROCEEDINGS AS PARTY.
1400.6350 CONSOLIDATION OF CASES.
1400.6400 ADMINISTRATIVE LAW JUDGE DISQUALIFICATION.
1400.6500 PREHEARING CONFERENCE.
1400.6550 SETTLEMENT CONFERENCE.
1400.6600 MOTIONS.
1400.6700 DISCOVERY.
1400.6800 REQUESTS FOR ADMISSION OF FACTS OR OPINIONS.
1400.6900 DEPOSITIONS TO PRESERVE TESTIMONY.
1400.7000 SUBPOENAS.
1400.7050 SANCTIONS IN DISCRIMINATION CASES.
THE HEARING
1400.7100 RIGHTS AND RESPONSIBILITIES OF PARTIES.
1400.7150 RIGHTS AND RESPONSIBILITIES OF NONPARTIES.
1400.7200 WITNESSES.
1400.7300 RULES OF EVIDENCE.
1400.7400 HEARING RECORD.
1400.7500 CONTINUANCES.
1400.7600 CERTIFICATION OF MOTIONS TO AGENCY.
1400.7700 ADMINISTRATIVE LAW JUDGE'S CONDUCT.
1400.7800 CONDUCT OF HEARING.
1400.7900 PARTICIPATION BY AGENCY.
1400.8000 DISRUPTION OF HEARING.
1400.8100 ADMINISTRATIVE LAW JUDGE'S REPORT.
1400.8200 AGENCY DECISION.
1400.8300 RECONSIDERATION OR REHEARING.
1400.8400 EMERGENCY PROCEDURES NOT PREEMPTED.
1400.8401 EXPENSES AND ATTORNEY FEES.
1400.8402 APPLICATION.
REVENUE RECAPTURE ACT HEARINGS
1400.8510 DEFINITIONS.
1400.8520 SCOPE.
1400.8530 WAIVER.
1400.8540 ADMINISTRATIVE LAW JUDGE ASSIGNMENT.
1400.8550 NOTICE OF HEARING.
1400.8560 DEFAULT.
1400.8570 INTERVENTION AS PARTY.
1400.8580 PREHEARING CONFERENCE.
1400.8590 PREHEARING MOTIONS.
1400.8600 PREHEARING DISCOVERY.
1400.8601 SUBPOENAS.
1400.8602 CHANGES IN DATE, TIME, OR PLACE OF HEARING.
1400.8603 CONDUCT OF HEARING.
1400.8604 RESPONSIBILITIES AND RIGHTS OF PARTIES.
1400.8605 RESPONSIBILITIES AND RIGHTS OF NONPARTIES.
1400.8606 ADMINISTRATIVE LAW JUDGES.
1400.8607 RULES OF EVIDENCE.
1400.8608 BURDEN OF PROOF.
1400.8609 HEARING RECORD.
1400.8610 ADMINISTRATIVE LAW JUDGE'S REPORT.
1400.8611 DISRUPTION OF HEARING.
1400.8612 REHEARING.
1400.8613 SEVERABILITY.

ADMINISTRATIVE RULEMAKING HEARINGS

1400.0200 SCOPE.

The procedures contained in parts 1400.0300 to 1400.1200 shall govern the conduct of all rule hearings held by an agency of state government as defined in Minnesota Statutes, section 14.02, subdivision 2, for the purpose of the adoption of any rule as that term is defined in Minnesota Statutes, section 14.02, subdivision 4.

Statutory Authority: *MS s 14.51*

1400.0250 SIZE OF MATERIALS.

All materials submitted to the administrative law judge or chief administrative law judge in a rulemaking proceeding, except the draft of the proposed or adopted rules prepared by the revisor of statutes, handwritten comments from members of the public and exhibits, must be on standard size 8-1/2-inch by 11-inch paper.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.0300 INITIATION OF HEARING.

Subpart 1. **Assigning administrative law judge.** Any agency desiring to initiate a rule hearing pursuant to Minnesota Statutes, sections 14.14 to 14.20, shall first file with the chief administrative law judge or a designee a description of the subject matter of the upcoming rulemaking proceeding and a request for the assignment of an administrative law judge. Within ten days of receipt of the request, the chief administrative law judge shall assign an administrative law judge to preside over the proceeding.

Subp. 1a. **Filing documents.** Prior to giving notice of the hearing, the agency shall file with the chief administrative law judge, or the administrative law judge who will preside over the proceeding, the following documents:

A. A copy of the proposed rule or rules, with a certification of approval as to form by the revisor of statutes attached.

B. An order for hearing that shall contain the following: a proposed time, date, and place for the hearing to be held; a statement that the notice of hearing shall be given to all persons who have registered with the agency for that purpose, and a statement that the notice of hearing shall be published in the State Register; and the signature of the person authorized to order a hearing. If a board is ordering the hearing, the person signing the order must be so authorized and a document of authority must be attached to the order for hearing.

C. The notice of hearing proposed to be issued that shall contain the following:

(1) A proposed time, date, and place for the hearing to be held.

(2) A statement that all interested or affected persons will have an opportunity to participate.

(3) A statement or a description of the subjects and issues involved. If the proposed rules are not included with the notice of hearing, then the notice must clearly indicate the nature and extent of the proposed rules, and a statement shall be included announcing the availability and the means of obtaining upon request at least one free copy of the proposed rules.

(4) A citation to the agency's statutory authority to adopt the proposed rules.

(5) A statement describing the manner in which interested persons may present their views and advising persons that the proposed rule may be modified as a result of the hearing process.

(6) A statement advising interested persons that lobbyists must register with the state Ethical Practices Board, which statement shall read as follows:

Minnesota Statutes, chapter 10A requires each lobbyist to register with the state Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11 as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) who spends more than $250, not including traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

(7) A statement that written material may be submitted and recorded in the hearing record for five working days after the public hearing ends, a statement that the comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the administrative law judge at the hearing, a statement that the comments received during the comment period shall be available for review at the office of administrative hearings, and a statement that the agency and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period.

(8) A separate paragraph which shall read as follows:

Notice: Any person may request notification of the date on which the administrative law judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

(9) A separate paragraph which shall read as follows:

Notice is hereby given that a statement of need and reasonableness is now available for review at the agency and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

(10) If required by Minnesota Statutes, section 14.11, subdivision 1, a statement relating to the expenditure of public money by local public bodies.

(11) If the agency elects to comply with Minnesota Statutes, section 14.115, subdivision 4, by following paragraph (a) of the statute, a statement that the proposed rules will have an impact on small business and either a description of the probable quantitative and qualitative impact of the proposed rules upon small business or a reference to where additional information can be obtained.

(12) If required by Minnesota Statutes, section 14.11, subdivision 2, a statement that the proposed rules may have a direct and substantial adverse effect on agricultural land as defined in Minnesota Statutes, section 17.81, subdivisions 2 and 3.

(13) A statement that the rule hearing procedure is governed by Minnesota Statutes, sections 14.14 to 14.20 and by parts 1400.0200 to 1400.1200 and a statement that questions about procedure may be directed to the administrative law judge.

(14) A blank space for the addition of the name, office address, and telephone number of the administrative law judge who will be assigned to conduct the hearing.

D. A statement by the agency of the number of persons expected to attend the hearing and the estimated length of time that will be necessary for the agency to present its evidence at the hearing.

E. A statement of need and reasonableness complying with part 1400.0500.

F. A statement by the agency indicating whether it intends to provide discretionary additional public notice of the proposed rules, authorized by Minnesota Statutes, section 14.14, subdivision 1a, and the extent of any such discretionary additional notice to be given.

Subp. 2. **Scheduling a hearing.** Within ten days of receipt of the aforementioned documents, the administrative law judge shall advise the agency as to the location at which and time during which a hearing should be held so as to allow for participation by all affected interests and shall advise the agency as to whether or not the proposed notice of hearing is proper as required by Minnesota Statutes, section 14.50.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.0400 NOTICE OF HEARING.

The notice of hearing shall be given pursuant to Minnesota Statutes, section 14.14, subdivision 1a. The agency shall include in the notice of hearing, as published, the name, office address, and telephone number of the administrative law judge assigned pursuant to part 1400.0300, subpart 1.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.0500 STATEMENT OF NEED AND REASONABLENESS.

Subpart 1. **Contents.** Each agency desiring to adopt rules shall prepare a statement of need and reasonableness which shall be prefiled pursuant to part 1400.0300, subpart 1. The statement of need and reasonableness must contain a summary of all of the evidence and argument which is anticipated to be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rules, including citations to any statutes or case law anticipated to be relied upon, citations to any economic, scientific, or other manuals or treatises anticipated to be utilized at the hearing or included in the record, and a list of any witnesses to be called by the agency to testify on its behalf, together with a summary of the testimony to be elicited from witnesses solicited to testify on behalf of the agency. The statement need not contain evidence and argument in rebuttal of evidence and argument presented by the public.

The statement of need and reasonableness must also contain the following:

A. If applicable, a statement complying with:

(1) Minnesota Statutes, section 14.115;

(2) Minnesota Statutes, sections 14.11, subdivision 2, and 17.80 to 17.84;

(3) Minnesota Statutes, sections 115.43, subdivision 1, and 116.07, subdivision 6;

(4) Minnesota Statutes, section 144A.29, subdivision 4;

B. if required by Minnesota Statutes, section 16A.128, subdivision 1, the approval of the commissioner of finance if the proposed rules modify a fee charged; and

C. a statement complying with the requirements of any other law or rule prescribing in any manner the matters to be included in the statement of need and reasonableness or which the agency is required by law or rule to consider in the adoption of a rule.

To the extent that an agency is proposing amendments to existing rules, the agency need not demonstrate the need for and reasonableness of the existing rules not affected by the proposed amendments.

Subp. 2. **Specificity.** The statement shall be prepared with sufficient specificity so that interested persons will be able to fully prepare any testimony or evidence in favor of or in opposition to the rules as proposed. Presentation of evidence or testimony, other than bona fide rebuttal, not summarized in the statement of need and reasonableness may result in the administrative law judge, upon proper motion made at the hearing by any interested person, recessing the hearing to a future date in order to allow all interested persons an opportunity to prepare testimony or evidence in opposition to the newly presented evidence or testimony. The recess shall be for a period not to exceed 25 calendar days, unless the 25th day is a Saturday, Sunday, or legal holiday, in which case, the next succeeding working day shall be the last date for the resumed hearing.

Subp. 3. **Verbatim agency presentation.** If the agency desires, the statement of need and reasonableness may contain the verbatim affirmative presentation by the agency, provided that copies are available for review at the hearing, may be introduced as an exhibit into the record as though read. In such instance, agency personnel or other persons thoroughly familiar with the proposed rules and the agency's statement shall be available at the hearing for questioning by the administrative law judge and other interested persons or to briefly summarize all or a portion of the statement of need and reasonableness if requested by the administrative law judge.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.0600 DOCUMENTS TO BE PREFILED.

At least 25 days prior to the date and time of the hearing, the agency shall file with the administrative law judge assigned to the hearing copies of the following documents if not previously filed:

A. the notice of hearing as mailed;

B. the agency's certification that the mailing list required by Minnesota Statutes, section 14.14, subdivision 1a, which was used for the hearing, was accurate and complete;

C. an affidavit of mailing of the notice to all persons on the agency's list;

D. an affidavit of additional notice if such discretionary notice was given pursuant to Minnesota Statutes, section 14.14, subdivision 1a;

E. the petition requesting a rule hearing, if one has been filed pursuant to Minnesota Statutes, section 14.09;

F. all materials received following a notice made pursuant to Minnesota Statutes, section 14.10, together with a copy of the State Register containing the notice or a photocopy of the pages of the State Register on which the notice was published;

G. the names of agency personnel who will represent the agency at the hearing, together with the names of any other witness solicited by the agency to appear on its behalf;

H. a copy of the State Register in which the notice and proposed rules or rule amendments were published or a photocopy of the pages of the State Register on which the notice and proposed rules were published.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.0700 ADMINISTRATIVE LAW JUDGE DISQUALIFICATION.

The administrative law judge shall withdraw from participation in a rulemaking proceeding to which he or she has been assigned if, at any time, he or she deems himself or herself disqualified for any reason. Upon the filing in good faith by an affected person of an affidavit of prejudice against the administrative law judge, the chief administrative law judge shall determine the matter as a part of the record provided that the affidavit shall be filed no later than five working days prior to the date set for hearing.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.0800 CONDUCT OF HEARINGS.

Subpart 1. **Statutory proceedings.** All hearings held pursuant to Minnesota Statutes, sections 14.14 to 14.20, shall proceed substantially in the following manner.

Subp. 2. **Registration of participants.** All persons intending to present evidence or ask questions shall register with the administrative law judge prior to the presentation of evidence or questions by legibly printing their names, addresses, telephone numbers, and the names of any individuals or associations that the persons represent in connection with the hearing on a register to be provided by the administrative law judge. Persons may indicate to the administrative law judge in writing their desire to be informed of the date on which the administrative law judge's report will be available. Persons may indicate to the agency, in writing, if they want to be informed of the date on which the agency adopts the final rules, if it does so, and files the rules with the secretary of state.

Subp. 3. **Notice of procedure.** The administrative law judge shall convene the hearing at the proper time and shall explain to all persons present the purpose of the hearing and the procedure to be followed at the hearing. The administrative law judge shall notify all persons present that the record will remain open for five working days following the hearing, or for a longer period not to exceed 20 calendar days if ordered by the administrative law judge, for the receipt of written statements concerning the proposed rules and that these statements will be available for review at the administrative law judge's office. The administrative law judge must also notify all persons present that, within three business days after the close of the submission period, any person, including the agency, may respond in writing to any new information submitted, provided that additional evidence may not be submitted during the three-day period, and that such responses will be included in the rulemaking record.

Subp. 4. **Registration of lobbyists.** The administrative law judge shall advise the persons present of the requirements of Minnesota Statutes, chapter 10A concerning the registration of lobbyists.

Subp. 5. **Agency representatives.** The agency representatives and any others who will be presenting the agency position at the hearing shall identify themselves for the record.

Subp. 6. **Copies of proposed rules.** The agency shall make available copies of the proposed rules at the hearing.

Subp. 7. **Exhibits.** The agency shall introduce as exhibits the documents required to be filed with the administrative law judge or the chief administrative law judge pursuant to parts 1400.0300, subpart 1, items A, B, and E; and 1400.0600.

Subp. 8. **Showing.** The agency shall make its affirmative presentation of facts showing the need for and the reasonableness of the proposed rules and shall present any other evidence it deems necessary to fulfill all relevant, substantive, and procedural statutory or regulatory requirements. Pursuant to part 1400.0500, subpart 3, the agency may rely on its statement of need and reasonableness for the affirmative presentation of facts required by this subpart, and it may also present oral evidence subject to part 1400.0500, subparts 1 and 2.

Subp. 9. **Opportunity for questions.** Interested persons shall be given an opportunity to address questions to the agency representatives or witnesses or to interested persons making oral statements. Agency representatives may question

interested persons making oral statements. Such questioning may extend to an explanation of the purpose or intended operation of the proposed rules, or a suggested modification, or may be conducted for other purposes if material to the evaluation or formulation of the proposed rules.

Subp. 10. **Opportunity for presenting statements and evidence.** Interested persons shall be given an opportunity to present oral and written statements and evidence regarding the proposed rules.

Subp. 11. **Questioning by administrative law judge.** The administrative law judge may question all persons, including the agency representatives.

Subp. 12. **Further agency evidence.** The agency may present any further evidence that it deems appropriate in response to statements made by interested persons. Upon such presentation by the agency, interested persons may respond thereto.

Subp. 13. **Powers of administrative law judge.** Consistent with law, the administrative law judge shall be authorized to do all things necessary and proper to the performance of the foregoing and to promote justice, fairness, and economy, including but not limited to the power to preside at the hearing, administer oaths or affirmations when deemed appropriate, hear and rule on objections and motions, question witnesses where deemed necessary to make a complete record, rule on the admissibility of evidence and strike from the record objectionable evidence, limit repetitive or immaterial oral statements and questioning, and determine the order of making statements and questions.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.0850 RECEIPT OF WRITTEN MATERIALS.

The administrative law judge shall allow written materials to be submitted and recorded in the hearing record for a period of five working days after the public hearing ends, or for a longer period not to exceed 20 calendar days if he or she so orders. The agency and all interested persons must be allowed to review the comments received during the comment period and must be allowed three business days after the submission period ends to respond in writing to any new information submitted. During this three-day period, the agency may also indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during the three-day period. The written responses must be included in the rulemaking record.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.0900 RULEMAKING RECORD.

The hearing record shall be closed upon the last date for receipt of written responses filed pursuant to Minnesota Statutes, section 14.15, subdivision 1.

The rulemaking record shall include:

A. all documents enumerated in parts 1400.0300, subpart 1, and 1400.0600;

B. copies of all publications in the State Register pertaining to the rules;

C. all written petitions, requests, submissions, or comments received by the agency, the administrative law judge, or the chief administrative law judge pertaining to the substance and jurisdiction of the rulemaking proceeding;

D. the official transcript of the hearing if one was prepared, or the tape recording of the hearing if a transcript was not prepared;

E. the report of the administrative law judge;

F. the report of the chief administrative law judge, if any;

G. the rules in the form last submitted to the administrative law judge;

H. the agency's order adopting the rules;

I. the revisor of statutes certificate approving the form of the rules; and

J. a copy of the adopted rules as filed with the secretary of state.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.0950 AVAILABILITY OF TRANSCRIPT; USE OF COURT REPORTERS.

A transcript of a rulemaking hearing will be made upon the request of the agency, the attorney general, the chief administrative law judge, or any interested person. If the transcript is prepared at the request of an interested person, that person shall pay for the cost of the preparation of the original and one copy. Otherwise, the agency shall pay for the cost of the original and any copies it requires. Any interested person may purchase a copy of a transcript once the original has been ordered by another person. The cost for the preparation of a transcript or a copy of a transcript shall be determined by contract between the Office of Administrative Hearings and nongovernmental court reporters or persons providing transcription services. When a transcript has been prepared, the original shall be filed with the Office of Administrative Hearings and be forwarded to the agency with the official record upon the issuance of the administrative law judge's report. When a transcript has been ordered or prepared subsequent to the issuance of the administrative law judge's report, the original shall be filed with the Office of Administrative Hearings and forwarded to the agency as soon as the Office of Administrative Hearings has completed its recordkeeping requirements. The use of court reporters to keep the record of the hearing is governed by Minnesota Statutes, section 14.52.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.1000 REPORT OF ADMINISTRATIVE LAW JUDGE.

Subpart 1. **No substantial change.** Subsequent to the close of the record, the administrative law judge shall make a report pursuant to Minnesota Statutes, section 14.50. If the report contains findings that the rules as last proposed by the agency prior to the close of the record are needed and reasonable and are not substantially changed from those which were published in the State Register, and that the agency has fulfilled the relevant substantive and procedural requirements imposed on the agency by rule or law, the administrative law judge shall file the original of said report, together with the complete record of the proceedings, with the agency. Both the agency, if authorized by statute, and the Office of Administrative Hearings shall make a copy of the report available to any interested person upon request at a reasonable charge.

Subp. 2. **Substantial change.** If the administrative law judge's report contains findings that the rules as last proposed by the agency prior to the close of the record are substantially changed from those which were published in the State Register, or that the agency has failed to demonstrate the need or reasonableness of the rules, or has not fulfilled the relevant substantive and procedural requirements imposed on the agency by rule or law, he or she shall submit the report, together with the complete record of the proceedings, to the chief administrative law judge for review pursuant to Minnesota Statutes, sections 14.15 and 14.16.

Subp. 3. **Chief administrative law judge's review.** Upon receipt of a report from the administrative law judge, the chief administrative law judge shall complete his or her review and submit a report, along with the complete record and the report of the administrative law judge, to the agency within ten calendar days.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.1100 SUBSTANTIAL CHANGE.

Subpart 1. **Substantial change prohibited.** An agency may not adopt a rule with a modification which the chief administrative law judge has determined, pursuant to part 1400.1100, subpart 2, would constitute a substantial change. However, an agency may terminate a rulemaking proceeding and commence a new rulemaking proceeding for the purpose of adopting a substantially different rule. Nothing in this subpart shall prevent the agency from proceeding with the adoption of portions of the rules which have not been found to be defective.

Subp. 2. **Determination of substantial change.** In determining whether a proposed final rule or rule as adopted is substantially different, the administrative law judge or the chief administrative law judge shall consider the extent to which it affects classes of persons who could not have reasonably been expected to comment on the proposed rules at the rulemaking hearing, or goes to a new subject matter of significant substantive effect, or makes a major substantive change that was not raised by the original notice of hearing in such a way as to invite reaction at the hearing, or results in a rule fundamentally different in effect from that contained in the notice of hearing.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.1200 RULE ADOPTION.

Subpart 1. **Finding of no defect by administrative law judge.** If the administrative law judge finds, pursuant to part 1400.1000, that there are no defects in the proposed rules and proposed modifications, the agency shall, if it adopts the rules in accordance with the recommendations of the administrative law judge, obtain the approval of the revisor of statutes as to the form of the rules, file two copies of the rules as approved by the revisor of statutes with the secretary of state, and publish notice of adoption of the rules in the State Register.

Subp. 2. **Agency adoption of changes not recommended by administrative law judge.** If the agency proposes to adopt the rules with changes other than as recommended by the administrative law judge, the agency shall submit a copy of the rules as initially proposed, a copy of the agency's findings and order adopting rules, and a copy of the rules as proposed to be adopted, showing the changes, to the chief administrative law judge for a determination as to substantial change between the final proposed rules and the proposed rules published in the State Register, pursuant to Minnesota Statutes, sections 14.15, subdivision 3, and 14.16. The chief administrative law judge may require the agency to submit all or a portion of the rulemaking record if necessary for a proper determination regarding substantial change.

Subp. 3. **Finding of defect in proposed rules.** If the administrative law judge finds a defect in the proposed rules and the chief administrative law judge approves the finding of a defect by the administrative law judge, the chief administrative law judge must advise the agency of the actions that will correct the defect found. The agency shall either take the actions prescribed by the chief administrative law judge to correct any defects in the proposed rules or withdraw those portions of the rules, unless the defect found relates to the required showing of need and reasonableness of the proposed rules. With respect to defects found relating to the required showing of need and reasonableness of the proposed rules, the agency may alternatively proceed under Minnesota Statutes, section 14.15.

Subp. 4. **Revisor of statutes approval of changes in proposed rule.** No agency shall adopt in its findings and order adopting rules any change in a rule as initially published in the State Register, whether proposed by the agency or recommended by the administrative law judge or required by the chief administrative law judge without first obtaining from the revisor of statutes an approval as to the form of the proposed change to the rule as initially published in the State Register.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.1300 EFFECTIVE DATE.

Parts 1400.0200 to 1400.1200 apply to all rulemaking hearings initiated pursuant to part 1400.0300 after April 15, 1985.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06 subd 4 cl (8)*

History: *9 SR 2276*

1400.1500 MEDIATION.

Subpart 1. **Request.** A state agency may request the assignment of an administrative law judge to serve as a neutral party in the convening of a group of persons for the purpose of mediating or negotiating a resolution to disputes relating to proposed rules. The request shall be made in writing to the chief administrative law judge who shall, within ten calendar days following receipt of the request, notify the agency of the name, address, and telephone number of the administrative law judge assigned to the matter.

Subp. 2. **Scheduling.** Upon notification of the assignment, the administrative law judge shall contact the agency representative who made the initial request to establish a date, time, and place for the first mediation session and to provide assistance in ensuring compliance with all notice requirements of this part. The administrative law judge assigned shall not communicate, either directly or indirectly, regarding any facts or issues in the mediation with any person not participating in the mediation unless authorized to do so by all persons involved in the mediation.

Subp. 3. **Notice.** Upon establishing the date, time, and place for the first mediation session, the agency shall give written notice of the session, by first class mail, to all persons who have registered with the agency for the purpose of receiving rulemaking notices. The same notice shall be published in the State Register at least 15 calendar days prior to the first mediation session.

Subp. 4. **Subsequent sessions.** If additional mediation sessions are necessary, they shall be convened at a date, time, and place agreeable to all persons participating. If agreement on the date, time, and place of future sessions cannot be reached by the participants, it shall be established by the administrative law judge. Notice of any future sessions shall be given orally to the participants present and in writing to any persons who have indicated a desire to participate but who were not present at the time the decision was made that future sessions would be appropriate. Any written notice shall be given by the agency by first class mail.

Subp. 5. **Establishment of procedures and guidelines.** Procedures and guidelines for the mediation sessions must be established at the first mediation session through agreement of all participants.

Subp. 6. **Termination.** The mediation process shall terminate when the agency announces its unwillingness to continue mediation or when the agency and the participants sign an agreement setting forth the resolution of the disputed issues.

Subp. 7. **Involvement of mediator in subsequent proceedings.** The administrative law judge assigned as a mediator shall not be assigned to any subsequent rulemaking hearing involving the rule which has been the subject of the mediation process.

Subp. 8. **Compliance with other requirements.** The fact that an agreement has been reached through the mediation process shall not relieve the agency from any requirements imposed on it by law or rule in the subsequent adoption of the rule.

Statutory Authority: *MS s 3.764; 14.06; 14.51*

History: *11 SR 1385*

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : February 1, 1990

TO : ALVIN KLEINBECK
Code Administrator
Building Code & Standards Division

FROM : CHARLENE W. HATCHER
Special Assistant
Attorney General

PHONE : 296-9422

SUBJECT : Proposed Minnesota State Building Code Rules

This memorandum is written in response to your request of January 26, 1990 for an opinion concerning the interpretation of the proposed modifying language of Minnesota Rules 1346.2215, Section 2215 of the Uniform Mechanical Code. This section of the proposed rules states as follows:

> UMC Appendix B, Section 2215, is amended to read as follows:
>
> Section 2215. In addition to the requirements of this chapter, the facilities and piping for use with liquified petroleum gas must comply with Minnesota Rules, part 7510.3260.

It is our opinion that this modification deletes Section 2215, replacing it with the language stated above in the proposed rules. In support of this position, it was noted that this type of modifying language was used throughout the proposed rules.

CWH:pje

INTRODUCTION

My name is Charlene Hatcher and I am a Special Assistant Attorney General representing the Building Codes and Standards Division in these hearings today concerning the proposed Minnesota State Building Code rules.

Hearings will be held on:

1. Uniform Mechanical Code

(3) 2. Uniform Building Code

(2) 3. Uniform Plumbing Code

4. Uniform Elevator Code

REMEMBER: Defer all technical questions to the agency experts.

GENERAL COMMENTS RE ALL RULES

State Register Notice Defect

Each of the Notices of Intent to Adopt a Rule W/o a Hearing are defective because they limit the public's comment period to 29 days instead of the statutorily required 30 days. To rectify this defect the BCSD has decided to hold public hearings on each of the four proposed rules (Mechanical, Building, Plumbing and Elevator Codes).

Each Notice stated that persons wishing to verify whether a hearing would be held should call the BCSD on February 1st. On February 1st all persons who called in about the proposed rules were told that

1. they could still mail in comments -- as well as hand-deliver them or telefox them in
2. oral comments would be taken over the phone and placed in the comments file
3. they could come to these hearings today and present their comments
4. for at least 5 working days after these hearings the record would remain open for receipt of written statements concerning the proposed rules.

⟨REQUEST⟩

NOTE: The ALJ may order the record to remain open for up to 20 calendar days.

Proposed Rules

Minnesota Building Code
proposed amendments to:

1. Mechanical Code
2. Building Code (w/ fees)
3. Plumbing Code
4. Elevator Code

Comment Evidence

I. Notice of Intent to Solicit Outside Opinion
Published in State Register: Mon. April 4, 1988
Comments re solicitation

Questionable Comments Involving Legal Issues

Elevator Code

1. City of Roseville (Fire Marshal; Chief Code Enforcement Officer): "reqrmts imposed by the State Elevator Inspector appear to be arbitrary, capricious, and in conflict w/ recognized and legally adopted codes such as the Uniform Building and Fire Codes." ["It appears from the reading the State Register that little, if anything, has been done to recitify the conflicts."]

Uniform Mechanical Code

1. Dunham Assocs (Larry Beckwith, P.E.; William Wharton, P.E.): "some of the amendments to the proposed code are ambiguous and too general, making them unenforceable and impossible to comply with during the design of the project.

2. Michaud Cooley Erickson & Assocs, Inc. (Scott Williams, P.E.
UMC p. 1528 & B.C. p. 1563 "there were many areas that were

unclear or require comment, ..."

Introduce Exhibits/Documents

1. State Register Defect (all 4)
2.

Record

rec'd Feb. 22 @ 4:30 p.m.

Mon Feb. 26 to for responses to comments

Mechanical Code

Errata adopted

Sec. 710 1346.0710 wants deleted [City of Richfield]

Wm Mahr (repr MN Propane Gas Assn

1346.2215 wants old paras. 6 and 7 deleted; the remaining language would like to retain.

BCSO concurs agrees with the proposed language by

Glen Glusaus BKBM Consulting Co. Sec. 404 see State Register for BKBM notations; Mr. Glausus will send Judge Mihalchick copies of his comments

John Fantauzzi Floor in Floor Rating Assn Sec. 2127.2 Clay Larson 710 supports City of Richfield

Tom Tesmar Resboul Co. Sec. 2127

Chada UMC generally plastic tubing comments

Plumbing Code Comments

Dennis Chana would like Sec. 2190 deleted and reworded.
stagnated water

Bill Moore (BJ & M Plumbing) Sec. 2190 disagrees w/ Chana

Cevert Erickson (City of Richfield) Sec. 2190

Jim Whiting (Appollo Heating; TN)

Sue Macre (Minnegasco) agrees that wording as stated is accurate

Sec. .0320

Kenneth Isman (Assoc. Dir. Sprinkler Assn) wants the pp'd statute back flow sprinklers

American Water Works Assn (AWWA)

National Sources: Manual M14 (AWWA) Manual M31

Phil Carlson (Carlson Automatic Fire Protection) 475. 0320

* Manuals M14 and M31 will be provided to ALJ

Terry Geisler (Industrial Sprinkler Assn; Region 15 Assn of Fire Sprinklers) issues: — lost business, compliance w/ new Code after an existing bldg is altered, renovated or replaced.

— liability and failure rate of sprinklers

— mini-maxi code eg, municipalities dn require greater restrictions than the State does thru its rules.

Nan Bertram (Building Inspector; City of Mound) opposed to requiring backflow on sprinkler systems

Jerry Laumeir (Sprinkler Fitter Assn)

Gordon Bates (Pres. Fire Marshalls Assn of MN) one function is to review fire sprinklers

issues: 1. added cost of installation and maintenance
2. fear that fewer sprinkler sys will be installed
3. creates more likelihood of malfunctioning b/c backflow preventers are complicated.

Kevin McGinity (MN State Fire Chiefs)

John Nisha (Fire Marshall; City of Marshall)

Foriedlender (Van Guard Plastics)

P. 1600

§ .0420 per Bellin will add NSF14 under "Other"

§ 4715.0520 J. would like updted version to be cited [15 22-90 -- even tho this is not yet an official document]

Ed Woorley (Woorley & Assocs) would like to

§ 4715.0810 would like to see NSF14 added re corrosion-resistant material

Ray Lund (Blocker Co.)

4715.1380 does this include single family pumps

Bellin - yes

: would like to see exclusion of single family

Tim Kilbane (Simmons Ind. Inc) valve mfgr

4715.1380 Showers ; in agrmt w/ ppd rule

Randy Schank § 4715.138 Shower Valves

in agreement w/ ppd rules

Elevator Code

Steve Anderson (Fire Marshalls Assn)

102.2 ANSI

Building Code Comment

1301.0300 Certification Prerequisites

d/n want all new

1302.0900 K'g for Services

1305.1000 amend "exception" only b/c the rest of the revision conform

Ted Paulfranz (City of Edina Fire Chief)

1305.1750 (repealer)

1305.6430 opposition to fns 7an 8 of Table 38-A

Joan Archer (Executive Dir. Builders Assn) of MN

1305.0100 Adoption of UBC § re egress window/door ~~access~~ to basements (fire hazard doors/assessments) § 1204

Roy Lund (Rotland Home Builders) w/ Archer re egress issue

Cebert Hendrickson agrees w/ the adoption of egress window/dor for basements

Ron Naber in agreement w/ adoption of egress

Clay Larson (City of Brooklyn Center)

d/n agree w/ these

1301.0100 certification

1302.0800

1302.0900

1305.1750 (repealer)

1204. agrees w/ egress

Jan Gaslerland (City of St. Paul Building Inspector)

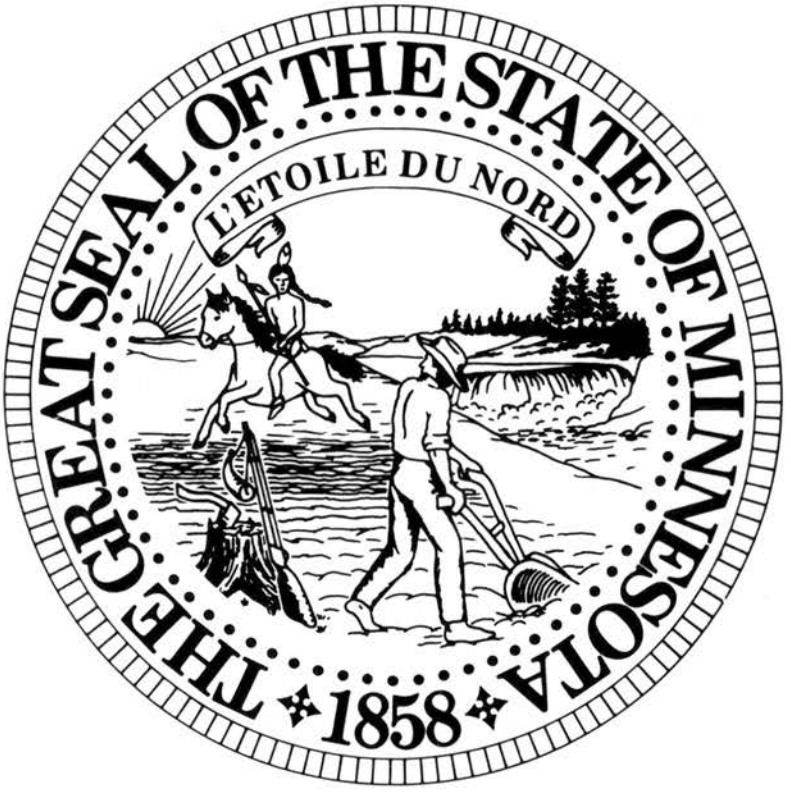
1301.0200 & 1301.0300 Certification

1302.0900

State of Minnesota

STATE REGISTER

Department of Administration—Print Communications Division



Rules edition
Published every Monday

2 January 1990

Volume 14, Number 27

Pages 1515-1740

STATE REGISTER

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

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

***A Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.**

Printing Schedule and Submission Deadlines

Vol. 14 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
27	Monday 18 December	Friday 22 December	Tuesday 2 January
28	Friday 22 December	Friday 29 December	Monday 8 January
29	Friday 29 December	Monday 8 January	Tuesday 16 January
30	Monday 8 January	Friday 12 January	Monday 22 January

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

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

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

The *STATE REGISTER* is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *STATE REGISTER Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme and tax courts; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *STATE REGISTER* be self-supporting, the following subscription rates have been established: the Monday edition costs $130.00 per year and includes an index issue published in August (single issues are available at the address listed above for $3.50 per copy); the combined Monday and Thursday editions cost $195.00 (subscriptions are not available for just the *Contracts Supplement)*; trial subscriptions are available for $60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

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

Rudy Perpich, Governor

Sandra J. Hale, Commissioner
Department of Administration

Stephen A. Ordahl, Director
Print Communications Division

Robin PanLener, Editor

Paul Hoffman, Assistant Editor

Debbie George, Circulation Manager

Bonita Karels, Staff Assistant

FOR LEGISLATIVE NEWS

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

SENATE

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

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

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

HOUSE

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

This Week—weekly interim bulletin of the House.

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

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

Contents

Minnesota Rules: Amendments & Additions

Issue 27 (issues #1-26 appeared in #26) 1518

Commissioner's Orders

Natural Resources Department

Commissioner's Scientific and Natural Area Orders for:
- Order #49: Hythecker Prairie 1519
- Order #50: Bonanza Prairie 1519
- Order #51: Uncas Dunes 1520
- Order #53: Savage Fen 1520
- Order #54: Pembina Trail 1521
- Order #55: Felton Prairie 1521
- Order #56: Townsend Woods 1522
- Order #57: Eagle Nest Island No. 4 1522
- Order #58: Lake Johanna 1522
- Order #59: Otter Tail Prairie 1523
- Order #60: Twin Valley Prairie 1523
- Order #61: Osmundson Prairie 1524
- Order #62: Prairie Coteau 1524
- Order #63: Frenchman's Bluff 1525
- Order #64: Kellogg Weaver 1526
- Order #65: McGregor Marsh 1526
- Order #66: Moose Mountain Northern Hardwoods ... 1527
- Order #68: Shooting Star Prairie 1527

Proposed Rules

Administration Department

Minnesota State Building Code 1528
- Mechanical Code 1528
- Building Code 1563
- Plumbing Code 1591
- Elevator Code 1612
- Electrical Code 1625

Human Services Department

Community alternatives for disabled individuals under age 65 1627

Labor & Industry Department

Occupational safety and health standards 1646

Minnesota State Lottery

Lottery retailers 1650
Prize payments 1657

Pollution Control Agency

Water quality program development 1662

Adopted Rules

Commerce Department

Credit unions 1717

Natural Resources Department

Lake Superior shoreland management 1718

Pollution Control Agency

Hazardous waste; burning of hazardous waste and used oil 1718
Underground storage tank training and certification 1718

Transportation Department

State highway market artery system 1719

Official Notices

Minnesota State Agricultural Society (Minnesota State Fair)

Annual meeting notice 1720

Gaming Department—Minnesota Racing Commission

Opinion sought on rule for class D license applications .. 1720

Executive Council
State Board of Investment
Land Exchange Board
Investment Advisory Council

Meeting notices 1720

Pharmacy Board

Opinion sought on rules for pharmacy practice 1721

Pollution Control Agency

Opinion sought for rules for management of household hazardous waste 1721

Public Safety Department

Opinion sought on rule for hazardous chemical reporting fees 1722

Public Service Division—Energy Division

Extension of deadline for comment on residential thermal insulation standards 1722

Secretary of State

Vacancies in multi-member agencies 1722

State Contracts & Advertised Bids

Administration Department

Materials Management Division: Commodities and requisitions open for bid 1724
Print Communications Division: Printing, typesetting, design, and mailing services open for bid 1725

Professional, Technical & Consulting Contracts

Capitol Area Architectural & Planning Board

National open design competition for a memorial to Minnesotans who died in Vietnam 1726

Disability Council

Proposals sought to conduct search for executive director 1726

Minnesota Historical Society

Proposals sought for cleaning of audio tapes 1727

Human Services Department

Proposals sought for pre-certification investigations for fraud prevention 1727

Natural Resources Department

Proposals sought for statewide campsite and accommodation reservation system 1728

Minnesota Racing Commission

Contractural positions for assistant veterinarian and substitute assistant veterinarian 1733
Contractural position of state stewards 1733

Transportation Department

Proposals sought for inter-city bus operations from Morris, Minnesota to Minneapolis 1733
Request for consultants to develop a maintenance management system for traffic signals and freeway lighting 1734

Non-State Public Contracts

Metropolitan Council

Invitations for sealed bids for printing services 1734

Supreme Court Decisions

Decisions, opinions and orders filed Friday 29 December 1989 1735

Announcements 1735

Minnesota Rules: Amendments and Additions

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

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

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

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

Rules Index for issue 27 (Issues 1-26 appeared in #26)

Administration Department

1300.2100-1302.0900 (proposed) 1563
1305.0100; .0150; .0800; .1000; .1100; .1590; .1775; .1795; .2050; .2600; .3860; .3900; .4100; .4850; .5340; .5360; .5380; .5385; .5400 s.2907; .5710; .5720; .5730; .5740; .5900; .6430; .6901; 1335.0600; .1000; .1100; .1950; .2150; .3100; 1360.0900; .3600 (proposed) 1563
1305.0300; .1750; .1790; .2100; .2400; .3000; .3100; .3200; .3300; .3600; .3700; .4200; .4500; .4900; .5300; .5310; .5500; .5800; .6550; .6600; .6900 (proposed repealer) 1563
1305.5100-.5118 (proposed) 1612
1315.0200 (proposed) 1625
1320.0100; .0200; .0300; .0400; .0500; .0600; .0605; .0610; .0615; .0620; .0625; .0630; .0635; .0638; .0640; .0645; .0650; .0655; .0660; .0665; .0670; .0675; .0680; .0785; .2001; .2005; .2010; .2015; .2020; .2025; .2030; .2035; .2100; .2200; — .2300; .2400 (proposed repealer) 1612
1346.0050-.2600 (proposed) 1528

Commerce Department

2675.6400 (adopted) 1717

Health Department

4715.0100; .0200; .0310; .0320; .0420; .0500; .0520; .0580; .0620; .0800; .0805; .0810; .0820; .0860; .1220; .1240; .1260; .1300; .1305; .1380; .1440; .1590; .1930; .1940; .1941; .2020; .2100; .2110; .2120; .2163; .2190; .2230; .2260; .2440 (proposed) 1591
4715.2130; .2140; .3900; .4000 (proposed repealer) 1591

Labor & Industry Department

5205.0010 (proposed) 1646

Natural Resources Department

6120.2800 (adopted) 1718

Pollution Control Agency

7001.0520; 7045.0020; .0102; .0120; .0125; .0214; .0219; .0665;.0692; .0695 (adopted) 1718
7045.0100; .0125 s.10, 11 (repealed) 1718
7050.0150; .0180; .0185; .0210; .0211; .0212; .0214; .0218; .0220; .0460; .0470 (proposed) 1662
7050.0210 s.14 (proposed repealer) 1662
7105.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0110; .0120; .0130 (adopted) 1718

Minnesota State Lottery

7856.1000-.7070 (proposed) 1650
7857.2000-.7000 (proposed) 1657

Transportation Department

8815.0100; .0200; .0300 (adopted) 1719

Human Services Department

9505.3010-.3140 (proposed) 1627

Commissioners' Orders

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 49 Hythecker Prairie Scientific and Natural Area

WHEREAS, certain lands in Dodge County, Minnesota, described as:

The Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section Thirty-one (31), Township One Hundred Seven North (107N), Range Eighteen West (18W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain mesic tall grass prairie communities, as well as the following rare, threatened or endangered plant species: wild indigo (*Baptisia bracteata* and *B. leucantha*), rattlesnake master (*Eryngium yuccifolium*), wild quinine (*Parthenium integrifolium*), tuberous Indian plantain (*Cacalia plantaginea*), cowbane (*Oxypolis rigidior*), and cream gentian (*Gentiana flavida*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Hythecker Prairie Scientific and Natural Area. Furthermore, the Hythecker Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general public educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 50 Bonanza Prairie Scientific and Natural Area

WHEREAS, certain lands in Big Stone County, Minnesota, described as:

Government Lots 1, 2, 3, and the Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) and the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) lying easterly of the State Park road and its northern extension to the north line of Section Twenty (20) excepting that part of the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) of Section 20 not acquired by the State of Minnesota as shown on the attached Exhibit A, and as posted, all in Township One Hundred Twenty-three (123) North, Range Forty-eight (48) West.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain a glacial-till hill prairie plant community as well as the state threatened plant Missouri milkvetch (*Astragalus missouriensis*) and the rare prairie moonwort (*Botrychium campestre*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Bonanza Prairie Scientific and Natural Area. Furthermore, the Bonanza Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 51 Uncas Dunes Scientific and Natural Area

WHEREAS, certain lands in Sherburne County, Minnesota, described as:

The Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) of Section Thirty-five (35), Township Thirty-four North (34N), Range Twenty-seven West (27W); and those lands in the North Half of the Southeast Quarter (N 1/2 SE 1/4) and the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section Twenty-one (21), Township Thirty-four North (34N), Range Twenty-seven West (27W) as shown on the attached Exhibit A and as posted.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain state threatened sand prairie and dry sand savanna communities, which contain the following rare, threatened or endangered animal and plant species: Uncas Skipper (*Hesperia uncas*), Blanding's turtle (*Emydoidea blandingii*), annual skeleton-weed (*Lygodesmia rostrata*), small-leaved pussytoes (*Antennaria aprica*), and sea beach needlegrass (*Aristida tuberculosa*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Uncas Dunes Scientific and Natural Area. Furthermore, the Uncas Dunes Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area, except that public hunting is permitted during the open seasons established for those lands located in Section 35, Township 34 North, Range 27 West.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 53 Savage FEN Scientific and Natural Area

WHEREAS, certain lands in Scott County, Minnesota, described as:

The Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) of Section Seventeen (17), Township One Hundred Fifteen North (115N), Range Twenty-one West (21W), EXCEPT the West 329.43 feet (as measured along the north and south lines thereof).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain high quality mesic blacksoil prairie and calcareous fen communities that contain the following rare, threatened or endangered plant species: whorled nut-rush (*Scleria verticillata*), valerian (*Valeriana edulis*), sterile sedge (*Carex sterilis*), twig rush (*Cladium mariscoides*), false asphodel (*Tofieldia glutinosa*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Savage Fen Scientific and Natural Area. Furthermore, the Savage Fen Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

JOSEPH N. ALEXANDER, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 54; Amending Order No. 21 Pembina Trail Scientific and Natural Area

WHEREAS, certain lands in Polk County, Minnesota, described as:

The Southeast Quarter (SE 1/4) of Section Thirteen (13), Township One Hundred Forty-nine North (149N), Range Forty-five West (45W) and the Southeast Quarter (SE 1/4) of Section Three (3), Township One Hundred Forty-eight North (148N), Range Forty-five West (45W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain an undisturbed example of wet-mesic and mesic prairie plant communities that contain the following rare, threatened, endangered or special concern plant and animal species: prairie white-fringed orchid (*Platanthera praeclara*), sticky false asphodel (*Tofieldia glutinosa*); marsh arrow grass (*Triglochin palustris*); hall's sedge (*Carex hallii*); yellow rail (*Coturnicops noveboracensis*); upland sandpiper (*Bartramia longicauda*); and greater prairie chicken (*Tympanuchus cupido*); and that the lands have the same qualities of those lands already designated as the Pembina Trail Scientific and Natural Area by Commissioner's Scientific and Natural Area Order No. 21; and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to the Pembina Trail Scientific and Natural Area. Furthermore, the Pembina Trail Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general public educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 55; Amending Order No. 45 Felton Prairie Scientific and Natural Area

WHEREAS, certain lands in Clay County, Minnesota, described as:

Government Lots One (1) and Two (2), Section Thirty (30), Township One Hundred Forty-two North (142N), Range Forty-five West (45).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain mesic blacksoil prairie northwest and calcareous fen plant communities and the following rare, endangered or restricted plants and animals: small white lady's-slipper (*Cypripedium candidum*), upland sandpiper (*Bartramia longicauda*), greater prairie chicken (*Tympanuchus cupido*), prairie vole (*Microtus ochrogaster*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to the Felton Prairie Scientific and Natural Area. Furthermore, the Felton Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 56; Amending Order No. 39 Townsend Woods Scientific and Natural Area

WHEREAS, certain lands in Rice County, Minnesota, described as:

The Northwest Quarter of the Southeast Quarter (NW 1/4 SE 1/4) of Section Eighteen (18), Township One Hundred Nine North (109N), Range Twenty-two West (22W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain an example of the state endangered Big Woods plant community undergoing successional change and that the lands are contiguous with those lands already designated as the Townsend Woods Scientific and Natural Area; and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to the Townsend Woods Scientific and Natural Area. Furthermore, the Townsend Woods Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 57 Eagle Nest Island No.4 Scientific and Natural Area

WHEREAS, certain lands in St. Louis County, Minnesota, described as:

Tract Forty (40), Section Twenty-four (24), Township Sixty-two North (62N), Range Fourteen (14) West, according to the United States Government Survey thereof.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain an undisturbed red pine community containing habitat suitable for nesting by bald eagles (*Haliaeetus leucocephalus*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Eagle Nest Island No. 4 Scientific and Natural Area. Furthermore, the Eagle Nest Island No. 4 Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 58 Lake Johanna Scientific and Natural Area

WHEREAS, certain lands in Pope County, Minnesota, described as:

Tract Thirty-eight (38) Township One Hundred Twenty-three North (123N), Range Thirty-six West (36W), Section Seventeen (17), according to the United States Government Survey thereof.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain one of the largest and most diverse nesting colonies for colonial waterbirds in Minnesota, with birds such as great blue herons (*Ardea herodias*), double-crested cormorants (*Phalacrocorax auritus*), great egrets (*Casmerodius albus*) and black-crowned night herons (*Nycticorax nycticorax*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Lake Johanna Scientific and Natural Area. Furthermore, the Lake Johanna Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities at all times of the year except for a period running between April 1 and July 15 when it is closed to the public except by written permission of the commissioner or his agent.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 59 Otter Tail Prairie Scientific and Natural Area

WHEREAS, certain lands in Otter Tail County, Minnesota, described as:

The Southeast Quarter (SE 1/4) of Section Seventeen (17), Township One Hundred Thirty-one North (131N), Range Forty-four West (44 W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain a mesic blacksoil prairie community as well as the following rare, endangered or threatened plant or animal species: northern gentian (*Gentiana affinis*), greater prairie chicken (*Tympanuchus cupido*), upland sandpiper (*Bartramia longicauda*) and marbled godwit (*Limosa fedoa*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Otter Tail Prairie Scientific and Natural Area. Furthermore, the Otter Tail Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 60; Amending Order No. 22 Twin Valley Prairie Scientific and Natural Area

WHEREAS, certain lands in Norman County, Minnesota, described as:

That part of the Northeast Quarter (NE 1/4) of Section Twenty-three (23), Township One Hundred Forty-three North (143N), Range Forty-five West (45W) described as follows: Beginning at the Northwest corner of said Northeast Quarter (NE 1/4); thence South 00°37′30″ West along the West line of said Northeast Quarter (NE 1/4) 2641.93 feet, more or less, to the Southwest corner thereof; thence North 13 54′24″ East 2720.35 feet, more or less, to the North line of said Northeast Quarter (NE 1/4); thence North 89°53′35″ West along the North line thereof 625 feet, more or less, to the place of beginning.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain a wet-mesic prairie community as well as the following rare, endangered or restricted plant and animal species: small white lady's-slipper (*Cypripedium candidum*), greater prairie chicken (*Tympanuchus cupido*), Wilson's phalarope (*Phalaropus tricolor*), upland sandpiper (*Bartramia longicauda*), sandhill crane (*Grus canadensis*), marbled godwit (*Limosa fedoa*), prairie vole, (*Microtus ochrogaster*), and Dakota skipper (*Hesperia dacotae*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to Twin Valley Prairie Scientific and Natural Area. Furthermore, the Twin Valley Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 61 Osmundson Prairie Scientific and Natural Area

WHEREAS, certain lands in Faribault County, Minnesota, described as:

The North One Hundred Eighty-five (185) feet of the Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4) of Section Thirty-six (36), Township One Hundred and One North (101N), Range Twenty-four West (24W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain a mesic blacksoil prairie community, as well as the following rare, threatened or endangered plant species: tuberous Indian plantain (*Cacalia plantaginea*) and rattlesnake master (*Eryngium yuccifolium*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Osmundson Prairie Scientific and Natural Area. Furthermore, the Osmundson Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area as long as they are not inconsistent with an easement for ingress and egress over the east 30 feet of the North One Hundred Eighty-five (185) feet of said Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4) lying westerly of the township road right-of-way for access to the remainder of said Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4).

Dated at Saint Paul, Minnesota, this 22nd day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 62; Amending Order No. 37 Prairie Coteau Scientific and Natural Area

WHEREAS, certain lands in Pipestone County, Minnesota, described as:

The Northeast Quarter (NE 1/4) of Section Thirty-two (32), Township One Hundred Eight North (108N), Range Forty-four West (44W), EXCEPT the highway right-of-way of record, and EXCEPT the railroad right-of-way AND EXCEPT that part of the Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4) of Section Thirty-two (32), Township One Hundred Eight North (108N), Range Forty-four West (44W), lying southeasterly of the right-of-way of the Great

Northern Railway Company; which lies northwesterly of a line running parallel with and distant 100 feet southeasterly of the following described line: Beginning at a point on the south line of said Section Thirty-two (32), distant 65.4 feet East of the South Quarter corner thereof; thence running northeasterly at an angle of 51°56′ with said south section line for 4600 feet and there terminating; containing 0.97 acres; and the Southeast Quarter (SE 1/4) of Section Twenty-nine (29), Township One Hundred Eight North (108N) Range Forty-four West (44W), except those cultivated lands which are part of Buffalo Ridge WMA as shown on the attached map.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain glacial-till hill prairie plant community types as well as the following rare, threatened or endangered plant and animal species: Ottoe Skipper (*Hesperia ottoe*), Dakota skipper (*Hesperia dacotae*), and prairie moonwort (*Botrychium campestre*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to Prairie Coteau Scientific and Natural Area. Furthermore, the Prairie Coteau Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 63 Frenchman's Bluff Scientific and Natural Area

WHEREAS, certain lands in Norman County, Minnesota, described as:

The North half of the South half of the Southeast Quarter (N 1/2 S 1/2 SE 1/4), the North four (4) rods of the South half of the Southeast Quarter of the Southeast Quarter (S 1/2 SE 1/4 SE 1/4), and the East 620 feet of the South half of the Southeast Quarter of the Southeast Quarter (S 1/2 SE 1/4 SE 1/4), EXCEPT the North Sixty-six (66) feet thereof, of Section Eighteen (18), Township One Hundred Forty-three North (143N), Range Forty-three West (43W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain dry, gravel prairie plant communities as well as the following rare, threatened or endangered plant and animal species: Dakota skipper (*Hesperia dacotae*), prairie moonwort (*Botrychium campestre*), and grasshopper mouse (*Onychomys leucogaster*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Frenchman's Bluff Scientific and Natural Area. Furthermore, the Frenchman's Bluff Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 64; Amending Order No. 23 Kellogg Weaver Scientific and Natural Area

WHEREAS, certain lands in Wabasha County, Minnesota, described as:

The Southeast Quarter (SE 1/4) and the East half of the Northeast Quarter (E 1/2 NE 1/4) of Section Seven (7), the Northwest Quarter (NW 1/4) and that part of the Northeast Quarter (NE 1/4) of Section Eight (8) lying West of the following described line:

Beginning at a point on the South line of said Northeast Quarter (NE 1/4) 1,137.18 feet East of the Southwest corner thereof, thence North 10°17′ East 344.52 feet, thence North 18°20′ West 727.98 feet, thence North 54°02′ West 258.06 feet, thence North 39°42′ West 193.38 feet, thence North 20°02′ West 755.04 feet, thence North 14°36′ West 650.10 feet to the North line of said West half of said Northeast Quarter (W 1/2 NE 1/4), said point being 170.94 feet East of the Northwest corner of said Northeast Quarter (NE 1/4) and there terminating.

All of the foregoing tract being in Township One Hundred Nine North (109N), Range Nine West (9W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain dry sand prairie plant communities as well as the following rare, threatened or endangered plant and animal species: clasping milkweed (*Asclepias amplexicaulis*), wild indigo (*Baptisia leucophaea and B. leucantha*), goats rue (*Tephrosia virginiana*), yellow-fruited sedge (*Carex annectens*), rough-seeded fameflower (*Talinum rugospermum*), sea-beach needlegrass (*Aristida tuberculosa*), purple sand grass (*Triplasis purpurea*), cliff goldenrod (*Solidago sciaphila*), Ohio spiderwort (*Tradescantia ohiensis*), rhombic-petaled evening primrose (*Oenothera rhombipetala*), Ottoe Skipper (*Hesperia ottoe*), Blandings turtle (*Emydoidea blandingii*), and black and scarlet jumping spider (*Phidippus apacheanus*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to Kellogg Weaver Scientific and Natural Area. Furthermore, the Kellogg Weaver Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 65 McGregor Marsh Scientific and Natural Area

WHEREAS, certain lands in Aitkin County, Minnesota, described as:

Government Lots 1, 2, 3, and 4, the South Half of the Northwest Quarter (S 1/2 NW 1/4) and the South Half of the Northeast Quarter (S 1/2 NE 1/4) of Section Five (5), EXCEPTING the Soo Line Railroad right-of-way, Township Forty-seven (47) North, Range Twenty-three (23) West.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain an extensive sedge marsh with the following rare, threatened or endangered animal species: yellow rail (*Coturnicops noveboracensis*) and sharp-tailed sparrow (*Ammodramus caudacutus*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by Minnesoeta Statutes §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as McGregor Marsh Scientific and Natural Area. Furthermore, the McGregor Marsh Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area, except that public hunting is permitted during legal open seasons.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 66 Moose Mountain Northern Hardwoods Scientific and Natural Area

WHEREAS, certain lands in St. Louis County, Minnesota, described as:

Tract "B" of Registered Land Survey No. 8 and the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section Twenty-two (22), Township Fifty-one (51) North, Range Thirteen (13) West.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain an excellent example of a threatened northern hardwoods community, that contains the following rare, threatened or endangered plant species: white baneberry (*Actea pachypoda*), carolina spring beauty (*Claytonia caroliniana*) and moschatel (*Adoxa moschatellina*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Moose Mountain Northern Hardwoods Scientific and Natural Area. Furthermore, the Moose Mountain Northern Hardwoods Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 68 Shooting Star Prairie Scientific and Natural Area

WHEREAS, certain lands in Mower County, Minnesota, described as:

All that abandoned railroad right-of-way located in and passing through Section Thirteen (13), Township One Hundred One (101) North, Range Fifteen (15) West, which abandoned right-of-way is a 100 foot strip being 50 feet on each side of a center line, as identified as Parcels Nos. 6 and 7 on Chicago, Milwaukee and St. Paul Railroad Company map MINN 9-2 and being a part of that property conveyed to the Grantor by the Trustee of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company by deed recorded in Book 426 at pages 218-220 in the Mower County Recorder's Office.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain a high quality mesic tall grass prairie community as well as the following rare, threatened or endangered plant species: wild indigo (*Baptisia bracteata* and *B. leucantha*), rattlesnake master (*Eryngium yuccifolium*), tuberous Indian plantain (*Cacalia plantaginea*), Southern rain orchid (*Habenaria flava*), Sullivant's milkweed (*Asclepias Sullivantil*), and wild quinine (*Parthenium integrifolium*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Shooting Star Prairie Scientific and Natural Area. Furthermore, the Shooting Star Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Proposed Rules

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

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

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

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

Department of Administration

Proposed Permanent Rules Relating to the Minnesota State Building Code

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Administration proposed to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes* section 16B.61.

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

Any person may make a written request for public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.13 to 14.20.

PLEASE NOTE: That if twenty-five or more persons submit written requests for a public hearing within the 30 day comment period, a hearing will be held on February 2, 1990, unless a sufficient number withdraw their request in accordance with the notice of hearing on these same rules published in the *State Register* and mailed to persons registered with the State Department of Administation. To verify whether a hearing will be held, please call the Department of Administration, Building Codes and Standards Division between 8:00 and 4:30 on February 1, 1990, at (612) 296-4626.

Persons who want to submit comments or written requests for a public hearing must submit such comments or requests to:

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

Comments or requests for a public hearing must be received by the Department of Administration, Building Codes and Standards Division, by 4:30 p.m. on January 31, 1990.

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

A free copy of this rule is available on request for your review from Margaret White.

The proposed rule establishes minimum uniform rules for the State of Minnesota by adopting a model code, namely, the *Uniform Mechanical Code, 1988 Edition* and making amendments to it in order to be consistent with *Minnesota Statutes* and laws and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the information relied on to support the proposed rule has been prepared and is available from Margaret White on request.

It is felt by the Building Codes and Standards Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, section 14.115, division 1, and pursuant to *Minnesota Statutes*, section 14.115 subdivision 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11

If no hearing is required on adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Margaret White.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held on February 2, 1990 at the Sheraton Airport Hotel, 2525 East 78th Street, Bloomington, Minnesota 55425, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

PLEASE NOTE HOWEVER, that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the department of administration, building codes and standards division. To verify whether a hearing will be held, please call the Building Codes and Standards Division between 8:00 a.m. and 4:30 p.m., on February 1, at (612) 296-4626.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to Steve M. Mihalchick, Administrative Law Judge, Office of Administrative Hearings, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 349-2544, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 to 14.50. The rule hearing is

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

governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed rule establishes minimum uniform rules for the State of Minnesota by adopting the model code, namely, the *Uniform Mechanical Code, 1988 Edition,* and making amendments to it in order to be consistent with *Minnesota Statutes* and laws and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 16B.61.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

It is felt by the Building Codes and Standards Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, section 14.115, division 1, and pursuant to *Minnesota Statutes*, section 14.115 subdivision 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Copies of the proposed rules are now available and one free copy may be obtained by writing to:

Margaret White
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

Additional copies will be available at the hearing. If you have any questions on the content of the rule you may contact Margaret White, Elroy Berdahl, or Alvin Kleinbeck at (612) 296-4639.

NOTICE: A person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative and or administrative action by communication or urging others to communicate with public officials;

b) who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Statement of Need and Reasonableness

The above-captioned proposed rules are changes in Chapter 1345 of the Rules promulgated as the *Minnesota State Building Code* known as the "Heating, Ventilating, Air-Conditioning (HVAC), and Refrigeration Rule," referenced Rules 1345.0010 through 1345.3300 as in effect on April 8, 1985 and reprinted June 1987.

Under *Minnesota Statute*, Section 16B.61, the Commissioner of Administration is charged with the responsibility of promulgating the *Minnesota State Building Code*. The Code must conform insofar as practicable to recognized national model building codes generally accepted and in use throughout the United States. Also, model codes with necessary modifications and statewide specialty

codes may be adopted by reference. It is the duty of the commissioner to amend the *Minnesota State Building Code* to maintain the most modern code standards regarding minimum safeguards of life, limb, health, property and public welfare together with regulating and controlling the design, construction, quality of materials, use and maintenance of buildings and structures. *Minnesota Statutes* 16B.59 states that "the construction of buildings should be permitted at the least possible costs consistent with recognized standards of health and safety."

Chapter 1345 of the *Minnesota State Building Code* was first published as a part of the *Minnesota Building Code* in its inception in 1972 known as SBC 7101 to SBC 8505. This HVAC CODE was a state proprietary code promulgated in the late 1960's for state owned buildings. There has been no substantive change to the rules since the original adoption to the state code in 1972.

It is the desire of the Minnesota Building Codes and Standards Division to adopt the 1988 Edition of the Uniform Mechanical Code as promulgated by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, and the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, California 91789, with appropriate amendments to satisfy Minnesota climatic and construction needs. It is more cost effective to adopt a model code with limited amendments than to revise an existing proprietary code to bring it into today's standards, therefore, the action taken by these proposed rules will repeal Rules 1345.0010 to 1345.3300 and through proper procedures, adopt the 1988 Edition of the *Uniform Mechanical Code* as amended to be known as Rules 1346.0050 to 1346.2600.

The proposed rules conform as far as practicable to model mechanical codes. The reflect amendments for regional utilization and construction in keeping with the legislative intent of *Minnesota Statutes* Section 16B.61. The proposed amendments provide for added requirements to certain sections, change wording to clarify the intent of application for certain sections, adopt and update to current national model code standards, and language changes requested by the Office of the Minnesota Revisor of Statutes designed to eliminate redundant wording and use of archaic language.

Any business entity with constructs, expands or remodels buildings is required to comply with the *Minnesota State Mechanical Code*. When adopted, these proposed rules become part of the *Minnesota State Building Code* and will be applicable to all future construction. The rules are not applicable to existing mechanical systems structures unless they are declared hazardous and unsafe, or as otherwise modified using guidelines established by Section 104 of the proposed *Minnesota Uniform Mechanical Code, 1988 Edition*.

The Building Codes and Standards Division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed by *Minnesota Statutes* Section 14.115, subd. 2, for reducing the impact of the rules on small businesses.

The proposed rules do not require businesses to make reports so the requirements for reporting identified in items (a), (b), and (c) are not applicable.

Compliance requirements of items (a), (b), (c), and (e) are not appropriate because the purpose of these rules is to establish a minimum uniform standard for construction of all public, private, commercial, industrial or residential equipment and structures within the State of Minnesota to protect life, limb, health, property, and public welfare of the residents of the state at the least possible cost consistent with recognized standards. *Minnesota Statutes* Section 16B.59 (1984). To exempt small businesses from any or all requirements of the rules would be contrary to the statutory objectives that are the basis of the proposed rulemaking, *Minnesota Statutes*, Section 16B.59, 16B.61, and 16B.64. The legislature has specifically mandated that the uniformity of building standards is in the public interest. *Minnesota Statutes* Section 16B.61, Subdivision 1, Adoption of Code, states in part:

"—The code (and any amendments thereof) must conform insofar as practicable to model building codes generally accepted and in use through the United State.-"

Minnesota Statutes Section 14.115, subd. 2(d) calls for the establishment of performance standards for small businesses as one method of reducing the adverse impact of rules upon them. The code and its amendments are based on the application of scientific principles, approved tests and professional judgement; and to the extent practicable, are in terms or results rather than requiring specific methods or materials. The code uses performance standards wherever possible.

Since the performance standards apply across the board to all entities subject to the code, the methods of reducing the impact of the rules provided by Subdivision 2(d) has been utilized. No special changes are necessary for small businesses.

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

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

Elroy Berdahl, Supervisor, Consultant Section, and Alvin Kleinbeck, Code Administrator, Consultant Section, of the Building Codes and Standards Division will appear on behalf of the proposed rules at the hearing if a hearing is required. They will testify regarding the need for and reasonableness of the proposed rules. The substance of the testimony is set forth herein.

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

General:	Study of the *Uniform Mechanical Code* as becoming the mechanical code of the State of Minnesota has ensured over the past eight years. The study committee composed of individuals representing industry, contractors, governmental inspectors and interested citizens have proposed the bulk of changes that are recommended to the body of the *Uniform Mechanical Code* as being applicable to the needs and construction practices found in Minnesota. The proposed changes will be addressed individually as to their need for and reasonableness of the requirements that will be formulated in the composition of the code. Comments will be made only on those sections that are amended or added.
1346.0101 Title Section 101	This section identified the name of the code and prescribes the sections of the code and appendices that are mandatory for adoption and enforcement, except as modified by the appropriate amendments.
1346.0201 Powers and Duties of Building Official Section 201(a)	This section is re-worded to provide direction and clarity in the responsibility of local government to apply and enforce the code within the intent and purpose of the *Minnesota State Building Code.*
1346.0203 Board of Appeals Section 203	This section is amended to include the requirements of the local Board of Appeals to file the report of the boards finding with the state building inspector.
1346.0204 Violations Section 204	This amendment identifies that any violation of the code is a misdemeanor under *Minnesota Statutes.*
1346.0304 Fees Section 304(b)	This section is amended to indicate that the fee structure is to be established by the local government except for the requirements fixed by statute.
1346.0307 Table 3-A Mechanical Permit Fees Section 307	This item is repealed because the fee structure is given to the needs of the local government and should not be dictated by the code unless it is applicable. The local government may use the fee schedule published in Section 307 if it chooses to do so by local ordinance.
1346.0403 to 1346.0421 Definitions	A number of definitions have been added in their appropriate sequence to define the terms used in the code. The words or groups of words identifying materials, equipment, systems and processes are needed to help understand the application of the code when these terms are encountered. The definitions are based on *Minnesota Statutes*, other recognized national documents, and the "state of the art" industry systems or equipment. The definitions should be self explanatory as to their use and application.
1346.0504 Installation 504(f)	The language of the *Uniform Mechanical Code* is deleted and reference is made that the requirements for Liquid Petroleum Gas Appliance Section applications and installations must comply with the rules of the Department of Public Safety.
1346.0602 Combustion Air Openings Section 602(a) Location	The changes in this section remove the opening requirements from an intended enclosure around the fuel utilization equipment and require the combustion air to be supplied from the exterior of the structure. It also indicates that the inlet be located above grade so that it has less potential from being sealed off by snow or other obstructions.
1346.0603 Source of Combustion Air Section 603(a)	This change is needed to inform the owner, designer, or contractor that all combustion air is required to be secured from the exterior of the building and prohibits combustion air from being secured from the attic.

1346.0604 Combustion Air Ducts Section 604	Item #2 is amended to require the size of the combustion air supply to be at least equal to the discharge flue of the appliance served. Dampers for combustion air are generally prohibited by the code. This amendment will allow combustion air to be controlled by dampers if designed in accordance with Section 602(b) of the code. The amendment will also permit other methods to be used when installed in accordance with the manufacturers instructions and approved by the building official. Items 3 and 6 are repealed because these items are not in keeping with the amended requirements for the installation of combustion air provisions.
1346.0605 Gravity Type Furnaces Section 605	This section reinforces the requirement that combustion air is also necessary for gravity type furnaces.
1346.0606 Special Conditions Created by Mechanical Exhausting or Fireplaces	It is necessary to provide combustion air or air for exhausting when other items in the building are operating that discharge air to the exterior—i.e. kitchen exhaust fans, bathroom fans, fireplaces, etc.
1346.0607 Area of Openings Section 607	This item is amended to provide a ratio of combustion air needed for various sizes of fuel BTU inputs for the proper supply to the utilizing equipment.
1346.0608 Required air for Equipment Section 608	This a new section to be added addressing the requirement for providing air for the control and dissipation of heat generated by equipment in various installations in addition to that required for combustion air.
1346.0706 Return and Outside Air Section 706(d)	This amendment requires that various dampers are to be provided to balance and control the movement of air within and throughout the system.
1346.0710 Furnaces Installed on Roofs or Exterior Walls of Buildings Section 710(h)	The word "readily" is deleted from the test to remove some unnecessary stringent requirements.
1346.0807 Room Heaters Section 807	This amendment prohibits the use of free standing room heaters in sleeping rooms because of the potential depletion of the oxygen supply in the room.
1346.0808 Duct Furnaces Section 808	This amendment provides a standard whereby duct type furnaces may be used. Items (c) and (d) have been repealed because the climatic needs for the State of Minnesota would require a closed room/ building condition and venting of products of combustion are necessary for the physical well-being of the occupants of the structure.
1346.0809 Infrared Heaters	This proposed change provides for the inclusion of Infrared Heaters installed in keeping with N.F.P.A. standards and guidelines and requires that combustion air and makeup air must be provided for each unit.

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

1346.0906 Vent Termination Section 906	This section is reduced in its content by eliminating the mandate for a vent terminus cap unless it is part of the system approval. Experience has shown that some vent caps can deteriorate and collapse to block off the flue and create a potential carbon monoxide situation.
1346.0913 Masonry Chimneys Section 913	This amendment provides for the type of liner or liners that are permitted when a masonry chimney is to be used for a gaseous fuel.
1346.1521 Gas Fire Air Conditioners Section 1521	This amendment provides for identification of the N.F.P.A. standard to be used for the installation of gas air-conditioners.
1346.2003 Commercial Hoods and Kitchen Ventilation Section 2003 (i)	The amendment changes the requirements to indicate that tempered air must be provided for the makeup air and establishes a minimum temperature at the discharge into the room. The amendment also requires that for compensating hoods, 80% of the make up air must be obtained from the room area to provide for a better discharge of air across the cooking surface of the kitchen equipment.
APPENDIX B CHAPTER 21 1346.2101 to 1346.2106 Steam and Hot Water Broilers Section 2101 to 2106	This chapter is revised to incorporate the terms of low-pressure and low-temperature to the steam and hot-water boiler and piping systems. High pressure systems are regulated by the rules of the Department of Labor and Industry. The first six sections provide for language clarification, equipment inclusion and some definitions used in this chapter only. The changes are necessary to provide for better application and enforcement of the requirements found in this chapter.
1346.2107 Expansion Tanks Section 2107	The majority of the changes in this section clean up the language provision that a permanently identifying tag must be attached to the valve between the boiler and main and that the tank must be kept open at all times except when draining the tank.
1346.2108 Safety and Relief Valve Discharge Section 2108	This amendment identifies when and where the safety or relief valve must be used, the size of the valve, and the disposition of the liquid discharged by the system. It is required as a measure of safety for the operation of the system.
1346.2109 Shutoff Valves Section 2109	This change reinforces the need for shut-off valves in the various equipment and requires that valves must be tested and listed for the use applied.
1346.2110 Gas Pressure	This section is reduced from the original and amended to indicate that the requirements are found in UMC Chapter 22.
1346.2111 Low Water Cut-off Section 2111	This item is rewritten and amended to provide the requirements of the safety devices to detect when low water levels necessitate shutting down the system.
1346.2113 Automatic Boilers Section 2113	A new table 21-C is established for the requirements of various controls for the safe and efficient operation of various sizes of equipment. The references found in this section have been revised to identify the requirements provided in the table.
1346.2114 Clearance for Access Section 2114	Amendments are made to this section to provide for a more workable clearance to the equipment needing repair and cleaning.

1346.2115 Boiler Room Enclosures Section 2115	This section is amended to give specific guidelines for the installation of equipment in confined space, alcoves, and closets, and establishes the minimum area of a room housing a boiler.
1346.2120 Fuel Piping Section 2120	Chapters 25 and 26 are new additional chapters to the code and each identify fuel piping needs for various fuels. It is necessary to identify in this section that additional requirements for fuel piping is found in their respective chapters.
1346.2122 Operating Adjustment and Instructions Section 2122	The amendment emphasizes that the operating instructions for the equipment installed must remain in the job for the owners use.
1346.2123 Inspectors Test	The amendments to this section are added to emphasize that equipment required to be inspected and tested must be made accessible and secondly that an installation designed and the installation supervised by a design professional may be tested and inspected by that design professional when approved by the Building Official.
1346.2124 Operating Permit Section 2124	This item is repealed because Minnesota does not require an operating permit and there is no current intent to require an operating permit.
1346.2125 Maintenance Inspection Section 2125	The maintenance inspection is based on an operating permit and since the operating permit is repealed there is not need for this section.
1346.2126 Operation and Maintenance of Boiler and Pressure Vessels Section 2126	This section is repealed because it is used in conjunction with Section 2124 and Section 2125 which are repealed by the adoption of this code, hence this section is not needed.
1346.2127 Steam, Liquid and Piping Systems	Changes are made to this section to include the word liquid in lieu of water and expands the application to systems. This section addresses the fact that the Department of Labor and Industry has regulations that could have some cross enforcement situations and this section identifies that is that condition should arise, the Department of Labor and Industry rules must be followed. This section includes a number of items that are changed because of the state of the art uses of materials and the deletion of materials that have been determined to be detrimental to one physical well-being.
1346.2130 Table No. 21-C Section 2130	Table Number 21-C has been revised to comply with Minnesota code changes and requirement for equipment. The same format is used but information in the matrix and footnotes are based on the Minnesota amendments.
Chapter 22 1346.2201 Fuel and Gas Piping General Section 2201	This chapter deals with the requirements of fuel or gas piping supplying fuel to fuel utilization equipment. Changes have been made to clarify the intent and application of this chapter.
1346.2202 Definitions Section 2202	Certain definitions have been added to include subject matter that is a part of the code and not otherwise defined in the code. Certain items have been repealed because the item or items defined are not used in the utility supply systems.

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

1346.2205 Workmanship Section 2205	This amendment allows the support of equipment by the piping system when the manufacturers instructions will allow the suspension.
1346.2206 Inspection and Testing Section 2206	The amendment to this section describes the procedure for testing the rough piping system of fuel piping. It also addresses the requirement for a final inspection of piping after the equipment is connected to the system. The UMC permission of CO_2 or nitrogen pressure test has been repealed in the Minnesota adoption because of problems that have been experience in its use.
1346.2211 Gas Meter Installation Section 2211(f)	These requirements have been added to the meter location to provide for additional safety.
1346.2212 Material for Gas Piping Section 2212	The amendments made to this section describe what materials may be used if complying to the appropriate standards and deletes materials that are problematic with the nature of the fuel supplied.
1346.2213 Installation of Gas Piping Section 2213	This section contains a number of amendments that provide guidance for the installer in the limitations on piping applications including sizing which requires welding for safety reasons, piping limitations in concealed spaces, protection from corrosion to avoid deterioration of the materials, and the requirement for valves and valving to control the distribution of the fuel to each service area. The requirement for a tracer material for nonmetallic pipe has been repealed because the use of non-metallic piping has been repealed for distribution systems.
1346.2215 Liquefied Petroleum Gas Facilities Piping Section 2215	This section is amended to indicate the additional requirements for Liquefied Petroleum is found in the rules of the *Minnesota State Fire Code*.
1346.2216 Leaks Section 2216	The amendment to this section provides for a method of testing for leaks. It also identifies the materials that cannot be used in making the leak tests because of the potential hazards involved. Other adjustments are incorporated for clarity.
1346.2220 High Pressure Gas Piping Section 2220	This section is amended for clarity of application and identifies that it must be approved by the local Building Official and fuel supplier to determine the availability of high-pressure fuel supply.
346.2221 Tables No. 22-D-2 No. 22-D-3 No. 22-D-4 Section 2221	These tables of the current HVAC Code provide for gas pipe sizing based on the natural gas supplied by the utilities operating in Minnesota. These tables are appropriate for continued use in the sizing of the distribution lines of the gas piping installation in buildings. The tables that are part of the UMC are not repealed because if the specific gravity of gas being supplied were changes these tables would be applicable. Each supplier establishes the specific gravity of the fuel supplied.
Chapter 25 1346.2501 Subpart 1	This is a new chapter to Appendix "B" which expands the requirements for the installation, testing, or repair of all gas or fuel burning systems, burners, and equipment. The Mechanical Committee selected to prepare amendments in the adoption of the Uniform Mechanical Code through their deliberations felt that these regulations are necessary for the proper installation, testing, repair and operation of the equipment identified.
1346.2502 Subp. 2	This rule identifies recognized national standards that are appropriate in the support of this chapter.
1346.2503 Subp. 3	This subpart reaffirms that only approved gas or fuel burning equipment may be installed and used.
1346.2504 Subp. 4	This subpart establishes testing processes that must be conducted when placing the equipment into operation in order to assure a safe operation.
1346.2505 Subp. 5	This requirement addresses the operation of a pilot light when used in the ignition of fuel being utilized by the equipment.

1346.2506 Subp. 6	This section outlines the test for safe and efficient burner operation of the fuel utilization equipment.
1346.2507 Subp. 7	This subpart prescribes the method of testing appliances when placed into operation to satisfy the proper combustion venting and operation of equipment being placed into service. A tag, identifying the date and name of the person doing the testing, must be attached to the equipment in case further tests must be performed. Also when the final inspection is made and a problem is encountered the person whose name is on the tag can be contacted to assist in resolving the problem.
1346.2508 Subp. 8	This part establishes the limits of CO, the required minimum efficiency of the fuel burning equipment and requirement for the use of regulators on gas burning systems or appliances.
1346.2509 Subp. 9	This part identifies the minimum equipment that must be a part of the installation of each fuel burning system based on the Btu/h input to the equipment.
1346.2510 Subp. 10	This subpart describes the minimum requirements for the identity of appliances with a consumption of over 400,000 Btu/h to be supplied by the contractor when seeking approval for a permit to install such equipment.
Chapter 26 1346.2601 Subpart 1	This subpart applies to the installation, testing, or repair of oil or fuel burning appliances similar to the requirements of the gas or fuel burning appliance identified in Chapter 25.
Subp. 2	For the installation of oil burning equipment, certain standards are applicable or identified in Appendix "C" under item "O" listing such standards ANSI, UL, as well as other requirements addressed in the UMC itself.
Subp. 3	A number of definitions have been added to this subpart to identify and define terms applicable to the installation and operation of oil burning equipment. The definitions are based on national standards such as the National Fire Protection Association (NFPA), American National Standards Institute (ANSI), and Underwriters Laboratories (UL). These definitions are not found in other sections of this code and are specifically directed towards the use and application of oil burning equipment.
Subp. 4	This part reaffirms that any equipment utilized in the installation and operation of an oil burning unit must meet the approval of the building official prior to installation and operation. It also provides for alternate approvals when special equipment is evaluated by a recognized testing agency and is ultimately installed in keeping with the approved testing and listing.
Subp. 5	This section indicates the various standards that may be used in the installation and operation of oil burning equipment. It provides that operational testing of the equipment must be done by the installer prior to acceptance and approval by the building official. A detailed process is identified for testing such operation of the equipment that is placed into service to assure a reasonable level of safety in the operation of the equipment.
Subp. 6	This subpart establishes the criteria which must be met in the performance of the equipment placed into service. The requirements for efficiency, stack temperature, carbon dioxide, oxygen, smoke test of the oil being used, monoxide limits, etc., for the various Btu/h input provided to the equipment.
Subp. 7	This subpart provides for specific requirements for various valves, controls, and systems to be employed with the installation of equipment based on consumption of products. These controls are necessary to provide a reasonable amount of safety in the operation of the equipment.
Subp. 8	This section places the requirements for the equipment to be identified with a name plate or other process in order to identify the various information necessary to evaluate that the appropriate application of the equipment has been made and provides for the supplying of the wiring, piping, and control system diagrams for assistance in repair, installation, or maintenance of the equipment.

Dated: 14 December 87

Sandra J. Hale, Commissioner
Department of Administration

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

Rules as proposed (all new material)

1346.0050 TITLE; INCORPORATION BY REFERENCE.

This chapter is known and may be cited as the "Minnesota Uniform Mechanical Code." As used in this chapter, "the code" and "this code" refer to this chapter.

Chapters 1 to 20 and appendixes A, B, and C of the 1988 edition of the Uniform Mechanical Code, promulgated by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601 and the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, California 91789, are incorporated by reference as part of the Minnesota Uniform Mechanical Code with the amendments in this chapter. As used in this chapter, "UMC" means the Uniform Mechanical Code incorporated in this part.

1346.0201 SECTION 201.

UMC Section 201(a), the second paragraph, is amended to read as follows:

The building official may render interpretations of this code and enforce rules supplemental to this code to clarify the application of this code. The interpretations and rules must conform with the intent and purpose of the Minnesota State Building Code.

1346.0203 SECTION 203.

UMC Section 203(a), the last sentence of the first paragraph, is amended to read as follows:

The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official and to the state building inspector within 15 days of the decision.

1346.0204 SECTION 204.

UMC Section 204 is amended by adding a sentence to read as follows:

A violation of this code is a misdemeanor (*Minnesota Statutes*, section 16B.69).

1346.0304 SECTION 304.

UMC Section 304(b) is amended to read as follows:

(b) Permit Fees. All permit fees must be established by the local authority except in areas outside the enforcement authority of a city. The fee charged for the issuance of permits and inspections for a single family dwelling may not exceed the greater of $100 or 0.005 times the value of the structure, addition, or alteration (*Minnesota Statutes*, section 16B.62). The fee structure in UMC Table 3-A may be used as a guideline in establishing a fee schedule to be used by the municipality.

1346.0309 TABLE 3-A.

UMC Table No. 3-A, Mechanical Permit Fees, is deleted in its entirety.

1346.0403 SECTION 403.

UMC Section 403 is amended by adding the following definitions:

"Accessible installation" means to be accessible, such as exposed in shafts or tunnels, or concealed by readily removable construction.

"Appliance fuel connector" means an assembly of listed and approved semi-rigid or flexible tubing and fittings to carry fuel between a fuel piping outlet and a fuel burning appliance installed as required by its listing and approved by this code and the building official.

1346.0404 SECTION 404.

UMC Section 404 is amended by adding the following definitions:

"Boiler, high pressure" means a boiler furnishing steam at pressures in excess of 15 pounds per square inch or hot water at temperatures in excess of 250 degrees Fahrenheit, or at pressures in excess of 30 pounds per square inch.

"Boiler, low pressure hot water" or "boiler, low pressure steam" means a boiler furnishing hot water at pressures not exceeding 30 pounds per square inch and at temperatures not more than 250 degrees Fahrenheit, or steam at pressures not more than 15 pounds per square inch.

"Btu" or "British thermal unit" means the amount of energy required to raise the temperature of one pound of water one degree Fahrenheit.

"Btu/h" means the number of Btu's used in an hour.

1346.0405 SECTION 405.

UMC Section 405 is amended by adding the following definitions:

"Continuous pilot" means a pilot that burns without turndown throughout the entire period that the boiler is in service, whether or not the main burner is firing.

"Conversion burner" means a gas burner accessory or device designed to supply gaseous fuel to and properly burn the fuel within the combustion chamber zone of a boiler, furnace, or other device originally designed to use another fuel.

1346.0406 SECTION 406.

UMC Section 406 is amended by adding the following definitions:

"Direct gas-fired makeup air heater" means a gas heating device in which gas is burned and in which the products of combustion are mixed with the air that is to be heated in passing through the heater. The installation includes the unit and equipment from its outside air inlet to the outlet where the heated air leaves the unit with all appropriate control devices.

"Dual fuel burner" means a gas burner firing into the same combustion chamber zone into which another fuel is used and connected to an approved flue.

1346.0407 SECTION 407.

UMC Section 407 is amended by adding the following definition:

"Exposed" means visible and accessible without the removal of any other item.

1346.0408 SECTION 408.

UMC Section 408 is amended by adding the following definitions:

"Fire code" means the Minnesota Uniform Fire Code promulgated jointly by the Western Fire Chiefs Association and the International Conference of Building Officials, as adopted by the Minnesota Department of Public Safety.

"Fuel" means natural, manufactured, or liquified petroleum gas, or a mixture of these gases; all grades of fuel oil; coal; wood; or any other combustible or flammable material; or a mixture of combustible or flammable materials.

"Fuel burner" means a device used to convey the appropriate fuel into the combustion chamber zone, in close proximity to its combustion air supply to permit a stable controlled heat release compatible with the burner design, listing, and applicable approvals in a boiler, furnace, device, or appliance. It includes appliances designed to burn gas fuel, dual fuel appliances, conversion burners, direct gas-fired makeup air heaters, or any other fuel burning appliance.

"Fuel burning equipment" includes a fuel burner, vent connectors, fuel burning systems, vent flues, chimney liners, fans, blowers, valves, control devices, combustion air, and all accessories for proper and safe operation of the appliance.

"Fuel burning system" means the fuel burner and a conveyance system for the purpose of introducing the appropriate fuel into the combustion chamber zone.

"Fuel gas" means natural, manufactured, or liquified petroleum gas or a mixture of these gases.

1346.0409 SECTION 409.

UMC Section 409 is amended by adding the following definitions:

"Gas burner" means a device for the final conveyance of gas or a mixture of gas and air to the combustion chamber zone of a boiler, furnace, device, or appliance used in connection with a heating system and includes gas-designed appliances, conversion burners, direct gas-fired makeup air heaters, and dual fuel burners.

"Gas burning equipment" includes gas burners, vent connectors, vent flues, chimney liners, and all piping from the appliance shutoff valve, fans, blowers, control devices, and accessories connected to the burner.

"Gas-designed appliance" means a space heating appliance designed for the exclusive use of gaseous fuel, except for an auxiliary heater installed in an approved masonry fireplace.

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

1346.0410 SECTION 410.

UMC Section 410 is amended by adding the following definitions:

"High pressure gas piping system" means a system that operates at a pressure exceeding 14 inches water column.

"High pressure piping" means high pressure piping used in the installation of hot water or steam heating boilers, any system of piping hot water or other medium used for heating that exceeds 30 pounds per square inch gauge and 250 degrees Fahrenheit, or any system of high pressure steam piping, but does not include high pressure piping under the direct jurisdiction of the United States (*Minnesota Statutes*, section 326.461, subdivision 2).

1346.0411 SECTION 411.

UMC Section 411 is amended by adding the following definitions:

"Inaccessible installation" means those sections of piping systems installed in walls, floors, ceilings, or other areas where access cannot be made without the removal of permanent construction.

"Interlock" means a device that senses a limit or off-limit condition or improper sequence of events, shuts down the offending or related piece of equipment, and prevents proceeding in an improper sequence to prevent a hazardous condition from developing.

"Intermittent pilot" means a pilot that burns during light-off and while the main burner is firing and that is shut off with the main burner.

"Interrupted pilot" means a pilot that burns during light-off and that is shut off during normal operation of the main burner.

1346.0414 SECTION 414.

UMC Section 414 is amended by adding the following definition:

"Low pressure gas piping system" means a system operating at a pressure of 14 inches or less water column.

1346.0418 SECTION 418.

UMC Section 418 is amended by adding the following definitions:

"Package boiler" means a boiler equipped and shipped complete with electrical elements or fuel burning equipment, automatic controls and accessories, and mechanical draft equipment, if used.

"Pilot" means a burner smaller than the main burner that is ignited by a spark or other independent and stable ignition source and that provides ignition energy required to immediately light off the main burner.

"Piping system" means the method of conveying liquid, vapor, steam, gases, or slurry from one point to another for purposes of this code, including accessories, appurtenances, and equipment necessary for its proper operation.

"Pressure vessel" means an unfired, closed container for liquids, gases, or vapors subjected to pressures exceeding 15 pounds per square inch, or steam and hot water under any pressure.

"Proof of closure switch" means a switch in the safety shut-off valve that will prove that the valve is 100 percent closed. The switch must be interlocked into the system to prevent any starting procedure unless proven closed. The switch must close when the valve has had an overtravel of the valve seat.

"Psig" means pounds of pressure per square inch as read from a measurement device or gauge.

"Purge" means an acceptable method of scavenging the combustion chamber, boiler passages, and breeching to remove all combustion gases. It consists of at least four air changes for trial of ignition, and after lockout at high fire damper setting, at least 90 seconds.

1346.0421 SECTION 421.

UMC Section 421 is amended by adding the following definition:

"Service piping" means the piping and equipment between the street gas main and the structure gas piping system inlet that is installed, controlled, and maintained by the serving gas supplier.

1346.0504 SECTION 504.

UMC Section 504(f) is amended to read as follows:

(f) LPG Appliances. LPG applications and installations must be in accordance with the rules of the Minnesota State Fire Marshal and this code.

1346.0602 SECTION 602.

UMC Section 602(a) is amended to read as follows:

Section 602. (a) Location. Openings for combustion air must be located in an exterior wall or roof or in areas that fully communicate to the exterior of the building. Openings in walls must be located at least one foot above grade where it penetrates the exterior wall.

1346.0603 SECTION 603.

UMC Section 603 is amended to read as follows:

Section 603. (a) Air from outside. Combustion air must be obtained from outside the building through continuous ducts of the required cross-section area, complying with Section 607, extending from the appliance area to the outside of the building. Caution must be taken in the installation of the combustion air ducts so that equipment located in the room will not be subjected to freezing temperatures.

(b) Prohibited sources. Openings and ducts must not connect appliance enclosures with attic spaces.

1346.0604 SECTION 604.

UMC Section 604 is amended to read as follows:

Section 604. (a) General. Combustion air ducts must:

1. be of galvanized steel complying with chapter 10 or equivalent corrosion-resistant material approved for this use.

2. have a minimum cross-sectional area at least equal to the required flue serving the equipment requiring combustion air, and discharge the air at a point not more than one foot above the floor of the equipment area;

3. have the same cross-sectional area as the free area of the opening to which it is connected; and

4. serve a single appliance enclosure.

(b) Dampers. Dampers may be installed as required in UMC Section 602(b).

(c) Other installations. A manufacturer's installation instructions that require combustion air supply and distribution different than what is provided for in this section may be approved by the building official.

1346.0605 SECTION 605.

UMC Section 605 is amended to read as follows:

Section 605. Gravity-type warm air furnaces must be provided with combustion air as specified in this code. Combustion and cold air return for gravity-type warm air furnaces may be obtained from the same area.

1346.0606 SECTION 606.

UMC Section 606 is amended to read as follows:

Section 606. Operation of exhaust fans, kitchen ventilation systems, clothes dryers, or fireplaces must be considered in determining combustion air requirements to avoid unsatisfactory operation of installed fuel burning appliances.

1346.0607 SECTION 607.

UMC Section 607 is amended to read as follows:

Section 607. (a) General. The free area of openings, ducts, or plenums supplying combustion air to rooms or spaces containing fuel burning appliances must be as required by this section.

(b) Fuel inputs greater than 400,000 Btu/h. All rooms containing fuel utilization equipment must be provided with combustion air with openings communicating directly to the outside. The net free opening area of these openings must be as follows:

1. Gravity-type fuel burners. The net free area of the combustion air openings must be not less than one square inch for each 5,000 Btu/h input, with a minimum free area of not less than 100 square inches.

2. Power-type fuel burners. The net free area of the combustion air opening must be not less than one-half square foot for each 1,000,000 Btu/h input, with a minimum free area of not less than one-half square foot.

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

(c) Fuel inputs less than 400,000 Btu/h. Openings of ducts supplying combustion air must have a net free open area not less than the minimum required common flue of flues serving the fuel utilization equipment. The combustion air system must discharge the air at a point not more than one foot above the floor.

EXCEPTION: In lieu of the application in this paragraph, the combustion air supply system may be introduced into the cold air return of the heating system with an outlet provided in the supply duct. The size of the supply outlet must be equal to one-half of the cross-sectional area of the common flue or flues serving the fuel utilization equipment.

(d) Designed installations. With prior approval, compliance with paragraphs (b) and (c) is not required for an installation that has been professionally designed to ensure an adequate supply of combustion air.

1346.0608 SECTION 608.

UMC Section 608 is added to read as follows:

Section 608. Equipment ventilation. In addition to air needed for combustion and dilution of flue gases, air for the fuel utilization equipment must be provided as follows:

1. All equipment installations. Adequate ventilation must be provided in areas housing fuel utilization equipment to prevent the accumulation of gas or fuel vapors beyond the danger point if a leakage occurs.

2. In confined spaces. If the floor area of the fuel utilization equipment compartment is less than twice the floor area used by the equipment in the space, ventilation air must be supplied to the confined space through at least two openings communicating to the interior of the building as follows:

A. Ventilation air outlet grille located in the wall or door of the space at a height above the draft hood opening. The net free area of the opening must be at least one square inch for each 2,000 Btu/h input.

B. Ventilation air inlet grille located in the wall or door of the space at a height at or below the combustion air outlet to the burner. The net free area of the opening must be at least one square inch for each 2,000 Btu/h input.

1346.0706 SECTION 706.

UMC Section 706(d) is amended to read as follows:

(d) Dampers. Volume dampers must not be placed in the air inlet to a furnace in a manner that will reduce the required air to the furnace.

Volume dampers, splitters, and deflectors must be provided for all ducts to permit balancing of the system. The dampers, splitters, and deflectors must be set according to air measurements of the system and must be locked in place. In finished or inaccessible locations, a friction-type register box damper may be used.

1346.0710 SECTION 710.

UMC Section 710(h) is amended to read as follows:

(h) Access. Every furnace installed in or on an exterior wall of a building that is designed so that the burners or controls must be serviced from the outside of the building must be accessible.

A furnace located on the roof of a building must be accessible.

Permanent ladders providing roof access must:

1. have side railings that extend at least 30 inches above the roof edge or parapet wall;

2. have landings less than 18 feet apart measured from the finished grade;

3. be at least 14 inches in width;

4. have rungs not more than 14 inches on center; and

5. have a minimum of a 3-1/2 inch toe space.

EXCEPTIONS:

1. Permanent exterior ladders providing roof access need not extend closer than eight feet to the finish grade.

2. A portable ladder may be used for access for furnaces on the single-story portion of a Group M or R Occupancy.

1346.0807 SECTION 807.

UMC Section 807(a) is amended to read as follows:

Section 807. (a) Vented freestanding. Vented freestanding room heaters must not be installed in bedrooms or sleeping quarters when

the heaters depend on air for combustion from the room in which they are placed. When approved by the building official, vented freestanding room heaters may be installed in other types of rooms and must be installed with clearances from combustible material as set forth in Table No. 5-A.

UMC Section 807(c) and (d) are deleted in their entirety.

1346.0808 SECTION 808.

UMC Section 808 is added to read as follows:

Section 808. Duct furnaces. Installation of duct furnaces must comply with the requirements of NFPA 54-1984.

1346.0809 SECTION 809.

UMC Section 809 is amended to read as follows:

Section 809. Infrared heaters. Installation of infrared heaters must comply with the requirements of NFPA 54-1988.

NOTE: Mechanical exhaust must be provided in the quantity recommended by the manufacturer and be sufficient to prevent condensation in the space to be heated. Heaters must be installed so they will not operate until the exhaust air quantity has been proved. Makeup air must be provided to the space to be heated.

1346.0906 SECTION 906.

UMC Section 906(a) is amended to read as follows:

Section 906. (a) General. Vents must extend above the roof surface through a flashing.

1346.0913 SECTION 913.

UMC Section 913(b), the first two paragraphs, are amended to read as follows:

(b) Gas venting into masonry chimneys. Lined and unlined masonry chimneys may be used to vent gas appliances, provided:

1. An approved liner must be installed in a masonry chimney when the combined input is less than 400,000 Btu/h or when considered necessary by the building official considering local problems of vent gas condensate. The liner must comply with one of the following:

A. aluminum 2S-H14, 1/2 hard, thickness .032 inches to eight inches diameter, temperatures not to exceed 550 degrees Fahrenheit at outlet of equipment;

B. stainless steel No. 302, No. 26 U.S. Standard gauge to eight inches diameter, No. 24 U.S. Standard gauge to eight inches diameter;

C. vitreous coated steel of No. 22 U.S. Standard gauge before coating;

D. class "B" vents approved by Underwriters Laboratories, or other approval and listing agencies, temperatures not to exceed 550 degrees Fahrenheit at outlet of appliance; or

E. other types of liners as approved by the building official.

1346.1521 SECTION 1521.

UMC Chapter 15 is amended by adding a section to read as follows:

Gas Air Conditioners

Section 1521. The installation of gas-fired air conditioners must comply with the requirements of NFPA 54-1988 Section 6.2.

1346.2003 SECTION 2003.

UMC Section 2003(i) is amended to read as follows:

(i) Makeup air. Each room provided with an exhaust system must have air supplied to the room equal to the amount of air to be exhausted. Makeup diffusers must be located to prevent a short circuiting of air furnished to the exhaust system. Windows and doors must not be used for the purpose of providing makeup air. The exhaust and makeup air systems must be connected by an electrical interlocking switch. Exhaust systems must be provided with tempered makeup air. Tempered air is air of a temperature not less than 55 degrees Fahrenheit, measured at the flow of air from the discharge diffuser into the room. Compensating hoods must meet the

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

airflow requirements in Section 2003(g), 2, 3, and 4. Compensating hoods must extract at least 80 percent of their required exhaust airflow from the kitchen area.

1346.2101 SECTION 2101.

UMC Appendix B, Section 2101, is amended to read as follows:

Section 2101. The purpose of this chapter is to establish and provide minimum standards for the protection of public welfare, health, safety, and property by regulating and controlling the quality, location, and installation of low pressure, low temperature steam and hot water boilers, pressure vessels, piping systems, and their equipment and appurtenances.

1346.2102 SECTION 2102.

UMC Appendix B, Section 2102, the first paragraph, is amended to read as follows:

Section 2102. This chapter applies to the construction, installation, operation, repair, and alteration of all boilers, pressure vessels, piping systems, and their equipment and appurtenances.

1346.2104 SECTION 2104.

UMC Appendix B, Section 2104, the first paragraph, is amended to read as follows:

Section 2104. The definitions in this section apply to this chapter, unless a word's context clearly indicates a different meaning. For additional definitions, see Chapter 4 of this code.

UMC Appendix B, Section 2104, is amended by adding the following definitions:

"Accessible installation" means accessible whether in a shaft, tunnel, or other concealed space by readily removable construction.

"Exposed installation" means installation that is visible and accessible without the removal of an item of construction.

"Inaccessible installation" means inaccessible whether in a shaft, tunnel, or other concealed space and only accessible by the removal of permanent construction.

"Piping system" means the method of conveying liquid, vapor, steam, gases, or slurry from one point to another for purposes of this code, including accessories, appurtenances, and equipment necessary for proper operation.

UMC Appendix B, Section 2104, the definitions of "package boiler" and "pressure vessel (unfired)," are amended to read as follows:

"Package boiler" means a boiler equipped and shipped complete with electrical heating elements or fuel burning equipment, automatic controls and accessories, and mechanical draft equipment, if used.

"Pressure vessel" means an unfired, closed container for liquids, gases, or vapors subjected to pressures exceeding 15 pounds per square inch, or steam and hot water under any pressure.

1346.2106 SECTION 2106.

UMC Appendix B, Section 2106(b) and (e), are amended to read as follows:

(b) Controls. Required electrical, mechanical, safety, and operating controls must carry approval of an approved testing agency. Electrical controls must be designed and built so that they are suitable for installation in the environment in which they are located, and must comply with the National Electrical Code as adopted.

(e) Welding. Welding on pressure vessels and piping must be done by approved welders in conformity with nationally recognized standards. This welding is subject to the approval of the building official.

1346.2107 SECTION 2107.

UMC Appendix B, Section 2107(a), (b), and (c) are amended to read as follows:

Section 2107. (a) General. A hot water heating system must be provided with an air expansion tank securely fastened to the structure. Supports must be adequate to carry twice the weight of the tank filled with water without placing any strain on connecting piping. Hot water heating systems incorporating hot water tanks or fluid relief columns must be installed to prevent freezing under normal operating conditions.

EXCEPTION: Small expansion tanks installed consistent with manufacturer's recommendations may be supported by the piping if so designed.

(b) Systems with open expansion tank. Systems equipped with an open expansion tank to satisfy thermal expansion must be provided with an indoor overflow from the upper portion of the expansion tank in addition to an open vent. The indoor overflow must be carried within the building to a suitable plumbing fixture.

(c) Closed-type systems. Systems of the closed type must have an airtight tank or other suitable air cushion that will be consistent with the volume and capacity of the system, and must be suitably designed for a hydrostatic test pressure of 2-1/2 times the allowable working pressure of the system. Expansion tanks for systems designed to operate at or above 50 psig must be constructed according to nationally recognized standards approved by the building official. Provisions must be made for draining the tank without emptying the system, except for pressurized tanks. The valve between the boiler or mains and the expansion tank must have permanently attached to it a metal tag having substantially the following wording stamped or etched on it: "This valve must be OPEN at all times except when draining the expansion tank."

1346.2108 SECTION 2108.

UMC Appendix B, Section 2108, is amended to read as follows:

Section 2108. A hot water liquid boiler or heat exchanger must be equipped with a pressure relief valve and a steam boiler must be equipped with a safety valve. Pressure relief and safety valves must be rated and installed according to ASME boiler and pressure vessel code.

1. Discharge piping from safety and relief valves must be directed to a position so that the danger of scalding a person is minimized and away from operating controls, thus preventing damage to the person. In no case may the discharge piping be more than 18 inches from the floor.

2. Inlet and discharge pipes are to be the full size of the valve opening and the discharge end must be reamed and unthreaded.

3. If manifolding two or more valve discharges, the piping must be sized so that its area is equivalent or greater than the combined areas of the discharge openings.

4. Discharge piping from a safety or relief valve when rising up must be provided with a drain opening to prevent the accumulation of condensate at the valve.

5. The required relieving capacity of the pressure relieving device or devices on a boiler or heat exchanger must be equal to or greater than the maximum output of the boiler or heat exchanger.

6. To prevent excessive loss of relieving capacity of the discharge piping because of length of pipe, the discharge piping must be increased in size.

1346.2109 SECTION 2109.

UMC Appendix B, Section 2109, is amended to read as follows:

Section 2109. An approved manual shutoff valve must be installed upstream of all control devices on the main burner of a gas-fired boiler. The takeoff point for the gas supply to the pilot must be upstream of the gas shutoff valve of the main burner and must be valved separately. A union or other approved means of disconnect must be provided immediately downstream of these shutoff valves. All boilers, vessels, equipment, and their appurtenances must have approved valves on the inlet and outlet of the unit. Approved valves must be used in a manner consistent with their testing and listing.

1346.2110 SECTION 2110.

UMC Appendix B, Section 2110, is amended to read as follows:

Section 2110. See Chapter 22, section 2220(c), for the requirements of pressure regulators.

1346.2111 SECTION 2111.

UMC Appendix B, Section 2111, is amended to read as follows:

Section 2111. An automatically-fired hot water heating or steam generating boiler must be equipped with an automatic low water fuel cutoff to automatically cut off the fuel supply when the surface of the water falls to the lowest safe water level according to items a, b, and c.

(a) An automatically-fired hot water boiler or group of boilers piped together having a rated input in excess of 400,000 Btu/h per hour must be equipped with an automatic low water fuel cutoff to stop the fuel supply when the surface of the water falls below the lowest safe permissible water level established by the boiler manufacturer.

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

(b) A boiler installed at an elevation where all radiation in the system is below the safe boiler level must be equipped with an automatic low water fuel cutoff to stop the fuel supply when the surface of the water falls below the lowest safe permissible water level established by the boiler manufacturer.

(c) A low water cutoff must be installed when recommended by the manufacturer's installation instructions or listing and when special consideration and installations will require a low water cutoff to protect a hot water or steam boiler in the opinion of the building official.

1346.2113 SECTION 2113.

UMC Appendix B, Section 2113, is amended to read as follows:

Section 2113. Automatic boilers must be equipped with controls and limit devices as set forth in Table No. 21-C. The building official may approve solid fuel-fired boilers that can meet the safety requirements for automatic gas or oil-fired boilers.

1346.2114 SECTION 2114.

UMC Appendix B, Section 2114, is amended to read as follows:

Section 2114. If boilers are installed or replaced, clearance must be provided to allow access for inspection, maintenance, and repair. Passage must have an unobstructed width of not less than 36 inches on all sides of the equipment. Clearance for repair and cleaning may be provided through a door or access panel into another area if the opening is of sufficient size.

EXCEPTION: Subject to the approval of the building official, boilers may be installed with a side clearance of less than 36 inches if the lesser clearance is part of the testing and listing of the equipment and does not inhibit inspection, maintenance, and repair.

Clearance from the top of the boiler to the ceiling for hot water and steam boilers under 400,000 Btu/h must be at least three feet. Clearance for hot water and steam boilers over 400,000 Btu/h must be at least four feet.

Package boilers, miniature boilers, low pressure heating boilers, and hot water supply boilers with no manhole on top of shell and not exceeding any of the above limits must have a minimum clearance of two feet from the ceiling.

1346.2115 SECTION 2115.

UMC Appendix B, Section 2115, is amended to read as follows:

Section 2115. Boiler rooms and enclosures and their access must comply with UMC chapter 7 and the requirements of the Minnesota State Building Code.

Boilers must not be installed in confined spaces such as alcoves or closets unless specifically approved for the installation. Boilers must be installed to allow sufficient area around the equipment for service and maintenance.

Boiler rooms in other than one- and two-family dwellings must have an area of at least ten times the area occupied by the boiler. If additional equipment is located in the boiler room, additional area must be provided equal to the area occupied by the equipment plus required clearance for servicing. At least 36 inches of clear space must be provided in front of all zone valves, control, and other necessary devices for access and servicing.

1346.2120 SECTION 2120.

UMC Appendix B, Section 2120, is amended to read as follows:

Section 2120. Fuel piping must conform to the requirements of UMC Chapters 22, 25, and 26 or the standard cited in Appendix C, Reference Standards - Oil Tanks, Piping, etc.

1346.2122 SECTION 2122.

UMC Appendix B, Section 2122, is amended to read as follows:

Section 2122. Hot water and steam boiler installations must have all controls set, adjusted, and tested by the installing contractor, and a complete control diagram of a permanent legible type, with complete boiler operating instructions, must be furnished by the installer for each installation. The instruction information must remain at the job site for the owner's use.

1346.2123 SECTION 2123.

UMC Appendix B, Section 2123, is amended to read as follows:

Section 2123. An installation for which a permit is required must not be put into service until it has been inspected and approved by the building official. The owner or the owner's representative shall notify the building official that the installation is ready for inspection and test and provide access for the inspection or test. The owner or the owner's representative shall also post in a conspicuous position on the installation a notice in substantially the following form: "Warning! This installation has not been inspected and approved by the building official and must not be covered or concealed until it has been inspected or approved." It is unlawful for anyone other

than the building official to remove the notice. The building official shall require tests the official considers necessary to determine that the installation complies with the UMC. The tests must be made by the owner or the owner's representative in the presence of the building official.

EXCEPTION: Installations designed and supervised by a registered professional engineer may be inspected and tested by that engineer in lieu of the above requirements when approved by the building official.

If the owner or the owner's representative requests inspection of a boiler before its installation, the building official shall make the inspection.

1346.2124 SECTION 2124.

UMC Appendix B, Section 2124, is deleted in its entirety.

1346.2125 SECTION 2125.

UMC Appendix B, Section 2125, is deleted in its entirety.

1346.2126 SECTION 2126.

UMC Appendix B, Section 2126, is deleted in its entirety.

1346.2127 SECTION 2127.

UMC Appendix B, Section 2127, is amended to read as follows:

Section 2127. Piping systems must comply with the following requirements:

EXCEPTION: High pressure piping systems that are part of a heating system must comply with *Minnesota Statutes*, sections 326.46 to 326.52, and the rules of the Department of Labor and Industry.

1. Piping systems in which the pressure exceeds 30 psig or the temperature exceeds 250 degrees Fahrenheit must comply with nationally recognized standards approved by the building official, *Minnesota Rules*, chapter 5230, and the requirements of item 2.

2. Piping systems in which the pressure does not exceed 30 psig and the temperature does not exceed 250 degrees Fahrenheit must comply with the requirements in A to F. If there is a conflict between this code and the rules of the Department of Labor and Industry, the most restrictive must apply.

A. Materials and construction.

(1) Pipe. Pipe must be brass, copper, cast iron, galvanized or black wrought iron, galvanized or black steel, or other approved materials. Plastic pipe must not be used in any service of 120 degrees Fahrenheit or more.

EXCEPTION: Galvanized pipe is not permitted for use in steam systems.

(2) Tubing. Tubing must be copper water tube, type K, L, or M.

EXCEPTION: Type M copper must not be used in steam systems.

(3) [Unchanged.]

(4) Fittings. (i) Plain screwed fittings must be brass, bronze, cast iron, galvanized or black mallable iron, or galvanized or black steel.

EXCEPTION: Galvanized pipe and galvanized fittings must not be used in steam systems.

(ii) and (iii) [Unchanged.]

(iv) [Deleted in its entirety.]

(5) to (9) [Unchanged.]

(10) Gaskets. Flange gaskets must be of metal or other approved materials.

(11) to (15) [Unchanged.]

B. [Unchanged.]

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

C. Connections.

(1) to (5) [Unchanged.]

(6) [Deleted in its entirety.]

(7) Copper water tubing. Joints in copper tubing must be soldered, sweated, or brazed.

(8) Piping to tubing. Joints connecting piping to tubing must be made with adapter fittings connected as required in items (1) to (7).

D. and E. [Unchanged.]

F. Hangers and supports. All piping and equipment must be adequately supported to the satisfaction of the building official. Hot water and steam piping must be supported, anchored, and provided with swing joints, expansion loops or joints, or other means to avoid excessive strain on piping, equipment, or the building structure by metal hangers or other approved hangers, and spaced so that there will be no sag in the piping between points of suspension. When fastened to walls, piping, and equipment must be securely supported by metal brackets or pipe supports spaced so that there will be no sag in the piping between points of suspension. Supports must be arranged so that there will be no undue strain on the threads of any pipe or fittings and equipment connected to it. The maximum spacing of hangers and minimum hanger rod size for steel and copper must be as follows:

Nominal Pipe Size (in inches)	Maximum Span (in feet)	Minimum Rod Diameter (in inches)
Up to 3	10	3/8
3	12	1/2
3 1/2	13	1/2
4	14	5/8
5	16	5/8
6	17	3/4
8	19	7/8
10	22	7/8
12	22	7/8

(1) [Unchanged.]

(2) Horizontal piping.

(i) [Unchanged.]

(ii) In ground. Piping and tubing in the ground must be laid on a firm bed for its entire length, except where support is otherwise provided that is adequate in the judgment of the building official.

G. Installation.

(1) [Unchanged.]

(2) Wall thickness. (i) Piping must be at least standard weight brass or copper, Class 150 cast iron, standard weight wrought iron, or ASTM Schedule 40 steel.

(ii) [Unchanged.]

(3) to (6) [Unchanged.]

(7) Underground piping.

(i) [Unchanged.]

(ii) Beneath buildings.

Ferrous piping. [Unchanged.]

Copper tubing. [Unchanged.]

Asbestos-cement. [Deleted in its entirety.]

(iii) Outside of buildings - black wrought-iron and black steel.

Asbestos-cement. [Deleted in its entirety.]

(iv) and (v) [Unchanged.]

(8) Aboveground piping.

(i) to (v) [Unchanged.]

(vi) [Deleted in its entirety.]

(vii) [Unchanged.]

(viii) Drainage. Means must be provided to drain all piping into an approved floor drain.

(ix) [Unchanged.]

(9) [Unchanged.]

H. Pressure testing.

(1) [Unchanged.]

(2) Media. The piping must be tested with water or other approved methods.

(3) to (6) [Unchanged.]

3. Hot water piping systems in which the design temperature does not exceed 120 degrees Fahrenheit may be constructed of polybutylene pipe or tubing of SDR-11 conforming to specification ASTM D 3309.

A. to D. [Unchanged.]

E. Installation details.

(1) to (4) [Unchanged.]

(5) Above ground piping.

(i) [Unchanged.]

(ii) [Delete in its entirety.]

(6) [Unchanged.]

F. Pressure testing.

(1) [Unchanged.]

(2) Media. The piping must be tested with water or other approved materials.

(3) [Unchanged.]

1346.2133 TABLE NO. 21-C.

UMC Appendix B, Table No. 21-C, is amended to read as follows:

TABLE NO. 21-C—CONTROLS AND LIMIT DEVICES FOR AUTOMATIC BOILERS

BOILER GROUP	FUEL	FUEL INPUT RANGE[1] (Inclusive)	TYPE OF PILOT[2]	SAFETY CONTROL TIMING (Nominal Maximum Time in Seconds)				ASSURED FUEL SUPPLY CONTROL[4]	ASSURED AIR SUPPLY CONTROL[5]	LOW FIRE START UP CONTROL[6]	PRE-PURGING CONTROL[7]	HOT WATER TEMPERATURE AND LOW WATER LIMIT CONTROLS[8]	STEAM PRESSURE AND LOW WATER LIMIT CONTROLS[9]	APPROVED FUEL SHUTOFF[10]	CONTROL AND LIMIT DEVICE SYSTEM DESIGN[11]
				TRIAL FOR PILOT	TRIAL FOR MAIN BURNER FLAME		MAIN BURNER FLAME FAILURE[3]								
					DIRECT ELECTRIC IGNITION	FLAME PILOT									
A	Gas	0-400,000 Btu/h	Any type	90	Not Required	90	90	Not Required	Required	Not Required	Not Required	Required	Required	Not Required	Required
B	Gas	400,001-2,500,000 Btu/h	Interrupted or intermittent	15	15	15	2-4	Not Required	Required	Not Required	Not Required	Required	Required	Not Required	Required
C	Gas	2,500,001-5,000,000 Btu/h	Interrupted or intermittent	15	15	15	2-4	Required	Required	Required	Required	Required	Required	Required	Required
D	Gas	Over 5,000,000 Btu/h	Interrupted	15	15	15	2-4	Required	Required	Required	Required	Required	Required	Required	Required
E	Oil	0-400,000 Btu/h	Any type	Not Required	90	90	90	Not Required	Required	Not Required	Not Required	Required	Required	Not Required	Required
F	Oil	400,001-1,000,000 Btu/h	Interrupted	Not Required	30	30	2-4	Required	Required	Not Required	Not Required	Required	Required	Not Required	Required
G	Oil	1,000,001-3,000,000 Btu/h	Interrupted	Not Required	15	15	2-4	Required	Required	Not Required	Not Required	Required	Required	Not Required	Required
H	Oil	Over 3,000,000 Btu/h	Interrupted	15	15	60	2-4	Required	Required	Required	Required	Required	Required	Required	Required
K	Electric	All	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Required	Required	Not Required	Required

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

FOOTNOTES FOR TABLE NO. 21-C

[1]Fuel input must be determined by the maximum burner input as shown on the burner nameplate.

[2]Automatic boilers must have one flame failure device on each burner that must prove the presence of a suitable ignition source at the point where it will reliably ignite the main burner, except that boiler group E that is equipped with direct electric ignition must monitor the main burner. Boiler group A equipped with continuous pilot must accomplish 100 percent shutoff within 90 seconds after flame failure. Boiler groups G and H trial for ignition timing is ten seconds for distillate oils and 15 seconds for oil requiring preheating.

[3]Electronic safety equipment must be provided for all burners exceeding 400,000 Btu/h input, except on multiple burner equipment where each section of 400,000 Btu/h input or fraction of it is supervised by an approved safety pilot.

[4]Boiler groups B, C, and D must have controls interlocked to accomplish a nonrecycling fuel shutoff upon high or low gas pressure and boiler groups B, C, D, F, G, and H using steam or air for fuel atomization must have controls interlocked to accomplish a nonrecycling fuel shutoff upon low atomizing steam or air pressure. Boiler groups F, G, and H equipped with a preheated oil system must have controls interlocked to provide fuel shutoff upon low oil temperature. Boiler groups F, G, and H must have controls for high oil temperature, and groups G and H must have controls for low oil pressure.

[5]Automatic boilers must have controls interlocked to shut off the fuel supply in the event of draft failure if forced or induced draft fans are used or, in the event of low combustion air flow, if a gas power burner is used. If a single motor directly driving both the fan and the oil pump is used, a separate control is not required.

[6]Boiler groups B, C, D, G, and H, when firing in excess of 400,000 Btu/h per combustion chamber, must be provided with low fire start of its main burner system to permit smooth light-off. This will normally be a rate of approximately one-third of its maximum firing rate.

[7]Boiler groups B, C, D, F, G, and H must not permit pilot or main burner trial for ignition operation before a purging operation. Purging is an acceptable method of scavenging the combustion chamber, boiler passages, and breeching to remove all combustion gases. It consists of at least four air changes for trial of ignition and after lockout at high fire damper setting, at least 90 seconds minimum. An atmospheric gas burner with no mechanical means of creating air movement or an oil burner that obtains two-thirds or more of the air required for combustion without mechanical means of creating air movement must not require purge by means of four air changes so long as its secondary air openings are not provided with means of closing. If burners have means of closing secondary air openings, a time delay must be provided that puts these closures in a normally open position for four minutes before an attempt for ignition. An installation with a trapped combustion chamber must in every case be provided with a mechanical means of creating air movement for purging.

[8]Every automatic hot water supply boiler, low pressure hot water heating boiler, and power hot water boiler must be equipped with two high temperature limit controls with a manual reset on the control with the higher setting interlocked to shut off the main fuel supply, except that manual reset on the high temperature limit control must not be required on an automatic package boiler not exceeding 400,000 Btu/h input and that has been approved by an approved testing agency. Every automatic hot water heating, power boiler, and package hot water supply boiler exceeding 400,000 Btu/h input must be equipped with one low water level limit control with a manual reset interlocked to shut off the fuel supply installed to prevent damage to the boiler and to permit testing of the control without draining the heating system.

[9]Every automatic low pressure steam heating boiler, small power boiler, and power steam boiler must be equipped with two high-steam pressure limit controls interlocked to shut off the fuel supply to the main burner with manual reset on the control with the higher setting and two low water level limit controls, one of which must be provided with a manual reset device and independent of the feed water controller.

[10]Boiler groups A, B, C, D, E, F, G, and H must use approved safety shutoff valves for the main burner fuel shutoff that must be interlocked to the flame safeguard control devices required under UMC Chapter 25. On oil burners where the safety shutoff valves will be subjected to pressures in excess of ten pounds per square inch when the burner is not firing, relief valves must be provided. Proof of closing valves must be provided for boiler groups C and D of over 1,000,000 Btu/h. The requirements in NFPA 85-A may be used for boilers of groups D and H with Btu/h input of over 12,500,000.

[11]Control and limit device systems must be grounded with operating voltage not to exceed 150 volts. Control and limit devices must interrupt the ungrounded side of the current. A readily accessible means of manually disconnecting the control circuit must be provided with controls so arranged that when they are de-energized the burner must be inoperative.

1346.2201 SECTION 2201.

UMC Appendix B, Section 2201, is amended to read as follows:

Section 2201. This chapter governs the installation or repair of fuel or gas burning systems, fuel or gas burners, fuel or gas burning equipment, and fuel or gas piping systems in connection with a building or structure or within the property lines of premises, other than service pipe.

1346.2202 SECTION 2202.

UMC Appendix B, Section 2202, is amended by deleting in their entirety the definitions of "high-distribution pressure" or "second-state pressure" and medium pressure" and by adding the following definitions in their proper sequence:

"Fuel gas burner" means a device to convey fuel or gas into the combustion chamber or zone of a furnace, boiler, device, or appliance in close proximity to its combustion air supply to permit a stable controlled heat release compatible with the burner and systems design.

"Fuel gas burning system" means a system of burners and the systems for conveying fuel gas to burners for any purpose, piping and accessories for natural gas, manufactured gas, and liquified petroleum gas. If required, a vent system to dispose of products of combustion is a part of the fuel gas burning system.

"High pressure gas" means gas in a piping system that operates at pressures exceeding a 14-inch water column.

"Liquified petroleum gas," "LPG," or "LP gas" means and includes a material in either the liquid or gaseous state composed predominantly of any of the following hydrocarbons or mixtures of them: propane, propylene, normal butane or isobutane, and butylenes.

"Low pressure gas" means gas in a piping system that operates at pressures of 14-inch or less water column.

1346.2205 SECTION 2205.

UMC Appendix B, Section 2205, is amended to read as follows:

Section 2205. Gas piping must not be strained or bent and appliances may not be supported by or develop strain or stress on supply piping. Gas piping supplying appliances designed to be supported by the piping may be used to support appliances when installed according to the manufacturer's instructions.

1346.2206 SECTION 2206.

UMC Appendix B, Section 2206(c), items 1 and 2, are amended to read as follows:

1. Rough piping inspection. The inspection must be made after gas piping authorized by the permit has been installed and before any piping has been covered or concealed or any fixture or appliance has been attached. The inspection must include a determination that the gas piping size, material, and installation meet the requirements of this chapter. The inspection must include an air pressure test at which time the fuel piping used must stand a pressure of not less than 25 psig, for at least 12 hours but not less than 1-1/2 times the working pressure. Tests must be made using air pressure or other approved means and must be made in the presence of the building official or the official's representative. Necessary apparatus for conducting the test must be furnished by the permit holder.

2. Final piping inspection. The inspection must be made after piping authorized by the permit has been installed, after all parts that are to be covered or concealed are concealed, and after fixtures, appliances, or shutoff valves have been attached.

1346.2211 SECTION 2211.

UMC Appendix B, Section 2211(f), is amended to read as follows:

(f) Meter location. Gas meters must not be located under a show window or under interior stairways or in engine, boiler, heater, or electric meter rooms. If not prohibited by other regulations, gas meters may be located in the open under exterior stairways. Gas meters must be placed at least three feet from any source of ignition.

1346.2212 SECTION 2212.

UMC Appendix B, Section 2212, is amended to read as follows:

Section 2212. Pipe used for the installation, extension, alteration, or repair of gas piping must be standard weight wrought iron, galvanized or black steel, copper, or brass of full weight standard gauge and thickness, and must comply with either ANSI/ASTM-A-53 or A-120 standards, as applicable (see NFPA-54-1988 Sect. 2.6.2). Copper and brass pipe must comply with ANSI/ASTM D2420. Steel piping run outside exposed above ground must be galvanized or coated with an approved rust resistant material. Fittings for screw or flange piping, except stopcocks and valves, must be malleable iron or steel. Copper tubing must be of standard type K or L, or equivalent, complying with ASTM specifications.

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

Joints must be made by approved flared gas fittings or by brazing with a material having a melting point in excess of 1,000 degrees Fahrenheit. Compression-type fittings must not be used for this purpose.

Copper or iron tubing must not be used for piping within the burner zone of the burners.

Gas pipe must be new or may have been used previously for conveying gas. It must be in good condition, clean, and free from internal obstructions. Burred ends must be reamed to the full bore of the pipe.

Valves and appurtenances for gas piping must be designed and approved for use with fuel gas.

1346.2213 SECTION 2213.

UMC Appendix B, Section 2213, is amended to read as follows:

Section 2213. (a) Joints. Joints in the piping system, unless welded, must be screwed joints having approved standard threads. Screwed joints must be made with approved pipe joint material, insoluble in fuel gas, and applied to the male threads only. Piping 2-1/2 inches or larger must have welded joints.

(b) Location. Gas piping must not be installed in or on the ground under a building or structure and exposed gas piping must be kept at least six inches above grade or structure. Concealed, unprotected gas piping may be installed above grade in approved recesses or channels.

EXCEPTIONS: 1. If necessary due to structural conditions, approved-type gas piping may be installed in other locations if permission has been first obtained from the building official.

2. If gas piping is to be run in false ceilings and the space is to be used as an air plenum, the piping must have all connections made by welding or brazing. No valves, threads, unions, or connectors are permitted.

(c) Drip tees. Drip tees comprised of a tee fitting with the bottom outlet capped must be installed at the base of supply piping dropping down to an automatically controlled gas burner or appliance, before any regulator or automatic gas valve, and ahead of all pounds-to-inches pressure regulators. The tee must be installed so that the gas enters the tee from the top and leaves at a 90 degree angle from the inlet.

(d) Corrosion and covering protection. Ferrous gas piping installed underground in exterior locations must be protected from corrosion by approved coatings or wrapping materials. Horizontal metallic piping must have at least six inches of earth cover or equivalent protection.

(e) Corrosion isolation. If soil conditions present a corrosion problem, underground ferrous gas piping must be electrically isolated from the rest of the gas system with listed isolation fittings installed at least six inches above grade.

(f) [Unchanged.]

(g) Building shutoff. If meters are installed inside the building, a main shutoff valve must be installed in a readily accessible location inside the building on the street side of the meter.

If a meter or meters are installed on the exterior of the building walls, a main shutoff valve the same as the main building gas supply must be installed on the inside of the building between the meter and the first branch gas line. The shutoff valve must be installed in the first readily accessible location for use and operation and must have a permanently attached handle. In multiple dwellings, the main shutoff valve must not be located in an apartment or locked room, but must be in the utility room or otherwise located to be readily accessible to all occupants of the building at all times.

All main shutoff valves must be approved, lubricated plug-type, ball-type, or of a type approved by the administrative authority. Main shutoff valves controlling several gas piping systems must be placed an adequate distance from each other so they will be easily accessible for operation and must be installed to be protected from physical damage. Each valve must be plainly marked with a metal tag attached by the installing contractor so that the gas piping system supplied through it can be readily identified. A shutoff valve must be installed at every location where safety, convenience of operation, and maintenance demands.

In multiple tenant buildings supplied through a master meter or one service regulator when a meter is not provided, or where meters or service regulators are not readily accessible from the appliance location, an individual shutoff valve for each apartment or for each separate house line must be provided in an accessible location.

(h) and (i) [Unchanged.]

(j) Valves. Valves used in connection with gas piping must be of approved types, including, but not limited to, approved lubricated plug-type, ball-type, or a type approved by the building official.

Gas valves must be of the lever handle type and be installed in the piping system serving each appliance, located within easy reach of the appliance. For inputs exceeding 1,000,000 Btu/h or where metering or regulating pressure exceeds 14 inches water column, the valve must be an approved, lubricated plug-type, ball-type, or of a type approved by the building official.

(k) and (l) [Unchanged.]

(m) [Deleted in its entirety.]

(n) [Unchanged.]

1346.2215 SECTION 2215.

UMC Appendix B, Section 2215, is amended to read as follows:

Section 2215. In addition to the requirements of this chapter, the facilities and piping for use with liquified petroleum gas must comply with *Minnesota Rules*, part 7510.3260.

1346.2216 SECTION 2216.

UMC Appendix B, Section 2216, is amended to read as follows:

Section 2216. Leaks. Leaks in gas or fuel piping must be located by applying soapy water to the exterior of the piping or by using a meter leak test to locate the leaks.

Fire or acids must not be used to locate or repair leaks. Substances other than air or inert gas, such as nitrogen, may not be introduced into the gas or fuel piping. It is unlawful to introduce halogenated hydrocarbons such as freon into a gas piping system or a fuel piping system.

It is not permissible to repair defects in gas or fuel piping systems or fittings. After a leak is located, the defective pipe or fittings must be removed and replaced with sound materials.

1346.2220 SECTION 2220.

UMC Appendix B, Section 2220, is amended to read as follows:

Section 2220. (a) General. Approval of the building official and verification from the serving gas or fuel supplier of the availability of the desired pressure must be obtained before a high pressure gas or fuel piping system is installed.

(b) Applicability. This part applies to high pressure gas or fuel piping systems.

(c) Pressure regulators. Approved regulators must be installed on high pressure gas or fuel piping systems, in approved locations either outside the building or when vented to the outside, in nonhazardous, well ventilated interior locations, and must be readily accessible for servicing. Each regulator must have a separate vent to the outside.

EXCEPTIONS: Pounds-to-inches water column regulators installed at the appliance location and equipped with limiting orifices capable of releasing not more than five cubic feet of gas per hour when supplied with five pounds per square inch pressure need not be vented to an outside location if the appliance regulators have been approved by the building official. These appliance regulators, when installed at each appliance location, must:

1. be connected to the same piping material used to pipe the structure (a listed gas connector may be used to attach the low pressure piping downstream of the regulator to the appliance manifold);

2. have an approved gas valve in the supply line upstream of the pounds-to-inches water column regulator;

3. be accessible;

4. have the upstream pressure identified by a metal tag permanently attached to the regulator stating: "Warning! 1/2 to 5 pounds natural gas pressure. DO NOT REMOVE"; and

5. be installed in a location that communicates with a ventilated area.

An approved gas valve must be installed immediately preceding each regulator. Regulators that may be subjected to mechanical damage must be substantially protected to the satisfaction of the building official.

(d) Three or five psig. Tables Nos. 22-F and 22-G may be used to size a natural gas piping system carrying three or five psig gas. The procedure to determine the size of each section of the system is similar to that in UMC Section 2219 using the pipe length from the meter to the most remote regulator and sizing the downstream low pressure piping from Table No. 22-D.

(e) [Unchanged.]

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

(f) Corrosion and cover protection. Buried gas piping must be protected from corrosion as required by UMC Section 2213 and must have a minimum earth cover of six inches. Piping must be covered with at least six inches of hand-placed selected backfill devoid of rocks, building materials, or other matter that may damage the pipe or wrapping.

1346.2226 TABLES NOS. 22-D-1; 22-D-2; 22-D-3; AND 22-D-4.

Subpart 1. UMC Appendix B, Chapter 22, is amended by adding Table 22-D-1 to read as follows:

Length in Feet	NOMINAL IRON PIPE SIZE, INCHES								
	½	¾	1	1¼	1½	2	2½	3	4
10	132	278	520	1050	1600	3050	4800	8500	17500
20	92	190	350	730	1100	2100	3300	5900	12000
30	73	152	285	590	890	1650	2700	4700	9700
40	63	130	245	500	760	1450	2300	4100	8300
50	56	115	215	440	670	1270	2000	3600	7400
60	50	105	195	400	610	1150	1850	3250	6800
70	46	96	180	370	560	1050	1700	3000	6200
80	43	90	170	350	530	990	1600	2800	5800
90	40	84	160	320	490	930	1500	2600	5400
100	38	79	150	305	460	870	1400	2500	5100
125	34	72	130	275	410	780	1250	2200	4500
150	31	64	120	250	380	710	1130	2000	4100
175	28	59	110	225	350	650	1050	1850	3800
200	26	55	100	210	320	610	980	1700	3500

Subp. 2. UMC Appendix B, Chapter 22, is amended by adding Table No. 22-D-2 to read as follows:

Length in Feet	NOMINAL PIPE OR I. D. TUBING SIZE									
	½	½	¾	1	1¼	1½	2	2½	3	4
5	145	280	750	1080	2200	3450	7000	11200	20000	42000
10	98	187	500	760	1550	2450	4950	8000	14200	29500
15	76	148	395	620	1300	2000	4000	6500	11500	24000
20	66	126	335	520	1100	1700	3450	5600	10000	21000
30	52	100	265	440	900	1400	2850	4600	8300	17000
40	44	84	225	380	795	1200	2500	4000	7200	14500
50	39	74	200	345	700	1100	2200	3550	6350	13000
60	35	67	180	315	640	1000	2000	3250	5800	12000
70	32	61	165	290	600	920	1850	3000	5400	11000
80	30	57	153	270	560	860	1750	2800	5050	10400
90	28	53	142	255	520	810	1650	2650	4750	9700
100	26	50	134	240	500	770	1580	2500	4500	9300
125	23	44	118	215	450	690	1400	2250	4000	8400
150	21	39	106	195	410	620	1290	2050	3650	7600
175	19	36	97	180	380	580	1190	1900	3400	7000
200	18	34	90	170	355	540	1100	1780	3200	6600
250	16	30	79	150	315	490	980	1600	2850	5900
300	14	28	71	140	285	445	900	1460	2600	5400

Subp. 3. UMC Appendix B, Chapter 22, is amended by adding Table No. 22-D-3 to read as follows:

Length in Ft.	NOMINAL PIPE OR I. D. TUBING SIZE										
	¼	⅜	½	¾	1	1¼	1½	2	2½	3	4
5	190	440	850	2300	2900	6000	9200	19000	30000	54000	110M
10	128	295	570	1540	2000	4200	6500	13000	26000	38000	80000
15	100	235	450	1200	1650	3400	5300	10800	17500	31000	64000
20	85	200	380	1030	1400	2900	4600	9300	15000	27000	55000
30	67	160	300	820	1150	2400	3700	7000	12000	22000	45000
40	57	125	255	700	1000	2100	3200	6500	10500	19000	39000
50	50	117	225	610	900	1850	2850	5800	9400	17000	35000
60	46	108	205	550	820	1700	2600	5400	8600	15500	31000
70	41	98	185	500	760	1600	2450	5000	8000	14000	29500
80	38	90	173	470	710	1500	2250	4700	7500	13000	27500
90	30	84	162	440	660	1400	2150	4400	7000	12500	26000
100	34	79	152	410	625	1300	2000	4150	6700	12000	25000
125	30	69	135	360	570	1150	1800	3700	6000	10500	22000
150	27	63	122	325	520	1080	1650	3400	5400	9800	20000
175	25	58	112	300	480	1000	1550	3100	5000	9000	18500
200	23	53	102	280	450	940	1450	2900	4750	8400	17000
250	20	47	90	240	400	850	1300	2600	4300	7500	15500
300	18	42	81	220	370	760	1150	2400	3900	7000	14000

Subp. 4. UMC Appendix B, Chapter 22, is amended by adding Table No. 22-D-4 to read as follows:

Length in Ft.	NOMINAL PIPE OR I. D. TUBING SIZE										
	¼	⅜	½	¾	1	1¼	1½	2	2½	3	4
5	540	1260	2400	6500	10500	21000	31000	58000	90000	150M	310M
10	360	850	1630	4350	7600	15000	22000	41000	64000	110M	220M
15	285	670	1280	3450	6200	12000	18000	34000	52000	90000	180M
20	240	570	1080	2950	5400	10500	15000	29000	45000	790M	150M
30	192	450	860	2300	4400	8600	13000	24000	36000	630M	125M
40	163	380	730	2000	3800	7500	11000	20000	32000	55810	110M
50	143	335	645	1750	3350	6700	9800	18000	28000	49000	97000
60	130	300	580	1560	3050	6100	9000	17000	26000	45900	90000
70	118	275	530	1430	2800	5600	8200	15000	24000	41000	82000
80	110	255	490	1330	2650	5200	7700	14000	22000	38000	77000
90	102	240	460	1230	2500	4900	7200	13500	21000	36500	72000
100	96	225	430	1160	2350	4700	6800	12500	20000	34500	70000
125	85	198	380	1025	2100	4150	6100	11300	18000	31000	62000
150	76	178	340	920	1900	3800	5600	10400	16000	28400	56000
175	69	164	315	845	1800	3550	5200	9700	15500	26000	53000
200	64	146	290	780	1700	3300	4900	9000	14000	24000	49000
250	58	140	255	690	1500	2950	4300	8100	12500	22600	44000
300	51	120	230	620	1350	2700	4000	7400	11500	19000	40000

1346.2500 CHAPTER 25.

UMC Appendix B is amended by adding a new chapter to read as follows:

Chapter 25

INSTALLATION AND TESTING OF GAS- OR FUEL-FIRED EQUIPMENT

Subpart 1. SECTION 2501.

Section 2501. General. Chapter 25 governs the installation and testing or repair of gas or fuel burning systems, gas or fuel burners, gas or fuel burning equipment, and gas or fuel piping systems used in connection with buildings or structures or within the property lines of the premises.

Subp. 2. SECTION 2502.

Section 2502. Standards. The standards to be used in conjunction with this chapter are the appropriate standards published by ANSI/UL-1984, NFPA 54-1988, and NFPA 85A-1987.

Subp. 3. SECTION 2503.

Section 2503. Use of approved equipment. Only approved gas or fuel burning equipment may be used. "Approved" means acceptable to the administrative authority as to design, equipment, installation, or intended use as required by the UMC. Devices listed for a specific purpose by an approved testing agency may be considered as meeting the requirements of the UMC.

Subp. 4. SECTION 2504.

Section 2504. Placing equipment in operation. After completion of all installations, the installer shall test all safety and operating controls and venting before placing the burner in service. The correct input of fuel must be determined and the fuel-to-air ratio set. Each gas or fuel burner must be adjusted to its proper input according to the manufacturer's instructions. Overrating of burners is prohibited.

1. The rate of flow of the gas or fuel must be adjusted to within plus or minus two percent of the required Btu/h rating at the manifold pressure specified by the manufacturer. When the prevailing pressure is less than the manifold pressure specified, the rates must be adjusted at the prevailing pressure.

2. For conversion burners installed in hot water boilers or warm air furnaces, the rate of flow of the gas or fuel in Btu/h must be adjusted to within plus or minus five percent of 1.7 times the calculated Btu/h heat loss of the building in which it is installed.

3. For conversion burners installed in steam boilers, the gas or fuel hourly input demand must be adjusted to meet the steam load requirements. The gas or fuel input demand necessitated by an oversized boiler must be established and added to the input demand for load requirements to arrive at a total input demand.

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

Subp. 5. SECTION 2505.

Section 2505. Pilot operation. Pilot flames must be effective to ignite the gas or fuel at the main burner or burners and must be adequately protected from drafts. Pilot flames must not become extinguished when the main burner or burners are turned on or off in a normal manner either manually or by automatic controls.

Subp. 6. SECTION 2506.

Section 2506. Burner operation. In making the tests to determine compliance with this section, care must be exercised to prevent the accumulation of unburned gas or fuel in the appliance or flues that might result in explosion or fire.

1. The flames from each burner must freely ignite the gas or fuel from adjacent burners when operating at the prevailing gas or fuel pressure and when the main control valve is regulated to deliver at one-third the full gas or fuel rate.

2. Burner flames must not flash back after immediate ignition nor after turning the fuel cock until the flow rate to the burner is one-third the full supply.

3. Burner flames must not flash back when the gas or fuel is turned on or off by an automatic control mechanism.

4. Main burner flames must ignite freely from each pilot when the main control valve is regulated to one-third the full gas or fuel rate or when the pilot flame is reduced to a minimum point at which it will actuate the safety device.

5. When ignition is made in a normal manner, the flame must not flash outside the appliance.

6. Burners must not expel gas or fuel through air openings when operating at prevailing pressure.

Subp. 7. SECTION 2507.

Section 2507. Method of test. 1. The appliance must be allowed to operate until the stack temperature becomes stabilized after which a sample of the undiluted flue products must be taken from the appliance flue outlet, ahead of the draft hood. The sample taken must be analyzed for carbon monoxide, carbon dioxide, and oxygen.

NOTE: Furnace designs incorporating induced draft assemblies may require a flue gas sample to be taken ahead of the inducer fan.

2. The venting, safety, and operating controls of the appliance must be checked by the installer to ensure their proper and safe operation.

3. After completion of the test of newly-installed gas or fuel burner equipment as provided in this section, the installer shall file with the building official complete records of the test on a form approved by the building official. A tag stating the date of the test and the name of the tester must be attached to the appliance at the main valve.

Subp. 8. SECTION 2508.

Section 2508. (a) The concentration of oxygen in the undiluted flue products of gas burners must in no case be less than four percent nor more than ten percent. The allowable limit of carbon monoxide must not exceed 0.04 percent.

The flue gas temperature of a gas designed appliance, as taken on the appliance side of the draft hood, must not exceed 480 degrees Fahrenheit above the room temperature surrounding the appliance.

The oxygen figures do not apply when there is an approved oxygen trim system on the burner that is designed for that use, including a combustion interlock.

Performance standards for atmospheric burners must meet the following requirements:

1. minimum of 74 percent efficiency as determined by flue gas analysis method at appliance flue outlet;

2. carbon monoxide concentration in flue gas not greater than 0.04 percent;

3. stack temperature not greater than 480 degrees Fahrenheit, plus ambient;

4. carbon dioxide concentration between six and nine percent; and

5. oxygen concentration between four and ten percent.

(b) Gas or fuel burners over 1,000,000 Btu/h input must be tested in the presence of the building official in a manner set forth by the administrative authority before the installation is approved. Testing must include safety and operating controls, input, flue gas analysis, and venting. Flue gas must be tested at high and low fires. Provisions must be made in the piping system to allow firing test in warm weather.

(c) Installation of oxygen trim systems, modulating dampers, or other draft control or combustion devices must require a supervised startup as in (b).

(d) Direct fired heaters must require a supervised startup as in (b).

(e) The wiring diagram of the installation and suitable operating instructions must be supplied and posted near the appliance.

(f) Gas pressure regulators are required on all installation of gas burning equipment. Regulators must be installed consistent with the listing and approval of the unit. All gas regulators must be designed to regulate gas at a pressure of not less than the protected metering pressure. All pounds-to-pounds and pounds-to-inches regulators must be of a full lockup type. Regulator vents must not be vented into a combustion chamber. All regulators must be vented to the outside of the building, except that regulators equipped with and approved for use with vent limiting devices to limit the escape of gas from the vent opening in the event of diaphragm failure may be used without outside vents when approved.

(g) All regulator installations must comply with the following:

1. regulators must be installed according to the manufacturer's instructions;

2. regulators must be rated to supply the total load required;

3. regulators must be exposed and readily accessible for servicing and in no case may regulators be covered by a ceiling or other unventilated construction; and

4. regulators must be provided with an accessible shutoff valve and union for servicing. When regulators are required to be vented to the outside of the building, vent piping must be sized according to the manufacturer's instructions. Vent piping must terminate a minimum of six feet away from any combustion or air inlet to the building and must be suitably screened and hooded to prevent accidental closure of the vent pipe. Regulators must be vented individually unless otherwise approved by the building official. Regulator vents must not terminate into a vent connector, breeching stack, chimney, or combustion chamber.

Subp. 9. SECTION 2509.

Section 2509. Special requirements based on Btu/h input. (a) 0 to 400,000 Btu/h per burner:

1. one approved manual shutoff valve with lever handle;

2. an approved regulator vented to the outside or with an approved vent limiter;

3. a flame safety pilot control capable of providing 100 percent shutoff in the event of flame or pilot failure;

4. two controls, one operating and one high limit, activated by temperature or pressure, as appropriate; and

5. approved automatic safety shutoff valve to provide 100 percent shutoff.

(b) All installations over 400,000 Btu/h must include the following basic controls:

1. two controls, one operating and one high limit, actuated by temperature or pressure, as appropriate;

2. one high gas or fuel pressure interlock manual reset;

3. if hot water or steam, one low water cutoff;

4. one electronic flame safeguard pilot control;

5. a separately supervised and proven pilot, 100 percent shutoff;

6. for power burners, a fuel/air interlock fan proving switch; and

7. for atmospheric burners and power burners, a combustion air damper proving switch.

(c) Additional controls based on 400,000 to 999,999 Btu/h must be as follows:

1. one manual shutoff with lever handle;

2. a regulator full lockup type, vented outside;

3. two safety shutoff valves in series, maximum five seconds closing time;

4. a manual firing cock;

5. a programmed flame safeguard control with manual reset lockout; and

6. power burners must include proven prepurge.

(d) Controls based on 1,000,000 to 2,499,000 Btu/h input must be as follows:

1. one manual shutoff with lever handle;

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

2. a regulator full lockup type, vented outside;

3. two safety shutoff valves in series, five seconds maximum closing time, with one valve being solenoid or hydro type and a second valve being hydro type with proof of closure, and neither valve being modulating, diaphragm, or butterfly type;

4. low gas or fuel pressure interlock, manual reset;

5. leak test port;

6. burner pressure test port;

7. separate firing rate control valve;

8. manual firing cock;

9. programmed electronic flame safeguard, including manual reset lockout, 100 percent shutoff, separately safety supervised, and proved pilot, with power burners including a proven purge of at least four air changes before trial for ignition and after lockout at high fire damper setting at least 90 seconds minimum;

10. high limit must be manual reset; and

11. if steam or hot water, two low water cutoffs, with one being a manual reset.

(e) Controls based on 2,500,000 Btu/h input and above must be as follows:

1. manual shutoff valve with lever handle;

2. regulator full lockup type, vented outside;

3. two hydro type safety shutoff valves in series, maximum one second closing time, in event of flame failure, with one valve having proof of closure and neither valve being modulating, butterfly, diaphragm, or solenoid type;

4. low gas or fuel pressure interlock, manual reset;

5. high gas or fuel pressure interlock, manual reset;

6. leak test port;

7. separate firing rate control valve;

8. manual firing cock;

9. burner pressure test port;

10. programmed flame safeguard, including proved low fire start, manual reset lockout, 100 percent shutoff, separately safety supervised, and proved pilot; and

11. power burners must include a proven purge of at least four air changes before trial for ignition and after lockout at high fire dampers setting at least 90 seconds minimum.

Subp. 10. SECTION 2510.

Section 2510. Equipment information. (a) All installations of gas or fuel burners with a consumption of over 400,000 Btu/h and all combination gas or fuel burners must be approved before installation. The following information must be supplied as required by the building official:

1. name, model, and serial number of the burner;

2. input rating and type of fuel;

3. name of the nationally recognized testing laboratory that tested and listed the unit;

4. name, model, and serial number of furnace or boiler that the burner will be installed in if not part of a complete package;

5. complete wiring diagram showing the factory and fuel wiring installed or to be installed including all controls, identified by the brand name and model number; and

6. a print of the gas or fuel train from the manual shutoff to the appliance showing all controls that will be installed, their names, model numbers, and approvals.

(b) All installations of gas or fuel burners over 400,000 Btu/h and all combination gas and oil or other combination fuel burners that are installed in new or renovated boiler or equipment rooms or are installed in a package with the boiler or furnace must include the following information, in addition to that required in item (a), subitems 1 to 6, for approval before installation:

1. a complete piping diagram from the supply source showing all components and materials identified by brand name and model number with relevant approvals;

2. detailed provisions for combustion air, venting, and stacks; and

3. a floor plan drawn to scale showing all relevant equipment. Contractors must receive approval of a plan or specifications or both before proceeding with an installation.

1346.2600 CHAPTER 26.

UMC Appendix B is amended by adding a new chapter to read as follows:

Chapter 26

INSTALLATION AND TESTING OF OIL- OR FUEL-FIRED EQUIPMENT

Subpart 1. SECTION 2601.

Section 2601. General. This chapter governs the installation, testing, or repair of oil or fuel burners, oil or fuel burning systems, oil or fuel burning equipment, and the oil or fuel piping systems used in connection with buildings or structures and equipment within the property lines of the premises.

Subp. 2. SECTION 2602.

Section 2602. Accepted practices. The installation, testing, and repair of oil or fuel burning equipment systems must comply with the standards in UMC Appendix C and other information outlined in the UMC such as, but not limited to, combustion air, flue requirements, room clearance, and controls.

Subp. 3. SECTION 2603.

Section 2603. Definitions. Except as defined in this chapter or in UMC, Section 402, words used in this chapter have the meanings given in the Uniform Building Code and Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1981.

The definitions in this subpart apply to the oil- or fuel-fired equipment requirements. Certain definitions in part 1346.3002 may also apply to this section.

1. "Antiflooding device" means a primary safety control that causes the flow of oil or fuel to be shut off after a rise in oil or fuel level or after receiving excess oil or fuel, and that operates before the hazardous discharge of oil or fuel can occur.

2. "Burner, automatically ignited" means a burner equipped so that main burner fuel may be turned on and ignited automatically.

3. "Burner, manually ignited" means a burner equipped so that main burner fuel is turned on only by hand and ignited under supervision.

4. "Burner, mechanical draft type" means a burner that includes a power-driven fan, blower, or other mechanism as the primary means for supplying the air for combustion.

5. "Burner, natural draft type" means a burner that depends primarily on the natural draft created in the chimney or venting system to induce air required for combustion into the burner.

6. "Constant level valve" means a device for maintaining within a reservoir a constant level of oil fuel for delivery to an oil burner.

7. "Control limit" means an automatic safety control responsive to changes in fluid flow or level, pressure, or temperature, and that is normally set beyond the operating range for limiting the operation of the controlled equipment by shutting off the energy supply.

8. "Control, safety" means automatic controls including relays, switches, and other auxiliary equipment used in conjunction with them to form a safety control system that are intended prevent unsafe operation of the controlled equipment.

9. "Draft booster" means a power operated fan, blower, or other device installed in the chimney connector to increase the natural draft developed in the connected chimney.

10. "Draft regulator, barometric" means a device built into a fuel burning appliance or made part of a chimney connector or vent connector that functions to reduce excessive draft through an appliance to a desired value by admitting ambient air into the appliance chimney, chimney connector, vent, or vent connector.

11. "Fuel oil" means any hydrocarbon oil as specified by ASTM D396, or the Canadian Government Specification Board, 3-GP-28, and having a flash point of not less than 100 degrees Fahrenheit.

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

12. "Indirect-fired appliance" means an oil or fuel burning appliance in which products of combustion (flue gases) are not mixed in the appliance with the air or other medium being heated.

13. "Installation" means the complete setting in place, ready for operation, of oil or fuel burning equipment with its accessories and equipment.

14. "Labeled" means having attached a label, symbol, or other identifying mark of an organization acceptable to the building official and concerned with product evaluation, that maintains periodic inspection of production of labeled equipment or materials and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.

15. "Listed" See UMC, Section 414.

16. "Oil or fuel burner" means a device for burning oil or fuel in heating appliances such as boilers, furnaces, water heaters, and ranges. It may be a pressure atomizing gun type, a horizontal or vertical rotary type, or a mechanical or natural draft vaporizing type.

17. "Oil or fuel burning equipment" means an oil or fuel burner of any type with its tank, piping, wiring, controls, and related devices and including all oil or fuel burners, oil- or fuel-fired units, and heating and cooking appliances.

18. "Pump, automatic oil or fuel" means a pump, not an integral part of an oil or fuel burner, that automatically pumps oil or fuel from the supply tank and delivers the oil by gravity under a constant head to an oil burning appliance, and that is designed to stop pumping automatically in case of total breakage of the oil or fuel supply line between the pump and the appliance.

19. "Pump, oil or fuel transfer" means an oil or fuel pump, automatically or manually operated, that transfers oil or fuel through continuous piping from a supply tank to an oil or fuel burning appliance or to an auxiliary tank, and that is not designed to stop pumping automatically in case of total breakage of the oil or fuel supply line between the pump and the appliance.

20. "Tank, auxiliary" means a tank having a capacity of not over 60 gallons listed for installation in the supply piping between a burner and its main fuel supply tank. It may be included as an integral part of an automatic pump, a transfer pump, or may be a separate tank.

21. "Tank, gravity" means a supply tank from which the oil or fuel is delivered directly to the burner by gravity.

22. "Tank, integral" means a tank that is furnished by the manufacturers as an integral part of an oil or fuel burning appliance.

23. "Tank, storage" means a separate tank that is not connected to the oil or fuel burning appliance.

24. "Tank, supply" means a separate tank connected directly or by a pump to the oil or fuel burning appliance.

25. "Tank, vacuum or barometric" means a tank not exceeding five gallons capacity that maintains a definite level of oil or fuel in a sump or similar receptacle by barometric feed. Fuel is delivered from the sump to the burner by gravity.

26. "Valve, manual oil or fuel shutoff" means a manually operated valve in an oil or fuel line for the purpose of turning on or completely shutting off the oil or fuel supply to the burner.

27. "Valve, oil or fuel control" means an automatically or manually operated device consisting essentially of an oil or fuel valve for controlling the fuel supply to a burner.

Subp. 4. SECTION 2604.

Section 2604. Approval of equipment. Oil or fuel burning equipment must be approved. "Approved" means acceptable to the building official as to design, equipment, installation, or intended use as required by the UMC. Devices listed for a specific purpose by an approved testing agency may be considered as meeting the requirements of the UMC.

Subp. 5. SECTION 2605.

Section 2605. Installation of oil or fuel burning equipment. (a) General. The installation of oil or fuel burning equipment must be in keeping with the requirements of the appropriate ANSI/UL Standards, NFPA 31-1987, or the UMC.

(b) Placing equipment in operation. Following completion of all installation, the installer shall test all safety and operating and venting before placing the burner in service. The correct input of fuel must be determined and the fuel-to-air ratio set.

Each fuel burner must be adjusted to its proper input according to the manufacturer's instructions. Overrating of burners is prohibited.

(c) Conversion burners. For conversion burners installed in hot water boilers or warm air furnaces, the rate of flow of the fuel in Btu/h must be adjusted to within plus or minus five percent of 1.7 times the calculated Btu/h heat loss of the building in which it is installed.

For conversion burners installed in steam boilers, the fuel hourly input demand must be adjusted to meet the steam load requirements. The fuel input demand necessitated by an oversized boiler must be established and added to the input demand for load requirements to arrive at a total input demand.

(d) Pilot operation. Pilot flames must be effective to ignite the fuel at the main burner and must be adequately protected from drafts.

Pilot flames must not become extinguished when the main burner is turned on or off in a normal manner either manually or by automatic controls.

(e) Burner operation. In conducting tests to determine compliance with the requirements of this section, care must be exercised to prevent the accumulation of unburned fuel in the appliance that might result in an explosion or fire.

1. The flames from the burner must freely ignite the fuel when operating at the prevailing fuel pressure and when the main control valve is regulated to deliver at one-third the full fuel rate.

2. Burner flames must not flash back after immediate ignition nor after turning the fuel cock until the flow rate to the burner is one-third the full supply.

3. Burner flames must not flash back when the fuel is turned on or off by an automatic control mechanism.

4. Main burner flames must ignite freely from the pilot when the main control valve is regulated to one-third the full fuel rate or when the pilot flame is reduced to a minimum point that will actuate the safety device.

5. When ignition is made in a normal manner, the flame must not flash outside the appliance.

6. Burners must not expel fuel through air openings when operating at prevailing pressure.

(f) Method of test. The appliance must be allowed to operate until the stack temperature becomes stabilized after which a sample of the undiluted flue products must be taken from the appliance flue outlet ahead of the draft hood.

The sample taken must be analyzed for carbon monoxide, carbon dioxide, and oxygen.

NOTE: Furnace designs incorporating induced draft assemblies may require flue gas samples to be taken ahead of the inducer fan.

The venting, safety, and operating controls of the appliance must be checked by the installer to ensure proper and safe operation. After completion of the test of newly installed fuel burner equipment as provided in this section, the installer must file with the building official complete records of the test on a form approved by the building official. A tag stating the date of the test and the name of the tester must be attached to the appliance at the main appliance valve.

Oil- or fuel-fired equipment must have draft in water and smoke samples taken.

Subp. 6. SECTION 2607.

Section 2607. Appliance performance. (a) The concentration of oxygen in the undiluted flue products of burners must not be less than four percent or more than ten percent. The flue gas temperature of oil or fuel designed appliances, as taken on the appliance side of the barometric damper, must not exceed 700 degrees Fahrenheit above that of the room temperature surrounding the appliance. Draft in water and smoke samples must also be taken.

Installation of appliances must meet the following performance standards:

1. minimum of 75 percent efficiency as determined by flue gas analysis method at appliance flue outlet;

2. stack temperature not greater than 700 degrees Fahrenheit, plus ambient;

3. carbon dioxide between eight and 13 percent;

4. oxygen between four and ten percent;

5. smoke test no higher than #2 for light oils, or #4 for heavier oils, over #4 oil;

6. draft not less than 0.01 inch water column over fire; and

7. monoxide not greater than 0.04 percent.

(b) Fuel burners over 1,000,000 Btu/h input must be tested in the presence of the building official in a manner set forth before the installation is approved.

Testing must include safety and operating controls, input, flue gas analysis, and venting. Flue gas must be tested at high and low fires. Provisions must be made in the piping system to allow firing in warm weather.

(c) Installation of oxygen trim systems, modulating dampers, or other draft control or combustion devices must require a supervised startup as in (b).

(d) The wiring diagram of the installation and suitable operating instruction must be supplied and posted near the appliance.

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

Subp. 7. SECTION 2608.

Section 2608. Special requirements based on Btu/h input. (a) zero to five gallons oil per hour consumption:

1. one approved manual shutoff valve with lever handle;

2. a flame safeguard control capable of providing 100 percent shutoff in the event of flame or pilot failure;

3. two controls, one operating and one high limit, activated by temperature or pressure, as appropriate; and

4. approved automatic safety shutoff valve to provide 100 percent shutoff.

(b) over five gallons per hour consumption:

1. two controls, one operating and one high limit, actuated by temperature or pressure, as appropriate;

2. one electronic flame safeguard control, manual reset;

3. air fuel interlock fan proving interlock;

4. combustion air interlock;

5. atomizing medium proving switch;

6. two safety shutoff valves in series with a combined flame failure response and valve closing time not to exceed five seconds with strainer directly before the valve;

7. a separately supervised and proven pilot 100 percent shutoff, combined flame failure response, and valve closing time not to exceed five seconds. Direct spark ignition is allowed only in the case of #2 oil or lighter and if approved by the building official;

8. one manual shutoff valve;

9. low temperature oil or fuel switch for oil or fuel requirement preheating;

10. separate firing rate control valve;

11. oil pump must not operate or rotate while alternate fuel is firing;

12. proven purge of at least four air changes before trial for ignition and after lockout at high fire damper setting at least 90 seconds minimum;

13. pressure relief valve must be provided between safety shutoff valves and between pump and safety valves if an integral valve is used with a pump;

14. there must be a relief device to prevent over pressure of oil or fuel train or oil or fuel piping components, which may be integral with a pump;

15. there must be a separate relief device on each transfer pump; and

16. high oil or fuel temperature interlock for oil or fuel requiring preheating.

(c) seven to ten gallons per hour consumption:

1. a low oil or fuel pressure switch, manual reset;

2. flame safeguard must be a programmed type with a manual reset proven low fire start; and

3. firing cock.

(d) ten gallons per hour or more consumption:

1. one high oil or fuel pressure switch, manual reset.

(e) 12,500,000 Btu/h or more consumption:

1. two oil or fuel valves in series, one with proof of closure combined with flame failure response, and with valve closing time not exceeding two seconds; and

2. compliance with NFPA 85-A-1987.

(f) Shutoff valve. All oil or fuel burner installations must include a nonelectric shutoff valve that is held open by a fuseable link designed to close at 165 degrees Fahrenheit, installed near the burner in the same room as the burner. This must prevent the flow of oil or fuel to the burner through the supply and return pipes.

Subp. 8. SECTION 2609.

Section 2609. Equipment information. (a) All installations of oil or fuel burners with consumption over five gallons per hour and all combination fuel burners must be approved before installation. The following information must be supplied as required by the building official:

1. name, model, and serial number of the burner;

2. input rating and type of fuel;

3. name of the nationally recognized testing laboratory that tested and listed the unit;

4. name, model, and serial number of furnace or boiler that the burner will be installed in if not part of a complete package;

5. complete wiring diagram showing the factory and fuel wiring installed or to be installed including all controls, identified by the brand name and model number; and

6. a print of the oil or fuel train from the manual shutoff to the appliance showing all controls that will be installed, their names, model numbers, and approvals.

(b) All installations of oil or fuel burners consuming over three gallons per hour and all combination gas/oil or other combination fuel burners that are installed in new or renovated boiler or equipment rooms or are installed in a package with the boiler or furnace must include the following information in addition to that required in paragraphs 1 to 6 above, for approval before installation:

1. a complete piping diagram from the supply source showing all components and materials identified by brand name, and model number with relevant approvals;

2. provisions for combustion air, venting, and stacks must be completely detailed; and

3. a floor plan drawn to scale showing all relevant equipment. Contractors must receive approved plan and/or specifications before proceeding with an installation.

REPEALER. *Minnesota Rules*, parts 1345.0010 to 1345.3300, are repealed.

Department of Administration

Proposed Permanent Rules Relating to the Minnesota State Building Code

Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing if Twenty-Five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Administration proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, Section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes* Section 16B.61.

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

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons, submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, Section 14.13 to 14.20.

PLEASE NOTE: That if twenty-five or more persons submit written requests for a public hearing within the 30 day comment period, a hearing will be held on February 2, 1990, unless a sufficient number withdraw their request in accordance with the notice of hearing on these same rules published in the *STATE REGISTER* and mailed to persons registered with the State Department of Administration. To verify whether a hearing will be held, please call the Department of Administration, Building Codes and Standards Division on February 1, 1990, between the hours of 8:00 a.m. and 4:30 p.m., at 612-296-4626.

Persons who want to submit comments or written requests for a public hearing must submit such comments or requests to:

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

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

Comments or requests for a public hearing must be received by the Department of Administration, Building Codes and Standards Division, by 4:30 p.m. on January 31, 1990.

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

A free copy of this rule is available on request for your review from Margaret White.

The proposed rule establishes minimum uniform rules for the State of Minnesota by adopting the entire model code, namely, the *Uniform Building Code, 1988 Edition* and making minor amendments to it in order to be consistent with *Minnesota Statutes* and laws and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the information relied on to support the proposed rule has been prepared and is available for review from Margaret White on request.

It is felt by the Building Codes and Standards Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, Section 14.115, Division 1, and pursuant to *Minnesota Statutes*, Section 14.115 Subd. 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, Section 14.11.

If no hearing is required on adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Margaret White.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held on February 2, 1990 at the Sheraton Airport Hotel, 2525 East 78th Street, Bloomington, Minnesota 55425, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

PLEASE NOTE HOWEVER that the hearing will be canceled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *STATE REGISTER* and mailed to persons registered with the Department of Administration, Building Codes and Standards Division. To verify whether a hearing will be held, please call the Building Codes and Standards Division on February 1, 1990, between 8:00 a.m. and 4:30 p.m. at (612) 296-4626.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to Steve M. Mihalchick, Administrative Law Judge, Office of Administrative Hearings, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 349-2544, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record to be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three day period, the agency, may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be admitted during the three day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, Sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed rule establishes minimum uniform rules for the State of Minnesota by adopting the entire model code and making minor amendments to it in order to be consistent with *Minnesota Statutes* and law and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, Section 16B.61.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, Section 14.11.

It is felt by the Building Codes and Standards Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, Section 14.115, Division 1, and pursuant to *Minnesota Statutes*, Section 14.115 Subd. 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to:

Margaret White
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

Additional copies will be available at the hearing. If you have any questions on the content of the rule you may contact Margaret White, Elroy Berdahl, or Alvin Kleinbeck at (612) 296-4639.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11 as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials;

(b) who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Statement of Need and Reasonableness

The above-captioned proposed rules are amendments to the existing *Minnesota State Building Code.*

Pursuant to *Minnesota Statutes*, Section 16B.61, the Commissioner of the Department of Administration is charged with the responsibility of promulgating the *Minnesota State Building Code.* It is the duty of the commissioner to amend the *Minnesota State Building Code* to maintain the most modern code standards regarding minimum safeguards to life, limb, health, property, and public welfare together with regulating the controlling and design, construction, quality of materials, use and maintenance of buildings and structures.

The *Minnesota State Building Code* Rules, 1987 printing, effective February 9, 1987, *Minnesota Rules* 1300.0100 to 1300.2000,

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

1305.0100 to 1305.7100, 1310.0100 to 1310.9300, 1315.0200, 1320.0100 to 1320.2400, 1325.1000 to 1325.9500, 1330.0100 to 1330.2100, 1335.0200 to 1335.3000, 1340.0200 to 1340.9900, 1345.0100 to 1345.3300, 1350.0100 to 1350.9200, 1355.0100, 1360.0100 to 1360.3600, 1365.0200 to 1365.0800, 4215.0100 to 4215.6100 and 4715.0100 to 4715.6000, adopted the 1985 Edition of the *Uniform Building Code* by reference with certain amendments as a portion of the *Minnesota State Building Code*. The amendments to the 1987 publication of the rules update the *Minnesota State Building Code* to incorporate the adoption of the *1988 Edition of the Uniform Building Code* as promulgated by the International Conference of Building Officials, Whittier, California.

The proposed rules contain certain amendments to the *Minnesota State Building Code*, including Chapter 1300, new Chapters 1301 and 1302, Chapter 1305 which adopts and includes amendments to the 1988 Edition of the *Uniform Building Code;* Chapter 1335, Floodproofing Regulations; Chapter 1355, the Minnesota Plumbing Code; and Chapter 1360, Prefabricated Structures Code.

The proposed rules conform as far as practicable to model building codes. They reflect amendments for regional utilization in keeping with the legislative intent of *Minnesota Statutes* Section 16B.61. The amendments provide for a reorganization of certain sections to place them within respective subject matter, change wording to clarify the intent where there has been confusion in application of certain sections, adopt and update to current national model code standards, and language changes requested by the Office of the Minnesota Revisor of Statutes designed to eliminate redundant wording and use of archaic language.

Any business entity which constructs, expands or remodels buildings is required to comply with the *Minnesota State Building Code*. When adopted, these proposed rules become part of the *Minnesota State Building Code* and will be applicable to all future construction. The rules are not applicable to existing structures unless they are declared unsafe (hazardous and substandard buildings, *Minnesota Statutes* Section 463.15 to 463.26) or as otherwise modified by Section 104 of the *Minnesota State Building Code, 1988 Edition*.

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

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

"...The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States..."

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

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

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

General

Chapter 1300.0100 to 1300.2000 is hereby repealed and the chapter has been rewritten and divided into three chapters to separate out distinct subject matter involved and to create new chapters to address the separate subjects. Chapter 1300.2100 to 1300.3100 will address the purpose, application, and scope of the *Minnesota State Building Code*, which is composed of a variety of codes both national in scope and some proprietary in nature.

This chapter identifies certain definitions, rules for an appeal, state surcharge fee structure, required and optional administration of sections of the code, among other items described by the code.

New chapter 1301 is created to address the requirements for building official certification and the rules for the maintenance of the certification in the section identified as "Continuing Education".

Chapter 1305 adopts the 1988 edition of the *Uniform Building Code* with certain amendments applicable

to Minnesota climactic conditions and construction practices. Chapter 1310 Building Security, 1315 Electrical Code, 1320 Elevators and Related Devices, 1330 Fallout Shelters, 1340 Facilities for the Handicapped, 1365 Appendix on Snow Loads, remain unchanged.

Portions of Chapter 1335 will be amended to reflect language changes requested by the Federal Emergency Management Agency on floodproofing regulations. Chapter 1355 which adopts the Minnesota Department of Health rules identified as Chapter 4715 will contain some amendments proposed by that department.

Chapter 1360.0900 and 1360.3600 will contain proposed amendments to update those specific requirements.

1300.2100 Purpose and Application	This section identifies the responsibilities of the adoption and enforcement of the *Minnesota State Building Code* including the adoption of the code by reference. It indicates that the code is based upon the provisions of minimum standards to safeguard life or limb, health, property, and general welfare of the public by regulating and controlling design, construction, quality of materials, use and occupancy, location and maintenance of structures within a jurisdiction. It addresses the responsibility of the application of the code to a municipality.
1300.2300 Scope	This section further delineates the use and application of the building codes for buildings and structures built in a community. It identifies that where codes differ between a general requirements and a specific requirement, the specific requirements applies. This section also identifies the application of the appendices items.
1300.2400 Definitions	This section identifies certain words or items used in the codes and provides for the definitions used application of the code.
1300.2500 Application for Appeal	This section is the same as section 1300.0400 of the *1987 Edition of the Minnesota State Building Code* and is not amended.
1300.2600 Application for Appeal	This section is similar to section 1300.0500 of the *1987 Edition of the Minnesota State Building Code*. The changes involved in this section reflect the changes in statute 16B.67. The changes extend the time frame in which an appeal can be filed from 30 days to 180 days. The fee involved in filing an appeal has been raised from $20 to $70. The review "de novo" has been eliminated and a statement included that "An appeal must be heard as a contested case under Chapter 14" of the statutes. The law has also been changed to indicate that the party that does not prevail pays for the costs involved with the hearing except for the costs of the state attorney's fees.
1300.2700 State Surchage Fees	The language of this section is unchanged from section 1300.0600 of the *1987 Edition of the Minnesota State Building Code*.
1300.2800 Minnesota State Building Code Information and Assistance	The language of this section is unchanged from section 1300.0700 of the *1987 Edition of the Minnesota State Building Code*.
1300.2900 Requirements and Optional Administration	The language of this section is unchanged from section 1300.1900 of the *1987 Edition of the Minnesota State Building Code*.
1300.3000 Disclaimer Clause	The language of this section is unchanged from section 1300.1800 of the *1987 Edition of the Minnesota State Building Code*.
1300.3100 Severability	The language of this section is unchanged from section 1300.0100 of the *1987 Edition of the Minnesota State Building Code*.

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

CHAPTER 1301 BUILDING OFFICIAL CERTIFICATION

General

As addressed earlier, a new chapter 1301 is created which pertains to the rules of certification and continuing education of building officials. Much of the language contained in Section 1300.0800 to 1300.1000 of the *Minnesota State Building Code* is incorporated in this section together with new proposed rules and identifies the various certification classifications used to identify the requirements for certification and maintenance of the certification.

1301.0100 Purpose

The purpose of this section is to establish the guidelines for certification and maintenance of certification as a building official.

1301.0200 Forms of Certification

This section describes the various forms of certification presently applicable for use in the state.

Subp. 1

The "Grandfathered" class is issued to those who were administering the code for a community on May 27, 1971 and have continued to serve that community since the inception of the state building code. This classification requires certification maintenance as a Class II certified individual.

Subp. 2

The "State Certified" class is issued to those who acquired their certification by passing a written test and passed an oral interview. This classification also requires certification maintenance as a "Class II" individual.

Subp. 3

The "Class I Certification" is granted to individuals with a minimal amount of education and training and was successful in passing a written examination. This class has the inspection responsibility limited to one- and two-family dwellings and their accessory structures. This class will require certification maintenance as outlined in 1301.0700 to 1301.1100 of this chapter. This classification will no longer be issued after July 1, 1990.

Subp. 4

The "Class II Certification" is granted to those possessing a predetermined qualification and successfully passing a written examination. Those possessing this classification is responsible for all building code administration for a municipality. The certification maintenance for a person in this class is outlined in 1301.0700 to 1301.1100 of this chapter.

1301.0300 Certification Prerequisites

On July 1, 1990, the requirements for certification will be modified to provide a more specific and less variable prerequisite to become a certified building official. Tests are offered on a national level that are acceptable to the state building inspector in meeting the requirements of education and training suitable to performing the administrative function of building inspection and administration.

1301.0400 Application for Certification

Any person possessing the required prerequisites may submit an application and fee for taking an examination based upon the legal and administrative procedures intrinsic to the State of Minnesota.

1301.0500 Examination

This section outlines the process by which the State Department of Employee Relations will have the responsibility of giving the examination for certification and the process which is necessary if one fails the exam or fails to appear on the appointed date.

1301.0600 Education and Training

This section is a repeat of the existing statement found in SBC Section 1300.0800 which indicates the responsibility of the state building inspector to sponsor training programs for various governmental entities as well as design and construction professionals as well as the general public.

CONTINUING EDUCATION

General

This part is a repeat of *Minnesota Rules* 1300.0940 to 1300.0948 established in 1987 to provide guidelines for the maintenance of building official certification through continuing education. For the detailed statement of need and reasonableness of this issue please refer to the *State Register*, Volume II, Number 43, pages 1977 to 1981, April 27, 1981 (11 SR 1977). The major change of this section is the renumbering of the rules as follows:

1300.0940 to 1301.0700
1300.0942 to 1301.0800
1300.0944 to 1301.0900
1300.0946 to 1301.1000
1300.0948 to 1301.1100

1301.1200 Removal from Office Revocation of Certification	This section is a relocation of SBC 1300.1000 to this location in section 1301.1200 to follow an appropriate sequence of information.

CHAPTER 1302 BUILDING CONSTRUCTION APPROVALS AND STATE AGENCY APPROVAL RULES

General	This new chapter is developed to outline the rules and procedures of the Minnesota State Building Codes and Standards Division as it deals with state owned public buildings and buildings which require approval by another state agency. A recent change in the Statutes has added to the definition of municipality meeting the requirements of *Minnesota Statutes* 368.01 the following: "...or the State of Minnesota for public buildings." Some of the rules of this section are a transfer of exisiting rule found in the 1987 Edition of Chapter 1300 (1300.1100 Plan Review Function, definitions found in 1300.0300 and 1300.1400, and 1300.1700 State Plan Review Fees). Because of the mixture of information listed it is felt that it is most appropriate to establish a new section and new specific language rather than revising existing sections. The statement of need for and reasonableness of these rules will be addressed individually in the following items.
1302.0100 Title	This simple statement identifies the application of the rule to certain buildings construction and state agency buildings approval.
1302.0200 Purpose	These rules will establish the procedure for the review approval of construction drawings and specifications as well as establishing fees for the plan review and inspection of the approved building construction by the Minnesota State Building Codes and Standards Division when applicable.
1302.0300 Scope	These rules will provide administrative direction to state and local government agencies, school boards and administrators, members of the design professionals, construction industry, inspectional services and the state building inspector to achieve compliance with certain public buildings.
1302.0400 Definitions	This section defines terms used in this chapter, identifying such as: municipality, certification of plans, public buildings, etc.
1302.0500 Plan Review Function	This section identifies that the state building inspector is responsible for the review of all building plans, specifications with related documents, provide for inspection of certain buildings and grounds which are the direct responsibility of the state, a state agency or others required to be administered by the commissioner of administration. This section identifies what information and the quantity of materials, which must be submitted for reviewal and/or approval.
1302.0600 Fees	The fee schedule to be adopted is the same fee schedule found in the *Uniform Building Code*, Table 3-A as modified by the proposed rules and includes the statement that the surcharge as identified in *Minnesota Statutes* 16B.70 is required for public buildings.
1302.0700 Review Comments and Approvals	This section establishes the requirements for written comments of code violations in the design of plans or information submitted for review and the responsibility of the designer to respond to the comments outlining methods of correcting the errors or omissions identified prior to the authorization of construction.
1302.0800 Code Administration for Certain Buildings	This section indicates that the state building inspector shall provide for the issuance of permits, inspections, and enforcement of the code for certain buildings within the state. The state building inspector may contract with qualified individuals, other state agencies, or enter into any other legal agreement to provide the service.
1302.0900 Contracting for Services	This section identifies the opportunity of the state building inspector to enter into a contractual agreement with qualified individuals, agencies, municipalities, etc., to conduct plan review services, inspections, and follow-up for all or part of the services required for public buildings.

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

CHAPTER 1305 UNIFORM BUILDING CODE REQUIREMENTS

1305.0100 Adoption of the 1988 UBC	This item is changed to reflect the Edition date of the code being adopted and the excepted parts of the code as qualified by 1300.0900 and amended by parts 1305.0150 to 1356.6902. (See the General Statement at the beginning of the evidence and argument for support of the need for and reasonableness of the proposed rules.)
1305.0150 Required and Optional Provisions	This section identifies which appendices provisions of the *1988 Uniform Building Code* are declared mandatory and which are optional for the local government to adopt and administer.
1305.0300 Section 104(a)	This section is proposed to be repealed because the requirements referred to in Section 1210 is found in the *1988 Edition of the UBC* and the R-4 Occupancy is to be considered to be amended to be included in the R-3 Occupancy classification. Unsafe conditions are already addressed in Section 203 of the UBC and *Minnesota Statutes* 463.15 to 463.261.
Section 104(f)	Section 104(f) item 4, is a requirement that is virtually impossible to achieve because of the unknowns of existing structures and the general inability to find complete plans and specifications for the existing building. The manner in which historic buildings can be repaired, altered, restored, rehabilitated, etc., is found in *Minnesota Statutes* 13B.60 therefore the current language of the state code should be deleted.
1305.0800 Section 304(a)	(a) This section in the SBC is repealed because the *1988 Edition of the UBC* satisfies the intent. Item (b) remains unchanged from previous Minnesota rules.
1305.1000 Section 307(a)	The intent of this change is not to repeal any previous action but to organize the section in keeping with the UBC format. Sections (b), (c), (d), (e), and (f) are unchanged.
1305.1100 Section 405 Definition	A new definition for "deck" is added to the definition section of the code to clarify the intent of terminology commonly used by the construction industry.
1305.1370 Section 419	The definitions for recyclable materials and recycling have been added to the definitions section to include the language identifying the requirements established by *Minnesota Statutes* 16B.61, Subdivision 3a.
1305.1775 Section 515	This item identifies the requirements for recycling space to be provided at new or significantly remodeled structures when an area of 1000 square feet or more is provided. Certain structures are exempt from this requirement.
Section 509(e) Maximum Length	The language of the intent in this section has been relocated to keep within the structure of the UBC format. No new additional changes have been proposed.
Section 509(i)	The word "walk" is added to "ways" to make to terminology consistent with the language of this section. The word will now read "walkways".
1305.1750 Section 514 Roof Access	This section is being repealed because rooftop access should appropriately be addressed in the Mechanical Code. The proposed adoption of the Uniform Mechanical Code will contain methods of providing access to the roof for such rooftop equipment.
1305.1790 UBC Chapter 5 Table 5-B	The required separations of buildings of mixed occupancies that this amendment addressed is now found in the body of the code and is no longer required as an amendment.
1305.1795 UBC Chapter 5 Table 5-E	This is the sanitation requirements for occupancies outlined in the code and is amended by the removal of footnote (6) from the "Group E" occupancies and relocates the footnote at the end of the title because it is most appropriate to have the requirement applicable to all occupancies and not just the one.
1305.2050 Section 801 Group E Occupancies	Division 3 occupancies of this section is amended to reflect the rule adopted on August 24, 1987 which changed the number from "6" to "10" as the threshold for this group. (For further information see *State Register*, 12 S.R. 325.)
1305.2100 Section 802 Special Provisions	This item is repealed in favor of the existing language found in Section 802(b) of the 1988 UBC.

1305.2400 Section 905 Group H Occupancies	This item is being repealed to be consistent with the national model code language of the *1988 Edition of the UBC* and in formulation of the *Minnesota State Building Code* and *Minnesota Statutes* 16B.59 Subd. 1 in the adoption of model code language as applicable.
1305.2600 Section 1002 Special Provisions	This section is being amended to allow for the use of an "Exception" which is a part of the original code language but will restrict the application to certain types of construction for these "Group 3 Occupancies".
1305.3000 Section 1201 Group R Division 4 Occupancies	This amendment is being repealed because of the adoption of Appendix 12 Division 1 as modified by this code to be an option for the construction of one and two family dwellings when adopted by the local government in their adoptive procedures.
1305.3100 O & TFCD Section R-202	This item is being relocated to Appendix 12 Division 1.
1305.3200 O & TFDC Section R-204	This item is being relocated to Appendix 12 Division 1.
1305.3300 P & TFDC Section R-211	This item is being relocated to Appendix 12 Division 1.
1305.3600 Section 1205 Light, Ventilation and Sanitation	This amendment was introduced into the code at the time of the energy crunch and was included to provide for reduced energy loss through the exterior envelope of a residential structure. Experience shows that this is rarely adhered to in the design of dwellings and the practice is to increase the size of the glazed openings in the structures. The preponderance of states using the UBC or other model codes have not reduced these requirements and the Minnesota State Building Codes and Standards Division in keeping with the intent of *Minnesota Statutes* 16B.59 is returning to the published UBC standard. Therefore this item is repealed.
1305.3700 Section 1210 Fire Warning and Sprinkler Systems	This section is being repealed to accept the current language in the 1988 UBC. This section is re-written and includes language contained in the current state amendment.
1305.3820 Section 1214 Access to Buildings and Facilities	This section of the 1988 UBC is being repealed because the requirements for "Facilities for the Handicapped" is contained in the SBC Chapter 1340 and UBC Section 511 items (c) and (d).
1305.3860 Section 1215 Sound Transmission	This section is added to this section to alert designers, contractors, and inspectors that the Appendix Chapter 35 is a mandatory section of the code for Group R Division Occupancies.
1305.3900 Section 1216 Deadbolt Locks	This section is only renumbered to maintain a proper code number sequence. This changes current Section 1214 to Section 1216.
1305.3950 Section 1217 Double Cylinder Deadbolt Locks	This is a new section which has been added to comply with the statutory requirements found in *Minnesota Statutes* 16B.61 item (h).

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

1305.4100 Section 1711 Guardrails	The changes in this section add the word "deck" in the list of items where guardrails are required and relocates an existing paragraph to the end of the section because the "Exceptions" which follow the statement area applicable to the first paragraph and not to the second paragraph.
1305.4200 Section 1712 Foam Plastic Insulation	This item being repealed because the intent of the section that was previously amended is now found in Section 1712 of the 1988 UBC.
1305.4500 Section 1807 (h) and (m) Special Provisions for Group B, Div. 2 Bldgs. and Group R, Div. 1	This section deals with the "hi-rise" applications of the code and have been amended on a national level necessitating an amendment to bring the state code into compliance with the national standards. (h) Elevators, of the 1988 UBC contains acceptable language that makes the state amendment no longer necessary. (m) Automatic sprinkler system alternatives has been deleted from the *1988 Edition of the 1988 UBC* and is no longer applicable because of the restructuring of Section 1807 of the UBC. Therefore this section is repealed.
1305.4850 Section 2311 Importance Factor	This section has been re-lettered in the *1988 Edition of the UBC*. The lettering is changed from (h) to (i).
1305.4900 Section 2312 Earthquake Regulations	This state amendment is repealed because the *1988 Edition of the UBC* has been revised to again place Minnesota in a "0" Earthquake Zone and the state amendment is no longer necessary.
1305.4950 Table 23-A	Line item number four is amended adding the word "deck" to the items listed. This identifies the load design requirements for deck construction.
1305.5300 Section 2510 Metal Plate Connectors	This item is repealed from the state rules because it is now a part of the *Uniform Building Code*.
1305.5310 Section 2516 Sec. 2516(c)11 Weather Exposure	This amendment in the *Minnesota State Building Code* is being repealed in favor of the language already in the body of the UBC.
1305.5340 Section 2607(h)5	This section is amended to identify that corrosive environments require special attention in the application of reinforcing steel and specific concrete cover in their placement.
1305.5360 Section 2618(o)	Items 3, 4, 5, 6, 7 and 8 are added to this section provide for added protection in corrosive environments. It describes how repair to tendon sheathing is to be repaired. It also describes the properties required of the corrosive preventative materials to be used to provide the protection.
1305.5380 Section 2618(t)	Item 5 is added to this section to address the requirement for "watertight" protection of the encapsulation of tendons to anchors as well as the wedge cavity. Watertight is also defined as it applies to this section.
1305.5385 Table 26-A-8	This table prescibes the performance requirements to test for corrosive preventative coating of posttentioned tendons.
1305.5400 Section 2907(a)2 Soil Under Slab-on-Grade Const. for Buildings	This section is further amended to reflect the capability of slab-on-grade construction can be designed to support various loads as applied. The revised language clarifies this limitation.
1305.5500 Section 3203 Shake, Shingle and Tile Roofs	This section of the 1988 UBC has been revised and certain requirements are found in the tables at the end of the chapter. These tables also include requirements for "Severe Climate" applications which will be used to replace the amendment to this section indicating the "entire state of Minnesota would be deemed as an area subject to roof ice buildup". The *1988 Edition of the UBC* is sufficient to satisfy this intent. The tables will be amended to reflect such a statement. Therefore this section is repealed.

1305.5710 Table No. 32-B-1 1305.5720 Table No. 32-B-2 1305.5730 Table No. 32-D-1 1305.5740 Table No. 32-D-2 Shingle and Shingle or Shake Tile Roof Covering	A footnote with the appropriate number will be added to the end of each table. In Table No. 32-B-1 and Table 32-B-2 following the section in the left hand column identified as "Severe Climate"; in Tables No. 32-D-1 and 32-D-2 following the section in the left hand column identified as "Underlayment". The footnote will read as follows: "The entire State of Minnesota is subject to wind-driven snow or roof-ice buildup."
1305.5800 Section 3304 Doors	This section of the *Minnesota State Building Code* is repealed in favor of the language in the 1988 UBC which the Minnesota State Building Code Division believes covers the intent of the amendment which has been in the state code.
1305.5900 Section 3305(h)1 Corridors and Exterior Exit Balconies Exception 3	This section is further amended to limit the application to "existing" buildings and not to be used for all structures new or existing. The code has included these requirements for "mall" construction and the pedestrian walkways associated with such development since this section was originally introduced into the code. There are still areas where it is applicable to existing buildings and should not be used for new buildings since the code addresses the construction of such uses for new buildings with limited amendments.
Exception 4	The language of this amendment is revised to reflect terminology used in Chapter 38 of this code. It is needed to provide consistency in the code.
1305.6300 Section 3802(i) Spec. Automatic Fire Ext. Systems	The only change to take place in this section is the identifying letter. This change is changing the item from "(h)" to "(i)".
1305.6430 Table 38-A	Footnote number 8 is added to identify the requirements of the table as amended to return to the four story criteria when the sprinkler system is required by UBC Section 3802(h). This is consistent with footnote number 7 but utilized through a different application.
1305.6550 Section 4305 Wiring in Plenums	This item is being returned to the body of the code to identify that there are regulations identified in the Mechanical and Electrical Codes. The item is needed to be used as reference to the codes where the requirements are found. Therefore the state rule is repealed.
1305.6900 Section 6001 Chapter 25, 25-17	This item is repealed from the *Minnesota State Building Code* because the items referenced in the amendment are a part of the 1988 UBC.
1305.6902 O & TFDC Appendix 12 Division I	The One- and Two-Family Dwelling Code is one of the appendices which is listed as an optional code which may be adopted by a local unit of government and enforced as published with certain amendments. The exception to the general statement indicates that the requirements for energy conservation, plumbing installations, electrical installations and mechanical installations must be in keeping with the appropriate codes. Other basic requirements for frost footing depth, snow loads, roof severe weather construction will be the same as the requirements of the UBC as amended by the SBC.
Division II	This section is repealed because it is a section that deals with a new Group R Division 4 Occupancy of the UBC which addresses the requirements for group care facilities. The SBC has specific requirements for such occupancies and this section is not appropriate to be included and is therefore repealed.

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

1335.0600 1335.1000 1335.1100 1335.1950 1335.2150 1335.3100	The changes in this section are changes required by the Federal Emergency Management Agency to bring our flood proofing regulations up to date with the federal criteria. It places a more stringent criteria for construction on buildings that require floodproofing and limits the application of dikes, levees, or floodwalls that have been permitted in the previous code. The Department of Natural Resources has changed their land use ordinance recommendations to communities to be consistent with the FEMA rules.
1360.0900 Inspection Subp. 4	This amendment expands the responsibility of dealers and owners of prefabricated buildings to notify the state building inspector when buildings have been damaged after receiving a certificate so that direction can be given to bring the building into compliance.
1360.3600 Fees	The fee requirements of this section is being amended to be consistent with the fee structure established by Section 1302.0600 of these rules.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Rules as Proposed (all new material)

1300.2100 PURPOSE AND APPLICATION.

Subpart 1. **Purpose.** Parts 1300.2100 to 1300.3100 govern responsibilities undertaken pursuant to *Minnesota Statutes*, sections 16B.59 to 16B.73. They relate to the administration and enforcement of the Minnesota State Building Code.

The purpose of the code is to provide minimum standards to safeguard life and limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location, and maintenance of all structures within a jurisdiction that adopts and enforces the code, and certain equipment specifically covered by the code.

The purpose of the code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of the code.

Subp. 2. **Application.** The code applies statewide and supersedes the building code of any municipality. The code does not apply to agriculture buildings except with respect to state inspections required or rulemaking authorized.

1300.2300 SCOPE.

The code applies to the construction, alteration, moving, demolition, repair, and use of any building or structure within a municipality, except work located primarily in a public way, public utility towers and poles, mechanical equipment not specifically regulated in the code, and hydraulic flood control structures.

If different sections of the code specify different materials, methods of construction, or other requirements, the most restrictive section governs. If there is a conflict between a general requirement and a specific requirement, the specific requirement applies.

If reference is made in the code to the appendix, the provisions in the appendix do not apply unless a local authority has specifically adopted them.

1300.2400 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1300.2100 to 1300.3100.

Subp. 2. **Administrative authority.** "Administrative authority" means building official.

Subp. 3. **Agricultural building.** "Agricultural building" means a building that meets the requirements of *Minnesota Statutes*, section 16B.60, subdivision 5.

Subp. 4. **Building official.** "Building official" means the municipal building code administrative authority certified under *Minnesota Statutes*, section 16B.65, subdivisions 2 and 3.

Subp. 5. **City.** "City" means a home rule charter or statutory city.

Subp. 6. **Code.** "Code" means the Minnesota State Building Code adopted under *Minnesota Statutes*, section 16B.61, subdivision 1, including chapters 1300, Code Administration; 1301, Certification; 1302, Public Building Approvals; 1305, Adoption of the Uniform Building Code with certain amendments; 1310, Building Security; 1315, Adoption of the National Electrical Code; 1320, Adoption of ANSI/ASME A17.1 Safety Codes for Elevators and Escalators with certain amendments; 1330, Fallout Shelters; 1335, Floodproofing Regulations; 1340, Facilities for the Handicapped; 1346, Mechanical Systems; 1350, Manufactured Homes; 1355, Plumbing; 1360, Prefabricated Buildings; and 1365, Appendix on Snow Loads.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of administration.

Subp. 8. **Mandatory terms.** Mandatory terms include "must" and "shall," which have the same meaning.

Subp. 9. **Mayor and city council.** "Mayor" and "city council" mean governing body whenever they appear in the code.

Subp. 10. **Municipality.** "Municipality" means a city, county, or town meeting the requirements of *Minnesota Statutes*, section 368.01, subdivision 1, the University of Minnesota, or the state of Minnesota for public buildings.

Subp. 11. **State building inspector.** "State building inspector" means the person who, under the direction and supervision of the commissioner, administers the code.

Subp. 12. **State-owned buildings.** "State-owned buildings" means buildings and structures financed in whole or in part by state funds that are under the exclusive jurisdiction and custodial control of one or more state departments or agencies.

Subp. 13. **Town.** "Town" means a town meeting the requirements of *Minnesota Statutes*, section 368.01.

Subp. 14. **UBC.** "UBC" means the Uniform Building Code, as promulgated by the International Conference of Building Officials, Whittier, California, 1988 edition.

1300.2500 CODE ADOPTION AND AMENDMENTS.

Under *Minnesota Statutes*, section 16B.61, the code is adopted and periodically updated to include current editions of national model codes in general use and existing statewide specialty codes and their amendments.

Under *Minnesota Statutes*, section 16B.64, subdivision 6, amendments to the code may be proposed and initiated by any interested person. Proposed amendments must be submitted in writing on a form provided by the commissioner.

1300.2600 APPLICATION FOR APPEAL.

Subpart 1. **Form of request.** Under *Minnesota Statutes*, section 16B.67, a person aggrieved by the final determination of a municipality as to the application of the code may, within 180 working days of that determination, appeal to the commissioner. The appeal must be accompanied by a cashier's check, certified check, money order, or equivalent, payable in the amount of $70 to the "Commissioner of Administration."

Subp. 2. **Contents of request.** The appeal must contain the following:

A. the name and address of the applicant appealing the decision;

B. the attorney representing the applicant, if any;

C. municipality information, including the name of the municipality, the building official, and the local appeal board chair;

D. a description of the property, including the address of property involved;

E. a description of the structure, including occupancy, size, and construction type;

F. a copy of the municipality's written decision;

G. the specific nature of the appeal, including but not limited to code sections that are applicable to the specific question, code sections that may indirectly apply, and a listing of issues involved; and

H. any other relevant information requested in writing by the commissioner.

Subp. 3. **Hearing.** The commissioner shall arrange for the Office of Administrative Hearings to conduct a hearing on an appeal under *Minnesota Statutes*, sections 14.57 to 14.69. The party not prevailing shall pay the costs of the contested case hearing, including fees charged by the Office of Administrative Hearings and the expenses of transcript preparation. Costs under this subpart do not include attorney fees.

Subp. 4. **Copies of determinations.** Copies of final determinations of the commissioner must be sent to the appellant and the municipality involved or the attorney representing the appellant or municipality.

1300.2700 STATE SURCHARGE FEES.

All municipal permits issued for work under the code are subject to a surcharge fee. The fees are established by *Minnesota Statutes*, section 16B.70. Reports and remittances by municipalities must be filed with the commissioner, directed to the attention of the state building inspector.

Surcharge fees imposed by the state are in addition to municipal permit fees. Surcharge report forms and information may be obtained by writing the commissioner, to the attention of the state building inspector.

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

1300.2800 MINNESOTA STATE BUILDING CODE INFORMATION AND ASSISTANCE.

Building code information or assistance may be obtained by contacting the state building inspector in writing or by telephone.

1300.2900 REQUIRED AND OPTIONAL ADMINISTRATION.

Subpart 1. **Administration required.** The following chapters of the code must be administered by a municipality:

A. chapter 1315, electrical code, except when administered by the Board of Electricity;

B. chapter 1320, elevators and related machines, except when administered by the Department of Labor and Industry;

C. chapter 1330, technical requirements for fallout shelters;

D. chapter 1340, facilities for the handicapped;

E. chapter 1346, Minnesota Uniform Mechanical Code;

F. chapter 1350, manufactured homes;

G. chapter 1355, plumbing code;

H. chapter 1360, prefabricated structures; and

I. chapter 1365, variation on snow loads.

Subp. 2. **Administration optional.** The following chapters of the code are not mandatory but may be adopted without change by a municipality:

A. chapter 1310, building security; and

B. chapter 1335, floodproofing regulations, parts 1335.0300 to 1335.3100, sections 200.2 to 1405.3.

1300.3000 DISCLAIMER CLAUSE.

The inclusion of specific requirements relative to the manner of installation of any plant or equipment in one or more parts of the code does not limit this procedure to any particular type of installer or provide a basis upon which determination of the right to perform a procedure shall be made. The authority for this determination is in the various licensing statutes or ordinances for each type of installer who performs the work.

1300.3100 SEVERABILITY.

If any provision of the Minnesota State Building Code is held invalid, the invalidity does not affect any other provisions of the code that can be given effect without the invalid provision, and to this end, the provisions of the code are declared to be severable.

BUILDING OFFICIAL CERTIFICATION

1301.0100 PURPOSE.

The purpose of parts 1301.0100 to 1301.0600 is to establish procedures for certification of building officials and prerequisites for persons applying to be certified.

1301.0200 FORMS OF CERTIFICATION.

Subpart 1. **Grandfathered certification.** A grandfathered certification is identified with the letter "M" on the certification card. This classification is granted to a person who was serving a community as a building inspector on May 27, 1971, and continued to serve in that position through July 1, 1972. A person with this certification may only serve the community the person was serving on July 1, 1972. This certification requires continuing education the same as a Class II certified individual under subpart 4.

Subp. 2. **State certification.** A state certification is identified with the letter "S" on the certification card. This certification is granted to a person who acquired certification by a written test and an oral evaluation. A person with this certification may serve as a building official for any municipality. This certification requires continuing education the same as a Class II certified individual under subpart 4.

Subp. 3. **Class I certification.** A Class I certification is identified as "Class I" on the certification card. This classification is granted to a person who met a prerequisite and passed a written examination. This classification places a restriction to only allow the person to administer the code for one- and two-family dwellings and their accessory structures. Effective July 1, 1990, this class will no longer be issued. A person with this classification may continue to hold this classification by submitting evidence of fulfilling the appropriate continuing education programs established by parts 1301.0700 to 1301.1200. A person with this classification may apply for a Class II certification if the person meets the qualifications and passes the test in part 1301.0300.

Subp. 4. **Class II certification.** A Class II certification is identified as "Class II" on the certification card. This certification is

granted to a person who met a prerequisite and passed a written examination. A person certified as Class II may perform code administration for all buildings and structures within the scope of the code for any municipality.

1301.0300 CERTIFICATION PREREQUISITES.

After June 30, 1990, a person desiring certification as a building official shall comply with one of the prerequisites in items A to E and pass a written examination on the appropriate laws and administration requirements for the state. The person must:

A. possess a certificate as a certified building official issued following successful passage of a written examination given by the Council of American Building Officials;

B. be certified as a certified building inspector and a certified plans examiner by the International Conference of Building Officials;

C. have a certificate issued by a nationally recognized testing agency in subject matter that would compare to item A or B;

D. have a certificate offered through a community college system in the discipline of building inspection technology and a minimum of two years of experience with a building inspection department of a municipality; or

E. have an Associate in Applied Science degree in building inspection technology offered through the community college system.

1301.0400 APPLICATION FOR CERTIFICATION.

A person seeking certification as a building official shall submit a completed application to the state building inspector on an application form provided by the commissioner, along with a $70 fee payable to the state. The state building inspector shall review applications for compliance with prerequisites in part 1301.0300. The state building inspector shall forward the application to the Department of Employee Relations for examination if the prerequisites are satisfied.

1301.0500 EXAMINATION.

A. An examination must be given by the Department of Employee Relations under the rules of that department, consistent with *Minnesota Statutes*, section 16B.65, subdivision 3.

B. If the applicant fails the examination or fails to appear, the applicant shall be permitted to retake the examination or be scheduled for a second administration of the examination at least 30 calendar days after notification of the test results.

C. If the applicant fails the examination a second time or fails to appear for a second scheduled administration, the applicant shall wait six months and then may resubmit an application under part 1301.0400.

1301.0600 EDUCATION AND TRAINING.

Within limitations of personnel and funds, the state building inspector shall provide training programs for municipal building officials, legislative bodies, administrative staff persons, design professionals, the construction industry, and the general public.

Information concerning available training programs may be obtained from the state building inspector by written or telephone inquiry.

CONTINUING EDUCATION

1301.0700 AUTHORITY; PURPOSE.

Parts 1301.0700 to 1301.1200 establish the guidelines for building official certification maintenance under *Minnesota Statutes*, section 16B.65, subdivision 7.

1301.0800 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1301.0700 to 1301.1200.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of administration.

Subp. 3. **Continuing education unit.** "Continuing education unit" means ten hours of educational instruction.

Subp. 4. **State building inspector.** "State building inspector" means the director of the Building Codes and Standards Division of the Department of Administration.

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

Subp. 5. **Unit of instruction.** "Unit of instruction" means three hours of structured educational participation in a program listed in part 1301.1000.

1301.0900 UNITS OF INSTRUCTION REQUIRED.

This part establishes the number of units of instruction required within a three-year period to maintain certification.

A. A Class I certified building official must receive credit for 18 units of instruction through any of the programs described in part 1301.1000, subpart 1 or 2.

B. A Class II certified building official must receive credit for 24 units of instruction through any of the programs described in part 1301.1000, subpart 1 or 2.

1301.1000 CREDIT FOR INSTRUCTION.

Subpart 1. **Approved programs.** The following programs are approved for the indicated number of units of instruction:

A. annual Building Official Institute of Minnesota, two units per day of attendance;

B. Minnesota State Building Codes and Standards Division seminars, 2.5 units per day of attendance;

C. International Conference of Building Officials seminars, three units per continuing education unit earned;

D. International Conference of Building Officials annual education and code development conference, two units per day of attendance;

E. State International Conference of Building Officials chapter meetings, one unit per meeting with a minimum three-hour educational program;

F. regional building official meetings, one unit per meeting with a minimum three-hour educational program;

G. area building official luncheon meetings, 0.25 unit per meeting;

H. community college building inspection technology and related courses, three units per credit earned;

I. area vocational technical training institute courses in construction, management, or supervision, one unit per three hours of instruction or related shop work;

J. certification in an International Conference of Building Officials certification program taken after January 1, 1985, four units per certificate;

K. certification as a certified building official by the Council of American Building Officials after January 1, 1985, six units; and

L. teaching a course at the community college level in the building inspection technology program or a course at an area vocational technical institute, one unit per three hours of instruction.

Subp. 2. **Other courses.** Courses offered by other states, correspondence schools, universities, or other institutes of learning that offer building code administration and enforcement-related courses must be considered on an individual basis. Each building official must prearrange for unit approval with the state building inspector to receive credit. Units must be approved on the basis of comparison with the items in subpart 1.

Subp. 3. **Mandatory courses.** The state building inspector shall require that specific courses be taken, if necessary, to insure continuing education in relevant code application, administration, or enforcement practices. The requirements may include training courses when new codes or legislative mandates are adopted.

Subp. 4. **Credit for repeat of courses.** Credit for an educational offering will be allowed only once during a three-year cycle.

Subp. 5. **Review of courses.** All continuing education courses are subject to periodic review and evaluation by the commissioner or the commissioner's agent.

1301.1100 REQUIREMENTS FOR RECERTIFICATION.

Subpart 1. **Submission of information.** Each certified building official must provide evidence to the state building inspector on forms approved by the state building inspector and provided by the Building Codes and Standards Division of attendance or participation in an educational offering and indicate the number of units of instruction earned. The information must be submitted to the state building inspector 60 days before the last day of the third calendar year following the date of the last certification issued. For example, for a person certified before January 1, 1985, the last day of the third calendar year is December 31, 1987.

Subp. 2. **Certificate of renewal.** The commissioner shall issue a certificate of renewal, valid for three years, to each applicant who has provided the evidence of units of instruction earned within the time indicated in subpart 1 and has submitted the $20 renewal fee.

Subp. 3. **Extension of time for compliance.** The state building inspector may grant an extension of time for compliance with parts

1301.0700 to 1301.1200 if the person requesting the extension of time shows cause for the extension. The extension does not relieve the building official from complying with the continuing education requirements for the immediate subsequent three-year period.

Subp. 4. **Reinstatement of certificate.** A building official who has let certification lapse must be reinstated based on proof of earning continuing educational units, as required, if no more than three years has passed since the certification has lapsed or since taking the test provided for certification as a building official. In either case, the appropriate fee must be submitted with the application.

1301.1200 REMOVAL FROM OFFICE AND REVOCATION OF CERTIFICATION.

Under *Minnesota Statutes*, section 16B.65, subdivision 5, upon notice and hearing, a building official may be removed from office and have his or her certification revoked if competent evidence is submitted to the commissioner indicating that a building official has consistently failed to act in the public interest in performance of duties. A hearing must be held pursuant to the provisions of *Minnesota Statutes*, chapter 14, governing contested case proceedings.

1302.0100 TITLE.

This chapter shall be known as the "Building Construction Approvals and State Agency Approval Rules."

1302.0200 PURPOSE.

The purpose of this chapter is to establish fees and procedures for the review of building plans, specifications, and related documents and provide for inspection services for certain buildings to determine compliance with the code, and to establish fees and procedures for the review of building plans, specifications, and related documents implementing code content that are required to be submitted to a state agency.

1302.0300 SCOPE.

This chapter provides code administrative direction to state and local government officials, school boards and administrators, architects, engineers, contractors, and inspectors, and for the state building inspector to provide for total code administration for certain buildings for compliance with the code.

1302.0400 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter.

Subp. 2. **Certification.** "Certification" means the certification and signature of the designing professional who has prepared the plans, specifications, and other documents in accordance with part 1800.4200.

Subp. 3. **Code.** "Code" has the meaning given in part 1300.2400, subpart 6.

Subp. 4. **Municipality.** "Municipality" has the meaning given in part 1300.2400, subpart 10.

Subp. 5. **Public building.** "Public building" means a building and its grounds, the cost of which is paid for by the state or a state agency.

Subp. 6. **State building inspector.** "State building inspector" has the meaning given in part 1300.2400, subpart 11.

1302.0500 PLAN REVIEW FUNCTION.

Subpart 1. **General.** The state building inspector shall:

A. review building plans and specifications with related documents;

B. provide for inspection of any public building and its grounds;

C. provide plan review services for any construction project for which plans and specifications are required to be submitted to a state agency; and

D. required to be administered by the commissioner of administration.

Subp. 2. **Materials to be submitted.** Plans and specifications for new construction, additions, and remodeling must be submitted for public buildings and grounds and buildings for which plans and specifications are required to be submitted to a state agency.

Subp. 3. **Quantity of materials required to be submitted.** A person who must submit plans and specifications under this part shall submit:

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

A. two complete sets of drawings, specification books, and other relevant documents necessary to evidence code compliance, with appropriate certification on each sheet of the drawings and the title page of the specifications book;

B. a completed plan review and construction authorization application form provided by the state building inspector; and

C. the appropriate fee established by part 1302.0600.

1302.0600 FEES.

Subpart 1. **General.** Fees for building permits and the review of plans and specifications submitted under part 1302.0500, subpart 2, must be paid as set forth in the following fee schedule or as adopted by a municipality.

A. The total valuation and fee schedule is:

(1) $1 to $500, $15;

(2) $501 to $2,000, $15 for the first $500 plus $2 for each additional $100 or fraction thereof, to and including $2,000;

(3) $2,001 to $25,000, $45 for the first $2,000 plus $9 for each additional $1,000 or fraction thereof, to and including $25,000;

(3) $25,001 to $50,000, $252 for the first $25,000 plus $6.50 for each additional $1,000 or fraction thereof, to and including $50,000;

(4) $50,001 to $100,000, $414.50 for the first $50,000 plus $4.50 for each additional $1,000 or fraction thereof, to and including $100,000;

(5) $100,001 to $500,000, $639.50 for the first $100,000 plus $3.50 for each additional $1,000 or fraction thereof;

(6) $500,001 to $1,000,000, $2,039.50 for the first $500,000 plus $3 for each additional $1,000 or fraction thereof, to and including $1,000,000; and

(7) $1,000,001 and up, $3,539.50 for the first $1,000,000 plus $2 for each additional $1,000 or fraction thereof.

B. Other inspections and fees are:

(1) inspections outside of normal business hours (minimum charge two hours), $45 per hour[1];

(2) reinspection fees[2], $45 per hour[1];

(3) inspections for which no fee is specifically indicated (minimum charge one-half hour), $45 per hour[1]; and

(4) additional plan review required by changes, additions, or revisions to approved plans (minimum charge one-half hour), $45 per hour[1].

C. Footnotes to item B:

(1) [1]Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost includes supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

(2) [2]A reinspection fee may be assessed for each inspection or reinspection when a portion of work for which inspection is called is not complete or when corrections called for are not made.

This item is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for inspection or reinspection.

Reinspection fees may be assessed when the permit card is not properly posted on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the building official.

To obtain a reinspection, the applicant shall file an application in writing upon a form furnished for that purpose and pay the reinspection fee in accordance with Table No. 3-A or as set forth in the fee schedule adopted by the jurisdiction.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

Subp. 2. **Plan review fee.** The plan review fee is based on 65 percent of the permit fee determined from the fee schedule. The plan review fee is a separate fee and is in addition to the permit fee. If plans are incomplete or changed so as to require additional plan review, an additional plan review fee must be charged according to the fee schedule.

Subp. 3. **Surcharges.** Surcharge fees are required for public buildings as required by *Minnesota Statutes*, section 16B.70 when administration is by a municipality other than the state.

Subp. 4. **Fees for prefabricated buildings.** Fees for prefabricated building plans submitted are those in accordance with part 1360.3600.

1302.0700 REVIEW COMMENTS AND APPROVALS.

The state building inspector or the inspector's agent shall review submittals and prepare written comments defining items not in compliance with the code. The written comments must be mailed to the submitting designer with copies to the municipal building official, when applicable, and the owner, and a copy must be kept on file by the state building inspector. The submitting designer shall respond to the review comments of the state building inspector within 14 days, describing the methods of correcting the errors or omissions in compliance with the comments of the state building inspector or the inspector's agent.

Authorization for construction must be granted when compliance with the requirements of the code is documented.

1302.0800 CODE ADMINISTRATION FOR CERTAIN BUILDINGS.

The state building inspector shall provide for the issuance of permits, inspections, and enforcement for certain buildings in the state where administration and enforcement of the code is required of the commissioner of administration. This process may include contracting with other municipalities, qualified individuals, or state agencies or using other legal process to provide the service.

1302.0900 CONTRACTING FOR SERVICES.

The state building inspector shall contract with a municipality for plan review, code administration, and code enforcement services for public buildings if (1) the building official of the municipality is a Class II certified building official and can provide all or part of the services, and (2) the state building inspector determines that the contracting municipality has adequately trained and qualified personnel to provide services for the construction project. No fees may be paid by the state to a municipality that contracts with the state building inspector to perform the services. The contracting municipality may charge its established plan review, permit, and inspection fees directly to the applicant.

Rules as Proposed

1305.0100 ADOPTION OF THE UNIFORM BUILDING CODE BY REFERENCE.

Chapters 1 to 60 and appendixes of the ~~1985~~ 1988 edition of the Uniform Building Code as promulgated by the International Conference of Building Officials, Whittier, California, are incorporated by reference and ~~hereby~~ made part of the Minnesota State Building Code except as qualified by parts ~~1300.1900~~ 1300.2900 and 1305.0150 and except as amended in parts 1305.0200 to ~~1305.6900~~ 1305.7100.

1305.0150 REQUIRED AND OPTIONAL PROVISIONS.

[For text of subpart 1, see M.R. 1989]

Subp. 2. **Optional provisions.** The following provisions of the Uniform Building Code are not mandatory but must be adopted without change at the discretion of any municipality, except UBC Appendix Chapter 70 may be adopted with a revised fee schedule and bonding requirements.

A. UBC Appendix Chapters 1, ~~7~~ 12, Division 1, 26, 38, 55, and 70.

B. Special Fire Suppression Systems, Optional, UBC Section 3808.

1305.0800 SECTION 304.

UBC Section 304(b), ~~subsections (a) and (b) of the UBC are~~ is amended to read as follows:

~~UBC~~ Section 304. ~~(a) General. Fees must be assessed in accordance with the provisions of this section or must be as set forth in the fee schedule adopted by the jurisdiction.~~

(b) All permit fees must be established by the local authority except in areas outside of the enforcement authority of a city, the fee charged for the issuance of permits and inspections for single family dwellings may not exceed the greater of $100 or .005 times the value of the structure, addition, or alteration. (*Minnesota Statutes*, section 16B.62.)

The determination of value or valuation under any of the provisions of this code must be made by the building official. The value to be used in computing the building permit and building plan review fees is the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems, and any other permanent equipment.

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

1305.1000 SECTION 307.

UBC Section 307(a) ~~of the UBC~~ is amended to read as follows:

Certificate of Occupancy

Section 307(a) Use or Occupancy. No building or structure ~~of Groups A, E, I, H, B, or R, Division 1 occupancy, shall~~ may be used or occupied, and no change in the existing occupancy classification of a building or structure or portion ~~thereof shall~~ of a building or structure may be made until the building official has issued a certificate of occupancy ~~therefor~~ for it as provided ~~herein~~ in this section.

Exception: A municipality may require certificates of occupancy for Group ~~R3, R4~~ R, Division 3, and Group M occupancies.

Issuance of a certificate of occupancy must not be construed as approval of a violation of the provisions of this code or other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel provisions of this code or of other ordinances of the jurisdiction are not valid.

1305.1100 SECTION 405.

UBC Section 405 ~~of the UBC~~, Definition of Dwelling, is amended to read as follows:

"Dwelling" is any building or any portion of a building which contains not more than two "dwelling units," including Class A-1 supervised living facilities as defined in section 420.

1305.1370 SECTION 419.

UBC Section 419 is amended by adding the following definitions:

''Recyclable materials'' means materials that are separated from mixed municipal solid waste, for the purpose of recycling, including paper, glass, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

''Recycling'' means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

1305.1590 SECTION 509.

UBC Section 509(e) is amended to read as follows:

(e) Maximum Length. The ~~distance between connected buildings measured within~~ length of a pedestrian walkway must not exceed 300 feet.

Exceptions: 1. Pedestrian walkways that are fully sprinklered may be 400 feet in length.

2. Unenclosed walkways at grade.

The length of a pedestrian walkway is the distance between connected buildings measured within the pedestrian walkway.

UBC Section 509 is amended by adding (i) as follows:

(i) Smoke Venting. Enclosed pedestrian ~~ways~~ walkways must be provided with means for venting smoke and hot gases to the outer air.

1305.1775 SECTION 515.

UBC Chapter 5 is amended by adding a new section to read as follows:

Section 515. Recycling Space. Space must be provided for the collection, separation, and temporary storage of recyclable materials within or adjacent to a new or significantly remodeled structure that contains 1,000 square feet or more.

Exception: Residential structures with less than 12 dwelling units are exempt from this requirement.

1305.1795 Table 5-E. REQUIRED SANITATION ~~FIXTURED~~ FIXTURES BASED ON OCCUPANT LOAD (1) (2) (6); TABLE 5-E.

UBC chapter 5 is amended by adding the following Table No. 5-E.

REQUIRED SANITATION FIXTURES BASED ON OCCUPANT LOAD (1) (2) (6)

OCCUPANCY	USE	S.F. per Occ	WATER CLOSETS	URINALS	LAVATORIES	DRINKING FOUNTAINS	BATHTUBS OR SHOWERS	KITCHEN SINKS	SERVICE SINKS
Group A Occupancies	Auditoriums	30	Churches	Churches	Churches	1 for each 300	—	—	1
	Bowling Alleys	30							
	Churches	60							
	Conference Rooms	80	1 for each 300 men 1 for each 300 women	(3)	1 for each 300				
	Dance Floors	30							
	Dining, Drinking	30							
	Exhibit Rooms	80	Other		Other				
	Gymnasiums	30	Occupants / Fixtures: 1-100 / 1; 101-200 / 2; 201-400 / 3; Over 400 / 1 addt'nl each 500	(3)	Occupants / Fixtures: 1-200 / 1; 201-400 / 2; 401-750 / 3; Over 750 / 1 addt'nl for each 500				
	Libraries	100							
	Lodge Rooms	80							
	Lounges	80							
	Rinks	30							
	Stadiums, Grandstands	80							
	Theaters	30							
	Waiting Rooms	80							
Group E Occupancies (6)	Elementary	85	Boys: 1/ea. 100; Girls: 1/ea. 30	1/ea. 30	1 for each 100	1 for each 75	—	—	1 per floor
	Secondary	130	1/ea. 100; 1/ea. 25		1 for each 100				
Group I Occupancies	Prisons, Jails	100	1/ea. cell 1/ea. exercise room		1 in each cell 1 ea. exercise room	1 for each 100	1 at each cell block floor	—	1 per floor
	Hospitals, Nursing Homes	100	1/ea. 8 patients 1/ea. waiting room		1 for ea. 10 patients	1 for each 100	1 for each 20 Other 1 for each 10		1 per floor
			Other 1/ea. 25 men 1/ea. 20 women	1/ea. 50	Other 1 for each 10				
Group H Occupancies Group B Occupancies	Aircraft Hangars	500	Fact. Occ. / Wrhse. Fixt.: 1-10 / 1; 11-25 / 2; 26-50 / 3; 51-75 / 4; 76-100 / 5; Over 100 / 1 addt'nl for 30	Fact. Occ. / Wrhse. Fixt.: (3)	Fact. Occ. / Wrhse. Fixt.: 1-100 / for each 1-10(4); Over 100 / 1-15(5)	Factories Warehouses: 1 for each 75			1 per floor
	Factories	200							
	Municipal Buildings	80							
	Office Buildings	200							
	Sales	200							
	Service Stations	200							
	Storage Garages	500							
	Warehouses	500							
Group B-4 Occupancies			Sales, Office, etc. Occ. / Fixt.: 1-15 / 1; 16-35 / 2; 36-55 / 3; 56-80 / 4; 81-110 / 5; 111-150 / 6; Over 150 / 1 addt'nl for each 50	Sales Office (3)	Sales Occ. / Offices Fixt.: 1-15 / 1; 16-35 / 2; 36-60 / 3; 61-90 / 4; 91-125 / 5; Over 125 / 1 to 45	Sales, Offices: 1 for each 150			
	Factories	200							
	Sales	200							
	Warehouses	500							
Group R-1 Occupancies	Dwelling Units, Apt.	—	1	—	1	—	1	1	1 laundry tray for each 10 dwelling units or guest rooms
	Motel, Hotel Units	—	1 for each 10		1 for each 10		1 for each 10		
	Rooming Houses	200	1 for each 10		1 for each 10		1 for each 10		
	Dormitories	200	1 for each 10		1 for each 10				
Group R-3 and R-4 Occupancies	1 and 2 Family	—	1	—	1	—	1	1	—
Group M Occupancies	—	—	—	—	—	—	—	—	—
TEMPORARY FACILITIES			1 for ea. 30	1 for each 30		1 for each 100			

Footnotes:
(1) Occupant load is computed using the equation: $\frac{A^*}{S.F.\ per\ Occ.}$ = Occupant Load.
(2) Square feet per occupant is only for computing the occupant load to determine the plumbing fixtures required.
(3) Urinals may be furnished in place of water closets at the rate of one urinal for one water closet, but not to exceed one-third of the required water closets.
(4) 1 fixture for each 10 occupants.
(5) 1 fixture for each 15 occupants.
(6) For waterclosets, and lavatories, these numbers are *minimum* & equal number for each sex is required.

*A—Area of building occupancy classification served.
S.F.—per Occ.—from Column 3 of this table.

1305.2050 SECTION 801.

UBC Section 801, Division 3, is amended to read as follows:

Division 3. Any building used for day-care purposes for more than ten children.

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

1305.2600 SECTION 1002.

UBC Section 1002(b) is amended to read as follows:

Section 1002(b) Special Provisions. Division 3 occupancies must be housed in buildings of Type I or Type II-F.R. construction.

Exception: One-story buildings of Type II one-hour construction may be permitted if the floor area does not exceed 3,900 square feet between separation walls of two-hour fire-resistive construction with openings protected by fire assemblies having one and one-half hour fire-protection rating.

Every story of a Group I occupancy accommodating more than five persons, unless provided with a horizontal exit, must be divided into not less than two compartments accommodating approximately the same number of persons in each compartment by a smoke-stop partition meeting the requirements of one-hour occupancy separation so as to provide an area of refuge within the building. Corridor openings in the smoke-stop partition must be protected with doors as required in section 3305(h). Other openings are limited to ducts which have fire dampers in the plane of the wall activated by detectors of products of combustion other than heat conforming to section 4306(b) 2. A ventilation system capable of smoke evacuation must be provided for each area of refuge. When approved by the building official, openings to the exterior of the building may be used in lieu of a mechanical system.

Rooms occupied by inmates or patients whose personal liberties are restrained must have noncombustible floor surfaces.

1305.3860 SECTION 1215.

UBC chapter 12 is amended by adding a new section to read as follows:

Section 1215. For Group R, Division 1 Occupancies, sound transmission control must be provided to meet the standards defined in UBC Appendix Chapter 35.

1305.3900 NEW SECTION ~~1214~~ 1216.

UBC chapter 12 is amended by adding a new section to read as follows:

Section ~~1214~~ 1216. Deadbolt Locks Required. All doors leading to public or shared areas from all apartment dwelling units and hotel units must be provided with deadbolt locks, at least one of which must be capable of being locked with a key from the exterior of each unit. For the purpose of this section a "deadbolt lock" is a locking bolt, which, when in the locked position, can only be moved positively by turning a knob, key, or sliding bolt, and which must be independent of other latching devices.

A deadbolt lock having a bolt moved by turning a key must be of the five-pin tumbler type or an approved equivalent. The lock throw may not be less than three-quarters of an inch. Locks must meet the requirements of section 3304(c).

Exception: Hotel unit doors may be provided with locks having separate deadbolts and deadlocking latchbolts which are interconnected for antipanic operation, and must be provided with emergency and display keying to outlaw all keys except emergency and display keys when the deadbolt is projected by the turn piece from the room side.

1305.4100 SECTION 1711.

UBC Section 1711 ~~of the UBC~~ is amended to read as follows:

~~UBC~~ Section 1711. All unenclosed floor and roof openings, open and glazed sides of landings and ramps, balconies, decks, or porches which are more than 30 inches above grade or floor below, and roofs used for other than service of the building must be protected by a guardrail. ~~Guardrails may not be less than 42 inches in height. Open guardrail and stair railings must have intermediate rails or an ornamental pattern so that a sphere six inches in diameter cannot pass through. The height of stair railings on open sides may be as specified in Section 3306 (j) in lieu of providing a guardrail. Ramps must, in addition, have handrails when required by Section 3307.~~

~~On all earth-sheltered structures a means must be provided to restrict access to the roof area unless guardrails are provided and the roof is designed for vehicular loads.~~

~~Exceptions:~~

~~1. Guardrails need not be provided on the loading side of loading docks.~~

~~2. Guardrails for Group R, Division 3 and Group M, Division 1 occupancies may be 36 inches in height.~~

~~3. Interior guardrails within individual dwelling units or guest rooms of Group R, Division 1 occupancies may be 36 inches in height.~~

~~4. The open space between the intermediate rails or ornamental pattern of guardrails in areas of commercial and industrial type occupancies which are not accessible to the public may be increased such that a 12-inch-diameter sphere cannot pass through.~~

~~5. Guardrails on a balcony immediately in front of the first row of fixed seats and which are not at the end of an aisle may be 26 inches in height.~~

~~6. Guardrails need not be provided on the auditorium side of a stage or enclosed platform.~~

Exception: Guardrails need not be provided at the following locations:

1. on the loading side of loading docks;

2. on the auditorium side of a stage or enclosed platform.

The top of guardrails must not be less than 42 inches in height.

Exceptions: 1. The top of guardrails for Group R, Division 3, and Group M, Division 1 Occupancies and interior guardrails within individual dwelling units and guest rooms of Group R, Division 1 Occupancies may be 36 inches in height.

2. The top of guardrails on a balcony immediately in front of the first row of fixed seats and which are not at the end of an aisle may be 26 inches in height.

3. The top of guardrails for stairways, exclusive of their landings, may have a height as specified in Section 3306(j) for handrails.

Open guardrails must have intermediate rails or an ornamental pattern so that a sphere six inches in diameter cannot pass through.

Exception: The open space between the intermediate rails or ornamental pattern of guardrails in areas of commercial and industrial-type occupancies which are not accessible to the public may be such that a sphere 12 inches in diameter cannot pass through.

On all earth-sheltered structures a means must be provided to restrict access to the roof area unless guardrails are provided and the roof is designed for vehicular loads.

1305.4850 SECTION 2311.

UBC Section ~~2311(h)~~ 2311(i) is deleted in its entirety.

Rules as Proposed (all new material)

1305.5340 SECTION 2607.

UBC Section 2607(h), item 5 is amended to read as follows:

5. In corrosive environments or other severe exposure conditions, amount of concrete protection must be suitably increased, and denseness and nonporosity of protecting concrete must be considered, or other protection must be provided. In corrosive environments of parking garages and parking ramps, industrial buildings, or similar environments, a minimum concrete cover of reinforcement steel must be one and one-half inches for top surfaces and one inch for bottom surfaces. All bonded reinforcement steel located in the slab must be epoxy coated in conformance with UBC Standard No. 26-4 Part III.

1305.5360 SECTION 2618.

UBC Section 2618(o) is amended to read as follows:

(o) Corrosion Protection for Unbonded Prestressing Tendons. [18.14]

1. Unbonded tendons must be completely coated with suitable material to ensure corrosion protection.

2. Tendon wrapping must be continuous over the entire length to be unbonded, and must prevent intrusion of cement paste or loss of coating materials during concrete placement.

3. Sheathing thickness for tendons used in corrosive environments must be not less than 0.040 inch consisting of medium or high density polyethylene or polypropylene materials. The sheathing must be continuous around the circumference of the strand with no open seams. The sheathing must be connected to all stressing, intermediate, and nonstressing anchorages with a watertight seal to provide complete encapsulation of the prestressing steel. The encapsulating device must overlap the sheathing a minimum of one inch. The interface of the encapsulating device and the sheathing must be protected with polyethylene or polypropylene tape with nonwater-soluble adhesives. Tape alone must not be used as a substitute for the sheath, nor may taped joints occur within three inches of the bearing surface of the anchorages or within three inches of a construction joint.

4. Damage to the tendon sheathing exposing the strand must be repaired with tape. A minimum of double coverage of non-water-soluble adhesive tape is required for the repair. Tears in excess of three inches must be repaired with a piece of split sheathing over the tear and then taped to the strand sheathing. The repair must be approved by the engineer of record or by a special inspector.

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

5. Corrosive-preventive coating material for use in corrosive and noncorrosive environments must have the following properties:

A. provide corrosion protection to the prestressing steel;

B. provide lubrication between the strand and encapsulating sheathing;

C. resist flow of the sheathing within the anticipated temperature range of exposure;

D. provide a continuous nonbrittle film at the lowest anticipated temperature of exposure; and

E. be chemically stable and nonreactive with the prestressing steel, the sheathing material, and the concrete.

6. The film must be an organic coating with appropriate polar, moisture displacing, and corrosion-preventive additives.

7. The weight of coating material on the prestressing strand must be not less than 2.5 pounds of coating material per 100 feet of 0.5 inch diameter strand, and three pounds of coating material per 100 feet of 0.6 inch diameter strand. The amount of coating material used must be sufficient to ensure essentially complete filling of the annular space between the strand and the sheathing. The coating must extend over the entire tendon length.

8. Test results of the corrosion preventive coating material tested in accordance with Table 26-A-8 must be provided to the engineer of record and to the special inspector.

1305.5380 SECTION 2618.

UBC Section 2618(t) is amended by adding item 5 to read as follows:

5. Anchorages must include design features that will permit a watertight connection between the sheathing and the anchorage. The design must also include the application of a watertight closing of the wedge cavity for the stressing and nonstressing anchorages. Intermediate stressing anchorages must be designed to provide watertight encapsulation of the prestressing steel. "Watertight," as used in this item, means the ability of the anchorages and the encapsulation devices, up to the attachment of the sheathing, to hold 1.25 psi water pressure for a period of 24 hours. The concrete cover of anchorages from slab surfaces must be one and one-half inches for the top or edge and one inch for the bottom surface.

1305.5385 TABLE 26-A-8.

UBC Chapter 26 is amended by adding a new Table 26-A-8 to read as follows:

TABLE 26-A-8

PERFORMANCE SPECIFICATION FOR CORROSION PREVENTIVE COATING

TEST	TEST METHOD	ACCEPTANCE CRITERIA
1. Dropping point °F(°C)	ASTM D-566 or ASTM D-2265	Minimum 300 (148.9)
2. Oil separation at 160°F(71.1°C)	FIMS 791B Method 321.2	Maximum 0.5
3. Water, percent maximum	ASTM D-95	0.1
4. Flash point, °F(°C) (Refers to oil component)	ASTM D-92	Minimum 300 (148.9)
5. Corrosion test 5 percent salt fog at 100°F(37.8°C) 5 mils, minimum hours (Q Panel Type S)	ASTM B-117	For normal environments: Rust Grade 7 or better after 720 hours of exposure according to ASTM D-610. For corrosive environments: Rust Grade 7 or better after 1,000 hours of exposure according to ASTM D-610*
6. Water soluble ions +		
a. Chlorides, ppm maximum	ASTM D-512	10
b. Nitrates, ppm maximum	ASTM D-922	10
c. Sulfides, ppm maximum	APHA 427D (15th Edition)	10

7. Soak test 5 percent salt fog at 100°F(37.8°C) 5 mils coating. Q panels, Type S. Immerse panels 50 percent in a 5 percent salt solution and expose to salt fog	ASTM B-117 (Modified)	No emulsification of the coating after 720 hours of exposure
8. Compatibility with sheathing		
a. Hardness and volume change of polymer after exposure to grease, 40 days at 150°F	ASTM D-4289	Permissible change in hardness 15 percent Permissible change in volume 10 percent
b. Tensile strength change of polymer after exposure to grease, 40 days at 150:F		Permissible change in tensile strength 30 percent

*Extension of exposure time to 1,000 hours for greases used in corrosive environments requires use of more or better corrosion inhibiting additives.

+ **Procedure:** The inside (bottom and sides) of a 1L Pyrex beaker (approximate outside diameter 105mm, height 145mm) is thoroughly coated with 100 % 10 g of corrosion preventive coating material. The coated beaker is filled with approximately 900 cc of distilled water and heated in an oven at a controlled temperature of 100°F ± 2°F for 4 hours. The water extraction is tested by the noted test procedures for the appropriate water soluble ions. Results are reported as ppm in the extracted water.

Rules as Proposed

1305.5400 SECTION 2907.

UBC Section 2907(a) ~~of the UBC~~ is amended to read as follows:

~~UBC~~ Section 2907(a) General. Footings and foundation, unless otherwise specifically provided, must be constructed of masonry, concrete or treated wood in conformance with UBC Standard No. 29-3 and in all cases must extend below the frost line. Footings of concrete and masonry must be of solid material. Foundations supporting wood must extend at least six inches above the adjacent finish grade. Footings must have a minimum depth below finished grade for the zone as established below unless another depth is recommended by a foundation investigation.

~~1.~~ A. In the absence of a determination by an engineer competent in soil mechanics, the minimum allowable footing depth in feet due to freezing is five feet in Zone 1 and 3-1/2 feet in Zone II.

Zone I includes the counties of: Aitkin, Becker, Beltrami, Carlton, Cass, Clay, Clearwater, Cook, Crow Wing, Douglas, Grant, Hubbard, Itasca, Kanabec, Kittson, Koochiching, Lake, Lake of the Woods, Mahnomen, Marshall, Mille Lacs, Morrison, Norman, Otter Tail, Pennington, Pine, Polk, Red Lake, Roseau, Saint Louis, Todd, Traverse, Wadena, and Wilkin.

Zone II shall include the counties of: Anoka, Benton, Big Stone, Blue Earth, Brown, Carver, Chippewa, Chisago, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Jackson, Kandiyohi, Lac Qui Parle, Le Sueur, Lincoln, Lyon, McLeod, Martin, Meeker, Mower, Murray, Nicollet, Nobles, Olmsted, Pipestone, Pope, Ramsey, Redwood, Renville, Rice, Rock, Scott, Sibley, Sherburne, Stearns, Steele, Stevens, Swift, Wabasha, Waseca, Washington, Watonwan, Winona, Wright, and Yellow Medicine. Less depths may be permitted when supporting evidence is presented by an engineer competent in soil mechanics.

~~2.~~ B. Soil Under Slab on Grade Construction for Buildings. When soil, natural or fill, is sand or pit run sand and gravel, and of depth in accordance with minimum footings depth requirements for each zone, slab on grade construction which ~~supports roof and wall~~ is structurally designed to support all applied loads ~~shall be~~ is permitted. Footings for interior bearing walls or columns may be constructed to be integral with the slab on grade for any height building. Footings for exterior bearing walls or columns may be

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

similarly constructed for any height building when supporting soil is as described in this item. Footing design must reflect eccentric loading conditions at slab edges, soil bearing capacity, and the requirements of UBC Chapter 26. Slab on grade construction for detached buildings Group M, Division 1 occupancies may be placed on any soil except peat or muck.

1305.5710 TABLE NO. 32-B-1.

UBC Table No. 32-B-1 is amended by adding a footnote following the "Severe Climate" portion of the first column to read as follows:

2. The entire state of Minnesota is subject to wind-driven snow or roof ice buildup.

1305.5720 TABLE NO. 32-B-2.

UBC Table No. 32-B-2 is amended by adding a footnote following the "Severe Climate" portion of the first column to read as follows:

2. The entire state of Minnesota is subject to wind-driven snow or roof ice buildup.

1305.5730 TABLE NO. 32-D-1.

UBC Table No. 32-D-1 is amended by adding a footnote following "UNDERLAYMENT" in the first column to read as follows:

5. The entire state of Minnesota is subject to wind-driven snow or roof ice buildup.

1305.5740 TABLE NO. 32-D-2.

UBC Table No. 32-D-2 is amended by adding a footnote following "UNDERLAYMENT" in the first column to read as follows:

6. The entire state of Minnesota is subject to wind-driven snow or roof ice buildup.

1305.5900 SECTION 3305.

UBC Section 3305(h) 1 is amended by adding an exception 3 to read as follows:

~~Exception:~~

3. In existing Type I and II-F.R. buildings housing Group B-2 occupancies, corridor walls may be of approved wired glass set in metal frames. The glass height must not exceed two-thirds of the width of the corridor. A draft curtain of at least one-hour fire-resistive construction and not less than 24 inches in height must be provided to protect the corridor from the Group B-2 occupancy area (tenant space). The draft curtain must be located above the glass and extend a minimum of 24 inches below any finished ceilings in the tenant space. If the finished ceiling is not a fire-rated assembly, the draft curtain must extend from the wire glass to a rated ceiling or floor assembly. When the B-2 occupancy area (tenant space) is protected by an approved automatic fire extinguishing system for a distance of 12 feet in depth adjoining the corridor, and the corridor is not less than 12 feet in width, glass other than wired glass may be approved. Open grille-type gates and similar enclosing or security devices may be used in corridor walls of corridors not less than 12 feet in width, when the entire story is protected by an approved fire extinguishing system.

In existing buildings of other than Type I or of Type II-F.R. construction, this exception is not permitted, unless the entire building is provided with an approved automatic fire extinguishing system.

UBC Section 3305(h) 1 is amended by adding an exception 4 to read as follows:

4. In hospital and nursing home occupancies (I-1) doors entering sleeping rooms from a corridor need not be constructed or maintained as self-closing or automatic-closing when the building is equipped with an approved complete automatic fire extinguishing ~~sprinkler~~ system in compliance with chapter 38.

1305.6430 TABLE NO. 38-A.

UBC Table No. 38-A is amended as follows:

Item No. 2 under the occupancy column of Table 38-A is amended to read as follows:

Occupancies 3 stories or more but less than 150 feet in height, except Group R Division 3 ~~or~~ 4, Class II standpipes are not required in Group E or Group R-1 occupancies.

Table No. 38-A is amended by adding ~~a footnote~~ footnotes No. 7 and 8 to item No. 2 to read as follows:

7. In municipalities which have adopted the Special Fire Suppression System criteria specified in part 1305.6525 (UBC Section 3808), the number of stories must be 4 four or more.

8. When an automatic fire-extinguishing system required by Section 3802(h) is installed, the number of stories must be four or more.

1305.6901 APPENDIX CHAPTER 12, SECTION 1222.

UBC Appendix Chapter 12, Section 1222, is amended by adding an exception to read as follows:

Exception:

1. For energy requirements, see *Minnesota Rules*, chapter 4215.

2. For plumbing code requirements, see *Minnesota Rules*, chapter 1355.

3. For electrical requirements, see *Minnesota Rules*, chapter 1315.

4. For mechanical code requirements, see *Minnesota Rules*, chapter 1346.

5. For snow load requirements, see *Minnesota Rules*, part 1305.4700.

6. For frost depth requirements, see *Minnesota Rules*, part 1305.5400.

7. For ice dam roof treatment, see *Minnesota Rules*, part 1305.5720.

1305.6902 APPENDIX CHAPTER 12, DIVISION II.

UBC Appendix Chapter 12, Division II, is deleted in its entirety.

1335.0600 FLOODPROOFING REGULATIONS, SECTION 201.2.

FPR section 201.2 is amended to read as follows:

This section shall apply unless equivalent provisions are incorporated in the city or county flood plain zoning ordinance.

Nonconforming Use: A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance but which is not in conformity with the provisions of these regulations may be continued subject to the following conditions:

1. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

2. No structural alteration, addition, or repair to any conforming structure over the life of the structure shall exceed 50 percent of its market value at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use.

3. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to these regulations. The assessor shall notify the zoning administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.

4. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its ~~assessed~~ market value, it shall not be reconstructed except in conformance with the provisions of these regulations; provided, the Board of Appeals may permit reconstruction if the use or structure is located outside the floodway and is adequately and safely floodproofed, elevated, or otherwise protected in conformance with these regulations.

5. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

6. ~~Any~~ An alteration, addition, or repair to ~~any~~ a nonconforming structure ~~which would result in substantially increasing its flood damage or flood hazard potential shall~~ that exceeds 50 percent of its market value must be protected as required by these regulations.

~~7. The building official shall maintain a list of nonconforming uses including the date of becoming nonconforming, assessed value at the time of its becoming a nonconforming use, and the nature and extent of nonconformity. This list shall be brought up to date annually.~~

~~8. The building official shall prepare a list of those nonconforming uses which have been floodproofed or otherwise protected in conformance with these regulations. He shall present such list to the Board of Appeals which may issue a certificate to the owner stating that such uses, as a result of these corrective measures, are in conformance with these regulations.~~

1335.1000 FLOODPROOFING REGULATIONS, SECTION 205.1.

FPR section 205.1 is amended to read as follows:

Statement of Intention to Improve: The owner or any registered architect or licensed professional engineer authorized to represent the owner shall, before preparing final plans for any improvement in the flood hazard area(s), file with the building official a statement of intention to improve, including a brief description of the type of improvement being considered and giving its precise location, on

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

a form provided by the building official. The building official shall note on two copies the elevation of the RFD at the location of the proposed improvement. One copy of the statement of intention to improve ~~shall~~ must be retained by the building official until a permit copy for improvement on the site is approved or one year has elapsed; a second copy ~~shall~~ must be returned to the owner for ~~his~~ use in final siting and design of ~~his~~ the improvement. Assignments of the RFD elevations at all locations ~~shall~~ must be ~~made from profiles and/or cross sections provided by the Army Corps of Engineers, SCS, USGS~~ consistent with the determination of the regulatory flood protection elevation as defined in the community's flood plain zoning controls, if any. This information ~~shall~~ must be open to public examination at all reasonable times.

1335.1100 FLOODPROOFING REGULATIONS, SECTION 205.2.

FPR section 205.2 is amended to read as follows:

Permits Required: No person, firm, or corporation shall erect, construct, alter, repair, move, remove, convert, or demolish any building or structure or any part thereof, or make any other improvement within the structure or any part thereof, or make any other improvement within the flood hazard area(s), or cause same to be done, without first obtaining a separate flood plain building ~~floodproofing~~ permit for any such improvement from the building official. Ordinary minor repairs may be made with the approval of the building official without a permit, provided that such repairs shall not violate any provisions of these regulations or of the building code.

1335.1950 FLOODPROOFING REGULATIONS, SECTION 612.1.

FPR section 612.1 is amended to read as follows:

Methods: A building must be considered completely floodproofed if the lowest elevation of all space within the building perimeter is above the RFD as achieved by:

(1) building on natural terrain beyond the RFD limit line on natural undisturbed ground;

(2) building on fill; or

(3) building on stilts.

These methods may be used alone or in combination to achieve the required degree of floodproofing. Data and design procedures must be based on organized and acceptable disciplines involved and the following additional requirements.

1335.2150 FLOODPROOFING REGULATIONS, SECTION 612.3.

FPR section 612.3 is amended to read as follows:

Protection by Dikes, Levees, and Floodwalls: Dikes, levees, and floodwalls must not be considered to provide FP1 or FP2 floodproofing or flood protection unless

(1) the dike, levee, or floodwall is built in accordance with recognized and accepted engineering practice and methods, and

(2) the design data has been submitted to the Department of Natural Resources and the Federal Emergency Management Agency for revision of the community's flood insurance study (flood insurance rate map) and official zoning map.

1335.3100 FLOODPROOFING REGULATIONS, SECTION 1405.3.

FPR section 1405.3 is amended to read as follows:

Protection by Dikes, Levees, and Floodwalls: Dikes, levees, and floodwalls must not be considered to provide floodproofing or flood protection unless

(1) the dike, levee, or floodwall is built in accordance with recognized and accepted engineering practice and methods, and

(2) the design data has been submitted to the Department of Natural Resources and the Federal Emergency Management Agency for revision of the community's flood insurance study (flood insurance rate map) and official zoning map.

1360.0900 INSPECTION.

[For text of subps 1 to 3, see M.R. 1989]

Subp. 4. **Damaged prefabricated buildings.** Prior to the installation of a damaged prefabricated building, the dealer, owner, or manufacturer shall notify the state building inspector who shall inspect, or cause to be inspected, certified prefabricated buildings which have been damaged after certification and take action with regard to those buildings which is authorized under part 1360.3100, subpart 3, or which is otherwise necessary to eliminate dangerous conditions.

The state building inspector shall require prefabricated buildings which are so damaged as to no longer ~~to~~ comply with the code to be brought into compliance promptly. If those buildings are not brought into compliance with the code within a reasonable time, or if they are so damaged that they cannot be brought into compliance, the state building inspector shall order that the seals be removed

from the buildings. Irreparably damaged buildings must be disposed of in accordance with applicable law.

[For text of subps 5 and 6, see M.R. 1989]

1360.3600 FEES.

Subpart 1. **Form and amount of payment.** All fees must be in the form of checks or money orders payable to "Minnesota State Treasurer," and addressed to: State of Minnesota Department of Administration, Building Codes and Standards Division, 408 Metro Square Building, Seventh and Robert Streets, Saint Paul, Minnesota 55101.

The seal fee is $30 per seal. The replacement seal fee for damaged or lost seals is $10 per seal. For all other work performed by the Minnesota Building Codes and Standards Division such as, but not limited to, the review of plans, specifications, ~~and~~ independent agency reports, inspection, and quality control evaluation, ~~a fee of $25 per person, per hour~~ fees must be charged based on the fee schedule in part 1302.0600. Travel expense must be charged at the rates established for state employees by the commissioner of administration.

[For text of subp 2, see M.R. 1989]

REPEALER. *Minnesota Rules*, parts 1305.0300; 1305.1750; 1305.1790; 1305.2100; 1305.2400; 1305.3000; 1305.3100; 1305.3200; 1305.3300; 1305.3600; 1305.3700; 1305.4200; 1305.4500; 1305.4900; 1305.5300; 1305.5310; 1305.5500; 1305.5800; 1305.6550; 1305.6600; and 1305.6900, are repealed.

Department of Administration

Proposed Permanent Rules Relating to the Minnesota State Building Code

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Administration, in cooperation with the Minnesota Department of Health, proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rules in *Minnesota Statutes* section 16B.61.

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

Any person may make a written request for a public hearing on the rule within the 30 days comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.13 to 14.20.

PLEASE NOTE: that if 25 or more persons submit written requests for a public hearing within the 30 day comment period, a hearing will be held on Friday, February 2, 1990, unless a sufficient number withdraw their request in accordance with the notice of hearing on these same rules published in the *STATE REGISTER* and mailed to persons registered with the State Department of Administration. To verify whether a hearing will be held, please call the Department of Administration, Building Codes Division on February 1, 1990, between the hours of 8:00 a.m. and 4:30 p.m., at 612-296-4626.

Persons who want to submit comments or written requests for a public hearing must submit such comments or requests to:

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

Comments or requests for a public hearing must be received by the Department of Administration, Building Codes and Standards Division, by 4:30 p.m. on January 31, 1990.

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

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

A free copy of this rule is available on request for your review from Margaret White.

The proposed rule establishes minimum uniform rules for the State of Minnesota by amending the State Plumbing Code in order to be consistent with *Minnesota Statutes* and laws and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the information relied on to support the proposed rule has been prepared and is available for review from Margaret White on request.

It is felt by the Building Codes Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, Section 14.115, division 1, and pursuant to *Minnesota Statutes*, Section 14.115 subdivision 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, Section 14.11.

If no hearing is required on adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Margaret White.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held at Sheraton Airport Hotel, 2525 East 78th Street, Bloomington, Minnesota 55425, on February 2, 1990, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, that the hearing will be canceled if fewer than 25 persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *STATE REGISTER* and mailed to persons registered with the Department of Administration, Building Codes and Standard Division. To verify whether a hearing will be held, please call the Building Codes Division between 8:00 a.m. and 4:30 p.m. at (612) 296-4626.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such person may present their views either orally at the hearing or in writing at any time prior to the close of the hearing. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to Steve M. Mihalchick, Administrative Law Judge, Office of Administrative Hearings, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, (612) 349-2544, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record to be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, Sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed rule establishes minimum uniform rules for the State of Minnesota by amending the State Plumbing Code in order to be consistent with *Minnesota Statutes* and law and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, Section 16B.61.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, Section 14.11.

It is felt by the Building Codes Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, Section 14.115, division 1, and pursuant to *Minnesota Statutes*, Section 14.115 subdivision 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to:

Margaret White
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

Additional copies will be available at the hearing. If you have any questions on the content of the rule you may contact Margaret White, Elroy Berdahl, or Alvin Kleinbeck at (612) 296-4639.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11 as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials;

(b) who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: 14 December 1989

Sandra J. Hale
Commissioner of Administration

Statement of Need and Reasonableness

NOTE: All of the amendments covered by this listing of statements of need and reasonableness have been reviewed by the State Advisory Council on Plumbing Code and Examinations, and the Council has unanimously recommended that all of these amendments be adopted.

4715.0100 DEFINITIONS.

A definition is added for the term "readily accessible" to clarify the intent, since the term is being used in the amendment of *Minnesota Rules*, p. 4715.2120. In general, it would require access without removing access panels, ceiling tiles, etc., but would allow the device to be behind a door if it is not normally locked. The definition is essentially a combination of the definitions given in the *Uniform Mechanical Code and Uniform Plumbing Code.*

4715.0200 BASIC PLUMBING PRINCIPLES.

This section is modified to return it to its original format and intent. From the time the current code was adopted in 1969 until the rules were renumbered and reformatted in 1983, this section provided a point-by-point listing of the 23 basic principles of sanitation

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

which serve as the basis of the code, and are used to define the intent of the code. In 1983, one extraneous paragraph was added to the section, and the 23 principles were reorganized and listed under seven different headings.

This 1983 change broke up the listing of the 23 principles, and in effect caused them to lose their identity as the basis for and intent of the code. These principles are merely being returned to their original format to allow them to be recognized as the 23 principles identified in the opening paragraph of the section.

In making this change, the seven headings added in 1983 are eliminated, and the extraneous paragraph relocated in this section in 1983 is relocated in *Minnesota Rules*, p. 4715.0320 which is a more appropriate location.

4715.0310 USE OF PUBLIC SEWER AND WATER SYSTEMS REQUIRED.

This section is amended by adding a reference of the Minnesota Water Well Construction Code relative to the proper abandonment of private water wells which are taken out of service. Some local building officials have stated that they are not able to get people to properly abandon unused wells since they do not have jurisdiction to enforce the Minnesota Water Well Construction Code; they have therefore requested that the abandonment requirement be referenced in the plumbing code so they have jurisdiction to enforce it. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

4715.0320 CONFORMANCE WITH CODE.

This section is amended to add a new subpart 1. The materials in subpart 1 is merely being relocated from *Minnesota Rules*, p. 4715.0200 because it more appropriately fits within the description of this section.

4715.0420 STANDARDS AND PLUMBING MATERIALS.

This section is amended in three places. One amendment is to allow the use of PVC complying with ASTM D1785 for water service. This is merely to permit the use of another suitable material which is already approved for such use in many other states. PVC complying with ASTM D1785 has high pressure ratings and is more readily available than the standard dimension-ratio rated PVC which was already approved for water service in the code. These amendments are supported by the State Advisory Council on Plumbing Code and Examinations.

4715.0420 and 4715.0620 are being amended to permit the use of corrugated polyethylene pipe as another acceptable material for subsoil drains. The material has already been widely used for this purpose, and has proven to be an acceptable product. Compliance with the ASTM standard for such material is required to assure that the pipe meets generally accepted requirements for structural integrity and design.

4715.0500 WATER SUPPLY SYSTEMS.

This section is amended by adding a new paragraph to require that pipe and fittings used to convey potable water contain no more than 8 percent lead. This amendment is added because the 8 percent maximum is now part of the federal safe drinking water requirements, and the State could lose up to 5% of the federal safe drinking water grant if this provision is not enforced in the state.

4715.0520 WATER DISTRIBUTION PIPE.

Part F is changed to correct an inadvertent error of omission. Copper tube 3H was incorrectly deleted from this section when 3H(a) and 3H(b) were added during recent rule amendments. Copper tube 3H remains a primary material used for water distribution. It was never the intent to delete this material from the Code, nor were any justifications provided for such deletion.

Parts K and L are amended to reference the current editions of the IAPMO installation standards for plastic tubing 6K (polybutylene) and plastic pipe 6L (chlorinated polyvinyl chloride). These changes merely allow for installation using current accepted practices and have been recommended by the State Advisory Council on Plumbing Code and Examinations.

4715.0580 is amended expressly prohibiting the use of soft temper type M copper tubing for waste and vent piping. Soft temper is intended only for use in conveying water under pressure, and must not be used for gravity drainage of sewage or other wastewater where lengths of pipe must be straight and smooth to assure proper drainage without clogging.

4715.0620: see 4715.0420.

4715.0800 MECHANICAL JOINTS.

Subpart 5 is amended to permit the use of a specific type of mechanical pipe coupling for below-ground installations of water distribution pipe. Such couplings have previously been permitted only for above-ground installations. This change merely allows another acceptable use of an already approved type of pipe joint. Exposed grooves in galvanized pipe must be protected by coal tar enamel coating and wrapping since the galvanizing is removed in the grooving process, and the pipe wall thickness below the groove is reduced. The protection is to prevent the grooved area from corroding and being the weak link in the pipe system. This protection is the same as what is required for exposed threads on galvanized pipe used below ground. The cut groove method is specified as a requirement for galvanized pipe because experience has shown that the alternative method of roll grooving causes excessive deterioration

of the galvanizing even beyond the groove. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

Subpart 6 is amended because the existing language was too specific and restrictive as to how the proper insertion depth of a branch tube is achieved in extracted mechanical joint installations. Alternative methods providing acceptable results must also be acceptable. The precise method should not be strictly regulated as long as the desired results can be otherwise achieved.

4715.0805 PUSH-ON JOINTS.

This section is added as a new section to allow use of another acceptable type of joint for cast-iron and ductile-iron water service pipe. This type of joint is used almost exclusively for municipal water main construction, and should also be allowed for water service lines installed in a similar fashion, i.e., underground outside the building. The ANSI standard reference is the standard currently used for water main construction.

4715.0810 PLASTIC JOINTS.

This section is amended by adding new subpart to require that a primer be used for all solvent weld joints in PVC and CPVC pipe. When such joints are used, it is necessary to clean and soften the pipe in the area of the joint before the solvent cement is applied. Without this step, the pipe and fitting will not be properly bonded or welded, and the joint is subject to failure. The primer is required to be a contrasting color so that a plumbing inspector can verify that a primer has been used. A mechanical cleaning method is not acceptable in lieu of using a primer since it does not soften the plastic as necessary for proper bonding or welding of the joint. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

4715.0820 SOLDERED OR BRAZED JOINTS.

This section is amended to permit the approval of new types of plumbing solder which are being developed to replace 50-50 solder which can no longer be used for water distribution systems because of its high lead content. The new solders are completely new alloys of compositions not covered by ASTM Standard B32-76.

Compliance with ASTM B32-76 was previously required for a solder to be acceptable. Under this amendment, the Department can also approve solders which are proven to be suitable through laboratory analysis of composition and pressure testing of joints, even though no ASTM standard currently exists for the composition.

This section is further amended to eliminate reference to ASTM B260-52T for brazing filler metal. This was a tentative standard which was not formalized by ASTM, and no longer exists. The amendment provides a more general requirement that brazing be done using methods and materials which fit the particular application, and in accordance with industry standards. Such standards would include those of the American Welding Society, the Copper Development Association, and/or the manufacturer of specific joint-making equipment, depending on the specific application. The requirement that all brazed joints be fluxed is eliminated since some alloys used with copper are self-fluxing. The requirement that industry standards be followed would cover those alloys where flux is needed. These amendments are supported by the State Advisory Council on Plumbing Code and Examinations.

4715.0860 SPECIAL JOINTS.

Subpart 6 is modified to require that transition couplings of elastomeric materials be provided with an exterior shield on above ground installations.

The shield is needed to prevent outward expansion of the coupling which has been identified as an ongoing problem with unshielded installations. Ballooning of unshielded joints could lead to joint fatigue, misalignment, and failure of the joint. This amendment is recommended by the State Advisory Council on Plumbing Code and Examinations.

4715.1220 INSTALLATION OF FIXTURES.

This section is amended to add a minimum clearance requirement to front of water closets. This section already contains side clearance requirements. Because this plumbing code has been silent with respect to a front clearance, some contractors have constructed toilet rooms with so little front clearance that the facilities are not functional since they do not have foot or even knee space in front of the water closet. The 24-inch front clearance will guarantee that all approved installations will be functional. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

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

4715.1240 BATHTUBS.

This section is amended by adding a new subpart requiring whirlpool bathtubs to comply with the current IAPMO standard for both the design and installation. The code was previously silent regarding such installations and as a result some installations were made without access for equipment, with recirculation pipes that did not drain resulting in stagnant polluted water, and with electrical hazards from non-U.L. listed equipment. The IAPMO standard addresses these concerns, as well as providing tub and piping system construction requirements.

715.1260 is being amended to prohibit the installation of a drinking fountain bubbler directly on or with a cold water faucet intended for uses other than drinking. This prohibition is a basic sanitation provision, and is needed to prevent installations where a drinking fountain bubbler is easily contaminated during use of the cold water faucet for hand washing or other uses. Such combined installations have been implicated in the spread of disease when persons using the faucet for hand washing, especially after using toilet facilities, have contaminated the drinking fountain bubblers.

This section is further amended to require any drinking fountain bubbler at a sink to be separated from any other faucet by at least 18 inches. This separation requirement is needed to assure that a drinking fountain bubbler provided on a sink which is also used for other purposes, such as hand washing, is adequately isolated from the other water uses to prevent direct contamination.

4715.1300 FLOOR DRAINS.

This section is amended by adding a new subpart to require floor drains in enclosed garages to discharge to sanitary sewer. The intent is to prevent undesirable discharge to the surface, to seepage pits, or to the storm sewer of wastes which require treatment by their nature. Enclosed garages do not receive precipitation or run-off water which would normally go to the storm sewer, but instead receive concentrated waste water which needs to be treated. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

4715.1305 ELEVATOR PIT DRAINS.

This is a new section which is needed to clarify the proper method of draining an elevator pit. The pit must be drained to the sanitary sewer since it will contain hydraulic fluid, oil, grease, etc., which should not be discharged to the storm sewer. It must have an indirect connection, since the pit drain would be a low spot on the plumbing drainage system which would permit back-up of sewage into the pit if a direct connection was provided. If a sump is used, it must be located outside the pit so that a plumber or plumbing inspector has direct access for maintenance or inspection without having to enter the elevator shaft below the elevator. This new section is supported by the State Advisory Council on Plumbing Code and Examinations.

4715.1380 SHOWERS.

This section is amended by providing a new subpart to require all showers to be equipped with anti-scald-type control valves. This is required to prevent accidents caused by sudden changes in water temperature. Such accidents include scalding resulting from excessive water temperature, and slips and falls resulting from an attempt to quickly move out of the water stream when there is a suddent change in water temperature, either too hot or too cold. Supply temperatures in plumbing systems can fluctuate quickly and with great variations. For instance if there is a sudden great demand on the cold water system, such as for flushing toilets, then a shower on the same system could have reduced cold water pressure, and have a rapid and shocking increase in temperature. Anti-scald valves may be either pressure balance or thermostatic control type provided they comply with the American Society of Sanitary Engineers Standard for shower control valves. Either type will work to minimize the effects of changes in pressure within the water distribution system. The section also allow multiple showers to use a single anti-scale thermostatic blender, or to use individual controls. The multiple shower type would typically be used for school gang showers or similar. The states of Connecticut, Rhode Island and Massachusetts currently have a similar requirement in their codes to require anti-scald protection for all showers, and in addition North Dakota and Wisconsin require such valves for other than single dwelling units. Statistics indicate that the majority of scalding injuries are sustained by children age 6 or less, and adults over 60. These segments of the population are also the ones that need the most built-in protection since they are unable to act or react in an appropriate way to avoid scalding from sudden temperature changes, and also may be more susceptible to injuries from falls when subjected to the shock of sudden temperature changes. Anti-scald-type shower valves are readily available from several manufacturers, and have been used for years to protect patients in health care facilities. Without such protection, an adult can have a second degree burn in five seconds with 140°F water and in just one second with 158°F water, and the effects on children could be even more severe.

4715.1440 PROTECTION OF PLASTIC PIPE.

This new section is added to require protection for plastic pipe which is run through wood studs or wood plates. The steel plate required at such penetrations would help prevent nails or screws from being driven into plastic pipe which is within a wall after the wall is closed up. Without such protection plates, the pipe could be damaged during completion of construction or at any time in the future. Conscientious plumbing contractors currently install such plates to protect piping, and provision of this requirement in the plumbing code would help to clarify that such work is the responsibility of the plumber. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

4715.1590 RECEPTORS OR SUMPS.

This section is amended to be more permissive by allowing standpipe receptors for automatic clothes washers to be manifolded together, and use a single trap, to serve multiple units located in the same room. Previously, an individual trap and vent was required for each receptor. This change would allow the use manufactured manifold-type receptors. The consensus of the professions consulted in the plumbing field, feel they should be allowed and that they would not have an adverse impact on the functioning of the drainage system.

4715.1911 TOXIC MATERIALS AND USED PIPE.

This section is amended merely to expand the heading to better describe the material included in the section, and to change the reference number to relocate the material to a more appropriate section of the code.

4715.1912 USED WATER RETURN PROHIBITED.

This section is amended only to change the reference number and relocate the material to a more appropriate section of the code.

4715.1940 POTABLE WATER CONNECTIONS TO HEATING OR COOLING SYSTEMS.

This section is amended by deleting a sentence which has been confusing and open to misinterpretation. The intent of the section is adequately, and more precisely, conveyed without the deleted sentence. The section is intended to permit permanent direct connections of make-up lines to heating or cooling systems with chemicals in them, but only when an approved backflow preventer is located in the potable water line. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

4715.1941 HEAT EXCHANGERS.

This section is amended by deleting paragraph B of subpart 3 in its entirety. This paragraph had required that single-wall heat exchangers comply with a specific identified standard, or they could be an alternate design if the administrative authority determined that the same degree of protection against contamination of potable water was provided. There are two reasons why this change has been made. First, it is the Department's opinion, supported by the Advisory Council, that the other three remaining paragraphs of subpart 3 do in themselves contain adequate provisions for the protection of the potable water, and that paragraph B is not needed for this purpose. Second, there are no established criteria by which the administrative authority could determine if the same degree of protection would be provided by an alternative design, therefore, the paragraph was troublesome to enforce and placed an undue and unnecessary burden on the administrative authority.

This section is further amended to be more permissive by allowing high or low pressure steam systems to be used in single-wall heat exchangers without a pressure differential monitoring device. Reasons for this include that steam systems will notify the operator of a heat exchanger failure on their own when system temperature is lost and the boiler fills with water, and most steam systems use food grade additives which do not present a health concern. This change is made in response to industry comments that the previous rule unfairly restricted the use of single-wall heat exchangers with steam systems while not providing any greater degree of protection.

4715.2020 DEVICES FOR THE PROTECTION OF THE POTABLE WATER SUPPLY.

This section is amended by merely deleting the existing language, and substituting the language previously used in *Minnesota Rules*, p. 4715.2140. Section 4715.2140 is then subsequently deleted as a separate amendment. This change is to eliminate duplication since both sections had said essentially the same thing.

4715.2100 VACUUM BREAKERS/BACKFLOW PREVENTERS.

The original heading and language are deleted in their entirety because the material is covered as part of the new language substituted for this section.

The new language is added to provide a convenient listing of all types of backflow preventers acceptable under the code, and to specify the conditions under which each type may be used. The conditions of use listed are really a summarized compilation of how manufacturers state that the devices should be used, and are similar to consensus codes such as the National Standard Plumbing Code and the Uniform Plumbing Code. This new language is really a clarification of installation requirements, and this type of clarification has been requested by many municipal inspectors.

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

4715.2110 REDUCED PRESSURE ZONE BACKFLOW PREVENTOR/TYPES OF DEVICES REQUIRED WHERE AN AIR CAP CANNOT BE PROVIDED.

The original heading and language are deleted in their entirety because the material is covered in the new language of *Minnesota Rules*, p. 4715.2100.

The new language is a table which lists several of the most common type of installations where backflow preventers are needed, and also lists the corresponding types of backflow preventers which would be acceptable for each specific situation. As a justification for including the specific installations listed, reference is made to the fact that the U.S. Environmental Protection Agency includes all but six of the installations listed as plumbing hazards in their cross-connection control manual.

The other six are justified as follows:

- Car wash. A backflow preventer is needed because wash water is recycled and contains gas, oil, dirt, etc., as well as soaps and waxes which are injected into the wash systems.

- Glycol or other antifreeze system. A backflow preventer is needed because of the primary and cheapest antifreeze is ethylene glycol which is extremely toxic. Even if a system is initially filled with a less toxic antifreeze, experience has shown that the system is likely to be refilled with ethylene glycol, when fluids are periodically changed, because it is the less expensive fluid.

- Operating, dissection, embalming or mortuary table. A backflow preventer is needed because of various fluids and waste products present which could be backsiphoned into the water supply system.

- Carbonated beverage machine (post-mix). A backflow preventer is needed because the CO_2 being added at the carbonater is a higher pressure than the water distribution system, and many cases of backflow of CO_2 have occurred. When CO_2 comes in contact with copper in the water system, it takes copper into solution and in many cases has caused copper poisoning in people consuming the beverage. The backflow preventer has proven to prevent such occurrences, but a check valve has not.

- RV dump station. A backflow preventer is needed because the hose is used to rinse sewage from RV holding tanks and to wash down the dump station when spills occur. In the process, the hose is often in direct contact wth sewage or within the sewage holding tank. Without a backflow preventer, a loss of pressure in the supply stem could result in siphonage of sewage contaminated water into the water supply.

- Truck fill. The reasoning is similar to that given for RV dump stations. Trucks being filled may contain chemicals such as fertilizers or pesticides. Many instances of backflow of chemicals from trucks into the water supply have occurred, including in Minnesota.

Similar justifications could be given for each situation listed in the table, however, it should be sufficient to provide the six examples above, and note that all of the other situations listed are included in the U.S.E.P.A. cross-connection control manual as plumbing hazards.

415.2120 DEVICES OF ALL TYPES/LOCATION OF BACKFLOW PREVENTERS.

This section is amended by changing the heading to be more descriptive of the material covered. It is also amended to require all devices to be readily accessible rather than just accessible, and a definition of readily accessible has been added in *Minnesota Rules*, p. 4715.0100. Backflow preventers must be readily accessible since they must be frequently observed to detect water flow from the device, and they must be inspected and tested periodically by qualified personnel. Testing includes use of testing equipment and making connections to the device, therefore, it is necessary that all devices be located to facilitate such testing. The section is further amended to prohibit installation in an area subject to flooding, such as a pit, and to require a visible air gap at the device when a conductor pipe is used. The device cannot be in an area subject to flooding since it has opening to the air and if the device was submerged in water it would not only be prevented from functioning to prevent backflow, but the device itself would become a cross connection between the domestic system and the water in the pit. An air gap is needed at the device to provide a visible indication of flow from the device. Such flow could indicate a recurring backflow condition which should be addressed, or it could indicate a fouling of a check valve which must be corrected. If the air gap is only at the end of a conductor pipe instead of at the device, the flow may not be associated with the device and a needed correction may not be made.

4715.2130 TANKS AND VATS BELOW RIM SUPPLY.

This section is deleted because it is confusing and also no longer considered necessary. It is not necessary since use of a backflow preventer is considered to be a preferred and more positive method of backflow prevention than the method previously outlined in this section.

4715.2140 PROTECTIVE DEVICES REQUIRED.

The section is deleted, however, there is no change of substance since the language was moved to *Minnesota Rules*, p. 4715.2020.

4715.2161 INSTALLATION OF REDUCED PRESSURE BACKFLOW PREVENTERS.

This section is amended in three ways: First, the reference number is changed so that the language is included within the section on cross-connection control instead of the later in the code. Second, a provision is added to require notification of the Administrative

Authority when a reduced pressure backflow preventer is installed. This is needed so that the Administrative Authority can be aware of the device's existence and location, and monitor the testing and maintenance pursuant to subpart 2 of this section. Third, a provision is added to require each reduced pressure backflow preventer to have a tag for inspection dates, and to require that written records of testing and maintenance be sent to the Administrative Authority. The tag requirement is similar to that used for fire extinguishers, and is to allow field verification of periodic testing of the device. The written records are needed to allow the Administrative Authority to verify the work required by subpart 2.

The changes in this section were all requested by municipal inspectors who are involved with cross-connection control.

4715.2162 DOUBLE-CHECK DOUBLE-GATE VALVES.

This section is amended only by changing the reference number so that the language is located within the cross connection control section of the code.

4715.2163 CARBONATED BEVERAGE MACHINES.

This is a new section which is added to clarify the requirements necessary to prevent copper poisoning in conjunction with post-mix-type carbonated beverage machines. If carbon dioxide is allowed to backup into copper tubing which brings water to the carbonator, it will react with the copper and allow a high concentration of copper within the system. Copper poisoning can result in serious illness and even death, and many cases have been reported resulting from the use of such machines without appropriate backflow preventers. This section was added at the request of community health services sanitarians who had been having ongoing problems with such installations.

4715.2190 COMBINATION WATER AND SPACE HEATING EQUIPMENT.

This is a new section which was needed to address concerns associated with a type of equipment installation which is new to Minnesota. The installation involves a water heater which heats potable water for consumption and also serves space heating demands by heating water which is circulated through space heating coils. A mixing valve is needed because the extremely cold winter weather may require the user to set the heater for a high water temperature to meet space heating demands, but that temperature might not be safe for domestic hot water. The user needs the capability of controlling the domestic water temperature while still meeting the space heating needs. Without such control, serious burns could result from the high temperature of the domestic water.

A drainage port and isolation valve are needed to drain the stagnant water which has been in the unused space heating coils throughout the nonheating season and prevents it from returning to the heater and being consumed. These provisions allow the user to run the stagnant water to waste.

To assure reliability and warranty of the water heater, it must be of a type which is specifically approved by the manufacturer for such use. Some manufacturers representatives have stated that certain heaters were not intended for such combined use, and should not be used as such.

All materials are required to be of a type approved for potable water distribution. Since, in effect, the space heating loop actually becomes a part of the domestic water distribution system, the water circulated through the space heating coil returns to the water heater and becomes part of the water which is drawn from the heater for domestic consumption. A wall thickness of the space heating coil is listed as an exception since that area would be unenforceable, plus it is consistent with application of the code in general that the piping within a piece of equipment is the responsibility of the manufacturer of the equipment. A water cooler is an example of other such equipment.

4715.2230 TANKLESS AND INSTANTANEOUS TYPE HEATERS.

This section is amended to be more permissive by allowing certain types of water heaters, which meet certain specification, to be used without a pressure relief valve if Underwriters Laboratory approval has been granted for use without a pressure relief valve. For this type of unit, the relief valve is not needed since the unit does not have the capability of producing excessive pressures within the system which might be hazardous or result in explosion.

Dated: 14 December

Sandra J. Hale, Commissioner
Department of Administration

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

Rules as Proposed

4715.0100 DEFINITIONS.

[For text of subps 1 to 84, see M.R. 1989]

Subp. 84a. **Readily accessible.** "Readily accessible" means capable of being reached safely and quickly for operation, repair, or inspection without requiring those to whom ready access is requisite to remove obstacles, panels, or similar obstructions.

[For text of subps 85 to 128, see M.R. 1989]

4715.0200 BASIC PLUMBING PRINCIPLES.

This code is founded upon certain basic principles of environmental sanitation and safety through properly designed, acceptably installed and adequately maintained plumbing systems. Some of the details of plumbing construction may vary but the basic sanitary and safety principles desirable and necessary to protect the health of the people are the same everywhere. As interpretations may be required, and as unforeseen situations arise which are not specifically covered in this code, the twenty three principles which follow shall be used to define the intent.

~~As provided in *Minnesota Statutes,* section 326.37, this code applies to all new plumbing installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building, or any other place of business regardless of location or the population of the city or town in which located.~~

4715.0310 USE OF PUBLIC SEWER AND WATER SYSTEMS REQUIRED.

~~Where~~ If a public sewer is accessible in a street or alley to a building or premises and the connection is feasible, liquid wastes from any plumbing system in ~~said~~ that building ~~shall~~ must be discharged into the public sewer unless otherwise prohibited by this code or a local ordinance.

~~Where~~ If a public water supply system is accessible, the water distribution system ~~shall~~ must be connected to it unless otherwise permitted by the administrative authority. A water well taken out of service because a person is connecting to a public water supply must either be maintained for a use such as irrigation, or sealed and abandoned in accordance with the Minnesota Water Well Construction Code. (*Minnesota Rules,* chapter 4725)

~~Where~~ If either a public sewer or water supply system or both are not available, an individual water supply or sewage disposal system~~,~~, or both, conforming to the published standards of the administrative authority ~~shall~~ must be provided.

Every building must have its own independent connection with a public or private sewer, except that a group of buildings may be connected to one or more manholes which are constructed on the premises, and connected to a public or private sewer. These manholes must conform to the standards set by the local sewer authority.

4715.0320 CONFORMANCE WITH CODE.

Subpart 1. **Scope.** As provided in *Minnesota* Statutes, section 326.37, the Minnesota Plumbing Code applies to all new plumbing installations, including additions, extensions, alterations, and replacements connected to a water or sewage disposal system owned or operated by or for a municipality, institution, factory, office building, hotel, apartment building, or other place of business regardless of location or the population of the city or town in which it is located.

Subp. 2. **New buildings.** All plumbing materials and plumbing systems or parts thereof ~~shall~~ must be installed to meet the minimum provisions of this code.

Subp. ~~2~~ 3. **Existing buildings.** In existing buildings or premises in which plumbing installations are to be altered, renovated, or replaced, ~~such~~ the new materials and work ~~shall~~ must meet the provisions of this code. ~~Where~~ If the administrative authority ~~shall find~~ finds that the full performance of bringing ~~such~~ the work into compliance with all requirements of this code would result in exceptional or undue hardship by reason of excessive structural or mechanical difficulty, or impracticability, a deviation may be granted by the administrative authority only to the extent ~~such~~ the deviation can be granted without endangering the health and safety of the occupants and the public.

4715.0420 STANDARDS FOR PLUMBING MATERIALS.

[For text of subps 1 and 2, see M.R. 1989]

Subp. 3. **Standards for plumbing materials.**

DESCRIPTION	ANSI	ASTM	FS	OTHER
I. CAST IRON PIPE AND FITTINGS				
	A21.2			
	A21.6	A-74	WW-P-401C	CS188

	DESCRIPTION	ANSI	ASTM	FS	OTHER
1A	Cast Iron Pipe and Fittings Extra Heavy	A21.8			
1B	Cast Iron Pipe Centrifugally Cast Only and Fittings Service Weight	A21.6 A21.8	A-74	WW-P-401C	CS188
1C	Cast Iron Mechanical (Gland Type) Pipe	A21.11 A21.2 A21.6	WW-P-421a		
1D	Cast Iron Mechanical (Gland Type) Pipe Cement Lined	A21.8 A21.4 A21.2 A21.6 A21.8			
1E	Cast Iron Short Body Water Service Fittings (2"-12")	A21.10			AWWA C100
1F	Cast Iron Threaded Pipe	A40.5			
1G	High Silicon Pipe, Fittings Cast Iron				
1H	Cast Iron Threaded Fittings Black and Galvanized 125#	B16.4		WW-P-501	
1J	Cast Iron Drainage Fittings Black and Galvanized	B16.12		WW-P-491	
1K	Hubless Cast Iron Pipe and Fittings (Amended 8-31-72)				CISPI Standard 301-69T

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

	DESCRIPTION	ANSI	ASTM	FS	OTHER
II. STEEL AND WROUGHT IRON PIPE FITTINGS					
2A	Steel Pipe, Welded and Seamless Galvanized, Schedule 40 and Above	B36.1 B36.20			WW-P-406 6(1)
2B	Wrought Iron Pipe, Galvanized Schedule 40 and Above	B36.2			
2C	Stainless Steel Pipe	B36.19			
2D	Galvanized Malleable Fittings 150 psi and Above	B16.3	A197		
2E	Steel Unions, Galvanized			WW-V-531 C	
III. COPPER AND COPPER BASE PIPE AND FITTINGS					
3A	Red Brass Pipe, Regular and Heavier	H27.1	B42B		
3B	Seamless Brass Tube	H36.1			
3C	Brass or Bronze Threaded Fittings 125 lbs. and Over	B16.15	B62	WW-P-460	
3D	Brass or Bronze Flare Fittings 125 lbs. and Over, Heavy Duty Long Collar Type	B62			
3E	Seamless Copper Tube Type K, Soft Temper	H23.1	B88		
3F	Seamless Copper Tube Type K, Hard Temper	H23.1	B88		
3G	Seamless Copper Tube Type L, Soft Temper	H23.1	B88		
3H	Seamless Copper Tube Type L, Hard Temper	H23.1	B88		

	DESCRIPTION	ANSI	ASTM	FS	OTHER
3H(a)	Welded Copper Alloy 194 Water, Tube, Type "Heavy," Hard Temper		B543-72		OFT194-101A Navfac TS-15400
3H(b)	Stainless Steel Water Tubing, Type SL, Copper Plated Coating (HWT-T439)		A-651		
3J	Seamless Copper Tube, Type M, Hard and Soft Temper	H23.1	B88		
3J(a)	Welded Copper Alloy 194 Water Tube, Type "Standard," Hard Temper		B543-72		OFT194-101A Navfac TS-15400
3J(b)	Stainless Steel Water Tubing, Type SM, Copper Plated Coating (HWT-T439)	A-268	A-651		
3K	Seamless Copper Tube Type DWV	H23.3	B306		
3L	Copper Pipe I.P.S.	H26.1	B42		
3M	Copper Pipe, Threadless Type T P and Fittings	H26.2	B302		
3N	Cast Bronze and Wrought Solder Joint Pressure Fitting	B16.22 H23.1 B16.18			
3O	Cast Bronze and Wrought Solder Joint D W V Fittings	B16.23			

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

	DESCRIPTION	ANSI	ASTM	FS	OTHER
3P	Copper Alloy Water Tube 1/2 Inch and 3/4 Inch		B447 B75		
3Q	Welded Brass Water Tube 1/2 Inch and 3/4 Inch		B587		
IV. LEAD PIPE AND FITTINGS					
4A	Lead Pipe AA			WW-P-325-44	
4B	Lead Pipe AAA			WW-P-325-44	
4C	Lead Bends and Traps			WW-P-325-44	
4D	Sheet Lead			QQ-L201d	
V. SILICA AND EARTH PRODUCTS PIPE AND FITTINGS, NON-METALLIC					
5A	Asbestos-Cement Pressure Pipe and Fitting		C500 C296	SS-P351	
5B	Asbestos-Cement Water Pipe and Fittings		C500	SS-P-351	AWWA C400
5C	Asbestos-Cement Non-Pressure Pipe and Fittings		C428	XX-P-331	
5D	Asbestos-Cement Perforated Underdrain Pipe and Fittings		C508		
5E	Vitrified Clay Pipe, Standard Strength and Stronger Fittings		C13 C200		
5F	Unglazed Clay Pipe, Extra Strength and Fittings		C278		
5G	Perforated Clay Pipe and Fittings		C211		
5H	Borosilicate Glass Pipe and Fittings 60 psi				
5J	Nonreinforced Concrete Draintile		C412		AASHO M178
5K	Nonreinforced Concrete Pipe		C14	SS-P-371	AASHO M86
5L	Perforated Concrete Pipe, Underdrainage		C444		
5M	Reinforced Concrete Pipe		C76	SS-P-375	

	DESCRIPTION	ANSI	ASTM	FS	OTHER
5N	Reinforced and Prestressed Concrete Pipe, Pressure Type and Fittings				
5O	Bituminized Fiber Drain and Sewer Pipe		D1860	SS-P-1540A	(Amended 8-31-72)
5P	Perforated Bituminized Fiber Pipe for General Drainage		D2311	SS-P-1540A	(Amended 8-31-72)
VI. PLASTIC PIPE AND FITTINGS					
	DRAIN, WASTE AND VENT				
	6A to 6E [Unchanged.]				
6F	Polyvinyl Chloride (PVC)	B72.2	D2241 D1785	L-P-1036 FHA UM-41	NSF14 CS256
6G	Polybutylene		D2662 D2666	~~NSF14~~	NSF14
	SPECIAL WASTES (Amended 12-26-72)				
6H	Polyethylene		D2239	LP 315a	PS10-69 PS11-69 PS12-69
6J	Polypropylene (Type II 24308)		D2146	~~D2146~~	

WATER DISTRIBUTION - Polybutylene (PB) systems (PB tubing together with recommended fittings) and chlorinated polyvinyl chloride (cpvc) pipe together with fittings must be tested by the manufacturer at 150 psi and 210 degrees Fahrenheit for a period of not less than 48 hours by an independent testing laboratory acceptable to the administrative authority.

6K	Polybutylene		D3309		
6L	Chlorinated polyvinyl chloride (CPVC)	119.1, 119.2	D2846		FHA Bulletin #76
	GENERAL DRAINAGE ASTM				
6M	Polyethylene (corrugated)		F405		

4715.0500 WATER SUPPLY SYSTEMS.

When selecting the material and size for water service pipe, tubing, or fittings, due consideration shall be given to the action of the water on the interior of the pipe and of the soil, fill, or other material on the exterior of the pipe.

Pipe and fitting materials for water service and distribution must be of a type specifically permitted by parts 4715.0510 and 4715.0520, and must be verified to contain no more than eight percent lead.

4715.0520 WATER DISTRIBUTION PIPE.

The following materials may be used for water distribution pipe:

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

[For text of items A to E, see M.R. 1989]

F. Copper tube 3H, 194 water tube 3H(a), or stainless water tubing 3H(b) with 3N fittings except that this material may not be buried under or embedded in a concrete slab.

[For text of items G to I, see M.R. 1989]

J. Plastic tubing 6K with fittings. Installation must be in accordance with International Association of Plumbing and Mechanical Officials (IAPMO) Installation Standard ~~22-82~~ 22-84.

K. Plastic pipe 6L and corresponding fittings. Installation must be in accordance with International Association of Plumbing and Mechanical Officials (IAPMO) Installation Standards ~~20-82~~ 20-84.

4715.0580 SOIL AND WASTE PIPING ABOVE GROUND.

For soil and waste piping, except special wastes, above ground, the following materials may be used:

[For text of items A to C, see M.R. 1989]

D. Copper 3F, 3H, 3J (hard temper only), and 3K with 3O fittings except these materials shall not be used to receive the wastes from urinals nor wastes from water closets in battery. These materials are not recommended for use in buildings served by septic tank sewage disposal systems.

[For text of items E and F, see M.R. 1989]

4715.0620 SUBSOIL DRAINS.

All materials listed in part 4715.0570 plus asbestos cement 5D, clay 5G, cement 5J, and cement 5L, perforated bituminized fiber pipe for general drainage 5P, and plastic 6A, 6B, ~~and~~ 6C, and 6M.

4715.0800 MECHANICAL JOINTS.

[For text of subps 1 to 4, see M.R. 1989]

Subp. 5. **Mechanical pipe couplings and fittings.** Couplings must be made with the housing fabricated in two or more parts of malleable iron castings in accordance with Federal Specification QQ-I-666c, Grand 11, or with ASTM A47 or ASTM A339. The coupling gasket must be molded synthetic rubber, per ASTM D-735-61, Grade No. R615BZ. Coupling bolts must be oval neck track head type with hexagonal heavy nuts, per ASTM-A-183-60, or ASTM A325.

Pipe fittings used with these pipe couplings must be fabricated or malleable iron castings in accordance with Federal Specifications QQ-I-666c, Grade 11, or with ASTM A47; ductile iron ASTM A339; segweld steel ASTM53 or A106.

These couplings and fittings may be used above ground, for storm drains and leaders, and for water distribution pipe ~~provided exposed parts in contact with water~~, and may be used below ground for water distribution if couplings and fittings are galvanized and the exposed grooves are coal tar enamel coated and wrapped.

All grooving of galvanized pipe must be by the cut groove method.

Subp. 6. **Extracted mechanical joint.** An extracted mechanical joint in copper water distribution pipe must be made by drilling through copper pipe and on retraction must extract a cup shaped extruded collar. The height of the collar must be at least three times the thickness of the copper tube wall and the radius of the extruded collar must be the same thickness as the copper tube wall from which it is being extruded. The joining branch tube must be contour-notched and a retaining dimple must be made before insertion into the extracted collar or another acceptable method must be used to provide proper insertion depth. The joint must be brazed with a brazing material meeting the requirements of part 4715.0820. The joint may be used above ground only.

Subp. 6a. **Field formed coupling for copper tubing.** A field formed coupling in copper water distribution pipe must be made by first annealing the area of the tubing where expansion is desired, and then using a hand tube expander to expand the tube end to accept tubing of the same type and size. Joint clearances must be from .001 to .005 inches, and suitable for the brazing filler metal used. The depth of the expanded area must be as recommended by the tube expander manufacturer, but in all cases must be at least four times the wall thickness of the tubing. All joints must be brazed in accordance with the requirements of part 4715.0820. The couplings must be used above ground only.

[For text of subp 7, see M.R. 1989]

4715.0805 PUSH-ON JOINTS.

Push-on joints may be used in cast iron and ductile iron water service pipe located underground outside the building, and must comply with ANSI-A21.11-85.

4715.0810 PLASTIC JOINTS.

Subpart 1. **Joint methods.** Every joint in plastic piping must be made with approved fittings using solvent welded connections, fusion welded connections, insert fittings with metal clamps and screws of corrosion-resistant material or approved crimp rings, threaded joints according to accepted standards, or special IAPMO listed fittings of other types. Large diameter water service pipe may have approved elastomeric-gasket push-on type joints. All solvent materials must meet approved recognized standards. Expansion and contraction joint materials and dimensions must conform to ASTM D 2661 or ASTM D 2665 and shall be of an approved type.

Subp. 2. **Primer.** Solvent weld joints in PVC and CPVC pipe must include use of a primer of contrasting color to the pipe and cement. A mechanical method of preparing PVC or CPVC pipe for solvent cement is not acceptable in lieu of using a primer.

4715.0820 SOLDERED OR BRAZED JOINTS.

Joints with copper tube with solder joint fittings must be soldered or brazed. Copper tubing must be reamed out to the full interior tubing dimension before soldered or brazed joints are made. Surfaces to be soldered or brazed must be thoroughly cleaned. Joints to be soldered must be properly fluxed with noncorrosive paste type flux. Solder and flux used in potable water systems must not contain more than 0.2 percent lead. Solder used for joints must have a nominal composition of 50 percent tin and 50 percent lead, 95 percent tin and five percent antimony, or 96 percent tin and four percent silver, conforming to ASTM Standard Specification for soft solder metal B32-76, except that 50 percent tin and 50 percent lead solder must not be used in potable water systems. ~~Joints to be brazed must be properly fluxed with a flux suitable for the brazing material which is used. Brazing material must conform to ASTM Standard Specification for Brazing Filler Metal B260-52T.~~ Alternative solders may be used only if shown to be suitable by a recognized testing laboratory or listing agency acceptable to the administrative authority, and the material is specifically approved by the administrative authority. Brazing must be done using methods and brazing filler metal suitable for the application and in accordance with industry standards.

4715.0860 SPECIAL JOINTS.

[For text of subps 1 to 5, see M.R. 1989]

Subp. 6. **Transition couplings.** A transition coupling is one which is to be used when pipes made of different materials are to be joined. A transition coupling may be made of elastomeric materials (ASTM C 425 and ASTM C 564) and 300 series stainless steel bands and bolts, except that an exterior corrosion-resistant shield to prevent outward expansion of the coupling must be included on above-ground installations. Any transition coupling joining plastic to plastic, copper to copper, or galvanized to galvanized, must be approved by the administrative authority.

[For text of subp 7, see M.R. 1989]

4715.1220 INSTALLATION OF FIXTURES.

Subpart 1. **Fixtures.** Fixtures ~~shall~~ must be set level and in proper alignment with reference to adjacent walls. No water closet ~~shall~~ may be set closer than 15 inches from its center to any side wall or partition nor closer than 30 inches, center to center, between toilets. At least a 24-inch clearance must be provided in front of water closets.

No urinal ~~shall~~ may be set closer than 15 inches from the center to any side wall or partition, nor closer than 24 inches, center to center, between urinals.

Wall-hung water closet bowls ~~shall~~ must be rigidly supported by a concealed metal hanger which is attached to the building structural members so that no strain is transmitted to the closet connector or any other part of the plumbing system.

Plumbing fixtures ~~shall~~ must be so installed as to afford easy access for cleaning both the fixture and the area about it. Where practical, all pipes from fixtures ~~shall~~ must be run to the nearest wall.

[For text of subps 2 and 3, see M.R. 1989]

4715.1240 BATHTUBS.

Subpart 1. **Outlets.** Bathtubs ~~shall~~ must have waste outlets and overflows at least ~~1 1/2~~ one and one-half inches in diameter. The waste control device ~~shall~~ must be located at the tub outlet.

Subp. 2. **Whirlpool bathtubs.** Whirpool bathtubs and their installation must comply with International Association of Plumbing and Mechanical Officials (IAPMO) standard PS 32-84.

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

4715.1260 DRINKING FOUNTAINS.

Drinking fountains ~~shall~~ must be constructed of impervious nonoxidizing material and ~~shall~~ must be so designed that they may be easily cleaned. The water should be carried to the fixture in an independent pipe, and no part of the fixture ~~shall~~ must be used in conveying water to the jet. The design of the fixture ~~shall~~ must be such that no part of the supply pipe can be submerged in the fixture, or in the waste pipe from the fixture. The jet ~~shall~~ must be slanting and the orifice of the jet ~~shall~~ must be protected in such a manner that it cannot be contaminated by droppings from the mouth or by splashing from the basin. The orifice of the jet ~~shall~~ must be at least one-half inch above the rim of the basin. All fountains should be so designed that their proper use is self-evident.

Installation of a combined cold water faucet and drinking fountain bubbler is prohibited for public use. If a drinking fountain bubbler is provided at a public use sink, it must have at least an 18-inch separation from any other faucet spout.

4715.1300 FLOOR DRAINS.

[For text of subps 1 to 4, see M.R. 1989]

Subp. 5. **Enclosed garages.** A floor drain in an enclosed garage must discharge to the sanitary sewer if a municipal sanitary sewer is available. Oil and flammable liquid separators must be provided if required by part 4715.1120 or the state building code.

4715.1305 ELEVATOR PIT DRAIN.

An elevator pit drain must discharge to the sanitary sewer using an indirect connection that precludes the possibility of sewage backup into the pit. If a sump is used, it must be outside the pit with a dry pan drain flowing to it.

4715.1380 SHOWERS.

[For text of subps 1 to 4, see M.R. 1989]

Subp. 5. **Anti-scald devices.** A shower or combination shower-bath in a new or remodeled installation must be equipped with an anti-scald type shower control valve. The valve must be of the thermostatic or pressure-balancing type in accordance with ANSI/ASSE standard 1016-79.

The temperature of mixed water to multiple showers must be controlled by a master anti-scald type thermostatic blender, or the showers must be individually equipped with approved anti-scald type shower control valves.

4715.1440 PROTECTION OF PLASTIC PIPE.

All plastic and copper pipe and tubing passing through studs or plates that are within one and one-fourth inches of the outside of the stud or plate must be protected by the provision of steel plates, at least 1/16 inch thick, attached to the outside of the stud or plate.

4715.1590 RECEPTORS OR SUMPS.

[For text of subps 1 to 3, see M.R. 1989]

Subp. 4. **Stand pipe receptors.** The stand pipe receptor for an automatic clothes washer shall be individually trapped and vented, except that multiple clothes washers in the same room may be discharged to multiple standpipes that are manifolded together and use a single trap. The stand pipe shall extend not more than 30 inches, nor less than 18 inches above its trap, and the trap shall be installed at least six inches above the floor.

[For text of subp 5, see M.R. 1989]

4715.1930 TOXIC MATERIALS AND USED PIPE.

Piping conveying potable water shall be constructed of nontoxic material.

No material or substances that could produce either toxic conditions, taste, odor, or discoloration in a potable water system shall be introduced into or used in such systems.

The interior surface of a potable water tank shall not be lined, painted, or repaired with any material which will affect either the taste, odor, color, or potability of the water supply when the tank is placed in or returned to service.

Piping which has been used for any other purpose then conveying potable water shall not be used for conveying potable water.

4715.1940 POTABLE WATER CONNECTIONS TO HEATING OR COOLING SYSTEMS.

Potable water connections to boiler feed water systems, cooling systems, or other liquid systems, in which water conditioning chemicals may be introduced shall be made through an air gap or provided with an approved backflow preventer located in the potable water line before the point where such chemicals may be introduced. Where a system is filled with an antifreeze or toxic solution a permanent tag will be placed in plain view stating "Caution, this system contains antifreeze/toxic solution." ~~There shall be no permanent direct connection between this system and the potable water supply to the building.~~

4715.1941 HEAT EXCHANGERS.

[For text of subps 1 and 2, see M.R. 1989]

Subp. 3. **Single-wall heat exchanger.** A single-wall heat exchanger may be used if it satisfies all of the following conditions:

[For text of item A, see M.R. 1989]

B. ~~The heat exchanger complies with Standard No. 11-03 for plate type heat exchangers published by the International Association of Milk, Food, and Environmental Sanitarians, 413 Kellogg Street, Ames, Iowa 50010. Use of other designs must be approved by the administrative authority, who shall grant approval if the alternate design is shown to provide the same degree of protection against potential cross-contamination as that provided by the design prescribed in Standard No. 11-03.~~

~~C.~~ Except where steam is used as the heat transfer medium, the pressure of the heat transfer medium must be less than the normal minimum operating pressure of the potable water system, and the system must be fitted with devices arranged to function automatically to maintain the pressure of the heat transfer medium entering the exchanger at a level below that of the potable water leaving the exchanger.

~~D~~ C. The equipment is permanently labeled to specify all constituents of the heat transfer medium, to indicate that only additives recognized as safe by the United States Food and Drug Administration may be used, and to show the hazards and reasons for not using another type of medium.

4715.2020 DEVICES FOR THE PROTECTION OF THE POTABLE WATER SUPPLY.

Approved devices to protect against backflow ~~preventers or vacuum breakers shall~~ and back-siphonage must be installed ~~with~~ at any plumbing fixture or equipment~~, the potable water supply outlet of which may be submerged and which cannot be protected by~~ where backflow or back-siphonage may occur and where a minimum air gap cannot be provided between the water outlet to the fixture or equipment and its flood level rim.

4715.2100 ~~VACUUM BREAKERS~~ BACKFLOW PREVENTERS.

~~Vacuum breakers shall be installed with the critical level at least six inches above the flood level rim of the fixture they serve and on the discharge side of the last control valve to the fixture. No shutoff valve or faucet shall be installed beyond the vacuum breaker. For closed equipment or vessels such as pressure sterilizers the top of the vessel shall be treated as the flood level rim but a check valve shall be installed on the discharge side of the vacuum breaker.~~

A. Atmospheric vacuum breaker (AVB):

(1) must be installed at least six inches above spill line (see special requirements in part 4715.2150);

(2) no possibility of back pressure permitted;

(3) only permitted on discharge side of last control valve; and

(4) no more than eight hours of continuous line pressure permitted.

B. Pressure vacuum breaker (PVB):

(1) must be installed at least 12 inches above spill line;

(2) no possibility of back pressure permitted; and

(3) continuous line pressure permitted.

C. Hose connection vacuum breaker (Hose VB):

(1) required for threaded hose connections;

(2) back pressure not permitted; and

(3) continuous line pressure not permitted.

D. Double-check valve with intermediate atmospheric vent (DCVIAV):

(1) permitted for low or moderate hazard with small pipe sizes;

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

(2) back pressure permitted; and

(3) continuous line pressure permitted.

E. Reduced pressure zone backflow preventer (RPZ):

(1) any degree of hazard permitted;

(2) back pressure permitted; and

(3) continuous line pressure permitted.

F. Double-check valve assembly (DCVA):

(1) permitted only for nontoxic, low hazard installations with nuisance or aesthetic concern;

(2) back pressure permitted; and

(3) continuous line pressure permitted.

4715.2110 ~~REDUCED PRESSURE ZONE BACKFLOW PREVENTER~~ TYPES OF DEVICES REQUIRED WHERE AN AIR GAP CANNOT BE PROVIDED.

~~A reduced pressure zone type backflow preventer may be installed subject to full static pressure.~~

	RPZ	DCV IAV	DCVA	PVB	AVB	Only allowed where no back pressure is possible Hose VB
Boiler, commercial	X					
Boiler, residential (R-3 occupancy)	X	X				
Car wash	X			X	X	
Carbonated beverage machine (post-mix) (see part 4715.2163)		X				
Chemical line	X					
Chemical tank	X			X	X	
Chiller	X					
Cooling tower	X	X		X	X	
Dental units	X	X		X	X	
Dishwasher, commercial				X	X	
Fire sprinkler system	X	X	X			
Flush tank (water closet, urinal, similar) (see part 4715.2150)	X		X	X		
Flush valve (water closet, urinal, similar) (see part 4715.2150)	X			X	X	
Food and beverage equipment or system	X	X	X	X	X	
Garbage can washer	X			X	X	
Glycol or other antifreeze system	X					
Lab equipment	X			X	X	
Lab faucet					X	
Laundry machine, commercial	X	X		X	X	
Lawn, garden or greenhouse sprinkler system	X			X	X	
Operating, dissection, embalming or mortuary table (see part 4715.1950)	X			X	X	
Private potable water supply (where permitted by administrative authority)	X	X	X			
Private nonpotable water supply (w.p.b.a.a.)	X					
Process line	X	X				
Process tank	X			X	X	
RV dump station	X	X		X	X	
Sewage treatment	X			X	X	

	RPZ	DCV IAV	DCVA	PVB	AVB	Hose VB
Soap dispenser	X	X		X	X	
Swimming pool, fountain, pond, baptistry, aquarium or similar	X	X		X	X	
Threaded hose connections, including: hose bibbs, hydrants, service sinks, laundry trays						X
Truck fill	X			X	X	
Vacuum systems or aspirators	X			X	X	

For installations not listed above, review with the Administrative Authority.

4715.2120 ~~DEVICES OF ALL TYPES~~ LOCATION OF BACKFLOW PREVENTERS.

Backflow and back-siphonage preventing devices ~~shall~~ must be ~~accessibly~~ located so as to be readily accessible, preferably in the same room with the fixture they serve. Installation in utility or service spaces, provided they are readily accessible, is also permitted.

The access area must provide enough space for testing and maintenance of the device. A backflow preventer must not be installed in a pit or other confined area subject to recurrent flooding. When a conductor pipe is provided from a backflow preventer drain, a visible air gap must be provided at the device.

4715.2163 CARBONATED BEVERAGE MACHINES.

Postmix type carbonated beverage machines must have an approved double-check valve with an intermediate atmospheric vent type backflow preventer in the water line preceding the carbonator. There must be no copper tubing in the system down line of the backflow preventer.

4715.2190 COMBINATION WATER AND SPACE HEATING EQUIPMENT.

Equipment used for heating domestic or service hot water and for space heating must be installed with a mixing valve to permit the user to control the temperature of the domestic or service hot water regardless of the space heating demand.

The installation must include a drainage port and isolation valve to permit the user to purge the heating coils to waste after the nonheating season, or the system must be designed to automatically prevent stagnation.

The water heater must be specifically approved by the manufacturer for use as a combination hot water and space heater.

All pipes, joints, and appurtenances in the system must be of a type approved for potable water distribution. This provision is not intended to address the wall thickness of heating coils, which must be the responsibility of the manufacturer.

4715.2230 TANKLESS AND INSTANTANEOUS TYPE HEATERS.

Tankless and instantaneous type water heaters require pressure relief valves only. Instantaneous electric water heaters that have Underwriters Laboratory approval for use without a relief valve, and that have space containing the heating element of less than three inches in diameter, may be installed without a pressure relief valve.

4715.2260 INSTALLATION OF REDUCED PRESSURE BACKFLOW PREVENTERS.

Subpart 1. **Notification of installation.** The administrative authority must be notified before installation of a reduced pressure backflow preventer.

Subp. 2. **Testing and maintenance.** The installation of reduced pressure backflow preventers shall be permitted only when a periodic testing and inspection program conducted by qualified personnel will be provided by an agency acceptable to the administrative authority. Inspection intervals shall not exceed one year, and overhaul intervals shall not exceed five years. They shall be inspected frequently after initial installation to assure that they have been properly installed and that debris resulting from the piping installation has not interfered with the functioning of the device.

Subp. 3. **Inspection and records.** A test and inspection tag must be affixed to the device. The tester shall date and sign the tag and include the tester's backflow preventer tester identification number. Written records of testing and maintenance must be maintained and submitted to the administrative authority.

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

4715.2440 DESIGN OF SUMPS.

[For text of subps 1 to 3, see M.R. 1989]

Subp. 4. **Covers.** Sumps and receiving tanks ~~shall~~ must be provided with gastight metal covers, except that float control or switch rods ~~shall~~ must operate without binding. ~~Such~~ The cover ~~shall~~ must be of a bolt and gasket type or equivalent manhole opening to permit access for inspection, repairs, and cleaning. Covers must be metal or other structurally-sound material that is water-resistant and impervious to moisture, and must be adequate to support anticipated loads in the area of use.

[For text of subps 5 to 7, see M.R. 1989]

REVISOR'S INSTRUCTION. In the next and subsequent editions of *Minnesota Rules*, the revisor of statutes shall give the parts listed in Column A the new numbers listed in Column B and correct all cross-references to the renumbered parts.

Column A	Column B
4715.0210, first paragraph	4715.0200, item A
4715.0210, second paragraph	4715.0200, item B
4715.0210, third paragraph	4715.0200, item C
4715.0210, fourth paragraph	4715.0200, item D
4715.0220, first paragraph	4715.0200, item E
4715.0220, second paragraph	4715.0200, item F
4715.0220, third paragraph	4715.0200, item G
4715.0220, fourth paragraph	4715.0200, item H
4715.0220, fifth paragraph	4715.0200, item I
4715.0220, sixth paragraph	4715.0200, item J
4715.0230, first paragraph	4715.0200, item K
4715.0230, second paragraph	4715.0200, item L
4715.0230, third paragraph	4715.0200, item M
4715.0230, fourth paragraph	4715.0200, item N
4715.0240, first paragraph	4715.0200, item O
4715.0240, second paragraph	4715.0200, item P
4715.0240, third paragraph	4715.0200, item Q
4715.0240, fourth paragraph	4715.0200, item R
4715.0240, fifth paragraph	4715.0200, item S
4715.0250, first paragraph	4715.0200, item T
4715.0250, second paragraph	4715.0200, item U
4715.0260	4715.0200, item V
4715.0270	4715.0200, item W
4715.1930	4715.1911
4715.1970	4715.1912
4715.2260	4715.2161
4715.2270	4715.2162

REPEALER. *Minnesota Rules*, parts 4715.2130; 4715.2140; 4715.3900; and 4715.4000, are repealed.

Department of Administration

Proposed Permanent Rules Relating to Minnesota State Building Code

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Administration proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes* section 16B.61.

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

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient

number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.13 to 14.20.

PLEASE NOTE: That if twenty-five or more persons submit written requests for a public hearing within the 30 day comment period, a hearing will be held on February 2, 1990, unless a sufficient number withdraw their request in accordance with the notice of hearing on these same rules published in the *State Register* and mailed to persons registered with the State Department of Administration. To verify whether a hearing will be held, please call the Department of Administration, Building Codes and Standards Division between the hours of 8:00 a.m. to 4:30 p.m., on February 1, 1990, at (612) 296-4626.

Persons who want to submit comments or written requests for a public hearing must submit such comments or requests to:

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

Comments or requests for a public hearing must be received by the Department of Administration, Building Codes and Standards Division, by 4:30 p.m. on January 31, 1990.

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

A free copy of this rule is available on request for your review from Margaret White.

The proposed rule establishes minimum uniform rules for the State of Minnesota by adopting a model code, namely, the SAFETY CODE FOR ELEVATORS AND ESCALATORS ASME/ANSI A17.1-1987 AND ASME/ANSI A17.1a-1988 ADDENDA and making amendments to it in order to be consistent with *Minnesota Statutes* and laws and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the information relied on to support the proposed rule has been prepared and is available from Margaret White on request.

It is felt by the Building Codes and Standards Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, section 14.115, division 1, and pursuant to *Minnesota Statutes*, section 14.115 subdivision 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11

If no hearing is required on adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Margaret White.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held on February 2, 1990, at the Sheraton Airport Hotel, 2525 East 78th Street, Bloomington, Minnesota 55425, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

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

PLEASE NOTE, HOWEVER, that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the Department of Administration, Building Codes and Standards Division. To verify whether a hearing will be held, please call the Building Codes and Standards Division between 8:00 a.m. and 4:30 p.m., on February 1, 1990, at (612) 296-4626.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to Steve M. Mihalchick, Administrative Law Judge, Office of Administrative Hearings, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 349-2544, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed rule establishes minimum uniform rules for the State of Minnesota by adopting a model code, namely, the SAFETY CODE FOR ELEVATORS AND ESCALATORS ASME/ANSI A17.1-1987 AND ASME/ANSI A17.1a-1988 and making amendments to it in order to be consistent with *Minnesota Statutes* and laws and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 16B.61.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

It is felt by the Building Codes and Standards Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, section 14.115, division 1, and pursuant to *Minnesota Statutes*, section 14.115 subdivision 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to:

Margaret White
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

Additional copies will be available at the hearing. If you have any questions on the content of the rule you may contact Margaret White, Elroy Berdahl or Alvin Kleinbeck at (612) 296-4639.

NOTICE: A person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00 not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials;

b) who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Statement of Need and Reasonableness

The above-captioned proposed rules are amendments to the state elevator code and the existing *Minnesota State Building Code.*

Pursuant to *Minnesota Statutes* Section 16B.61 the Commissioner of Administration is charged with the responsibility of promulgating the *Minnesota State Building Code* which contains a Chapter 1320 entitled, "Elevator, and Related Devices Section 1320.0100 to 1320.2400." It is the duty of the Commissioner to amend the *Minnesota State Building Code* to maintain the most modern code standards regarding minimum safeguards of life, limb, health, property and public welfare together with regulating and controlling the design construction and quality of materials, use and maintenance of building, structures and appurtenances.

The *Minnesota State Building Code Rules, 1987* printing, effective February 9, 1987, Minnesota Rules 1320.0100 to 1320.2400 adopted by reference the *American National Safety Code* for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI-A17.1-1984 including supplement ANSI-A17.la-1985 as a part the code. The promulgation of the code amended these documents as deemed necessary. The proposed amendments to the 1987 publication of the rules update the *Minnesota State Building Code* to incorporate the adoption of the 1987 Edition of the *American National Standard Safety Code* for Elevators and Escalators A17.1-1987 together with supplement A17.la-1988 and A17.3-1986 as published by the American National Standard Institute and the American Society of Mechanical Engineers (ANSI/ASME), United Engineering Center, 345 East 47th Street, New York, New York 10017. Part XII of the proposed ANSI A17.1, 1987 has been revised to clarify the difference between repairs and replacements versus alterations, which includes modernization. As a minimum, all elevators being modernized must comply with A17.3. We quote Rule 1200.1:

Rule 1200.1—Conformance With Safety Code for Existing Installations

"When any alteration is made regardless of any other requirements of this Part, all installations, as a minimum, shall conform to the requirements of the ANSI/ASME A17.3 Safety Code for Existing Elevators and Escalators."

The history of accidents involving sub-standard equipment related to hoistway and car doors, interlocks, drum machines, electrical protective devices, car safeties, etc., revealed the need for a code covering existing elevators and escalators. Previous to the establishing of A17.3 code, the equipment standard was established only by the code in effect at the time of original installation, rather than the latest A17.1 code. The AI7.1 code has very limited retroactive requirements related only to inspection, maintenance and alterations. The A17.3 Code had been in preparation for 5 years.

The proposed rules will delete in its entirety Chapter 1320 of the *Minnesota State Building Code* and will relocate the proposed rules as amendments to Chapter 51 of the 1988 Edition of the *Uniform Building Code.*

The proposed rules conform as far as practicable to model building codes. They reflect amendments for regional utilization in keeping with the legislative intent of *Minnesota Statutes* Section 16B.61. The amendments provide for a reorganization of certain sections currently found in the rules and the placement of the proposed rules in a dedicated chapter within the *Uniform Building Code*, namely Chapter 51, entitled Elevators, Dumbwaiters, Escalators and Moving Walks.

Any business entity which constructs, expands or remodels a building is required to comply with the *Minnesota State Building Code* when applicable. When adopted, these proposed rules become part of the Minnesota State Building Code and will be applicable to all future construction, when required, and certain conditions when expansion or remodeling is encountered.

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

Compliance requirements of items (a), (b), (c), and (e) are not appropriate because the purpose of these rules is to establish a minimum uniform standard for the construction and installation of elevators and other related devices within all public, private,

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

commercial, industrial or residential structures within the State of Minnesota to protect life, limb, health, property, and public welfare of the residents of the state at the least possible cost consistent with recognized standards. *Minnesota Statutes* section 16B.59 (1988). To exempt small businesses from any or all requirements of the rules would be contrary to the statutory objectives that are the basis of the proposed rulemaking, *Minnesota Statutes* section 16B.59, 16B.61 and 16B.64. The legislature has specifically mandated that the uniformity of building standards is in the public interest. *Minnesota Statutes* section 16B.61 states in part:

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

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

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

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

The following is the evidence and argument which supports the need for and reasonableness of the proposed rule:

General	Present Chapter 1320.0100 to 1320.2400 of the Minnesota State Building Code is repealed in its entirety and any pertinent requirements found in these sections are relocated into the appropriate sections of Chapter 51 of the Uniform Building Code, 1988 Edition. The formulation of these new rules has taken into consideration the substance found in the current state building code, Appendix Chapter 51 of the Uniform Building Code and Chapter 51 of the Uniform Building Code has been used in the formulation of these new proposed rules to develop a workable approach as well as having the requirements a part of the Uniform Building Code which is used by the design professions, construction industry and inspectional services for the enforcement of the state building code. It is intended that the location of the requirements for elevators and related devices will make it easier to apply and enforce when all the requirements are located in one section of the code instead of many. The following is an item by item explanation of the sections of the proposed rules.
1305.5101 Purpose	This part describes the purpose of providing the avenue of safety to humans and property when these types of people moving and materials handling devices are installed and used within various structures and for various applications. Without a purpose there would be no direction for use and application.
1305.5102 Scope	The scope of this section identifies the application of the rules to all new as well as existing units requiring the securing of permits and inspection of these devices when any installation, maintenance or repair is performed on the devices. This section also identifies local government responsibility as well as that of the Department of Labor and Industry and identified where an exception to the rules is provided.
1305.5103 ANSI Code ADOPTED BY Reference	This section identifies which ANSI/ASME standards are adopted by reference and made a part of the code just as though they would be set out verbatim in the code. These standards are recognized national standards and are not subject to change on a whim but undergoes a due process in their change process. When adopted, these referenced standards will be placed on file with the Commissioner of Administration as well as the State Law Library.
1305.5104 Definitions	The definitions found in this section are of terms used in the body of the rule and are intended to amplify the understanding of their use within these rules. It identifies that there are two different authorities having jurisdiction over the permit, inspection and acceptance of these devices in the state. It also helps to clarify what an existing installation is when applying the rules to existing installations as compared to new installations.
1305.5105 Permits	The inclusion of this section will require that permits will be required for the installation of the listed devices. This section outlines the process of application, submission of plans and specifications, issuance of a certificate of operations, a permit fee requirement so that a more appropriate record of

the installation of these devices may be provided for those authorities having jurisdiction. This vehicle of control will assist in the maintenance of these devices so that life safety considerations are maintained.

1305.5106 Inspections, Tests and Approval

This section further amplifies some of the requirements found in 1305.5105 by establishing the process of approval of plans, inspection and tests, issuing of a certificate of operation when appropriate. Item (d) allows for the temporary use of at least one elevator prior to the completion of a new building or structure. This part is needed to allow limited use of the equipment when necessary, provided sufficient tests have been made.

1305.5107 Accidents

This item is needed so that the authority having jurisdiction will be notified when accidents happen either to persons or apparatus and the requirement of an investigation to be made to verify the claim. This section also gives the authority having jurisdiction the power and responsibility to order a unit out of service until it has been made safe to operate again and restricts the removal of damaged parts without such jurisdiction permission.

1305.5108 Design, Special Provisions

This item outlines the specific requirements and design of elevator or related device systems for use in buildings or structures. The specific requirements described in this section should leave no doubt as to what is required, the specific locations of certain identifying devices, size of car platforms, minimum door sizes, required protective devices, inside car dimensions, location and construction of car controls which are suitable for persons with physical disabilities. All the items 1 to 15 with their sub-subjects establish minimum requirements and are needed to indicate to the unit builder, building contractor, elevator installer, authority having jurisdiction, elevator inspector and ultimate owner what is required to provide a safe installation for daily operation. Each of these items must be a part of a complete installation of an elevator.

1305.5109 Elevator and Dumbwaiter Hoistway Enclosures

The items contained in this section are needed to provide a safe enclosure to house these vertical movement devices. It is necessary to provide for construction of a fire safe nature when penetrations of floor and roof-ceiling systems are encountered. This section when properly administered should maintain the fire-resistent characteristic of the buildings in which they are installed.

1305.5110 Hoistway Venting

Venting of hoistway is necessary to provide a route of escape of smoke and hot gases to the exterior of the building to contribute to additional safety of the building if a hazard is encountered. The rule allows for an alternative method of providing resistance against a chimney effect within the building by providing pressurization within the building by providing pressurization of the enclosure.

1305.5111 Elevator Machine Room Floors

This section is necessary because the venting of the shaft through the machine room without such control could cause irrepairable damage to the controls and cable system if exposed to smoke and certain hot gases.

1305.5112 Amendments to ANSI A17.1 1987

The following amendments are made to the referenced American National Standards Institutes A17.1 1987 Edition and is language which is currently in rule 1320. It is felt that these amendments are necessary for continued life safety of the product installation and operation.

Two new amendments are added to this section that addresses a concern: (1) that the moving handrail and the treadway of an escalator travel at approximately the same speed and that if the handrail device should stop for some reason an alarm would sound and the treadway movement would be stopped. (2) If a treadway device fails for some reason a mechanism must be provided to stop the action of the treadway. These measures are necessary to avoid any potential of the treadway from entering the passenger area and cause an accident or injury.

1305.5113 Inclined and Vertical Wheelchair Lifts

The amendments to the referenced ANSI A17.1-1987 found in this section are the same as that found in the current chapter 1320 of the state code. It is necessary to retain these amendments to provide continued provision of safety to life in the installation and use of these wheelchair lift devices.

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

1305.5114 Stage and Orchestra Lifts	This is the same language found in the current Chapter 1320 and is retained as a part of the code because it is not specifically addressed in the ANSI A17.1 standard. Original reference can be found in 9 SR1557.
1305.5115 Endless Best Lifts	This is a new item in the elevator code to address the design, installation and maintenance of these devices. The rules of Department of Labor and Industry, 5205.0550 to 5205.0590 provides the added requirements necessary for safe installation and operation of these system. This section is used for a cross reference to other agency rules when such an installation is encountered in the plan review of a building or during construction or renovation in an existing building.
1305.5116 Temporary Interior and Exterior Hoists	This is a carry over from existing Chapter 1320 and is necessary to provide guidance for the installation and applications of these devices.
1305.5117 Mechanical Parking Garage Equipment	This language is also found in the current chapter 1320 and is retained to provide guidance with this type of equipment and provide reference for the appropriate ANSI standard for its installation and application.
1305.5118 Existing Installations	This section is essentially the same as rule 1320.0300 in the current code. It is retained to provide guidance when working with an existing installation. It remains necessary to retain this section to provide guidance for the correction of a system which has becomes damaged or unsafe.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Rules as Proposed (all new material)

ELEVATORS AND RELATED DEVICES

1305.5101 PURPOSE.

Sec. 5101. The provisions of parts 1305.5101 to 1305.5118 are to safeguard life, limb, property, and public welfare by establishing minimum requirements relating to the design, construction, installation, alteration and repair, and operation and maintenance of passenger elevators, freight elevators, handpowered elevators, dumbwaiters, escalators, moving walks, temporary hoists, stage and orchestra lifts, endless belt lifts, wheelchair platform lifts, and other related devices.

1305.5102 SCOPE.

Sec. 5102. Parts 1305.5101 to 1305.5118 apply to new and existing installations of elevators and related devices, requiring permits therefore and providing for the inspection and maintenance of the conveyances. The requirements for the enforcement of these provisions are established by this chapter.

ANSI/ASME A17.1, Part XXI, is the administrative responsibility of the municipal building official and a legislative statute exempts the Department of Labor and Industry from the enforcement of these regulations in owner-occupied buildings of no more than four dwelling units.

1305.5103 ANSI CODE ADOPTED BY REFERENCE.

Sec. 5103. The American National Standard Safety Code for Elevators and Escalators adopted by the American National Standards Institute and the American Society of Mechanical Engineers (ANSI/ASME) A17.1-1987, together with supplement A 17.la-1988 and ANSI A17.3-1986, as published by the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, New York 10017, is incorporated by reference and made a part of this code except as qualified or amended in this chapter. These standards are not subject to frequent change and are available in the office of the commissioner of administration.

1305.5104 DEFINITIONS.

Sec. 5104. (a) "ANSI Code" means the ANSI/ASME A17.1 Code-1987, with supplement A17.la-1988 and ANSI A17.3-1986, Safety Code for Elevators and Escalators, an American National Standard published by the American Society of Mechanical Engineers.

(b) "Authority Having Jurisdiction" means the building code enforcement agency of local government for areas where the code is enforced or the Department of Labor and Industry in areas outside the enforcement sphere of local government.

(c) "Existing installation" means one for which, before the effective date of this code:

1) all work of installation was completed; or

2) the plans and specifications were filed with the enforcing authority and work was begun not later than 12 months after approval of the plans and specifications.

1305.5105 PERMITS.

Sec. 5105. (a) Permits Required. It is unlawful for any person, firm, or corporation to hereafter install any new passenger elevators, freight elevators, handpowered elevators, moving walks, escalators, dumbwaiters, wheelchair platform lifts, endless belt lifts, or any other related device, or make major alterations to any existing passenger elevators, moving walks, escalators, dumbwaiters, wheelchair platform lifts, endless belt lifts, or any other related device without having first obtained a permit for the work from the authority having jurisdiction. Alterations, modifications, and practical difficulties will be done in keeping with the rules of the Department of Labor and Industry.

Exception: A Certificate of Operation will not be required for a conveyance installed within a dwelling unit for the singular use of the occupant of the dwelling unit.

(b) Application for Permit. Application for a permit to install or repair must be made on forms provided by the authority having jurisdiction.

(c) Plans and Specifications. Plans and specifications describing the extent of the work involved must be submitted with the application for a permit. The authority having jurisdiction may require that such plans and specifications be prepared by an architect or engineer licensed to practice in Minnesota. A permit will be issued to the applicant when the plans and specifications have been approved and the appropriate permit fee specified in this code has been paid by the applicant.

(d) Certificate of Operation Required. It is unlawful to operate an elevator, dumbwaiter, escalator, moving walk, or related device without a current Certificate of Operation issued by the authority having jurisdiction. The certificate will be issued upon payment of prescribed fees and the presentation of a valid inspection report indicating that the conveyance is safe and that the inspections and tests have been performed in accordance with Part X of the ANSI code. A certificate will not be issued when the conveyance is posted as unsafe.

(e) Application for Certificate of Operation. Application for a certificate of operation must be made by the owner, or an authorized representative, for an elevator, dumbwaiter, escalator, moving walk, or other related device. The application must be accompanied by an inspection report. Fees for the Certificate of Operation must be as specified by the administrative authority.

(f) Fees. Fees for the installation, alteration, or repair of devices covered in this section are as set forth in the fee schedule adopted by the jurisdiction or in the cases under permit issuance by the Department of Labor and Industry will be as established by the Department of Labor and Industry. A recommended fee schedule structure is located in UBC Appendix Chapter 51.

1305.5106 INSPECTION, TESTS, AND APPROVALS.

Sec. 5106. (a) Approval of plans. Any person, firm, or corporation desiring to install, relocate, alter materially, or extend any installation covered by this chapter must be required to obtain approval for doing so from the authority having jurisdiction. Two sets of drawings and specifications showing the installation, relocation, alteration, or extension must be submitted for approval.

(b) Inspections and tests. It is unlawful for any person, firm, or corporation to put into service any installation covered by parts 1305.5101 to 1305.5118 whether the installation is newly installed, relocated, or altered materially without the installation being inspected and approved by the authority having jurisdiction. The installer of any equipment included in this chapter must notify in writing the authority having jurisdiction seven days before completion of the installation for inspection. The authority having jurisdiction may require tests as described in ANSI A17.1-1987 Edition and supplement ANSI A17.1a-1988 and ANSI A17.3-1986 to prove the safe operation of the installation.

(c) Approval. A certificate or letter of approval must be issued by the authority having jurisdiction for the installation when the entire installation is completed in conformity with this code. The installation must include all enclosures or shafts, gates, doors, machinery safety and control devices, and all other appurtenances necessary.

(d) Limited use of an elevator. When a building or structure is to be equipped with one or more elevators, at least one of the elevators may be approved for limited use before completion of the building or structure. The use of the elevator may be permitted by the

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

authority having jurisdiction under the authority of a limited permit issued for each class of service. The limited permit must specify the class of service permitted and it must not be issued until the elevator has been tested with a rated load and the car safety and terminal stopping equipment have been tested to determine the safety of the equipment. Permanent enclosures must be in place on the car and around the hoistway and at the landing entrance on each floor.

1305.5107 ACCIDENTS.

Sec. 5107. (a) To be reported. The owner or person in control of an elevator or other installation covered by this code must promptly notify the authority having jurisdiction of any accident to a person or apparatus on, about, or in connection with an elevator or other installation, and must afford the authority having jurisdiction every facility for investigating the accident and the resultant damage. Notification may be given to the authority having jurisdiction by telephone or verbally. The notification must also be confirmed in writing.

(b) Investigation. The authority having jurisdiction must make or cause to be made an investigation of the accident, and the report of the investigation must be placed on file in its office. The report must give in detail the cause or causes, so far as can be determined, and the report must be available for public inspection.

(c) Operation discontinued. When an accident involves the failure or destruction of a part of the installation or the operating mechanism, the elevator or other installation must be taken out of service and must not be used again until it has been made safe and the reuse approved by the authority having jurisdiction. The authority having jurisdiction may, when necessary, order the discontinuance of operation of any such elevator or installation until a new certificate of operation has been issued.

(d) Removal of parts restricted. No part of the damaged installation, construction, or operating mechanism must be removed from the premises until permission is granted by the authority having jurisdiction.

1305.5108 DESIGN; SPECIAL PROVISIONS.

Sec. 5108. For detailed design, construction, and installation requirements, see UBC Chapter 23 and the appropriate requirements of the ANSI Code as well as the special provisions cited in this code.

(a) Number of Cars in Hoistway. When there are three or fewer elevator cars in a building, they may be located within the same hoistway enclosure. When there are four elevator cars, they must be divided in such a manner that at least two separate hoistway enclosures are provided. When there more than four elevators, not more than four elevator cars may be located within a single hoistway enclosure.

(b) Elevator Lobby Enclosures. Elevator lobby enclosures, when required, must comply with UBC Section 1807(h). When an elevator lobby enclosure is not required, an area of the ceiling area of the corridor outside the elevator shaft opening(s) must be provided with a draft curtain of glass set in metal frames or construction complying with the construction type of the building to provide an area for the control of the products of combustion.

(c) Door Operation. Each elevator lobby or entrance must be provided with an approved smoke detector. The operation of such detectors may be set at the maximum sensitivity.

(d) Standby Power. Standby power when required by UBC Section 1807 must be capable of providing power to all elevators necessary to serve all floors of the building. Standby power must be manually transferable to all elevators in each bank.

Standby power must be provided by an approved self-contained generator set to operate automatically whenever there is a loss of electrical power to the building. The generator set must be located in a separate room enclosed by at least a one-hour fire-resistive occupancy separation. The generator must have a fuel supply adequate to operate the equipment connected to it for a minimum of two hours.

Note: A bank of elevators is a group of elevators or a single elevator controlled by a common operating system; that is, all those elevators which respond to a single call button constitute a bank of elevators. There is no limit to the number of cars which may be in a bank or group, but there may be not more than four cars within a common hoistway.

(e) Size of Cab and Control Location. When required by chapter 1340, all floors of buildings served by an elevator or elevators must be of a size that will accommodate a wheelchair, as follows:

1. Operation and leveling. Elevator operation must be automatic. Each car must be equipped with a self-leveling feature that will automatically bring to the floor landings within a tolerance of one-half inch under normal loading and unloading conditions. The self-leveling feature must be entirely automatic and independent of the operating device and must correct the overtravel or undertravel. The car must also be maintained approximately level with the landing, irrespective of load.

2. Door operation. Power-operated horizontally sliding car and hoistway doors opened and closed by automatic means must be provided.

3. Door size. Minimum clear width for elevator doors must be 36 inches.

Exception: When approved by the authority having jurisdiction, the minimum door width may be reduced to 32 inches for cars with dimensions as permitted by the exception to UBC Section 5107(e) 6.

4. Door protective and reopening device. The reopening device must be capable of sensing an object or person in the path of a closing door without requiring contact for activation at a nominal five inches and 29 inches above the floor. Door reopening devices must remain effective for a period of not less than 20 seconds.

5. Door delay (passenger service time).

A. Hall call. The minimum acceptable time from notification that a car is answering a call (lantern and audible signal) until the doors of that car start to close must be as indicated in the following table:

DISTANCE (in feet)	TIME
0 to 5	4 seconds
10	7 seconds
15	10 seconds
20	13 seconds

The distance must be established from a point in the center of the corridor or lobby (maximum five feet) directly opposite the farthest hall button to the center line of the hoistway entrance.

B. Car call. The minimum acceptable time for doors to remain fully open must be not less than three seconds.

6. Car inside. The car inside must allow the turning of a wheelchair. The minimum clear distance between walls or between wall and door, excluding return panels, must be not less than 68 inches by 54 inches. Minimum distance from wall to return panel must be not less than 51 inches.

Exception: When approved by the authority having jurisdiction, existing elevators provided in schools, institutions, or other buildings may have a minimum clear distance between walls or between wall and door, excluding return panels, of not less than 54 inches by 54 inches. Minimum distance from wall to return panel must be not less than 51 inches.

7. Car controls. Controls must be readily accessible from a wheelchair upon entering an elevator. The center line of the alarm button must be at a nominal 35 inches, and the highest floor button no higher than 54 inches from the floor. Floor registration buttons, exclusive of border, must be a minimum three-fourths inch in size, raised, flush, or recessed. Visual indication must be provided to show each call registered and extinguished when call is answered. Depth of flush or recessed buttons when operated must not exceed three-eighths inch. Markings must be adjacent to the controls on a contrasting color background to the left of the controls. Letters or numbers must be a minimum of five-eighths inch high and raised or recessed 0.030 inch. Applied plates permanently attached are acceptable. Emergency controls must be grouped together at the bottom of the control panel. Controls not essential to the automatic operation of the elevator may be located as convenient.

8. Car position indicator and signal. A car position indicator must be provided above the car operating panel or over the opening of each car to show the position of the car in the hoistway by illumination of the indication corresponding to the landing at which the car is stopped or passing. Indications must be on a contrasting color background and a minimum of one-half inch in height. In addition, an audible signal must sound to tell a passenger that the car is stopping or passing a floor served by the elevator. A special button located with emergency controls may be provided. Operation of the button will activate an audible signal only for the desired trip.

9. Telephone or intercommunicating system. A means of two-way communication must be provided between the elevator and a point outside the hoistway connected to an approved emergency service which operates on a 24-hour daily basis. If a telephone or other communicating device is provided, it must be located a maximum of 54 inches from the floor to the dial or key pad on the phone or other operating device, with a minimum receiver cord length of 29 inches. Markings or the international symbol for telephones must be adjacent to the control on a contrasting color background. Letters or numbers must be a minimum of five-eighths inch high and raised or recessed 0.030 inch. Applied plates permanently attached are acceptable.

10. Floor covering. Floor covering must have a nonslip hard surface which permits easy movement of wheelchairs. If carpeting is used, it must be securely attached, heavy duty, with a tight weave and low pile, installed without padding.

11. Handrails. A handrail must be provided on at least one wall of the car, preferably the rear. The handrails must be smooth, a maximum diameter of 1-1/2 inches and the inside edge of the handrail surface located at least 1-1/2 inches clear of the walls mounted at a height of 32 inches from the floor.

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

Note: 32 inches is required to reduce interference with car controls where lowest button is centered at 35 inches above the floor.

12. Minimum illumination. The minimum illumination at the car controls and the landing when the car and landing doors are open must be not less than five footcandles.

13. Hall buttons. The center line of the hall call buttons must be a nominal 42 inches above the floor. Direction buttons, exclusive of border, shall be a minimum of three-fourths inch in size, raised, flush, or recessed. Visual indication must be provided to show each call registered and extinguished when the call is answered. Depth of flush or recessed button when operated must not exceed three-eighths inch.

14. Hall lantern. A visual and audible signal must be provided at each hoistway entrance indicating to the prospective passenger the car answering the call and its direction of travel. The visual signal for each direction must be a minimum of 2-1/2 inches in size and visible from the proximity of the hall call button. The audible signal must sound once for the up direction and twice for the down direction. The center line of the fixture must be located a minimum of six feet from the floor. The use of in-car lanterns conforming to above and located in the jamb are acceptable.

15. Door jamb marking. The floor designation must be provided at each hoistway entrance on both sides of the jamb visible from within the car and the elevator lobby centered at a height of 60 inches above the floor. Designations must be on a contrasting background two inches high and raised 0.030 inch. Applied plates permanently attached are acceptable.

(f) Stretcher requirements. In buildings with elevators requiring Phase I and II operation, at least one elevator must be provided with a minimum clear distance between walls or between walls and door excluding return panels, not less than 80 inches by 54 inches, and a minimum distance from wall to return panel not less than 51 inches with a 42-inch side slide door, unless otherwise designed to accommodate an ambulance-type stretcher 76 inches by 24 inches in the horizontal position. In buildings where one elevator does not serve all floors, two or more elevators may be used.

(g) Emergency signs. Except at the main entrance level, an approved pictorial sign of a standard design must be posted adjacent to each elevator call station which will indicate that, in case of fire, the elevator will not operate and that exits should be used.

(h) Restricted or limited-use elevators. The authority having jurisdiction may waive the requirements of this section for any elevator designed for limited or restricted use serving only specific floors or a specific function.

1305.5109 ELEVATOR AND DUMBWAITER HOISTWAY ENCLOSURES.

Sec. 5109. (a) Walls and partitions enclosing elevator and dumbwaiter shafts and escalator shafts must be constructed with materials not less than the fire-resistive construction required under Type of Construction in Part IV of the Uniform Building Code.

(b) Partitions between fire-resistive hoistways and machine rooms having fire-resistive enclosures and which are located at a side of or beneath the hoistway may be of unperforated noncombustible material at least equal to 0.0598 inch thick sheet steel in strength and stiffness with openings essential for ropes, drums, sheaves, and other elevator equipment.

(c) All hoistway openings must be provided with fire-resistive protective assemblies. The fire resistance rating must not be less than 1-1/2 hours when installed in two hour fire-resistance-rated construction. Protective assemblies installed in fire-resistance-rated construction of less than two hours must have ratings required by the Uniform Building Code. The fire-resistance rating must be determined by the test specified in Part XI, Rule 1102 of ANSI/ASME A17.1-1987.

1305.5110 HOISTWAY VENTING.

Sec. 5110. (a) Shafts (hoistways) housing elevators extending through more than two floor levels shall be vented to the outside. The area of the vent shall be not less than 3-1/2 percent of the area of the elevator shaft, provided a minimum of three square feet per elevator is provided.

The venting of each individual hoistway must be independent from any other hoistway venting, and the interconnection of separate hoistways for the purpose of venting is prohibited. Vents must be manually openable or remote control automatic vents. Location of operating devices is subject to approval of the authority having jurisdiction. Vents must be located in the side of the hoistway enclosure directly below the floor or floors at the top of the hoistway, and must open either directly to the outer air or through noncombustible ducts to the outer air; or in the wall or roof of the penthouse or overhead machinery space above the roof when the openings have a total area not less than the minimum specified in this section. Vents passing through machine rooms must be in noncombustible ducts. When a vent is installed in the roof of the hoistway, a protective grille must be provided to prevent persons from failing into the hoistway.

(b) If air pressurization of a hoistway is used as a means of smoke and hot gas control, the air must not be introduced into the hoistway in such a manner as to cause erratic operation by impingement of traveling cables, selector tapes, governor ropes, compensating ropes, and other components sensitive to excessive movement or deflection.

1305.5111 ELEVATOR MACHINE ROOM FLOORS.

Sec. 5111. Elevator hoistways must not be vented through an elevator machine room unless such venting is accomplished by an approved duct system installed through the elevator machine room.

1305.5112 AMENDMENTS TO ANSI A17.1-1987.

ANSI A17.1 Rule 112.5 is amended to read as follows:

Where required by Rule 112.3d or Rule 112.4, a power-operated car door or gate must be provided with a reopening device which will function to stop and reopen a car door or gate and the adjacent hoistway door in the event that the car door or gate is obstructed while closing. If the closing kinetic energy is reduced to 2-1/2 foot-pounds or less, the reopening device may be rendered inoperative (see Rule 112.4-a).

For center-opening doors, the reopening device must be so designed and installed that the obstruction of either door panel when closing will cause the reopening device to function.

Doors on all passenger elevators must not be solely dependent upon the door edge reopening device for protection from the doors closing on an obstruction, but must also be provided with an approved light beam or electronic door protection device. Doors closed by automatic means must be provided with a door reopening device which will function to stop and reopen the car door and adjacent hoistway door in case the car is obstructed while closing. For vertically sliding doors or gates, reopening devices must respond to any obstruction within the width of the opening to a point five inches maximum from each side of the opening.

ANSI A17.1 Rule 211.3d is amended to read as follows:

On emergency elevators all keyed switches installed to operate the elevator or emergency service must be keyed alike to a pattern approved by the authority having jurisdiction. In lieu of the above, keys for emergency elevator service may be in a metal box placed in a location approved by the authority having jurisdiction, if the box is locked with a five-pin tumbler core lock or equivalent which is keyed to the same pattern.

ANSI A17.1 Rule 602.1 is amended by adding a fourth paragraph to read as follows:

All handpowered elevators must be equipped with a broken rope safety device.

ANSI A17.1 Rule 703.1 is amended by adding a second paragraph to read as follows:

All dumbwaiters must be equipped with a broken rope safety device.

ANSI A17.1a-1988 Rule 902.4a Handrails, is amended as follows:

902.4a Type Required. Each balustrade must be provided with a handrail moving in the same direction and at substantially the same speed as the treadway. A stopped handrail device must be provided that will cause the immediate activation of the alarm required by Rule 805.1b and, after not more than 15 seconds interruption of power to the driving machine motor and brake.

ANSI A17.1a-1988 Rule 905.1d Broken Treadway Device is amended as follows:

ANSI A17.1a-1988 Rule 905.1d Broken Treadway Device. A device must be provided which will cause interruption of power to the driving machine and brake if the connecting means between pallets or the belt breaks. Pallet type moving walks must be provided with a device which will cause interruption of power to the driving machine when a displaced or lost pallet is detected. Interruption of power must occur prior to the displaced or lost pallet entering the passenger walkway area.

ANSI A17.1 Rule 2000 is amended by adding the following language:

1305.5113 INCLINED AND VERTICAL WHEELCHAIR LIFTS. This part applies to vertical wheelchair lifts (ANSI Section 2000), and inclined wheelchair lifts (ANSI Section 2001), installed in buildings other than in or at a private residence for use by the physically handicapped. Wheelchair lifts do not meet the accessibility requirements contained in chapter 1340. See ANSI A17.1, Part XXI for the requirements for this equipment installed in or at a private residence.

The wheelchair lifts must not be exposed to the outside elements. Testing, tests, and inspections must be made in accordance with the applicable provisions of part 1305.5117.

ANSI A17.1 Rule 2000.6D is amended to read as follows:

Car and platform illumination lighting must comply with rule 204.7.

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

ANSI A17.1 Rule 2001.1a is amended to read as follows:

Rule 2001.1a Means of egress. Lifts must be installed so that the means of egress is maintained as required by the authority having jurisdiction.

When installed at ramps or stairs, the lift must be separated from the ramp or stair by a solid guard rail not less than 42 inches in height. Handrails complying with the requirements of the UBC Section 3306(j) must be provided on the ramp or stairway side of the guardrail.

ANSI A17.1 Rule 2001.6f is amended to read as follows:

Platform illumination lighting must comply with rule 204.7.

ANSI A17.1 Rule 2002 is deleted in its entirety.

1305.5114 STAGE AND ORCHESTRA LIFTS.

Stage and orchestra lifts must be designed, installed, constructed, and maintained so as to be reasonably safe to life, limb, and adjoining property and must be reviewed by the authority having jurisdiction prior to installation or construction.

1305.5115 ENDLESS BELT LIFTS.

Endless belt lifts must be designed, installed, constructed, and maintained so as to be reasonably safe to life, limb, and adjoining property and must conform to the rules of the Department of Labor and Industry, parts 5205.0550 to 5205.0590.

1305.5116 TEMPORARY INTERIOR AND EXTERIOR HOISTS.

Temporary interior and exterior hoists must be designed, constructed, installed, and maintained so as to be reasonably safe to life, limb, and adjoining property and must conform to Safety Requirements for Workman's Hoists, ANSI 10.4-1963, Safety Requirements for Material Hoists, ANSI 10.5-1969, and rules of the Department of Labor and Industry.

1305.5117 MECHANICAL PARKING GARAGE EQUIPMENT.

Mechanized parking garage equipment must be designed, constructed, installed, and maintained so as to be reasonably safe to life, limb, and adjoining property and must conform to the standards specified in the American Standard Safety Code for Mechanized Parking Garage Equipment, ANSI A113.1 (R-1971).

1305.5118 EXISTING INSTALLATIONS.

(a) Conditions for continued operation. All existing installations may be continued in service as long as they are properly maintained and are, in the opinion of the authority having jurisdiction, installed and maintained in a safe condition. The authority having jurisdiction may order the installation of car gates, car tops, and car walls extended to the car top on all existing installations. The authority having jurisdiction must have the authority to shut down any piece of equipment covered by this chapter, which in the opinion of the authority having jurisdiction, is dangerous to life, limb, and adjoining property, and the equipment must not be put back into operation until the unsafe condition has been corrected and approved by the authority having jurisdiction.

(b) Damaged installations. Any installation, whether new or existing, which becomes damaged, defective, or worn, by fire or other causes including ordinary wear to such extent that in the opinion of the authority having jurisdiction it is dangerous to life, limb, and adjoining property, such installations must be repaired or rebuilt in conformity with this code. The equipment must, if in the opinion of the authority having jurisdiction, it is found necessary to protect life, limb, and property, be taken out of service until the unsafe condition has been removed.

(c) Unsafe conditions. When an inspection reveals an unsafe condition, the inspector must immediately file with the owner and the authority having jurisdiction a full and true report of the inspection and the unsafe condition. If the administrative authorities' agent finds that the unsafe condition endangers human life, limb, and property, the inspector shall place a notice, in a conspicuous location, on the elevator, escalator, or moving walk that the conveyance is unsafe. The owner shall see to it that the notice of unsafe condition is legibly maintained where placed by the authority having jurisdiction. The authority having jurisdiction must issue an order in writing to the owner requiring the repairs or alterations to be made to the conveyance which are necessary to render it safe, and may order the operation discontinued until the repairs or alterations are made or the unsafe conditions are removed. A posted notice of unsafe conditions must be removed only by the authority having jurisdiction when satisfied that the unsafe conditions have been corrected.

Compliance must be in accordance with the requirements of ANSI A17.3-1986.

REPEALER. *Minnesota Rules*, parts 1320.0100; 1320.0200; 1320.0300; 1320.0400; 1320.0500; 1320.0600; 1320.0605; 1320.0610; 1320.0615; 1320.0620; 1320.0625; 1320.0630; 1320.0635; 1320.0638; 1320.0640; 1320.0645; 1320.0650; 1320.0655; 1320.0660; 1320.0665; 1320.0670; 1320.0675; 1320.0680; 1320.0785; 1320.2001; 1320.2005; 1320.2010; 1320.2015; 1320.2020; 1320.2025; 1320.2030; 1320.2035; 1320.2100; 1320.2200; 1320.2300; and 1320.2400, are repealed.

Department of Administration

Proposed Permanent Rules Relating to State Building Code

Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Administration, Building Codes and Standards Division in cooperation with the State Board of Electricity intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* section 16B.61 and 326.241 to 326.248.

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

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdrew their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.
If no hearing is requested, the agency will adopt the proposed rule to be effective no sooner than July 1, 1990.

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

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

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

A copy of the proposed rule is available from the Building Codes and Standard Division.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identified the data and information relied upon to support the proposed rule has been prepared and is available from the agency upon request.

Copies of the *1990 National Electrical Code* are in general distribution and may be reviewed at the Minnesota Building Codes and Standard Division and obtained from the State Board of Electricity.

YOU ARE ADVISED, pursuant to *Minnesota Statutes*, Section 14.11 "Special Notice of Rulemaking", the adoption of these rules will not have any impact on agricultural land nor should the expenditure of public money exceed $100,000 in either of the two years following the adoption of these rules. Also, pursuant to *Minnesota Statutes*, Section 14.115, Subd. 2, the Building Codes and Standards Division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed. The proposed rules do not require businesses to make reports to the requirements for reporting required in items (a), (b) and (c) are not applicable. Compliance requirements of items (a), (b), (c) and (e) are not appropriate because the purpose of rules is to establish a minimum standard for the application and installation of electrical wiring and its associated materials in all public, private, commercial, industrial and residential structures within the State of Minnesota to protect life, limb, health, property, and public welfare of the residents at the least possible cost consistent with recognized standards. *Minnesota Statutes* Section 16B.59 (1984). To exempt small businesses from any or all requirements of the rules would be contrary to statutory obligations that are the basis of the proposed rulemaking, *Minnesota Statutes* Section 16B.59, 16B.61 and 16B.64. The legislature has specifically mandated that the uniformity of construction standards is in the public interest. *Minnesota Statutes* Section 16B.61 states in part: The code must conform insofar as practicable to model codes generally accepted and in use throughout the United States.

Minnesota Statutes Section 14.115 Subd. 2(d) calls for the establishment of performance standards for small businesses as one method of reducing the adverse impact of rules upon them. The *National Electrical Code* is based on the application of scientific

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

principles, approved tests and professional judgement; and to the extent practicable are terms or results rather than requiring specific methods and materials.

Since performance standards apply across the board to all entities subject to the code, the methods of reducing the impact of rules provided by Subd. 2(d) has been utilized. No special changes are necessary for small businesses.

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

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

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislation or administrative action by communicating or urging others to communicate with public officials; or,

b) Who spends more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 N. Robert St., St. Paul, Minnesota 55101, (612) 296-5148.

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

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Statement of Need and Reasonableness

The Minnesota State Building Code Chapter 1300 includes the adoption of current model codes and amendments to these model codes. One of these model codes is the *National Electrical Code* (ANSI/NFPA 70) copyright National Fire Protection Association, One Battery March Park, Post Office Box 9101, Quincy, Massachusetts 02269-9101, that provides for electrical design and construction. The National Electrical Code is updated and printed every three years.

The Minnesota Electrical Act *Minnesota Statutes* 326.243 Safety Standards; requires that the "most recently published edition of the National Electrical Codes as approved by the United States of America Standard Institute and the National Electrical Safety Code as issued by the National Bureau of Standards shall be prima facie evidence of accepted standards of construction for safety to life and property... Minnesota building code shall also constitute compliance with the section...." Therefore the new 1990 edition is the most recent edition of the *National Electrical Code* and must be incorporated in the *Minnesota State Building Code*. Authorization for building code adoption of the *National Electrical Code* is provided in *Minnesota Statutes* Sec. 16B.64.

Adopting the 1990 Edition of the *National Electrical Code* complies with the intent of *Minnesota Statutes* Sec. 16B.64 and Sec. 326.243, for the safety of Minnesota citizens.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Rules as Proposed

1315.0200 SCOPE.

Subpart 1. **Electrical code.** All new electrical wiring, apparatus, and equipment for electric light, heat, power, and alarm and communication systems must comply with the regulations contained in the ~~1987~~ 1990 edition of the National Electrical Code (NEC) as approved by the American National Standards Institute (ANSI/NFPA ~~70-1987~~ 70-1990), *Minnesota Statutes*, section 326.243, and the Minnesota State Building Code as promulgated by the commissioner of administration.

Department of Human Services

Proposed Permanent Rules Relating to Community Alternatives for Disabled Individuals Under Age 65

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, section 256B.04, subdivision 2; section 256B.091, subdivision 9, and section 256B.49.

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

Any person may make a written request for public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. **PLEASE NOTE: That if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held on February 9, 1989, unless a sufficient number withdraw their request, in accordance with the notice of public hearing on these same rules published in this *State Register* and mailed to persons registered with the State Department of Human Services.** To verify whether a hearing will be held, please call the Department of Human Services between February 2, 1990 and February 8, 1990 at (612) 296-7454.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Eleanor Weber, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on February 1, 1990.

In preparing these rules, the agency has considered the requirements of *Minnesota Statutes*, section 14.115 in regard to the impact of the proposed rules on small businesses. The agency believes that *Minnesota Statutes*, section 14.115 does not apply to these rules but in the event that section 14.115 does apply, the agency invites the public comment in writing to Eleanor Weber. Furthermore, if any person knows of anyone who may be affected as a small business, the person may address this concern in writing to Eleanor Weber.

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

A free copy of this rule is available upon request for your review from: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, or by calling (612) 296-7454.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

The Community Alternatives for Diabled Individuals Program (CADI), a medical assistance program under a waiver from the Health Care Financing Administration of the United States Department of Health and Human Services, provides medical assistance payment for home and community-based services to medical assistance eligible individuals under the age of 65 who are applicants to or residents of a nursing home. The rule incorporates basic medical assistance service methods and standards except insofar as the waiver authorizes differences. The waiver permits medical assistance payment from CADI funds for certain services such as homemaker services that are not eligible under the State Medicaid plan and removes the State Medical Plan restrictions as to number of visits or hours reimbursed for other services such as extended home health visits. The home and comunity-based services available through CADI funding include adaptations, adult day care, case management, extended home health services, extended personal care services, family support services, homemaker services, independent living skills services, respite care services, and medical supplies and equipment.

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

The proposed rules establish standards for: determining whether an individual is eligible for CADI services; preadmission screening of CADI applicants and the resulting recommendations of the preadmission screening team; the cost limitations applicable to the individual's services under the waiver; the individual's care plan; the documents required to be submitted to the commissioner for the commissioner's review and decision about whether to approve the request for CADI services; reassessment of a recipient to determine continued eligibility as a CADI recipient; the home and community-based services to be provided through CADI funds to CADI recipients; the responsibilities of a local agency including the designation of a lead agency to implement the county's CADI program; the procedure to obtain providers of CADI services and the contract requirements; and the right of an individual to appeal a denial, reduction, termination, or suspension of CADI services.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 at (612) 296-7454 upon request.

The rules implement projected decrease in costs reported in the approved waiver. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7475.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Eleanor Weber, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Ann Wynia
Commissioner

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 400 South, State Office Building, 100 Constitution Avenue, St. Paul, MN 55155 on February 9, 1990 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER: that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the Department of Human Services. To verify whether a hearing will be held, please call the Department of Human Services between February 2, 1990 and February 8, 1990 at (612) 296-7454.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Barbara L. Nielson, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7604, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency, may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The Community Alternatives for Disabled Individuals Program (CADI), a medical assistance program under a waiver from the Health Care Financing Administration of the United States Department of Health and Human Services, provides medical assistance payment for home and community-based services to medical assistance eligible individuals under the age of 65 who are applicants to or residents of a nursing home. The rule incorporates basic medical assistance service methods and standards except insofar as the waiver authorizes differences. The waiver permits medical assistance payment from CADI funds for certain services such as homemaker services that are not eligible under the State Medicaid plan and removes the State Medicaid Plan restrictions as to number of visits or hours reimbursed for other services such as extended home health visits. The home and community-based services available through CADI funding include adaptations, adult day care, case management, extended home health services, family support services,

homemaker services, independent living skills services, respite care services, and medical supplies and equipment.

The proposed rules establish standards for: determining whether an individual is eligible for CADI services; preadmission screening of CADI applicants and the resulting recommendations of the preadmission screening team; the cost limitations applicable to the individual's services under the waiver; the individual's care plan; the documents required to be submitted to the commissioner for the commissioner's review and decision about whether to approve the request for CADI services; reassessment of a recipient to determine continued eligibility as a CADI recipient; the home and community-based services to be provided through CADI funds to CADI recipients; the responsibilities of a local agency including the designation of a lead agency to implement the county's CADI program; the procedure to obtain providers of CADI services and the contract requirements; and the right of an individual to appeal a denial, reduction, termination, or suspension of CADI services.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 256B.04, subdivision 2; section 256B.091, subdivision 9 and section 256B.49.

In preparing these rules, the agency has considered the requirements of *Minnesota Statutes*, section 14.115 in regard to the impact of the proposed rules on small businesses. The agency believes that *Minnesota Statutes*, section 14.115 does not apply to these rules but in the event that section 14.115 does apply, the agency invites public comment at the public hearing. Furthermore, if any person knows of anyone who may be affected as a small business, the person may address this concern at the public hearing.

The rules implement projected decreases in costs reported in the approved waiver. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7454.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Lynda Adams at (612) 296-1551.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11 as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spends more than $250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Ann Wynia
Commissioner

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

Rules as Proposed (all new material)

9505.3010 SCOPE AND EFFECT.

Subpart 1. **Scope.** Parts 9505.3010 to 9505.3140 establish standards and procedures for the community alternatives for disabled individuals program. The community alternatives for disabled individuals program allows Medicaid to pay for approved community-based services provided to eligible persons. The community-based services allow persons who would otherwise reside in a nursing home to remain at home or return to the community. Those persons must meet the requirements of part 9505.3035.

Parts 9505.3010 to 9505.3140 must be read in conjunction with section 1915(c) of the Social Security Act; *Minnesota Statutes*, sections 256B.04, subdivision 2; 256B.05; 256B.091, subdivisions 1 to 8; 256B.49; 256B.491; Code of Federal Regulations, title 42, sections 440.180 and 441.300 to 441.310, amended through October 1, 1987; and parts 9505.2390 to 9505.2500. Parts 9505.3010 to 9505.3140 must be read in conjunction with the requirements of the waiver obtained by the state from the United States Department of Health and Human Services.

Subp. 2. **Effect.** Parts 9505.3010 to 9505.3140 are effective only as long as the waiver from the United States Department of Health and Human Services remains in effect in Minnesota.

9505.3015 DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part apply to parts 9505.3010 to 9505.3140.

Subp. 2. **Adaptations.** "Adaptations" means minor physical modifications to the home, adaptive equipment, and minor modifications to vehicles as specified in part 9505.3075.

Subp. 3. **Adult day care services.** "Adult day care services" means services provided to recipients by adult day care centers licensed under parts 9555.9600 to 9555.9730 and adult day care family homes established under *Minnesota Statutes*, sections 245A.01 to 245A.17.

Subp. 4. **Applicant.** "Applicant" means a person under age 65 or the representative of a person under age 65 who applies to participate in the community alternatives for disabled individuals program rather than enter a nursing home. Applicant also means a person or the representative of a person who has been admitted to a nursing home as a resident, but who has requested an assessment under part 9505.3025 to participate in the CADI program.

Subp. 5. **Assessment form.** "Assessment form" means the form supplied by the commissioner that is used to record the information required under parts 9505.2425, subpart 1 and 9505.3025.

Subp. 6. **Care plan or individual plan of care.** "Care plan" or "individual plan of care" means the written plan of a combination of services designed to meet the health and community-living needs of an applicant according to part 9505.3030.

Subp. 7. **Case management services.** "Case management services" means the services as specified in part 9505.3070 that identify, assist in gaining access to, authorize, and coordinate services for a recipient; monitor the delivery of services to the recipient; adjust services to the needs of the recipient; and advocate for the rights of the recipient to assure the health and safety of the recipient.

Subp. 8. **Case manager.** "Case manager" means a social worker employed by or under contract with the local agency, or a registered nurse who is employed by the local public health department or under contract with the local agency to provide case management. Local agency in this subpart means the local agency in the county of service.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's authorized representative.

Subp. 10. **Community alternatives for disabled individuals or CADI.** "Community alternatives for disabled individuals" or "CADI" means certain community-based services further described in parts 9505.3070 to 9505.3110 provided under a waiver to physically disabled individuals under the age of 65 who require the level of care provided in a nursing home. CADI services allow the persons to remain in their homes.

Subp. 11. **County of financial responsibility.** "County of financial responsibility" has the meaning given it in *Minnesota Statutes*, section 256G.02, subdivision 4.

Subp. 12. **County of service.** "County of service" means the county in which the applicant or recipient resides.

Subp. 13. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 14. **Directory of services.** "Directory of services" means the list of home and community-based services specified in part 9505.2395, subpart 17.

Subp. 15. **Extended home health services.** "Extended home health services" means the home health services specified in part 9505.3085.

Subp. 16. **Extended personal care services.** "Extended personal care services" means the personal care services specified in part 9505.3090.

Subp. 17. **Family.** "Family" means the persons who live with or provide informal care to a disabled individual. Family may include a spouse, children, friends, relatives, foster family, or in-laws.

Subp. 18. **Family support services; counseling and training.** "Family support services; counseling and training" means the services specified in part 9505.3095.

Subp. 19. **Formal caregivers.** "Formal caregivers" means persons or entities providing CADI services who are employed by or under contract with a local agency, or other agency or organization, public or private. Formal caregiver does not include case manager.

Subp. 20. **Home.** "Home" means the recipient's place of residence other than a nursing home. It includes a home owned or rented by the recipient, or a member of the recipient's family or foster family.

Subp. 21. **Home and community-based services.** "Home and community-based services" refers to services that provide adaptations and adult day care, case management, extended home health, extended personal care, family support, homemaker, independent living skills, respite care services, and medical supplies and equipment to a recipient through CADI.

Subp. 22. **Homemaker services.** "Homemaker services" means the services specified in part 9505.3100.

Subp. 23. **Independent living skills services.** "Independent living skills services" means supervision, training, or assistance to a recipient in self care, communication skills, socialization, sensory or motor development, reduction or elimination of inappropriate or maladaptive behavior, community living, and mobility that is provided by individuals or agencies qualified to provide independent living skills services.

Subp. 24. **Informal caregivers.** "Informal caregivers" means family, friends, neighbors, and others who provide services to and assist recipients without reimbursement for the services.

Subp. 25. **Lead agency.** "Lead agency" means the social service or public health agency approved by the county board to administer the CADI program.

Subp. 26. **Local agency.** "Local agency" means the county or multicounty agency authorized under *Minnesota Statutes*, section 256B.05, to administer the medical assistance program.

Subp. 27. **Medical assistance.** "Medical assistance" means the program including the CADI program established under title XIX of the Social Security Act and *Minnesota Statutes*, chapter 256B.

Subp. 28. **Mental illness.** "Mental illness" means, in the case of an adult, an illness as defined in *Minnesota Statutes*, section 245.462, subdivision 20, or, in the case of a child, an emotional disturbance as defined in *Minnesota Statutes*, section 245.4871, subpart 15.

Subp. 29. **Nursing home.** "Nursing home" means a facility, including a boarding care facility, licensed under *Minnesota Statutes*, chapter 144A, that is certified to participate in the medical assistance program.

Subp. 30. **Nursing home resident.** "Nursing home resident" means a person who lives, and expects to continue to live, in a nursing home for more than 30 days. For purposes of parts 9505.3010 to 9505.3140, nursing home resident does not include a person who is in a nursing home for respite care.

Subp. 31. **Person with mental retardation or a related condition.** "Person with mental retardation or a related condition" means a person as defined in part 9525.0015, subpart 20.

Subp. 32. **Personal care assistant.** "Personal care assistant" means a person who provides extended personal care services and meets the standards of part 9505.0335 or 9505.3090.

Subp. 33. **Physician.** "Physician" means a person who is authorized to practice medicine under *Minnesota Statutes*, chapter 147.

Subp. 34. **Preadmission screening or screening.** "Preadmission screening" or "screening" means the activities established under *Minnesota Statutes*, section 256B.091, subdivisions 1 to 4, and specified in part 9505.3025.

Subp. 35. **Preadmission screening team or team.** "Preadmission screening team" or "team" means the team defined in part 9505.2395, subpart 39, that is required under part 9505.3025 to assess the health and social needs of an applicant for CADI services.

Subp. 36. **Primary caregiver.** "Primary caregiver" has the meaning given it in part 9505.2395, subpart 40. The primary caregiver is designated by the recipient as his or her primary caregiver. Primary caregiver additionally means an informal caregiver of a recipient.

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

Subp. 37. **Public health nurse.** "Public health nurse" means a registered nurse certified by the Minnesota Department of Health as a public health nurse under *Minnesota Statutes*, section 145A.02, subdivision 18, and employed by a public health nursing service as defined in subpart 38.

Subp. 38. **Public health nursing service.** "Public health nursing service" means the nursing program provided by a board of health under *Minnesota Statutes*, section 145.10, subdivision 1.

Subp. 39. **Reassessment.** "Reassessment" means the reevaluation of a CADI recipient's health and community-living needs under part 9505.3060.

Subp. 40. **Recipient.** "Recipient" means a person determined to be eligible for CADI services according to part 9505.3035, who chooses to receive the CADI services identified in the person's care plan, and whose services have been initiated.

Subp. 41. **Registered nurse.** "Registered nurse" means a person licensed under *Minnesota Statutes*, section 148.211.

Subp. 42. **Representative.** "Representative" means a person appointed by the court as a guardian or conservator under *Minnesota Statutes*, sections 252A.01 to 252A.21 or 525.539 to 525.6198; a spouse; a parent of a child under age 18 unless the parent's parental rights have been terminated; a person designated by a power of attorney or a durable power of attorney; or a person authorized by the applicant or recipient under part 9505.0015, subpart 8.

Subp. 43. **Resident class.** "Resident class" means the case mix classification assigned to a person as required under parts 9549.0058, subpart 2, and 9549.0059.

Subp. 44. **Respite care services.** "Respite care services" means short-term supervision, assistance, and care provided to a recipient, due to the temporary absence or need for relief of the primary caregiver.

Subp. 45. **Room and board costs.** "Room and board costs" means costs of providing food and shelter to a recipient including the identifiable direct costs of:

A. private and common living space;

B. normal and special diet food preparation and service;

C. linen, bedding, laundering, and laundry supplies;

D. housekeeping including cleaning and lavatory supplies;

E. maintenance and operation of buildings and grounds, including fuel, electricity, water, supplies, and parts and tools to repair and maintain equipment and facilities; and

F. salaries and other costs related to items A to E.

Subp. 46. **Skilled nursing service.** "Skilled nursing service" means the term defined in Code of Federal Regulations, title 42, section 405.1224.

Subp. 47. **Slot.** "Slot" means an opening available for services to the person under the waiver.

Subp. 48. **Social worker.** "Social worker" means a person who has met the minimum qualifications of a social worker under the Minnesota Merit System or a county civil service system in Minnesota.

Subp. 49. **State medical review team.** "State medical review team" means a team consisting of physicians and social workers who are under contract with or employed by the department to review a medical and social history to determine whether a person is disabled under the regulations of the Social Security Administration.

Subp. 50. **Vehicle.** "Vehicle" means a vehicle owned by the recipient or a member of the recipient's family or foster family that is used to transport a recipient with sensory or mobility defects.

Subp. 51. **Waiver.** "Waiver" means the document approved by the United States Department of Health and Human Services which allows the state to pay for home and community-based services authorized under Code of Federal Regulations, title 42, part 441, subpart G. The term includes all amendments to the waiver including any amendments made after the effective date of parts 9505.3010 to 9505.3140, as approved by the United States Department of Health and Human Services.

Subp. 52. **Waiver year.** "Waiver year" means October 1 to the following September 30.

Subp. 53. **Working day.** "Working day" has the meaning given it in part 9505.2395, subpart 56.

9505.3020 PREADMISSION SCREENING OF CADI APPLICANTS.

Preadmission screening is required for all applicants for home and community-based services under CADI. The screening must incorporate the requirements of the 1987 Omnibus Budget Reconciliation Act, Public Law Number 100-203, about appropriate nursing home placement for persons with mental illness and for persons with mental retardation or related conditions.

9505.3025 DUTIES OF PREADMISSION SCREENING TEAM.

Subpart 1. **General procedure for preadmission screening.** The preadmission screening team must conduct the preadmission screening of a CADI applicant as specified in parts 9505.2425, subparts 1; 2; 3, items A, B, C, and D; 4; and 14; and 9505.3020. Additionally, the preadmission screening team must:

A. inform the applicant about eligibility requirements for CADI as specified in part 9505.3035 and the services available through CADI;

B. give the person who is not a medical assistance recipient a medical assistance application and help the person complete the medical assistance application as required under parts 9505.0010 to 9505.0150;

C. in the case of an applicant applying on or after October 1, 1989, who was not a nursing home resident on October 1, 1989, inform the applicant about the right of the applicant and the applicant's spouse to retain assets up to the amount specified in *Minnesota Statutes*, section 256B.059; and

D. in the case of an applicant applying before October 1, 1989, inform the applicant about the right of the applicant and the applicant's spouse to retain assets that were exempt from consideration before October 1, 1989.

Subp. 2. **Local agency data sharing with lead agency.** Upon the lead agency's request, the local agency must provide the lead agency with information the local agency has concerning the medical assistance eligibility or social service needs of an applicant.

Subp. 3. **Team recommendations for CADI applicants.** After completing the assessment form required under part 9505.2425, subpart 1, and the assessment interview required under part 9505.2425, subpart 2, the team must recommend one of the choices in items A to E.

A. The team must recommend admission to a nursing home when:

(1) the assessment indicates that the applicant needs the level of care provided by a nursing home and that the home and community-based services that the applicant would need in lieu of nursing home care are not currently available; or

(2) the assessment indicates that the anticipated cost to medical assistance of providing the needed home and community-based services and medical assistance home care services would exceed the limit specified in part 9505.3040.

B. The team must recommend continued stay in a nursing home when:

(1) the assessment indicates that the resident needs the level of care provided by a nursing home and that the home and community-based services that the resident would need in lieu of nursing home care are not currently available; or

(2) the assessment indicates that the anticipated cost to medical assistance of providing the needed home and community-based services and medical assistance home care services would exceed the limit specified in part 9505.3040.

C. The team must recommend health and social services including CADI services and, if needed, medical assistance home care services when the assessment indicates that the applicant needs the level of care provided by a nursing home; the services needed by the applicant to be at home are available or can be developed; and the anticipated cost of providing the services is within the limit specified in part 9505.3040.

D. The team must recommend health and social services including CADI services and, if needed, medical assistance home care services when the assessment indicates that the applicant who is a nursing home resident needs the level of care provided by a nursing home; the home and community-based services needed by the applicant are available or can be developed; and the anticipated cost of providing the necessary services is within the limit specified in part 9505.3040.

E. The team must recommend that the applicant live in the community without home and community-based services if the assessment indicates that the person is not an applicant to or resident of a nursing home, does not require nursing home care, or does not need home and community-based services.

Subp. 4. **Application for CADI services; request for case manager.** If the team recommends the use of home and community-based services and the applicant chooses to remain in the community with the recommended services, the team must request that the person complete and sign an application for home and community-based services under CADI. To be eligible to receive CADI services, the person must also be eligible for medical assistance. If the person's eligibility for medical assistance has not been determined, a financial worker shall accompany the team to the screening to take an application for medical assistance. If the applicant signs the

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

application for home and community-based services under CADI, the preadmission screening team must notify the lead agency and request the lead agency to assign a case manager.

Subp. 5. **Notice of preadmission screening team recommendation.** The preadmission screening team must give notice of the team recommendation made under subpart 3 as specified in part 9505.2425, subpart 8. Additionally, the team must obtain the consent of the applicant or, if appropriate, the applicant's representative for the purpose of notifying the applicant's physician.

Subp. 6. **Information to county of financial responsibility.** If the county of service is different from the county of financial responsibility, the preadmission screening team of the county of service must submit information about the applicant to the county of financial responsibility within ten working days after the preadmission screening is completed. The information must include:

A. a copy of the preadmission screening document;

B. a copy of the signed application required in subpart 4;

C. a copy of the preadmission screening assessment form;

D. a copy of the care plan as specified in part 9505.3030 that includes services to be provided and the estimated monthly cost of services; and

E. the person's medical assistance eligibility status.

Subp. 7. **County of financial responsibility action.** The county of financial responsibility shall review the information submitted by the preadmission screening team of the county of service and keep a file on the CADI applicant. The county of financial responsibility must sign off on the care plan and approve the application if the applicant meets the eligibility requirements in part 9505.3035 and has been assigned a slot by the department. Disputes about the county of financial responsibility must be resolved according to *Minnesota Statutes*, section 256G.09.

9505.3030 INDIVIDUAL CARE PLAN.

Subpart 1. **Care plan development.** The case manager must develop a care plan on a form provided by the commissioner for an applicant who has chosen to remain in or return to the community and who is eligible for CADI services under parts 9505.3010 to 9505.3140. The case manager must develop the plan in consultation with:

A. the applicant;

B. the applicant's representative, if any, and;

C. with the applicant's consent:

(1) the applicant's family;

(2) the primary caregiver if applicable;

(3) the applicant's physician; and

(4) any other individuals who are currently involved in meeting the applicant's health or community-living needs.

Subp. 2. **Care plan contents.** The care plan must include:

A. care objectives;

B. prescriptions for medications, restorative or rehabilitative services, diet, special procedures, and other health or community-living services recommended for the health or safety of the applicant;

C. a description of the health care and social services necessary to maintain the person in the community;

D. the frequency, scope, and duration of each of the services;

E. the designation of who will deliver each of the services described in the plan including both formal and informal providers;

F. the schedule for review and evaluation of the care plan;

G. an estimate of the total monthly cost of CADI and medical assistance services identified and recommended by the team as specified under part 9505.3025, subpart 3; and

H. the payment source for each service.

Subp. 3. **Directory of services.** In developing the recipient's care plan, the case manager must use the directory of services as specified in part 9505.2425, subpart 7.

Subp. 4. **Signatures on care plan.** The case manager shall request the applicant to sign the care plan specified in subpart 2 as an indication of the applicant's acceptance of the care plan and authorization to send a copy of the care plan to the service providers that the plan specifies. Additionally, the case manager must sign the care plan and, if authorized as in subpart 5, item D, request the recipient's physician to sign the recipient's care plan.

Subp. 5. **Distribution of care plan.** The case manager must give a copy of the applicant's or recipient's care plan to:

A. the county of service;

B. the county of financial responsibility;

C. the applicant or recipient; and

D. with the consent of the applicant or recipient, or the representative of the applicant or recipient, to the applicant's or recipient's physician and the provider or providers of the services specified in the applicant's or recipient's care plan.

9505.3035 ELIGIBILITY FOR CADI SERVICES.

Subpart 1. **Eligibility criteria.** A person is eligible for CADI services if the person meets the criteria in items A to L:

A. the person has been screened according to part 9505.3025;

B. the person is under age 65;

C. the person has been certified as disabled by the Social Security Administration or the state medical review team;

D. the person is a medical assistance recipient or is eligible for medical assistance under subpart 2 or parts 9505.0010 to 9505.0150;

E. the person would need the level of care provided in a nursing home if home and community-based services are not available;

F. the person is a nursing home applicant who chooses to remain in the community and use home and community-based services or is a nursing home resident who chooses to leave the nursing home and use home and community-based services;

G. the health and safety of the person is assured by providing home and community-based services;

H. the service needed by the person is not already provided as a part of a residential placement agreement. A residential services provider shall not provide CADI or medical assistance services without prior authorization from the commissioner. For purposes of this item, "residential placement agreement" means an agreement to provide a supervised living arrangement for the recipient, such as a foster care agreement between the county board and the provider. The recipient's case manager must document in the recipient's care plan all services to be provided to the recipient as part of the residential placement agreement. The term does not apply to residence in a long-term care facility.

I. the person needs community services that cannot be funded by sources other than CADI;

J. the cost of all CADI services and medical assistance funded nursing, home health aide, and personal care services including the supervision of personal care assistants; authorized in the care plan is less than the limitation in part 9505.3040;

K. the applicant or recipient accepts case management services; and

L. the person has a written plan of care approved by the commissioner under part 9505.3055, subpart 1.

Subp. 2. **Determination of CADI applicant's medical assistance eligibility.** A CADI applicant's medical assistance eligibility must be determined under parts 9505.0010 to 9505.0150 except as specified in items A and B. For purposes of this subpart, "spend-down" has the meaning given in part 9505.0015, subpart 44.

A. The local agency shall determine the applicant's eligibility for medical assistance without considering parental or spousal income and assets if the person meets the criteria in subpart 1, items A to L.

B. If an applicant's income exceeds the limits for medical assistance eligibility, the cost of CADI services and other medical services needed by the applicant must be used to meet the spend-down required under part 9505.0065, subpart 11. The cost of a CADI service is considered to be incurred on the first day of the month in which the service is provided. The costs of other health services are applied to the spend-down requirement as of the day on which the service is given. The applicant is responsible for paying bills used to meet the spend-down.

9505.3040 LIMIT ON COSTS OF RECIPIENT'S CADI SERVICES.

Subpart 1. **Costs to be applied toward the cost limit of a recipient's CADI services.** Except as provided in subpart 2, the costs of the following items must be applied toward the cost limit of a recipient's CADI services in subpart 3. The costs must be applied as specified in part 9505.3035, subpart 2:

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

A. costs of all CADI funded services, including case management, medical supplies and equipment, and adaptations; and

B. costs of home care services reimbursed by medical assistance.

Subp. 2. **Service costs to be excluded.** If reimbursed by medical assistance, the costs of the following items must be excluded from the costs included under subpart 1 to the extent that costs of these items are reimbursed by medical assistance:

A. prescription drugs;

B. medical transportation;

C. audiology, speech-language-pathology, respiratory, occupational, and physical therapy; and

D. medical supplies and equipment.

Subp. 3. **Monthly limit on costs of recipient's CADI services.** Except as provided in subpart 4, the monthly cost of CADI services to a recipient shall not exceed the statewide monthly average nursing home rate effective July 1 of the fiscal year in which the cost is incurred less the statewide average monthly income of nursing home residents who are less than age 65 and are medical assistance recipients in the month of March of the previous Minnesota fiscal year. In calculating the monthly limit for a recipient, the statewide monthly average nursing home rate shall be the rate of the resident class to which the recipient would be assigned under parts 9549.0050 to 9549.0059.

Subp. 4. **Exception to monthly limit on costs of recipient's CADI services.** If medical supplies and equipment or adaptations are or will be purchased for the recipient, the costs that are not reimbursable by medical assistance must be prorated on a monthly basis throughout the waiver year in which they are purchased. If the monthly cost of a recipient's other CADI services exceeds the limit in subpart 3, the annual cost of the CADI services shall be determined. In this event, the annual cost of CADI services to a recipient shall not exceed 12 times the monthly limit calculated under subpart 3.

Subp. 5. **Monthly limits on costs of CADI services of applicant who is a nursing home resident.** The monthly cost of CADI services for a person who is a nursing home resident at the time of requesting a determination of eligibility for CADI shall not exceed the monthly payment for the resident class assigned under parts 9549.0050 to 9549.0059 for that resident in the nursing home where the resident currently resides.

9505.3045 REQUEST FOR PROVISIONAL CADI SLOT ASSIGNMENT.

When the case manager has completed a care plan as specified in part 9505.3030 and has determined that the applicant or recipient meets the requirements of part 9505.3035, the case manager must contact the commissioner by phone and request the provisional assignment of a CADI slot pending the commissioner's determination under part 9505.3055. The request must include the following information:

A. the applicant's name;

B. the applicant's birth date;

C. the applicant's medical assistance ID number;

D. the applicant's resident class as specified in part 9505.3040, subpart 3;

E. the approximate date that services will begin; and

F. the estimated average monthly cost of home and community-based services funded by medical assistance and CADI.

9505.3050 WRITTEN REQUEST FOR CADI SLOT ASSIGNMENT.

No later than 15 days after receiving a provisional CADI slot assignment under part 9505.3045, the lead agency must send to the commissioner a copy of the information specified in part 9505.3025, subpart 6, items A and D. If the required information is not submitted within the 15-day period, the department shall withdraw the provisional CADI slot assignment if there are other applicants eligible under part 9505.3035 who are waiting for a slot to be assigned. The department shall notify the lead agency if a provisional CADI slot assignment is ended.

9505.3055 COMMISSIONER'S DETERMINATION.

Subpart 1. **Review and notice of decision.** The commissioner shall review the information and documents submitted by the lead agency under part 9505.3050 to determine whether the applicant is eligible for and approved to receive home and community-based services that are specified in the applicant's care plan and that are available under and paid for through CADI.

Subp. 2. **Criteria for commissioner's approval and assignment of CADI slot.** The commissioner shall approve a request for CADI services and assign a CADI slot in the order in which the application required under subpart 1 is received if the applicant meets the eligibility criteria in part 9505.3035 and a CADI slot is available.

Subp. 3. **Disapproval of request for CADI services.** The commissioner shall disapprove a request for CADI services if the applicant does not meet the eligibility criteria in part 9505.3035, a CADI slot is not available, or the information and documents submitted by the lead agency under part 9505.3050 are incomplete. If the information and documents submitted by the lead agency under part 9505.3050 are incomplete, the commissioner shall notify the lead agency of the action necessary to complete the application.

9505.3060 REASSESSMENT OF CADI RECIPIENT.

Subpart 1. **Reassessment required.** The case manager must conduct a face-to-face reassessment of the health care needs of a CADI recipient at least once every six months after home and community-based services have begun. In addition to the six-month assessments, the case manager must reassess the health care needs of a CADI recipient when:

A. the case manager determines that changes in the health or community-living needs of the CADI recipient or changes in informal support arrangements necessary to remain at home require revisions in the recipient's care plan; or

B. a person who is eligible for CADI services has entered a nursing home for other than respite care or has entered a hospital for a temporary stay and is ready to return to the community.

Subp. 2. **Reassessment procedure.** The case manager must reassess the recipient as required under subpart 1 using the procedures specified for a preadmission screening in part 9505.3025.

Subp. 3. **Record of reassessment.** The case manager must place a record of the recipient's reassessment in the recipient's records at the lead agency. The record shall include the reason or reasons for the reassessment, the names of the persons consulted during the reassessment and their relationship to the recipient, revisions of the care plan and the reason or reasons for each revision or a statement that revisions were not needed. The revised care plan or statement must be signed by the recipient's physician.

Subp. 4. **Distribution of revised care plan.** The case manager must give a copy of the recipient's revised care plan to the entities specified in part 9505.3030, subpart 5.

9505.3065 REIMBURSEMENT FOR CADI SERVICES.

The services in items A to J, as specified in parts 9505.3070 to 9505.3110, shall be reimbursed on a fee-for-service basis under CADI, if the services are provided according to a recipient's care plan, if the services are necessary to avoid the recipient's institutionalization, and if the rates for the services comply with the rates established in part 9505.3135:

A. case management services;

B. homemaker services;

C. respite care services;

D. adult day care services;

E. extended home health services;

F. extended personal care services;

G. adaptations;

H. independent living skills services;

I. family support services; and

J. other services if authorized under the waiver.

9505.3068 COSTS NOT ELIGIBLE FOR REIMBURSEMENT UNDER CADI.

The costs of the following services shall not be reimbursed under the CADI program:

A. community services that can be reimbursed through other funding sources including Medicare and third party payers as defined in part 9505.0015, subpart 46;

B. room and board costs except for respite care provided away from the recipient's residence;

C. services of providers who are not under contract with the county;

D. respite care services that exceed the 720-hour limit in part 9505.3110;

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

E. adaptations that cost more than allowed by the waiver per recipient;

F. services not authorized by the case manager;

G. supplementary or replacement services covered by a Medicare or medical assistance funded hospice program, except services for a condition not related to the terminal illness; or

H. payment for CADI services provided to a nursing home resident before the date of discharge from the nursing home.

9505.3070 CASE MANAGEMENT SERVICES.

Subpart 1. **Case management services required.** Case management services are required under CADI. The lead agency must provide case management services to each recipient.

Subp. 2. **Case manager qualifications.** Case management services must be provided by a registered nurse as defined in part 9505.3015, subpart 41, or a social worker as defined in part 9505.3015, subpart 48.

A person who provides case management services must be employed by or under contract with the lead agency. The lead agency shall monitor and enforce compliance with the terms of the contract.

Subp. 3. **Responsibilities of case manager.** The case manager must:

A. assure that the team uses the criteria of the Preadmission Screening Assessment document in screening applicants;

B. develop the care plan with the screening team, the applicant, and the applicant's family members and other appropriate persons;

C. obtain the necessary documentation of service need, including the attending physician's signature;

D. authorize the provision of services specified in the recipient's approved case plan;

E. monitor service providers and the provision of services to ensure that only the authorized care is being provided and that the recipient's health and safety at least is being maintained;

F. with the consent of the applicant or recipient or the representative of the applicant or recipient, initiate and maintain contact with family members and other informal caregivers to ensure that planned care, both formal and informal, is being provided;

G. assist the recipient in gaining access to needed medical, social, educational, and other services;

H. reassess a CADI recipient as required under part 9505.3060;

I. complete a notice of action form (DHS-2828) if the recommendations of the preadmission screening team following a reassessment under part 9505.3060 are to reduce, suspend, or terminate the recipient's CADI services. The original notice of action must be sent to the recipient no later than ten days before the proposed action;

J. monitor the recipient's health and safety;

K. contact the local agency to verify that the person is eligible for medical assistance; and

L. provide ongoing coordination of the care plan so the cost does not exceed cost limits of part 9505.3040.

Subp. 4. **Reporting suspected abuse or neglect of a vulnerable adult or suspected maltreatment of a child.** A case manager who has reason to believe a recipient who is an adult is or has been subject to abuse or neglect as defined in *Minnesota Statutes*, section 626.557, subdivision 2, must immediately comply with the reporting and other actions required under *Minnesota Statutes*, section 626.557. A case manager who has reason to believe a recipient, who is a child, is or has been subject to maltreatment as defined in *Minnesota Statutes*, section 626.556, must immediately comply with the reporting and other actions required under *Minnesota Statutes*, section 626.556. The case manager must determine how to assure the recipient's health and safety during the investigation, and may take one or more of the actions specified in subpart 5. The case manager must request a report from the protection agency in order to take the action required in subpart 5 unless the recipient's health and safety is imminently threatened.

Subp. 5. **Case manager decisions.** When the case manager receives the findings of the investigation conducted under *Minnesota Statutes*, section 626.556 or 626.557, the case manager shall amend the care plan as needed to assure the recipient's health and safety. Based on the findings, the case manager shall determine whether:

A. to arrange for the services of another CADI provider;

B. to work out alternative housing and services for the recipient; or

C. to suspend the CADI services. Notwithstanding any rule to the contrary, if the case manager decides to suspend the recipient's CADI services, the suspension shall take effect upon the date of the notice of the suspension to the recipient.

9505.3075 ADAPTATIONS.

An adaptation is available to a recipient under CADI only if the adaptation is necessary to enable a recipient with mobility problems, sensory deficits, or behavior problems to be maintained at home. Adaptations include minor physical adaptations to the home, adaptive equipment, and minor adaptations to vehicles provided to enable disabled persons to live in the community. Examples of adaptations to the home are widened doors, handrails, lifting devices, and ramps. Examples of adaptations to a vehicle are lifting devices, wheel chair securing devices, and adapted seats. For purposes of this part, "minor physical adaptation" means an adaptation that costs less than the limit specified in the waiver. Adaptations can be provided under the CADI waiver for a recipient if:

A. the adaptation is not available from any other funding source and has a cost within the limitations specified in parts 9505.3010 to 9505.3140; and

B. the case manager has received prior authorization from the commissioner. To obtain authorization, the case manager must document that the adaptation is necessary for the recipient to avoid nursing home admission and the cost of the adaptation is within the limit specified in the waiver.

9505.3080 ADULT DAY CARE SERVICES.

Adult day care services are available under CADI. Adult day care services are to be offered only when the services are necessary to avoid the recipient's admission to a nursing home. Adult day care services provided through CADI must meet the criteria in items A and B.

A. The services must be furnished on a regularly scheduled basis and cannot exceed 12 hours in a 24-hour period.

B. If the adult day care service provides transportation, then the cost of transportation to and from the site of the adult day care service is eligible for payment under CADI if it is included in the day care rate.

9505.3085 EXTENDED HOME HEALTH SERVICES.

Extended home health services are available under CADI if the services meet the requirements in items A to C.

A. The service is a home health service as specified in part 9505.0295 except that the limits in subpart 3 of part 9505.0295 on the number of visits and hours eligible for medical assistance reimbursement do not apply.

B. The service is provided according to the amount, duration, and scope specified in the recipient's care plan.

C. The service is provided by a provider who meets the requirements of part 9505.0290, subpart 2.

9505.3090 EXTENDED PERSONAL CARE SERVICES.

Subpart 1. **Availability under CADI.** Extended personal care services are available under CADI if the extended personal care services meet the requirements in part 9505.0335 except as provided in subparts 2 and 3 and except that the directions for the recipient's care may be provided by a primary caregiver or family member if the recipient is not able to direct his or her own care.

Subp. 2. **Qualification as personal care assistant.** A person who does not qualify as a personal care assistant under part 9505.0335 can be a personal care assistant for a recipient if the person meets the training requirements under part 9505.0335, subpart 3, and is employed by or under contract with the lead agency.

Subp. 3. **Relative as personal care assistant.** A recipient's relative, other than a responsible relative as defined in part 9505.0015, subpart 43, may be employed as a personal care assistant if the relative meets the requirements in subpart 2, is under contract with the lead agency, and meets one of the financial hardship criteria in items A to D:

A. the relative resigns from a full-time job to care for the recipient;

B. the relative goes from a full-time to a part-time job with less compensation;

C. the relative takes a leave of absence without pay to provide personal care for the recipient; or

D. the relative, because of local labor conditions, is the only person available to provide care for the recipient.

Subp. 4. **Commissioner's approval of extended personal care services.** The lead agency must obtain the department's approval to provide extended personal care services to a recipient.

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

9505.3095 FAMILY SUPPORT SERVICES.

Subpart 1. **Availability as CADI service.** Family support services that are the training and counseling services in items A and B are available under CADI. The services may be provided to the recipient as well as to persons with whom the recipient lives or who routinely are the recipient's informal caregivers.

A. Training must be designed to increase the recipient's or family member's ability to care for the recipient at home and must be necessary to avoid the recipient's admission to a nursing home. Training includes instruction about the use of equipment and treatment regimens that are specified in the recipient's care plan.

B. Counseling includes helping the recipient or members of the recipient's family with crises, coping strategies, and stress reduction as required for family functioning to maintain the recipient in the community.

Subp. 2. **Standards to be a CADI provider of training services.** A provider of training services under CADI must meet the applicable qualification specified in items A to H.

A. A physician must be licensed to practice in Minnesota.

B. A registered nurse must be licensed and have one year of experience as a professional nurse.

C. A physical therapist must have a current Minnesota certificate of registration.

D. An occupational therapist must be currently certified by the American Occupational Therapy Association as an occupational therapist.

E. A respiratory therapist must meet the criteria established for a respiratory therapist in part 9505.0295, subpart 2, item E.

F. A medical equipment supplier must be authorized by the case manager to provide training in use of equipment and must be a provider under part 9505.0195.

G. A speech-language pathologist must be certified by the American Speech-Language-Hearing Association.

H. A nutritionist must have a bachelor's degree and be registered by the Commission on Dietetic Registration.

Subp. 3. **Standards for providers of family support counseling services.** A provider of family support counseling services must be one of the following:

A. a Medicaid enrolled psychiatrist or individual who works under the supervision of a Medicaid enrolled psychiatrist;

B. a Medicaid enrolled psychologist or individual who works under the supervision of a Medicaid enrolled psychologist;

C. a mental health clinic that is an enrolled Medicaid provider;

D. a social worker licensed under *Minnesota Statutes*, sections 148B.18 to 148B.28; and

E. an independent practitioner who provides counseling services and who has been determined by the lead agency to:

(1) have a general knowledge of disabilities and chronic illnesses that may affect individual or family functioning;

(2) have skills in mental health assessment, including client interviewing and screening;

(3) have skills in mental health management including treatment planning, general knowledge of social services, record keeping, reporting requirements, confidentiality rules, and any federal or state regulations which apply to mental health services;

(4) have skills in individual and group counseling, including crisis intervention; and

(5) provide proof that:

(a) The individual possesses at least a bachelor's degree with a major in social work, nursing, sociology, human services, or psychology and has successfully completed 960 hours of experience as a counselor supervised by a licensed psychiatrist or psychologist. The experience can be either as a student, volunteer, or employee.

(b) The individual has successfully completed a minimum of:

i. 40 hours of classroom training in a health related field;

ii. 40 hours of classroom training in mental health assessment including interviewing skills;

iii. 40 hours of classroom training in mental health management including treatment planning, social services, record keeping, reporting requirements, and confidentiality;

iv. 40 hours of classroom training in individual and group counseling techniques; and

v. successful completion of 960 hours of experience as a counselor supervised by a licensed psychiatrist or licensed psychologist as either a student, volunteer, or employee; or

(c) The individual possesses training in unit (b), subunits (i) to (iii), and has successfully completed two years of supervised experience as a counselor or therapist.

9505.3100 HOMEMAKER SERVICES.

Subpart 1. **Availability as CADI service.** Homemaker services are available under CADI. Homemaker services must be designed to enable a recipient to remain at home and avoid admission to a nursing home and must be provided if authorized by the case manager.

Subp. 2. **Tasks of homemaker.** Homemaker services include:

A. house cleaning;

B. laundering and ironing;

C. meal planning and preparation;

D. dishwashing;

E. household management;

F. providing companionship, emotional support, and social stimulation;

G. observing and evaluating home safety practices and improving these practices where appropriate;

H. monitoring the safety and well being of the recipient; and

I. performing essential errands and shopping.

Subp. 3. **Qualified homemakers.** The lead agency shall assure that each recipient receiving homemaker services is served by a homemaker qualified under part 9565.1200, subpart 2.

Subp. 4. **Contracting for homemaker services and supervision.** The lead agency may directly provide or contract for homemaker services for a recipient as indicated in the recipient's care plan. If the lead agency provides homemaker services directly, the lead agency must also provide supervision of the homemaker's activities. If the lead agency contracts with a provider for homemaker services, the provider must meet the requirements of *Minnesota Statutes*, sections 144A.43 to 144A.46.

9505.3105 INDEPENDENT LIVING SKILLS SERVICES.

Subpart 1. **Availability as CADI services.** Independent living skills services are available under CADI. Independent living skills services may be provided in the disabled person's home or at a site approved by the case manager. Independent living skills services must be directed at the development and maintenance of community living skills and community integration.

Subp. 2. **Standards for providers of independent living skills services.** Providers of independent living skills services may include the following:

A. home health agencies enrolled as Medicaid providers;

B. rehabilitation agencies enrolled as Medicaid providers;

C. a person who is employed by an independent living center and who is determined by the lead agency to meet the requirements in subitems (1) to (5):

(1) has general knowledge of disabilities and chronic illnesses which affect an individual's ability to live independently in the community;

(2) has the ability to do a needs assessment of the skills a disabled individual must develop in order to live independently in the community;

(3) has knowledge of independent living skills management including service planning, general knowledge of social services, record keeping, reporting requirements, and confidentiality;

(4) has the ability to provide assistance, supervision, and training in the area of independent living; and

(5) provides proof that the person:

(a) has a bachelor's degree with a major in nursing, physical therapy, occupational therapy, or speech-language pathology,

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

psychology, or sociology, and has successfully completed 480 hours of experience working with disabled or chronically ill individuals as a student, volunteer, or employee, under the supervision or direction of a licensed physician;

(b) has successfully completed an accredited educational program for registered nurses or licensed practical nurses;

(c) has completed a nursing assistant training program or its equivalent for which competency as a nursing assistant is determined by the State Board of Vocational Technical Education;

(d) has completed a homemaker or home health aide preservice training program using a curriculum recommended by the Minnesota Department of Health and the supervising nurse has determined that the individual has the skills required to provide the independent living skills services as stated in the care plan; or

(e) has received a minimum of:

i. five hours of classroom training in recognizing the symptoms and effects of certain disabilities and health conditions;

ii. 20 hours of classroom instruction in providing supervision of, training to, and assistance with independent living skills services; and

iii. a determination by the supervising registered nurse that the individual has the skills required to provide the independent living skills services stated in the care plan. For purposes of this item, "independent living center" means a center that meets the requirements of parts 3300.3100 to 3300.3270.

9505.3107 MEDICAL SUPPLIES AND EQUIPMENT.

Subpart 1. **Availability as a CADI service.** Medical supplies and equipment are available as one of the extended home health services under CADI. The lead agency may buy or rent care-related medical supplies and equipment for a recipient if the medical supplies and equipment are specified in the recipient's approved care plan and are beyond the amount, scope, and duration available as covered services under parts 9505.0170 to 9505.0475; and the case manager has received prior authorization from the commissioner to use CADI funds.

Subp. 2. **Criteria to obtain commissioner's prior authorization.** To obtain prior authorization, the case manager must document that the medical supply or equipment is necessary to enable the recipient to remain in the community and is beyond the amount, scope, and duration available as a covered service under parts 9505.0170 to 9505.0475; and the cost of the medical supply or equipment is within the limitation specified in the waiver. "Prior authorization" means the commissioner's approval given to a lead agency before the lead agency purchases or rents the item.

9505.3110 RESPITE CARE SERVICES.

Subpart 1. **Availability as CADI service.** Respite care services are available under CADI. Respite care is limited to 720 hours per person per waiver year.

Subp. 2. **Provider standards.** Respite care may be provided in either an out-of-home setting or in the recipient's own home.

A. Out-of-home respite care must be provided in a facility approved by the county such as a hospital, nursing home, foster home, or community residential facility. When respite care is provided in a non-Medicaid certified facility, that facility must meet applicable state licensure standards.

B. In-home respite care providers must be individuals who meet the state qualifications required of registered or licensed practical nurses, home health aides, or personal care assistants who have been specifically trained to provide care to the recipient. Respite care workers must have had first-aid training and cardiopulmonary resuscitation training. A respite care worker who is a home health aide or personal care assistant must be under the supervision of a registered nurse. The registered nurse must assure that the respite care worker is able to read and follow instructions, able to write clear messages, and has a level of skill required by the recipient's needs.

9505.3115 STANDARDS FOR PROVIDER REIMBURSEMENT.

Lead agencies must assure that providers of all CADI services are qualified under parts 9505.0170 to 9505.0475 and 9505.3010 to 9505.3140 to provide the necessary service. In addition, a provider shall receive reimbursement for CADI services only if the provider meets the criteria in items A to D.

A. The provider must have current Minnesota certification or licensure for the specific CADI service if *Minnesota Statutes* or *Minnesota Rules* require certification or licensure.

B. The provider must assure that the provider and all employees or subcontractors meet the standards established in the waiver that apply to the services provided or in *Minnesota Statutes*, chapters 144A, 146, and 148; parts 9505.0170 to 9505.0475; and Code of Federal Regulations, title 42, sections 440.180 and 440.300 to 440.310.

C. The provider must be employed by or have contracted with the lead agency to provide CADI services.

D. The provider must be reimbursed only for services authorized by the case manager as part of the recipient's care plan.

9505.3120 LEAD AGENCY SELECTION OF CADI PROVIDERS.

Subpart 1. **Solicitation of providers.** The lead agency must solicit providers for all CADI services. The solicitation may be by written notice, a request for proposal, or as part of the annual public meeting required by *Minnesota Statutes*, section 256B.091, subpart 8, and part 9505.2460, subpart 1. If the lead agency chooses to use a written notice, the lead agency must place the notice in the newspaper that is the official newspaper designated by the county board of commissioners of the local agency under *Minnesota Statutes*, section 279.08. The notice must state the type of services for which a need is anticipated, the criteria in subpart 2 for selection as a CADI provider, the date by which the lead agency will complete its selection of CADI providers, and the name, telephone number, and address of the lead agency's contact person who can provide information about the criteria for selection and contract terms.

Subp. 2. **Selection factors.** The lead agency must contract with all providers that meet the standards to provide CADI services under parts 9505.3010 to 9505.3140. The lead agency must consider items A to G:

A. the need for the particular service offered by the provider;

B. the ability of the provider to meet the service needs of CADI recipients in the county;

C. the geographic area to be served by the provider;

D. the quality assurance methods to be used by the provider including compliance with required licensure, certifications, or standards and supervision of employees as required by parts 9505.3090 to 9505.3120;

E. the provider's agreement to provide the CADI service at a fee that is at or less than the county's maximum reimbursement rate for the service;

F. services previously or currently delivered by the provider; and

G. the provider's previous compliance with contract provisions and the provider's future ability to comply with contract provisions including billing requirements, and terms related to contract cancellation and indemnification.

Subp. 3. **Written record of reason for not selecting a provider.** A lead agency must keep a written record of the reason a provider who requests a contract to provide CADI services was not selected and must notify the provider of the reason.

9505.3125 CONTRACTS FOR CADI SERVICES.

Subpart 1. **Contract required.** To receive reimbursement for CADI services, the provider must be employed by or have a contract with the lead agency.

Subp. 2. **Compliance with applicable laws and regulations required.** The lead agency must have a medical assistance provider agreement according to part 9505.0195. The lead agency and any provider of services under parts 9505.3010 to 9505.3140 that is employed by or under contract to the lead agency must comply with Code of Federal Regulations, title 42; *Minnesota Statutes*, chapter 256B; and all applicable department rules relating to medical assistance providers.

Subp. 3. **Information required in contract.** The contract must contain:

A. the estimated number of CADI recipients to be served by the provider;

B. an agreement to comply with parts 9505.3010 to 9505.3140;

C. an agreement to comply with the Minnesota Government Data Practices Act;

D. the beginning and ending dates for the term of the contract;

E. an agreement to comply with the care plan as set forth by the case manager;

F. the amount that the lead agency shall pay the provider for the services;

G. the conditions under which the lead agency shall terminate the provider's contract;

H. documentation of an individual abuse prevention plan that complies with parts 9555.8000 to 9555.8500;

I. a description of the reports the provider must give the lead agency;

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

J. a description of the records the provider must keep; and

K. other provisions the county board determines are needed to ensure the county's ability to comply with part 9525.1900.

Subp. 4. **Subcontracts.** If the provider subcontracts with another contractor the provider must:

A. have written permission from the lead agency to subcontract;

B. ensure that the subcontractor meets all the requirements of subparts 2 and 3 in the same manner as those requirements apply to all providers; and

C. ensure that the subcontractor performs fully the terms of the subcontract.

Subp. 5. **Noncompliance.** If the provider or subcontractor fails to comply with the contract, the lead agency must notify the local agency and request the county board to take appropriate action. Upon receiving the request, the county board shall seek any available legal remedy. The county board shall notify the commissioner in writing within 30 days of receiving information that provides the county board with reasonable grounds to believe that a contract required under this part has been breached in a material manner or that a provider or subcontractor has taken any action or failed to take any action that constitutes anticipatory breach of the contract. The county board may allow the provider or subcontractor a reasonable amount of time to cure the breach or anticipatory breach. The county board shall notify the commissioner in writing within ten working days if the provider or subcontractor takes any action or fails to take any action in response to the opportunity to cure. In the notice, the county board shall inform the commissioner of the action the county board intends to take.

9505.3130 AGENCY REPORTS AND RECORDS.

Subpart 1. **County plans.** The lead agency must submit an annual county plan for CADI services on forms provided by the commissioner. The lead agency must submit the county plan to the commissioner by August 1 of each year for the lead agency to receive reimbursement for CADI services during the next waiver year. The lead agency must submit revisions of the county plan to the commissioner for approval before implementing the revisions. The submitted plan or a revision of a plan must be signed by the person authorized by the county board. The county plan must include items A to J:

A. name and address of the lead agency;

B. name, address, and telephone number of the administrative contact within the lead agency;

C. a description of how the agency will make sure that the actual cost of services per individual per waiver year will not exceed the limits specified in part 9505.3040;

D. criteria and method used to notify and select providers;

E. proof that all services covered by the waiver will be available in the community;

F. a description of how the agency will make sure that CADI clients are applicants for admission to, or residents of, nursing homes;

G. a description of how the agency will make sure that clients are given a choice of institutional or community care according to part 9505.3025, subpart 3;

H. a description of how the agency will make sure that the safety and health of clients served by the waiver will be protected;

I. a description of how the agency will comply with the Minnesota Government Data Practices Act; and

J. a description of how the local agency will comply with subpart 4 in regard to provider records.

Subp. 2. **Resubmission of conditional approvals or rejections.** If a county plan is conditionally approved or rejected, the revised plan must be submitted within 30 days or reimbursement for CADI services will be suspended until the plan is fully approved. However, the county must continue to pay for CADI services using county funds until a county plan has been approved.

Subp. 3. **Provider agreements.** A county participating in the CADI program must designate a lead agency and must submit an enrollment form and a signed provider agreement that enrolls the lead agency as a CADI provider eligible to receive medical assistance payment for CADI services. The enrollment and signed provider agreements must be on forms provided by the commissioner.

Subp. 4. **CADI provider records.** The lead agency and a CADI provider under contract with the lead agency must maintain complete program and fiscal records and supporting documentation identifying the CADI recipients served, the services provided, and the costs incurred. The records must be identified and maintained separately from other provider records. The lead agency's and the providers' records are subject to the maintenance schedule, audit availability requirements, and other provisions in parts 9505.1750 to 9505.2150.

9505.3135 RATES FOR CADI SERVICES.

Subpart 1. **Notices to lead agencies.** By June 1 of each year, the commissioner shall notify a lead agency of the statewide maximum rate allowed for reimbursement of a CADI service under subpart 2.

Subp. 2. **Maximum CADI service rate.** The commissioner shall annually set the maximum rate available to a county to reimburse a provider for a CADI service other than a case management service. The rates for CADI services other than a case management service shall be adjusted for each waiver year based on medical assistance rates for equivalent services. For services that do not have a medical assistance payment rate under part 9505.0445, for years beginning on July 1 following the effective date of parts 9505.3010 to 9505.3140, the commissioner shall authorize an adjustment in the CADI rate (available to a county as reimbursement to a CADI provider) up to the percentage change forecast in the first quarter of the calendar year by the Home Health Agency Market Basket of Operating Costs, Health Care Costs. The Home Health Agency Market Basket of Operating Costs, Health Care Costs is published by Data Resources, Inc. McGraw-Hill and is subject to quarterly updating. The Home Health Agency Market Basket of Operating Costs, Health Care Costs, is incorporated by reference and is available for inspection at the department, Division of Reports and Statistics, Third Floor, 444 Lafayette Road, St. Paul, Minnesota 55101 and through the Minitex interlibrary loan system.

Subp. 3. **County CADI service rate.** A county may set rates for CADI services not to exceed the rates established in subpart 1. County rates are subject to audit by the commissioner. Administrative costs are part of the case management rate and are to be included in the case management rate and not added to the county rate for other services.

Subp. 4. **Supervision costs.** The cost of supervision for all services except extended personal care must be included in the rate unless payment for the supervision is included in the rate for skilled nursing services. Supervision of personal care services shall be paid according to the rate specified in part 9505.0445, item K, for private duty nursing performed as a supervisory visit by a private duty nurse.

Subp. 5. **Recovery of costs.** The county of service must monitor use and costs of CADI services. According to part 9505.0195, subpart 6, the county of service must pay the commissioner the amount by which the costs exceed the limits specified in part 9505.3040.

9505.3138 CRITERION FOR DELAY IN SENDING REQUIRED NOTICES.

If information that the commissioner needs to prepare and send the notices required under parts 9505.3010 to 9505.3140 is not provided in time for the commissioner to meet the time specified in parts 9505.3010 to 9505.3140, the required notices shall be sent as soon as possible after the commissioner receives the needed information.

9505.3139 BILLING FOR CADI SERVICES.

A provider of CADI services must submit a claim to the lead agency through the CADI recipient's case manager for payment for a CADI service specified in a CADI recipient's care plan. A claim under this part must not exceed the amount specified in the contract between the CADI provider and the lead agency that is required under part 9505.3125. The CADI provider must submit the claim for payment according to the billing procedures in part 9505.0450, however, the claim shall not be submitted directly to the department.

9505.3140 APPEALS.

Subpart 1. **Notice of right to appeal.** A person assessed or reassessed under part 9505.3060 has the right to appeal action described in subpart 2. The case manager must provide the person or the person's representative with written information about the right to appeal. The information must state the grounds for an appealable action and must state that CADI services will not be reduced, suspended, or terminated if the appeal is filed before the date specified in the information unless the person requests in writing not to receive CADI services while the appeal is pending.

Subp. 2. **Appealable actions.** A person being assessed or reassessed under part 9505.3060, may appeal if the following actions are taken by the agency:

A. CADI services are denied;

B. eligibility for CADI services is not determined with reasonable promptness; and

C. CADI services are reduced, suspended, or terminated.

Subp. 3. **Actions that are not appealable.** A denial, reduction, suspension, or termination of CADI services is not an appealable action if the following conditions apply:

A. the person is a nursing home resident but the cost of home care would exceed the cost of nursing home care;

B. the person is an applicant for admission to a nursing home but the costs of the CADI services exceed the limit in part 9505.3040;

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

C. there are no slots available for CADI services; or

D. the waiver is terminated.

Subp. 4. **Submission of appeals.** The person being assessed or reassessed who wants to appeal must submit the appeal in writing to the lead agency of the county of service or to the department within 30 days after receiving written notice of the appealable action, or within 90 days of the written notice if a good cause for delay can be shown.

Subp. 5. **Hearing of appeal.** An appeal of issues meeting the criteria under subparts 1, 2, and 4 shall be heard and decided according to *Minnesota Statutes*, section 256.045.

Department of Labor and Industry

Occupational Safety and Health Division

Proposed Revisions to the Occupational Safety and Health Standard Request for Comments

NOTICE IS HEREBY GIVEN that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) proposes to adopt the following revisions to the Department of Labor and Industry, Occupational Safety and Health Rules, as authorized under *Minnesota Statutes* § 182.655 (1988). This revision proposes the adoption by reference of Occupational Safety and Health Standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration (Federal OSHA).

A complete copy of the federal standard proposed for adoption is available by writing: Occupational Safety and Health Division, Department of Labor and Industry, 443 Lafayette Road, St. Paul, Minnesota 55155-4307; or by calling: (612) 297-3254.

Interested persons are hereby afforded a period of 30 days to submit written data or comments on the described standards. Any interested person may file with the Commissioner written objections to the proposed standard stating the grounds for those objections. Such person may request a public hearing on those objections. Written comments or requests for hearing should be sent to the above address and must include the name and address of the person submitting the comment or request, define the reason for the comment or hearing request, and discuss any proposed changes.

Ken Peterson, Commissioner
Department of Labor and Industry

Standards as Proposed

5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.

Subpart 1. [Unchanged.]

Subp. 2. **Part 1910.** Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the Federal Register on October 24, 1978 and corrected in Volume 43, No. 216, November 7, 1979 which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes prior to ~~August 1, 1989~~ December 6, 1989:

A to K. [Unchanged.]

L. *Federal Register*, Volume 54:

(1) to (6) [Unchanged.]

(7) *Federal Register*, Vol. 54, No. 146, dated August 1, 1989: "Occupational Exposure to Formaldehyde 1910.1048); Correction."

(8) *Federal Register*, Vol. 54, No. 166, dated August 29, 1989: "Occupational Exposure to Formaldehyde (1910.1048); Extension of Administrative Stay."

(9) *Federal Register*, Vol. 54, No. 169, dated September 1, 1989: "Control of Hazardous Energy Sources—Lockout/Tagout (1910.147)."

(10) *Federal Register*, Vol. 54, No. 170, dated September 5, 1989: "Air Contaminants; Final Rule—Grant of Petitions for Reconsideration of Three Exposure Limits and Partial Stays of Effective Dates for Four Substances (1910.1000)."

(11) *Federal Register*, Vol. 54, No. 174, dated September 11, 1989: "Occupational Exposure to Formaldehyde (1910.1048); Correction."

(12) *Federal Register,* Vol. 54, No. 193, dated October 6, 1989: "Air Contaminants (1910.1000); Final Rule Partial Stay of Effective Date for Two Substances."

(13) *Federal Register,* Vol. 54, No. 199, dated October 17, 1989: "Control of Hazardous Energy Sources—Lockout/Tagout (1910.147); Final Rule Approval of Information Collection Requirements."

(14) *Federal Register* Vol. 54, No. 213, dated November 6, 1989: "Control of Hazardous Energy Sources—Lockout/Tagout (1910.147); Final Rule Extension of Effective Date."

(15) *Federal Register,* Vol. 54, No. 219, dated November 15, 1989: "Air Contaminants; Final Rule Corrections."

(16) *Federal Register,* Vol. 54, No. 233, dated December 6, 1989: "Air Contaminants; Final Rule Partial Stay of Effective Date for Two Substances."

Subp. 3 to 5. [Unchanged.]

Subp. 6. **Part 1926.** Part 1926: Construction Safety and Health Regulations as published in Part VII, Volume 44, No. 29, of the *Federal Register* on February 9, 1979 which incorporates changes, additions, deletions and corrections made up to October 17, 1978 and includes General Industry Occupational Safety and Health Standards (29 CFR Part 1910) which have been identified as applicable to construction work; and subsequent changes made prior to ~~August 1, 1989~~ December 6, 1989:

A. to D. [Unchanged.]

E. *Federal Register*, Volume 54

(1) and (2) [Unchanged.]

(3) *Federal Register,* Vol. 54, No. 192, dated October 5, 1989: "Concrete and Masonry Construction Safety Standards (Subpart 0 of 29 CFR Part 1926); Final Rule Technical Amendment."

(4) *Federal Register,* Vol. 54, No. 209, dated October 31, 1989: "Excavations (Subpart P of 29 CFR Part 1926)."

REPEALER. *Minnesota Rule,* part 5205.0680 is repealed.

Summary of Standards: The following is a summary of each standard proposed for adoption; persons interested in reviewing any of these standards in their entirety, along with the preamble discussion published by Federal OSHA, may obtain a copy as noted above.

A) "Control of Hazardous Energy Source (Lockout/Tagout)–1910.147." On September 1, 1989, Federal OSHA issued a standard detailing safety requirements for the control of hazardous energy as a new section 1910.147. The standard addresses practices and procedures that are necessary to disable machinery or equipment and to prevent the release of potentially hazardous energy while maintenance and servicing activities are being performed. The standard requires that lockouts be utilized for equipment which is designed with a lockout capability except when the employer can demonstrate that utilization of tagout provides full employee protection. For equipment which was not designed to be locked out, the employer may use tagout. In addition, the standard also supplements and supports the existing lockout related provisions contained elsewhere in the general industry standards by providing that comprehensive and uniform procedures be used for complying with those provisions. Under the standard employers must:

–Develop an energy control program.

–Use locks when equipment can be locked out.

–Ensure that new equipment or overhauled equipment can accommodate locks.

–Employ additional means to ensure safety when tags rather than locks are used by using an effective tagout program.

–Identify and implement specific procedures (generally in writing) for the control of hazarous energy including preparation for shutdown, shutdown, equipment isolation, lockout/tagout application, release of stored energy, and verification of isolation.

–Obtain standardized locks and tags which indicate the identity of the employee using them and which are of sufficient quality and durability to ensure their effectiveness.

–Conduct inspections of energy control procedures at least annually.

–Train employees in the specific energy control procedures with training reminders as part of the annual inspections of the control procedures.

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

–Adopt procedures to ensure safety when equipment must be tested during servicing, when outside contractors are working at the site, when a multiple lockout is needed for a crew servicing equipment and when shifts or personnel change.

The standard applies to general industry employment but does not cover maritime, agriculture or construction employment. The standard also does not cover oil and gas well drilling; the generation, transmission and distribution of electric power by utilities; and electrical work on electric conductors and equipment. These will be the subjects of separate rulemaking efforts. Also excluded from coverage are normal production operations including repetitive, routine minor adjustments and maintenance which would be covered under OSHA's machine guarding standards; work on cord and plug connected electric equipment when it is unplugged, and the employee working on the equipment has complete control over the plug; and hot tap operations involving gas, steam, water or petroleum products when the employer shows that continuity of service is essential, shutdown is impractical and documented procedures are followed to provide proven effective protection for employees.

The standard was originally scheduled to go into effect on October 31, 1989. However, at the request of several groups and companies, Federal OSHA has extended the effective date for compliance with the standard to January 2, 1990.

Minnesota OSHA has lockout/tagout standards currently in effect for general industry (*Minnesota Rule* 5205.0680) and for construction (*Minnesota Rule* 5207.0600). These rules require employers to protect employees from unexpected energization or start-up of machines and equipment during servicing and maintenance operations. Because the federal standard is more comprehensive, Minnesota OSHA proposes to adopt 1910.147 as published in the September 1, 1989, *Federal Register* by reference. *Minnesota Rule* 5205.0680 will be repealed upon adoption of 1910.147. This adoption includes the information collection requirements as approved by the Office of Management and Budget and published in the October 17, 1989 *Federal Register.*

[Note: Since 1910.147 applies only to general industry, *Minnesota Rule* 5207.0600, which describes lockout/tagout requirements for construction, is not affected by this action and will remain in effect.]

B) "Occupational Exposure to Formaldehyde (1910.1048)." On December 4, 1987, Federal OSHA published a final rule on occupational exposure to formaldehyde (1910.1048); Minnesota OSHA adopted this standard on May 30, 1988. In response to numerous comments indicating confusion about the hazard warning provisions of the new standard, Federal OSHA announced an administrative stay of paragraphs (m)(l)(i) through (m)(4)(ii) for a nine-month period beginning December 18, 1988. At the same time, Federal OSHA invited comments concerning replacing these provisions with the Hazard Communication Standard (29 CFR 1910.1200) or another equally protective alternative which would be less confusing. Minnesota OSHA adopted the administrative stay on February 6, 1989.

Federal OSHA has not yet completed work on the proposed amendments and has extended the stay until June 13, 1990 to allow time to consider what regulatory action is necessary. While the stay is in effect, affected employers must continue to comply with the provisions of the Hazard Communication Standard.

By this notice, Minnesota OSHA proposes to adopt the extension of the administrative stay until June 13, 1990. While the stay remains in effect Minnesota employers must comply with the appropriate provisions of the Employee Right-to-Know Standard. Corrections to the Occupational Exposure to Formaldehyde Standard published in the *Federal Register* on August 1, 1989, and September 11, 1989, are also included in this proposal.

C) "Air Contaminants (1910.1000)." Federal OSHA reduced exposure limits for 375 toxic and hazardous substances on January 19, 1989; Minnesota OSHA adopted the revised limits on May 1, 1989. On September 5, 1989, Federal OSHA granted petitions for reconsideration of three exposure limits and partial stays of effective dates for four substances as follows:

ACETONE–After consideration, Federal OSHA concluded that health protection of workers in the cellulose acetate fiber industry can best be affected through a settlement agreement negotiated with the industry. The Amalgamated Clothing and Textile Workers Union, which represents workers in the industry, supports the settlement agreement which provides that Tennessee East and Hoechst Celanese, the only two companies in the industry, will install an extensive series of engineering controls over the next three years to reduce employee exposure levels to below the STEL of 1000 parts per million parts of air. These companies will also install airline respirators where needed, maintain a medical program, and transfer workers who show sensitivity to acetone to lower exposure levels. When the programs are complete, OSHA will review the results and issue a new final rule for acetone following public notice and comment; the programs must be completed by no later than June 30, 1993. Although the STEL will not be in effect for the cellulose acetate fiber industry, the company commitments will provide protection to employees in these industries. The STEL will remain in effect for all other industries.

CALCIUM OXIDE AND CALCIUM HYDROXIDE–Federal OSHA has concluded that a major additional study on the health effects of these two substances would be of considerable benefit in determining exposure limits. The National Lime Association has agreed to perform a study in conformance with a protocol approved by OSHA; the study is scheduled for completion by December 31, 1990. Following that study, but no later than June 30, 1991, Federal OSHA will reconsider the exposure limits for the two substances. While the study is taking place, workers will continue to be protected at the 5 mg/m^3 level for calcium oxide and at the "particulates not otherwise regulated" (nuisance dust) level of 5 mg/m^3 respirable dust and 15 mg/m^3 total dust for calcium hydroxide.

CARBON MONOXIDE–Pending the outcome of litigation in the U.S. Court of Appeals, OSHA has stayed the September 1, 1989, start-up date of the ceiling limit for carbon monoxide in three steel industry operations–blast furnaces, vessel blowing at basic oxygen furnaces, and sinter plants.

NITROGLYCERIN AND ETHYLENE GLYCOL DINITRATE—Federal OSHA originally stayed the exposure limit start-up date to October 1, 1989 for these substances in the explosives industry pending the outcome of settlement negotiations currently underway. On October 6, that partial stay was extended to December 1, 1989; on December 6, 1989, the partial stay was extended to February 1, 1990.

By this notice, Minnesota OSHA proposes to adopt the extended partial stay of the start-up date for the new exposure limits for nitroglycerin and ethylene glycol dinitrate for the explosives industry.

PERCHLOROETHYLENE—In order to effect a more orderly notification of segments of the drycleaning industry that air-purifying respirators may be used in certain circumstances, Federal OSHA stayed the effective date from September 1 to October 1, 1989 for this substance in the drycleaning industry. A letter was sent to the International Fabricare Institute indicating the conditions under which air-purifying respirators may be used. No extensions of this partial stay have been issued; therefore, the new 25 ppm TWA exposure limit for perchloroethylene for the drycleaning industry became effective October 1, 1989.

By this notice, Minnesota OSHA proposes to adopt the above partial stays as published in the *Federal Register* on September 5, 1989. In addition, Minnesota OSHA proposes to adopt the corrections to the air contaminants standards as published in the *Federal Register* on November 15, 1989, which noted corrections to the preamble as well as the regulatory text of 1910.1000.

D) "Concrete and Masonry Construction (1926.704)." Federal OSHA published the final rule for concrete and masonry construction on June 16, 1988; Minnesota OSHA adopted the standard on September 12, 1988. The *Federal Register* publication of the standard, however, included an error in 1926.704(b). The word "shall" was incorrectly changed to "should" in the final standard; the proposed standard read "shall" and, as noted in the preamble to the final standard, the requirement was intended to be mandatory. The October 5, 1989 *Federal Register* notice corrects that error. Section 1926.704(b) correctly reads: "Lifting inserts which are embedded or otherwise attached to tilt-up precast concrete members <u>*shall*</u> be capable of supporting at least two times the maximum intended load applied or transmitted to them."

E) "Excavations (Subpart P of 29 CFR Part 1926)." On October 31, 1989, Federal OSHA revised Subpart P of Part 1926, combining the requirements for excavations and trenching into one standard. The revised standard becomes effective January 2, 1990.

The existing standards regulate the use of support systems, sloping and benching systems and other protective systems as means of protection against excavation cave-ins; means of access to and egress from excavations; and employee exposure to vehicular traffic, falling loads, hazardous atmospheres, water accumulation, and unstable structures in and adjacent to excavations. The revised standard uses performance criteria where possible, rather than specification requirements; consolidates and simplifies many of the existing provisions; adds and clarifies definitions; reformats the standard to eliminate duplicate provisions and ambiguous language; provides a consistent method of soil classifications; and gives employers added flexibility in providing protection for employees.

The primary purpose of the revisions is to clarify the requirements so that companies can tailor their protective measures to their particular situations while still providing adequate employee protection.

The revised standard allows construction projects more flexibility since it provides four options for sloping and four options for shoring (including using shields). The standard uses diagrams to explain that soil classification is required in shoring or shielding operations, however operators can select a choice of four methods:

(1) Use of timber shoring as detailed in Appendices A (Soil Classification) and C (Timber Shoring for Trenches);

(2) Using hydraulic shoring, trench jacks, air shores, and shields in accordance with manufacturers' tabulated data;

(3) Using shoring or shielding methods that are based on tabulated data—tables and charts—that have been approved by a registered professional engineer;

(4) Use of any design of protective method so long as it is approved by a registered professional engineer.

If sloping is chosen as a means of protection, companies also have four options. If the employer decides not to do any soil classification, the slope of the excavation's sides can be no steeper than 34 degrees. If soil classification is done in accordance with the system chosen, operators have three other options: the first choice requires that Appendices A (Soil Classification) and B (Sloping

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

and Benching) be followed; the second requires that companies use tabulated data approved by a registered professional engineer; and the third option allows that excavations can be designed by a registered professional engineer.

Appendices in the standard provide pictorial examples of shoring/shielding devices, hydraulic shoring tables and selection charts which provide a graphic summary of the requirements contained in the standard, and shoring tables in both nominal and actual size timber for timber shoring.

The standard also includes requirements for the protection of employees against cave-ins including daily inspections; protective systems; removal or neutralization of surface encumbrances which may create a hazard; pinpointing locations of underground installations such as sewer, electrical, fuel, and telephone lines; provision of adequate means of access and egress; warning systems for mobile equipment; and testing and controls for hazardous atmospheres.

The standard allows an employer to use a trench box or shield that is either designed or approved by a registered professional engineer (RPE) or is based on tabulated data prepared or approved by an RPE. Construction workers may remain inside trench shields that are being repositioned, provided that the shields are moved horizontally only and the shields are not lifted. The new standard also requires that information necessary for the safe installation, placement, use, and removal of any trench support system must be available at the worksite at all times; however, a written log or record of inspections is not required.

By this notice, Minnesota OSHA proposes to adopt revised Subpart P of 29 CFR Part 1926 as published in the *Federal Register* on October 31, 1989.

Minnesota State Lottery

Proposed Permanent Rules Relating to Lottery Retailers

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing With Respect to Proposed Rules, and Notice of Intent to Cancel Hearing on the Proposed Rules if Fewer Than 25 Persons Request a Hearing With Respect to the Proposed Rules

I. Explanation of Alternative Notices

The Minnesota State Lottery (hereinafter "Lottery") hereby gives notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* Sections 14.22 to 14.28 (1988). However, in the event 25 or more persons request a hearing with respect to the proposed amendments to the rule, thereby necessitating that one be held pursuant to *Minnesota Statutes* Section 14.25 (1988), and in order to expedite the rulemaking process should that occur, the Lottery is at the same time giving notice of a hearing on the proposed rule amendments pursuant to *Minnesota Statutes* Sections 14.131 to 14.20 (1988). The hearing on the proposed rules will, of course, be cancelled if 25 or more people do not request that a hearing be held with respect to the proposed rules. With the comment period closing on February 1, 1990, there will be seven days before the scheduled hearing date. This seven day period will give interested persons time to contact the Lottery to find out whether the hearing will be held or cancelled.

II. Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota State Lottery (hereinafter "Lottery") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing with respect to the proposed rules. The Lottery has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* Section 14.22 to 14.28 (1988).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on February 1, 1990. Comment is encouraged. Each comment should identify the portion of the rules being addressed, the reason for the comment, and any change proposed to the rules by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Lottery and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Lottery be informed of the specific portion of the rules on which a hearing is being requested at the time that the hearing request is made. This will enable the Lottery to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only

if 25 or more persons submit ***in writing*** requests for a hearing on the proposed rules or a portion thereof by February 1, 1990. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* Sections 14.131 to 14.20 (1988) and the hearing notice provided below.

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

Dale L. McDonnell
Legal Counsel
Minnesota State Lottery
Second Floor Centennial Building
658 Cedar Street
St. Paul, MN 55155

The statutory authority of the Lottery to adopt the proposed rules is contained in *Minnesota Statutes* Section 349A.05 (1989 Supplement).

The proposed rules will be published in the *State Register* issue of January 2, 1990, and a copy of the rules may be obtained from the Lottery by writing Dale L. McDonnell at the address listed 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 rules has been prepared and may be reviewed at the Lottery by contacting Dale L. McDonnell at the address listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* Section 14.11 (1988).

The Lottery is subject to *Minnesota Statutes* Section 14.115 (1988) regarding small business considerations in rulemaking. The Lottery's evaluation of the applicability of the methods contained in *Minnesota Statutes* Section 14.115, subd. 2 (1988), for reducing the impact of the proposed rules on small business are addressed in the statement of need and reasonableness.

Upon completion of proposed rules without a public hearing, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 rules as adopted should submit a written request to Dale L. McDonnell at the address listed above.

III. Notice of Intent to Adopt Rules with a Public Hearing on the Proposed Rules if 25 or More Persons Request a Hearing with Respect to the Proposed Rules

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes* Sections 14.131 to 14.20 (1988) on February 9, 1990 commencing at 9:00 a.m. in Room 300 North, State Office Building, St. Paul, Minnesota.

The hearing will continue, if necessary, at additional times and places as determined during the hearing by the administrative law judge.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to George Beck, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7601.

Unless a longer period, not to exceed 20 calendar days, is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Lottery and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three day period. This rule hearing procedure is governed by *Minnesota Statutes* Sections 14.131 to 14.20 (1988) and by *Minnesota Rules*, Pts. 1400.0200 to 1400.1200 (1986). Questions about procedure may be directed to the administrative law judge.

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

The proposed rules will be published in the *State Register* issue of January 2, 1990, and a copy of the rules may be obtained from the Lottery by writing Dale L. McDonnell at the address listed above in Part II of this notice.

The statutory authority of the Lottery to adopt the proposed rules is contained in *Minnesota Statutes* Section 349A.05 (1989, Supplement).

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore encouraged to participate in the process.

Minnesota Statutes, ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, Section 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

NOTICE IS HEREBY GIVEN that a statement of need and reasonableness is now available for a review at the Lottery and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Lottery anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules amendments. The statement of need and reasonableness may be reviewed at the Lottery by contacting Dale L. McDonnell at the address listed above in Part II of this Notice or it may be reviewed at the Office of Administrative Hearings, and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

PLEASE NOTE: That any person may request notification of the date on which the administrative law judge's report will be available, after which date the Lottery may not take any final action on the rule amendments for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may require notification of the date on which any rule amendments were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Lottery at any time prior to the filing of the rules with the Secretary of State.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* Section 14.11 (1988).

The Lottery is subject to *Minnesota Statutes* Section 14.115 (1988) regarding small business considerations in rulemaking. The Lottery's evaluation of the applicability of the methods contained in *Minnesota Statutes* Section 14.115, subd. 2 (1988) for reducing the impact of the proposed rule amendments on small business are addressed in the statement of need and reasonableness.

IV. Notice of Intent to Cancel the Hearing with Respect to the Rules if Fewer than 25 Persons Request a Hearing with Respect to the Proposed Rules

PLEASE NOTE that the Hearing, Notice of which is Given in Part III Above, Will Be Cancelled With Respect to the Proposed Rules if Fewer than 25 Persons Request a Hearing with Respect to the Proposed Rules in Response to the Notice Given in Part II Above.

To be informed whether a hearing noticed in Part III above will be held, please contact Dale L. McDonnell at the address listed above in Part III of the Notice before February 1, 1990 and provide your name, address, and telephone number. You will be notified after February 1, 1990 if the hearing has been cancelled. You may also call Mr. McDonnell at (612) 297-7100 after February 1, 1990 for oral confirmation regarding the scheduled hearing.

Dated: 19 December 1989

George R. Andersen
Director
Minnesota State Lottery

Rules as Proposed (all new material)

7856.1000 DEFINITIONS.

Subpart 1. **Terms.** For purposes of this chapter the terms defined in this part have the meanings given them.

Subp. 2. **Bank.** "Bank" means a bank, banking association, savings and loan association, trust company, or credit union, organized under the authority of this state or the United States with a place of business within this state.

Subp. 3. **Board.** "Board" means the Minnesota State Lottery Board.

Subp. 4. **Director.** "Director" means the director of the Minnesota State Lottery.

Subp. 5. **Division.** "Division" means the Division of Lottery of the Minnesota Department of Gaming created to administer and operate the lottery.

Subp. 6. **Law or state lottery law.** "Law" or "state lottery law" means *Minnesota Statutes*, chapter 349A.

Subp. 7. **Lottery.** "Lottery" means the Minnesota state lottery operated pursuant to the law.

Subp. 8. **Lottery retailer or retailer.** "Lottery retailer" or "retailer" means a person who has entered into a contract with the director authorizing the retailer to sell lottery tickets.

Subp. 9. **Lottery retailer contract.** "Lottery retailer contract" means the contract entered into between a retailer and the director that authorizes the retailer to sell lottery tickets.

Subp. 10. **Lottery ticket or ticket.** "Lottery ticket" or "ticket" means a lottery ticket issued by the Minnesota State Lottery for sale to the general public.

Subp. 11. **Person.** "Person" means an individual, association, corporation, club, trust, estate, society, company, owner or operator of a business, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary capacity, whether appointed by a court or otherwise, and any other combination of individuals. The term includes agencies and instrumentalities of the state, including counties and municipalities and agencies and instrumentalities of these entities.

Subp. 12. **Settlement date.** "Settlement date" means the date, designated by the director, by which the retailer is to return unsold instant tickets for a particular game.

Subp. 13. **State.** "State" means the state of Minnesota.

7856.1010 SCOPE.

This chapter is adopted by the director for the operation of the lottery and other matters pertinent to its administration.

7856.1020 DIRECTOR; POWERS AND DUTIES.

The director shall have the power and duty to operate and administer the lottery and to have the overall supervisory authority and responsibility of the lottery, including the adoption of rules and game procedures governing its establishment and operation, subject to review and comment by the board as provided by law. Those powers and duties include, but are not limited to, the administration of the following:

A. the types of lottery games to be conducted;

B. the price, or prices of tickets;

C. the number and sizes of prizes on the winning tickets;

D. the manner of selecting winning tickets;

E. the manner of payment of prizes to holders of winning tickets;

F. the frequency of drawings on selections of winning tickets;

G. the types and numbers of locations at which tickets may be sold;

H. the manner and amount of compensation to be paid to retailers necessary to provide for adequate availability of tickets to prospective buyers and for the convenience of the public;

I. the methods to be used in selling tickets;

J. the contracting with retailers to sell tickets pursuant to the law;

K. the apportionment of total revenues accruing from the sale of tickets and from other sources as provided by law;

L. reporting annually to the governor and legislature as required by law;

M. maintaining full and complete records of the lottery; and

N. other matters necessary or desirable for the efficient operation and administration of the lottery, for the convenience of the purchasers of tickets and holders of winning tickets, and to ensure the integrity and public confidence in the lottery.

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

7856.2010 RETAILER APPLICATION.

Subpart 1. **Application.** A person interested in obtaining a contract as a retailer for the sale of lottery tickets shall file an application to become a lottery retailer with the lottery in the form and manner prescribed by the lottery. A separate application must be submitted for each location at which the retailer desires to sell tickets.

Subp. 2. **Fee.** Each retailer application for an initial contract and renewal of the contract must be accompanied by a nonrefundable fee of $100.

7856.2020 SELECTION OF RETAILERS.

Subpart 1. **Eligibility.** An applicant for a lottery retailer contract must:

A. be at least 18 years of age;

B. not propose to be in business solely as a seller of lottery tickets;

C. not own $500 or more in delinquent taxes as defined in *Minnesota Statutes,* section 270.72;

D. not be convicted within the previous five years of a felony, gross misdemeanor, a crime involving fraud or misrepresentation, or a gambling related offense;

E. not have an officer, director, or person who owns more than five percent of the business of the applicant who has within the previous five years been convicted of a felony, gross misdemeanor, or crime involving fraud or misrepresentation, or a related offense except as provided under *Minnesota Statutes,* section 349A.06, subdivision 2, clause (c); and

F. not a member of the immediate family residing in the same household as the director, board member, or employee of the division.

Subp. 2. **Factors to be considered.** Before selecting a lottery retailer, the director shall consider:

A. the financial responsibility of the retailer;

B. the honesty and integrity of the retailer;

C. the accessibility of the place of business of the retailer;

D. the sufficiency of existing lottery retailers to serve the public convenience;

E. the volume of expected retailer sales;

F. the veracity of the information supplied in the application;

G. the length of time the retailer has been in business; and

H. the nature and type of business engaged in by the retailer.

Subp. 3. **Residency requirements.** Contracts shall be issued only to any of the following:

A. residents of the state;

B. corporations incorporated in this state, or authorized to do business in this state;

C. partnerships authorized to do business in this state; and

D. unincorporated businesses or other entities which are authorized to do business in this state.

7856.3010 ISSUANCE OF CONTRACT.

Subpart 1. **General.** Retailer contracts may be entered into by the director without limitation, except that the director may, at the director's discretion, determine that a sufficient number of retailers exists within a given marketing area to adequately serve the public convenience and necessity or that the addition of lottery retailers would not result in a sales increase sufficient to warrant contracting with that retailer.

Subp. 2. **Issuance.** The director will, according to the law and rules of this chapter, contract with retailers to sell lottery tickets to persons who in the director's opinion will best serve the public convenience and promote the sale of tickets consistent with the experience, character, and general fitness of the applicant.

Subp. 3. **Contract.** A retailer's contract will remain in full force and effect until the termination date as provided by law, unless the contract is previously canceled or suspended by the director according to the provisions of the law and the rules of this chapter. The director may renew any contract at the end of a term for an additional term.

Subp. 4. **Types of contracts.** Contracts entered into between the lottery and a retailer under this part may be distinguished by game type, as determined by the director. The contract may be altered, amended, suspended, or canceled, in whole or in part, pursuant to the law, this chapter, game procedures, and the terms of the contract.

7856.3020 CERTIFICATE.

Subpart 1. **Issuance.** Upon issuance of a contract authorizing a retailer to sell lottery tickets, the director shall issue a certificate to the retailer.

Subp. 2. **Display.** A lottery retailer shall prominently display the certificate issued under this part in an area visible to the general public. The lottery retailer shall also mount a decal provided by the lottery in a prominent place on the window or entrance to the business.

Subp. 3. **Surrender.** The certificate issued under this part must be surrendered by the retailer upon cancellation, suspension, or nonrenewal of the retailer's contract.

7856.3030 TEMPORARY LICENSES.

Pending final determination of any criteria under this chapter, the director may enter into a temporary contract for a period not to exceed 90 days.

7856.4010 CONDITIONS OF RETAILER CONTRACT.

Subpart 1. **Terms.** A lottery retailer contract must include, but is not limited to, the conditions specified in this part.

Subp. 2. **Rules and law.** The lottery retailer shall agree to be bound by and comply with the provisions of the law, and any rules, instructions, and orders issued by the director.

Subp. 3. **Sale of lottery tickets.** The lottery retailer shall agree to make available for sale to the public valid lottery tickets during normal business hours.

Subp. 4. **Displays.** The lottery retailer shall agree to maintain displays, notices, and materials supplied by the lottery according to instructions issued by the lottery.

Subp. 5. **Acceptance of tickets.** The lottery retailer shall agree that all lottery tickets accepted from the lottery or its distributor are considered to have been purchased by the lottery retailer at the price established by the lottery, less appropriate retailer commission, unless unsold tickets are returned to the lottery on or before the final settlement date.

Subp. 6. **Lost or missing tickets.** The lottery retailer shall agree to be responsible for lost, stolen, missing, or loose tickets not returned in sequential order.

Subp. 7. **Records.** The lottery retailer shall agree to maintain current and accurate records of all lottery operations in conformance with the law and as further directed by the lottery.

Subp. 8. **Access to records.** The lottery retailer shall agree to make available to employees of the lottery, and to employees of the Department of Public Safety, Gambling Enforcement Division upon their request, for inspection and audit, the records the retailer maintains relating to lottery operations.

Subp. 9. **Payment of prizes.** The lottery retailer agrees to validate and pay winning tickets consistent with normal business hours or as agreed to between the lottery and the retailer.

Subp. 10. **Liability for proceeds.** The lottery retailer shall agree to be personally liable for all proceeds from the sale of lottery tickets and that the proceeds constitute a trust fund in favor of the lottery until paid to the lottery.

Subp. 11. **Hold harmless.** The lottery retailer shall agree to hold the lottery and the state of Minnesota harmless from any liability arising in connection with conducting the sale of lottery tickets.

Subp. 12. **Status.** The lottery retailer shall agree that, in its capacity as a contractor to sell lottery tickets, the retailer is not acting on behalf of the lottery or the state as an agent, officer, or employee, but is acting in the capacity of an independent contractor.

Subp. 13. **Liability.** The lottery retailer shall agree that any contractual or tortious liability incurred by the retailer in connection with the sale of lottery tickets shall be the retailer's sole responsibility.

Subp. 14. **Renewal.** The lottery retailer shall not conduct any business or hold itself out as a lottery retailer unless a renewal contract is timely granted.

Subp. 15. **Place tickets are sold.** The lottery retailer agrees to sell lottery tickets only on the premises described in the contract.

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

Subp. 16. **Cash.** The lottery retailer shall agree to sell lottery tickets only for cash. For the purposes of this subpart, "cash" means coin, currency, money orders, and checks.

Subp. 17. **Restrictions on sale of tickets.** The lottery retailer shall agree not to condition the sale of lottery tickets upon the purchase of any other item or service, or impose any similar restriction upon the sale of a lottery ticket.

7856.4020 BONDING OF RETAILERS.

The lottery shall require a bond from each lottery retailer in an amount the lottery determines, consistent with its conclusion of the financial stability of the retailer, to avoid monetary loss to the state because of the activities of a retailer in the sale of lottery tickets. The bond must be through a company authorized to do business in this state and approved by the director, to take effect within 90 days of the initial contract and subsequent renewals.

7856.4030 COMPENSATION.

Subpart 1. **Commission.** Retailers shall receive a commission of five percent of the price of each ticket sold by that retailer.

Subp. 2. **Incentive program.** The director may establish lottery retailer incentive programs for retailers and their employees.

Subp. 3. **Acceptance of other money prohibited.** A lottery retailer, or employee of a retailer may not request, demand, or accept gratuities or similar renumeration in exchange for the performance of duties authorized under the lottery retailer's contract with the lottery other than as specifically authorized by the director.

7856.4050 NONTRANSFERABILITY AND NONASSIGNABILITY OF CONTRACT.

A retailer contract issued under this chapter may not be transferred or assigned. If the nature of the business or location to which a contract is issued or the ownership substantially changes, the director reserves the right to approve or cancel the contract. The retailer must notify the director in writing at least 30 days before any proposed business or location change or change in ownership. A substantial change in ownership under this part means a transfer of 50 percent or more of the equity of the retailer. If the business to which a contract is issued changes its business location, the contract must terminate as of the date of the change and a new application for contract must be filed and acted upon by the director.

7856.5010 LOCATION OF SALES AND PURCHASE.

The sale of lottery tickets may be made only pursuant to a contract of a lottery retailer and only at the specific location named in the contract or at other locations as the director may determine under the law.

7856.5020 INSPECTION OF PREMISES.

Retailers shall allow inspection of their premises at any time upon request of the lottery to determined whether the retailer is complying with the provisions of the law, rules, game procedures of the lottery, and terms of the contract. Inspection may be made with or without notice to the retailer during normal business hours.

7856.6010 CANCELLATION, SUSPENSION, AND NONRENEWAL OF CONTRACT.

Subpart 1. **Mandatory.** A contract must be canceled if the retailer has been determined by the director to have:

A. been convicted of a felony or gross misdemeanor or a gambling related offense;

B. committed fraud, misrepresentation, or deceit;

C. provided false or misleading information to the lottery; or

D. acted in a manner prejudicial to the public confidence in the integrity of the lottery.

Subp. 2. **Discretionary.** A contract may be canceled, suspended, or not renewed if it is determined by the director that the retailer:

A. changed business location;

B. failed to account for lottery tickets received;

C. failed to account for proceeds from the sale of lottery tickets;

D. violated a provision of the law, rule, game procedures, or any order issued by the director;

E. failed to comply with any term or condition of the lottery retailer's contract;

F. failed to comply with the bond requirements of part 7856.4020;

G. failed to maintain assigned minimum levels of sales;

H. committed an act which impairs the retailer's reputation for honesty and integrity;

I. failed to properly display lottery point-of-sale material;

J. did not have the financial stability or responsibility to act as a lottery retailer;

K. acted in a manner that the director finds that the retailer's participation as a lottery retailer is inconsistent with the public interest, convenience, and necessity;

L. sold lottery tickets to a person who the retailer knows or has reason to know will resell the tickets to other persons;

M. had an employee who has been involved in the sales of lottery tickets who has been convicted of a gambling-related offense or crime of moral turpitude, if contracting with that retailer would endanger the security or integrity of the lottery; or

N. sold, bartered, furnished, or given alcoholic beverages to a person under 21 years of age in violation of *Minnesota Statutes*, section 349A.06, subdivision 2, clause (1), two or more times within a two-year period.

Subp. 3. **Material change.** A retailer may be canceled, suspended, or not renewed if it is determined by the director that there has been a material change in any of the qualifications for a retailer's contract or factors to be considered under part 7856.2020.

7856.7010 DEPOSIT OF FUNDS.

Lottery retailers shall deposit in a separate account in a designated bank, to the credit of the lottery, all money received by the retailer from the sale of lottery tickets, less the amount retained as compensation for the sale of tickets, credit for direct payment of prizes, and money authorized to be retained for payment of prizes.

7856.7020 INTEREST.

If a retailer fails to pay any amount due to the lottery within the time required, the retailer shall owe interest on the unpaid amount due during each fiscal year at the rate of five percent in excess of the discount rate on 90-day commercial paper in effect on the previous July 1 at the Federal Reserve Bank in the Federal Reserve District encompassing Minnesota.

7856.7030 FILING REPORTS.

Lottery retailers shall file with the lottery, or its designated representatives, reports of the retailer's receipts and transactions in the sale of lottery tickets on a form or in a manner as the lottery may require.

7856.7040 AGENTS RESPONSIBLE FOR TICKETS.

Tickets accepted by the retailer from the lottery, or its authorized representatives, are considered to have been purchased by the retailer, unless returned within the time specified. The retailer is responsible for lost, stolen, missing, or loose tickets not returned in sequential order.

7856.7050 TICKETS UNACCOUNTED FOR.

Tickets that are not accounted for by the retailer on the final settlement date, regardless of reason, shall be deemed to have been sold to the retailer.

7856.7060 CONSIGNMENT OF TICKETS.

Lottery tickets delivered by the lottery on consignment to the retailer must be returned to the lottery upon cancellation, suspension, or nonrenewal of the contract, or upon demand by the director.

7856.7070 PRICE RESTRICTIONS.

A retailer may not sell a lottery ticket at a price other than the price set by the director under the game procedures for the game.

Minnesota State Lottery

Proposed Permanent Rules Relating to Prize Payments

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules with a Public Hearing if 25 or More Persons Request a Hearing with Respect to Proposed Rules, and Notice of Intent to Cancel Hearing on the Proposed Rules if Fewer Than 25 Persons Request a Hearing With Respect to the Proposed Rules

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

I. Explanation of Alternative Notices

The Minnesota State Lottery (hereinafter "Lottery") hereby gives notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* Section 14.22 to 14.28 (1988). However, in the event 25 or more persons request a hearing with respect to the proposed amendments to the rule, thereby necessitating that one be held pursuant to *Minnesota Statutes* Section 14.25 (1988), and in order to expedite the rulemaking process should that occur, the Lottery is at the same time giving notice of a hearing on the proposed rule amendments pursuant to *Minnesota Statutes* Sections 14.131 to 14.20 (1988). The hearing on the proposed rules will, of course, be cancelled if 25 or more people do not request that a hearing be held with respect to the proposed rules. With the comment period closing on February 1, 1990, there will be seven days before the scheduled hearing date. This seven day period will give interested persons time to contact the Lottery to find out whether the hearing will be held or cancelled.

II. Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota State Lottery (hereinafter "Lottery") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing with respect to the proposed rules. The Lottery has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* Section 14.22 to 14.28 (1988).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on February 1, 1990. Comment is encouraged. Each comment should identify the portion of the rules being addressed, the reason for the comment, and any change proposed to the rules by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Lottery and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Lottery be informed of the specific portion of the rules on which a hearing is being requested at the time that the hearing request is made. This will enable the Lottery to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit ***in writing*** requests for a hearing on the proposed rules or a portion thereof by February 1, 1990. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* Sections 14.131 to 14.20 (1988) and the hearing notice provided below.

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

Dale L. McDonnell
Legal Counsel
Minnesota State Lottery
Second Floor Centennial Building
658 Cedar Street
St. Paul, MN 55155

The statutory authority of the Lottery to adopt the proposed rules is contained in *Minnesota Statutes* Section 349A.05 (1989 Supplement).

The proposed rules will be published in the *State Register* issue of January 2, 1990, and a copy of the rules may be obtained from the Lottery by writing Dale L. McDonnell at the address listed 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 rules has been prepared and may be reviewed at the Lottery by contacting Dale L. McDonnell at the address listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* Section 14.11 (1988).

The Lottery is subject to *Minnesota Statutes* Section 14.115 (1988) regarding small business considerations in rulemaking. The Lottery's evaluation of the applicability of the methods contained in *Minnesota Statutes* Section 14.115, subd. 2 (1988), for reducing the impact of the proposed rules on small business are addressed in the statement of need and reasonableness.

Upon completion of proposed rules without a public hearing, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 rules as adopted should submit a written request to Dale L. McDonnell at the address listed above.

III. Notice of Intent to Adopt Rules with a Public Hearing on the Proposed Rules if 25 or More Persons Request a Hearing with Respect to the Proposed Rules

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes* Sections 14.131 to 14.20 (1988) on February 9, 1990 commencing at 2:00 p.m. in Room 300 North, State Office Building, St. Paul, Minnesota.

The hearing will continue, if necessary, at additional times and places as determined during the hearing by the administrative law judge.

All interested or affected persons, including representatives or associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to George Beck, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7601.

Unless a longer period, not to exceed 20 calendar days, is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Lottery and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three day period. This rule hearing procedure is governed by *Minnesota Statutes* Sections 14.131 to 14.20 (1988) and by *Minnesota Rules*, Pts. 1400.0200 to 1400.1200 (1986). Questions about procedure may be directed to the administrative law judge.

The proposed rules will be published in the *State Register* issue of January 2, 1990, and a copy of the rules may be obtained from the Lottery by writing Dale L. McDonnell at the address listed above in Part II of this notice.

The statutory authority of the Lottery to adopt the proposed rules is contained in *Minnesota Statutes* Section 349A.05 (1989, Supplement).

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore encouraged to participate in the process.

Minnesota Statutes, ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* Section 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statutes provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

NOTICE IS HEREBY GIVEN that a statement of need and reasonableness is now available for a review at the Lottery and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Lottery anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules amendments. The statement of need and reasonableness may be reviewed at the Lottery by contacting Dale L. McDonnell at the address listed above in Part II of this Notice or it may be reviewed at the Office of Administrative Hearings, and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

PLEASE NOTE that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Lottery may not take any final action on the rule amendments for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may require notification of the date on which any rule amendments were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Lottery at any time prior to the filing of the rules with the Secretary of State.

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

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* Section 14.11 (1988).

The Lottery is subject to *Minnesota Statutes* Section 14.115 (1988) regarding small business considerations in rulemaking. The Lottery's evaluation of the applicability of the methods contained in *Minnesota Statutes* Section 14.115, subd. 2 (1988) for reducing the impact of the proposed rule amendments on small business are addressed in the statement of need and reasonableness.

IV. Notice of Intent to Cancel the Hearing with Respect to the Rules if Fewer than 25 Persons Request a Hearing with Respect to the Proposed Rules

PLEASE NOTE that the hearing, notice of which is given in Part III above, will be cancelled with respect to the proposed rules if fewer than 25 persons request a hearing with respect to the proposed rules in response to the notice given in Part II above

To be informed whether a hearing noticed in Part III above will be held, please contact Dale L. McDonnell at the address listed above in Part II of the Notice before February 1, 1990 and provide your name, address, and telephone number. You will be notified after February 1, 1990 if the hearing has been cancelled. You may also call Mr. McDonnell at (612) 297-7100 after February 1, 1990 for oral confirmation regarding the scheduled hearing.

Dated: 19 December 1989

George R. Andersen
Director
Minnesota State Lottery

Rules as Proposed (all new material)

7857.2000 DISCLOSURE OF PURCHASE.

The lottery reserves the right to request a claimant of a winning ticket to disclose the location or person from whom the claimant purchased the ticket.

7857.2010 TICKETS LOST OR STOLEN.

The lottery reserves the right to withhold prize money pending the findings of an investigation, when the claimed ticket for that prize has been reported stolen or lost by a retailer.

7857.3000 PURCHASE RESTRICTIONS.

Subpart 1. **Lottery employee.** A lottery ticket may not be purchased by, nor a prize awarded to the director, board member, employee of the lottery, or any spouse, child, brother, sister, or parent residing in the same household as the director, board member, or employee of the lottery.

Subp. 2. **Vendor.** A lottery ticket may not be purchased, or prize awarded, to an officer or employee of a vendor which at the time the game or drawing was being conducted was involved in supplying goods or services to the lottery under a lottery procurement contract as determined by law.

Subp. 3. **Minors.** A lottery ticket may not be sold to a person under the age of 18 years, although a person 18 years old or older may purchase a ticket for the purpose of making a gift to a person under 18 years of age.

7857.3010 SALES ARE FINAL.

All ticket sales are final and no ticket returns may be accepted by a retailer, except as provided for in game procedures.

7857.4000 CLAIM VERIFICATION.

The retailer shall verify the information on the claim form and give a copy of the claim form to the claimant. The retailer shall forward the winning ticket and the claim form to the lottery for validation. Upon validation by the lottery, a check will be forwarded to the claimant in payment of the amount due subject to the restrictions of payment provided by law. In the event that the claim is not validated, the claim must be denied and the claimant will be notified.

7857.4010 CLAIMING A PRIZE.

Subpart 1. **Payment by retailers.** Retailers are authorized and required to pay instant game prizes as determined by the game procedures adopted by the director, consistent with the retailer's security requirements, as approved by the director.

Subp. 2. **Claim form.** Prizes over $1,000 must be paid by filing a claim form provided by the lottery. The claimant shall prepare and submit a claim form and the apparent winning ticket to the retailer or a lottery office for processing.

7857.4020 INFORMATION TO BE FURNISHED BY CLAIMANT.

A potential claimant must complete a claim form, supplying the required information, and surrender the apparent winning ticket. The director may require that additional information be supplied by the claimant.

7857.4030 TIME OF PAYMENT.

Payment of prizes will be awarded only after a claim has been filed, verified, fully validated and checks made as required by law. The claimant must further provide identification to the satisfaction of the director.

7857.4040 MANNER OF PAYMENT.

Payment of prizes may be by check, draft, or a free ticket.

7857.4050 DISCHARGE OF LIABILITY.

The state and its agents, officers, and employees, the lottery and its agents and employees shall be discharged of any and all liability upon payment of a prize to the holder of a winning ticket.

7857.5000 OWNERSHIP OF LOTTERY TICKETS.

A lottery ticket is considered to be owned by the person who has physical possession of the ticket until a name is imprinted or placed on the rear portion of the lottery ticket in the area designated. When a name is placed in the designated area, the person whose name appears in that area is the owner of the ticket and is entitled to any prize attributable to that ticket. The lottery will only make payment of a prize to the name on the back of the ticket, notwithstanding any name submitted on the claim form. If one or more names appear on the rear of the ticket, one of those persons will be designated to receive payment by indicating on the claim form and by signature on the claim form of all other persons whose names appear on the rear of the ticket. The person or persons appearing for payment shall be the same as that which appears on the lottery ticket in the designated area.

7857.5010 UNCLAIMED PRIZES.

Unclaimed prize money on a winning ticket will be retained by the lottery for payment to the person entitled to the prize for one year after the drawing in which the prize was won or for one year after the announced end of the game. If no claim is made within that time, the prize money will be used pursuant to law and the holder of the winning ticket shall have no further claim to the prize.

7857.6000 PRIZES PAYABLE AFTER DEATH OF PRIZE WINNER.

Subpart 1. **General.** All prizes or portions of prizes due will remain payable at the time of death of the prize winner. Upon payment as provided under this chapter, the lottery will be absolved of any further liability. The payment of a prize may not be accelerated before the normal date of tender or payment because of the death of the prize winner or for any reason.

Subp. 2. **Prizes not payable over time.** Prizes or a portion of a prize not payable over time will be payable to any designated beneficiary which the deceased prize winner may appoint by will. If the deceased prize winner fails to designate any party specifically or by residuary clause, or fails to exercise any power of appointment in a will, the payment then will be made directly to those parties who would succeed to the assets of the deceased prize winner under *Minnesota Statutes*, chapter 524.

Subp. 3. **Prizes paid over time.** All prizes or portions of prizes payable over time will be payable to the party designated as a beneficiary on the latest valid beneficiary statement filed with the lottery. If a winner of a prize or portion of a prize dies before completing a valid beneficiary statement or does not have a valid beneficiary statement on file with the lottery at the time of death, then the prize or portion of the prize will be payable according to subpart 2.

7857.6010 PAYMENT OF PRIZES TO PERSONS UNDER 18 YEARS OF AGE.

If a prize is under $5,000, the director may make payment prizes to a person under the age of 18, or to the person's parent, guardian, or adult member of the person's family. If the prize is $5,000 or over, the director shall deposit the prize with the district court as required by *Minnesota Statutes*, section 349A.08, subdivision 3, clause (2).

7857.6020 ASSIGNABILITY OF PRIZES.

Prizes in the lottery are not assignable except:

A. if the prize winner dies before the prize is paid the director shall pay the prize as required under law; or

B. pursuant to an appropriate court order, which order shall not include an order issued to enforce or approve an agreement between a prize winner and any third party where the prize winner has agreed to transfer future prize payments to a third party in exchange for consideration.

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

7857.7000 PROMOTIONAL PRIZES.

Independently of, or concurrently with, the operation of the lottery, the director may establish special drawings, bonuses, or additional prizes. The nature and number of prizes will be determined by the director. The drawing for promotional prizes may be held independently of the regular prize drawings or may be incorporated with those drawings. The director will make a public announcement to inform the public of the promotions.

Pollution Control Agency

Water Quality Division

Proposed Permanent Rules Relating to Water Quality Program Development

Notice of Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) will hold public hearings on the above-entitled matter. The hearings will be held on the dates and in the locations indicated below:

Date	Location	Time
February 1, 1990	MPCA Board Room 520 Lafayette Road St. Paul, Minnesota	9:30 a.m.
February 5, 1990	Southwest State University Building IL, Room 214 Marshall, Minnesota	7:00 p.m.
February 6, 1990	Detroit Lakes Public Library 1000 Washington Avenue Detroit Lakes, Minnesota	7:00 p.m.
February 7, 1990	County Services Building Room 1 Laurel Street Brainerd, Minnesota	7:00 p.m.
February 12, 1990	St. Louis County Courthouse County Board Room Duluth, Minnesota	7:00 p.m.
February 14, 1990	Friedel Building 1220 South Broadway Rooms 120 A & B Rochester, Minnesota	7:00 p.m.

Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

The matter will be heard before Administrative Law Judge Richard Luis whose address and phone number are: Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, (612) 349-2542. The rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1988) and by the rules of the Office of Administrative Hearings, *Minnesota Rules* parts 1400.0200 to 1400.1200 (1989). Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above.

The subject of the hearing will be the proposed amendments to *Minnesota Rules* ch. 7050. These rules classify all surface waters of the State and establish both numerical water quality standards for those waters and detailed procedures for the development of additional standards. The standards specified in or developed under these rules provide the bases for MPCA surface water discharge permits which are issued to point source discharges such as industrial plants, animal feedlots, and municipal wastewater treatment facilities. The major amendments proposed at this time are:

1. Add a detailed set of procedures to determine numerical standards applicable to surface waters. The standards will protect from the harmful effects of toxic substances 1) fish and other aquatic organisms, 2) the human consumers of fish and other edible aquatic life; and 3), the wildlife consumers of aquatic life.

2. Propose new numerical standards for 54 toxics in part 7050.0220, subp. 3.

3. Update five of the six existing numerical standards in part 7050.0220 for toxics. The five toxics being changed are chromium, copper, total cyanide, oil and total phenols. The sixth toxic, un-ionized ammonia, is not being changed.

4. Add three calcareous fens to the list of Outstanding Resource Value Waters, part 7050.0180. These calcareous fens are:

a) Adrian fen, Nobles County, Westside Township, T.102, R.43, S.11.

b) Burke State Wildlife Management Area fen, Pipestone County, Burke Township, T.106, R.44, S.28;

c) Altona State Wildlife Management Area fen, Pipestone and Lincoln Counties, Altona and Verdi Townships, T.108, R.46, S.1 and T.109, R.45, S.31.

5. Reclassify two Class 2C stream reaches as Class 7 Limited Resource Value Waters. These proposed Class 7 waters are:

a) Bogus Brook at Bock, Minnesota, Mille Lacs County, Borgholm Township, T.38, R.26, S.13, 14;

b) Chetomba Creek, at and near Prinsburg, Minnesota, Renville and Kandiyohi Counties, Crooks, Ericson, and Holland Townships, T.116, R.36, S.6, 7, 18, 19; T.116, R.37, S.8, 9, 14, 15, 16, 23, 24; T.117, R.36, S. 8, 9, 16, 17, 21, 28, 29, 30, 31, 32.

6. Indicate when the nondegradation provisions became effective for designated Outstanding Resource Value Waters, part 7050.0180.

7. Delete the word "unspecified" as used with toxic substances and make the definition of acute toxicity in parts 7050.0210, subp. 5, item D., 7050.0211, subp. 1, 7050.0212, subp. 6, and 7050.0214, subp. 1 more explicit and consistent throughout the rule.

8. Retain a portion of the last paragraph in part 7050.0220, subp. 3 and move it to part 7050.0210, subp. 13.

9. Remove part 7050.0210, subp. 14 because it will be replaced by the methods in part 7050.0218.

10. Incorporate by reference the new Department of Natural Resources Commissioner's Order 2294 for trout streams dated March 18, 1988, in part 7050.0420.

11. Additional miscellaneous and nonsubstantive changes to chapter 7050.

The proposed rules are authorized by *Minnesota Statutes* §§ 115.03 and 115.44 (1988). One free copy of the rules is available on request by contacting:

David Maschwitz
Division of Water Quality
Program Development Section
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7255

NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS is now available for review at the Agency offices and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Agency offices or at the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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

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

The Agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment period also submit a copy of the written data to David Maschwitz at the address stated above. Comments are most helpful if the comments identify the particular provision of the proposed amendments that is supported or objected to and if the comments suggest specific alternative language to that proposed. Comments should provide the reasons and data that support the proposed alternative language.

Please be advised that the proposed amendments are subject to modification as a result of the rule hearings process. The Agency urges those who are interested to any extent in the proposed amendments, including those who support the amendments as proposed and do not want to see changes made, to participate in the hearing and make their views known.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Agency may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Agency at any time prior to the filing of the rules with the Secretary of State.

The Agency has examined the potential impact of the proposed amendments on local public bodies, small businesses, and agricultural land. These impacts are discussed in Part V of the Statement of Need and Reasonableness. The Agency has determined that some public bodies will likely incur slightly higher monitoring costs as a result of these amendments but that most will experience no financial impact from adoption of the proposed amendments; that small businesses will not be adversely affected; and that agricultural land will not be adversely affected and indeed will be protected. The impact of the listing of new outstanding resource value waters is not able to be quantified because these amendments could affect new or expanded discharges that are not known today.

Please be advised that *Minnesota Statutes* ch. 10A (1988) requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 (1988) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5615.

Dated: 19 December 1989

Gerald L. Willet
Commissioner

Rules as Proposed

7050.0150 DETERMINATION OF COMPLIANCE.

In making tests or analyses of the waters of the state, sewage, industrial wastes, or other wastes to determine compliance with the standards, samples shall be collected in ~~such~~ a manner and place, and of such type, number, and frequency as may be considered necessary by the agency from the viewpoint of adequately reflecting the condition of the waters, the composition of the effluents, and the effects of the pollutants upon the specified uses. Reasonable allowance will be made for dilution of the effluents, which are in compliance with part 7050.0211, subpart 1, following discharge into waters of the state. The agency by allowing dilution may consider the effect on all uses of the waters of the state into which the effluents are discharged. The extent of dilution allowed regarding any specific discharge shall not violate the applicable water quality standards. The samples shall be preserved and analyzed ~~in accordance with~~ according to procedures ~~given in the 1971 edition of Standard Methods for the Examination of Water and Wastewater, by the American Public Health Association, American Water Works Association, and the Water Pollution Control Federation, and any revisions or amendments thereto~~ in Code of Federal Regulations, title 40, part 136. The agency may accept or may develop other methods, procedures, guidelines, or criteria for measuring, analyzing, and collecting samples.

7050.0180 NONDEGRADATION FOR OUTSTANDING RESOURCE VALUE WATERS.

[For text of subpart 1, see M.R.]

Subp. 2. **Definitions.** For the purpose of this part, the following terms have the meanings given them:

[For text of item A, see M.R.]

B. "New discharge" means a discharge that was not in existence on ~~November 5, 1984~~ the effective date the outstanding resource value water was designated as described in parts 7050.0460 and 7050.0470.

C. "Expanded discharge" means a discharge that changes in volume, quality, location, or any other manner after ~~November 5, 1984~~ the effective date the outstanding resource value water was designated as described in parts 7050.0460 and 7050.0470, such that an increased loading of one or more pollutants results. In determining whether an increased loading of one or more pollutants would result from the proposed change in the discharge, the agency shall compare the loading that would result from the proposed discharge with the loading allowed by the agency ~~at the time these parts take effect~~ as of the effective date of outstanding resource value water designation.

[For text of subps 3 to 6a, see M.R.]

Subp. 6b. **Calcareous fens.** The following calcareous fens are ~~hereby~~ designated outstanding resource value waters:

A. Spring Creek fen, Becker County;

B. B-B Ranch fen, Clay County;

C. Barnesville WMA fen, Clay County;

D. Felton fen, Clay County;

E. Spring Prairie fen, Clay County;

F. Clearbrook fen, Clearwater County;

G. Fort Snelling State Park fen, Dakota County;

H. Minnesota Valley fen, Dakota County;

I. Nicols Meadow, Dakota County;

J. Perched Valley WMA fen, Goodhue County;

K. Heron Lake fen, Jackson County;

L. Thompson fen, Jackson County;

M. Fish Hatchery fen, Le Sueur County;

N. St. Peter fen, Le Sueur County;

O. Altona State Wildlife Management Area fen, Lincoln and Pipestone Counties;

P. Waubun fen, Mahnomen County;

~~P.~~ Q. Truman fen, Martin County;

~~Q.~~ R. Fort Ridgely fen, Nicollet County;

~~R.~~ S. Le Sueur fen, Nicollet County;

T. Adrian fen, Nobles County;

~~S.~~ U. Primula Meadow (Faith fen), Norman County;

~~T.~~ V. Rock Dell fen, Olmsted County;

W. Burke State Wildlife Management Area fen, Pipestone County;

~~U.~~ X. Chicog WMA fen, Polk County;

~~V.~~ Y. Kertsonville WMA fen, Polk County;

~~W.~~ Z. Pankratz fen (Svedarsky's fen), Polk County;

~~X.~~ AA. Ordway fen, Pope County;

~~Y.~~ BB. Cannon River fen, Rice County;

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

~~Z.~~ CC. Savage fen, Scott County;

~~AA.~~ DD. Kennedy fen, Winona County; and

~~BB.~~ EE. Sioux Nation fen, Yellow Medicine County.

[For text of subps 7 to 9, see M.R.]

Subp. 10. **Thermal discharges.** If a thermal discharge causes potential water quality impairment, the agency shall implement the nondegradation policy consistent with section 316 of the Clean Water Act, United States Code, title 33, section 1326.

7050.0185 NONDEGRADATION FOR ALL WATERS.

[For text of subpart 1, see M.R.]

Subp. 2. **Definitions.** For the purpose of this part, the following terms have the meanings given them:

[For text of items A to E, see M.R.]

F. "Toxic pollutant" ~~has the meaning given in part 7001.1020, subpart 30~~ means a pollutant listed as toxic under section 307(a)(1) of the Clean Water Act, United States Code, title 33, section 1317(b)(1), or as defined by *Minnesota Statutes*, section 115.01, subdivision 14.

[For text of item G, see M.R.]

[For text of subps 3 to 8, see M.R.]

7050.0210 GENERAL STANDARDS FOR DISCHARGERS TO WATERS OF THE STATE.

[For text of subpart 1, see M.R.]

Subp. 2. **Nuisance conditions prohibited.** No sewage, industrial waste, or other wastes shall be discharged from either point or nonpoint sources into any waters of the state so as to cause any nuisance conditions, such as the presence of significant amounts of floating solids, scum, visible oil ~~slicks~~ film, excessive suspended solids, material discoloration, obnoxious odors, gas ebullition, deleterious sludge deposits, undesirable slimes or fungus growths, aquatic habitat degradation, excessive growths of aquatic plants, or other offensive or harmful effects.

[For text of subps 3 and 4, see M.R.]

Subp. 5. **Mixing zones.** Means for expediting mixing and dispersion of sewage, industrial waste, or other waste effluents in the receiving waters are to be provided so far as practicable when deemed necessary by the agency to maintain the quality of the receiving waters in accordance with applicable standards. Mixing zones must be established by the agency on an individual basis, with primary consideration being given to the following guidelines:

A. mixing zones in rivers shall permit an acceptable passageway for the movement of fish;

B. the total mixing zone or zones at any transect of the stream should contain no more than 25 percent of the cross sectional area and/or volume of flow of the stream, and should not extend over more than 50 percent of the width;

C. mixing zone characteristics shall not be lethal to aquatic organisms;

D. for contaminants other than heat, the ~~96-hour median tolerance limit for indigenous fish and fish food organisms should not be exceeded~~ FAV, as defined in part 7050.0218, subpart 5, item M, for toxic substances should not be exceeded as a one-day mean concentration at any point in the mixing zone;

E. mixing zones should be as small as possible, and not intersect spawning or nursery areas, migratory routes, water intakes, nor mouths of rivers; and

F. overlapping of mixing zones should be minimized and measures taken to prevent adverse synergistic effects.

This subpart applies in cases where a Class 7 water is tributary to a Class 2 water.

[For text of subps 6c to 12, see M.R.]

Subp. 13. **Pollution prohibited.** No sewage, industrial waste, or other wastes shall be discharged from either a point or a nonpoint source into the waters of the state in such quantity or in such manner alone or in combination with other substances as to cause pollution ~~thereof~~ as defined by law. No sewage, industrial waste, or other wastes shall be discharged from either point or nonpoint sources into any waters of the state so as to cause any material change in any substances or characteristics that may impair the beneficial uses, defined in part 7050.0200, for which the waters of the state are protected. In any case where the waters of the state into which sewage, industrial waste, or other waste effluents discharge are assigned different standards than the waters of the state into which ~~such~~ the receiving waters flow, the standards applicable to the waters into which ~~such~~ the sewage, industrial waste, or other wastes discharged shall be supplemented by the following:

The quality of any waters of the state receiving sewage, industrial waste, or other waste effluents shall be such that no violation of the standards of any waters of the state in any other class shall occur by reason of the discharge of ~~such~~ the sewage, industrial waste, or other waste effluents.

Subp. 14. [See Repealer.]

[For text of subps 15 to 18, see M.R.]

7050.0211 FACILITY STANDARDS.

Subpart 1. **Minimum secondary treatment for municipal point source and other point source dischargers of sewage.** It is ~~herein~~ established that the agency shall require secondary treatment as a minimum for all municipal point source dischargers and other point source dischargers of sewage. For purposes of this part, municipal has the adjective meaning of municipality as defined in part 7001.1020, subpart 18. Secondary treatment facilities are defined as works which will provide effective sedimentation, biochemical oxidation, and disinfection, or the equivalent, including effluents conforming to the following:

Substance or Characteristic	Limiting Concentration or Range*
5-Day carbonaceous biochemical oxygen demand*	25 milligrams per liter
Fecal coliform group organisms***	200 organisms per 100 milliliters
Total suspended solids*	30 milligrams per liter
Oil	Essentially free of visible oil
Phosphorus**	1 milligram per liter
pH range	6.0 - 9.0
~~Unspecified~~ Toxic or corrosive substances	None at levels that exceed the FAV as defined in part 7050.0218, subpart 5, item M, or are acutely toxic to humans or other animals or plant life, or directly damaging to real property.

*The arithmetic mean for concentrations of five-day carbonaceous biochemical oxygen demand and total suspended solids shall not exceed the stated values in any calendar month. In any calendar week, the arithmetic mean for concentrations of five-day carbonaceous biochemical oxygen demand shall not exceed 40 milligrams per liter and total suspended solids shall not exceed 45 milligrams per liter.

**Where the discharge of effluent is directly to or affects a lake or reservoir, phosphorus removal to one milligram per liter shall be required. In addition, removal of nutrients from all wastes shall be provided to the fullest practicable extent wherever sources of nutrients are considered to be actually or potentially detrimental to preservation or enhancement of the designated water uses. Dischargers required to control nutrients by this subpart are subject to the variance provisions of part 7050.0190.

***Disinfection of wastewater effluents to reduce the levels of fecal coliform organisms to the stated value is required from March 1 through October 31 (Class 2 waters) and May 1 through October 31 (Class 7 waters) except that where the effluent is discharged 25 miles or less upstream of a water intake supplying a potable water system, the reduction to the stated value is required year around. The stated value is not to be exceeded in any calendar month as determined by the geometric mean of all the samples collected in a given calendar month. The application of the fecal coliform group organism standards shall be limited to sewage or other effluents containing admixtures of sewage and shall not apply to industrial wastes except where the presence of sewage, fecal coliform organisms, or viable pathogenic organisms in such wastes is known or reasonably certain. Analysis of samples for fecal coliform group organisms by either the multiple tube fermentation or the membrane filter techniques is acceptable.

[For text of subps 2 and 3, see M.R.]

7050.0212 REQUIREMENTS FOR POINT SOURCE DISCHARGERS OF INDUSTRIAL OR OTHER WASTES.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **~~Unspecified~~ Toxic or corrosive substances.** In addition to the requirements of subpart 1, a person discharging industrial

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

or other wastes from a point source shall comply with the control requirements of part 7050.0211, subpart 1, for ~~unspecified~~ toxic or corrosive substances.

7050.0214 REQUIREMENTS FOR POINT SOURCE DISCHARGERS TO LIMITED RESOURCE VALUE WATERS.

Subpart 1. **Effluent limitations.** For point source discharges of sewage, industrial, or other wastes to surface waters classified as limited resource value waters pursuant to parts 7050.0200, number 7 and 7050.0400 to 7050.0470, the agency shall require treatment facilities which will provide effluents conforming to the following limitations:*

Substance or Characteristic	Limiting Concentration
5-Day carbonaceous biochemical oxygen demand	15 milligrams per liter (arithmetic mean of all samples taken during any calendar month)

*All effluent limitations specified in part 7050.0211, subpart 1, shall also be applicable to dischargers of sewage to Class 7 waters, provided that ~~unspecified~~ toxic or corrosive substances shall be limited to the extent necessary to protect the designated uses of the receiving water or affected downstream waters.

[For text of subps 2 to 4, see M.R.]

7050.0218 METHODS FOR DETERMINING SURFACE WATER STANDARDS FOR TOXIC SUBSTANCES.

Subpart 1. **Purpose and applicability.** The purpose of this part is to establish methods for developing water quality standards for toxic substances. The standards established by these methods protect Class 1 surface waters for public and private domestic consumption; and Class 2 waters for the propagation and maintenance of fish and aquatic life, the consumption of fish and edible aquatic life by humans, and the consumption of aquatic organisms by wildlife. The standards also protect the uses assigned to Class 7, limited resource value, waters described in part 7050.0200.

Subp. 2. **Policy.** The standards established under this part, together with other provisions in this chapter, shall prevent the discharge of sewage, industrial waste, or other wastes from point or nonpoint sources into the waters of the state in amounts that impair the quality of the waters of the state or the aquatic community, or in any manner render the aquatic community unsuitable or objectionable for fishing, fish culture, or recreational uses.

Protection of the aquatic community from the toxic effects of substances means the protection of no less than 95 percent of all the species in any aquatic community. Greater protection may be applied to a community if economically, recreationally, or ecologically important species are very sensitive.

Protection of human consumers of fish, other edible aquatic organisms, and water for drinking from surface waters means that exposure from noncarcinogenic chemicals shall be below levels expected to produce known adverse effects; and the incremental cancer risk from exposure to carcinogenic chemicals, singly or in mixtures, shall not exceed one in 100,000. The combined risk from mixtures of carcinogens shall be determined as described in subpart 12, item E.

Protection of wildlife that eat aquatic organisms means the protection of the most sensitive wildlife species or populations. Greater protection may be applied if the exposed animals include endangered or threatened wildlife species listed in chapter 6134, or in Code of Federal Regulations, title 50, part 17, under the Endangered Species Act of 1973, United States Code, title 16, sections 1531 to 1543.

Subp. 3. **Adoption of new standards.** The agency may adopt new standards according to *Minnesota Statutes*, chapter 14, to replace those listed in part 7050.0220 that are more stringent or less stringent if new scientific evidence shows that a change in the standard is justified.

Subp. 4. **Standards for substances not listed in part 7050.0220.** Standards for toxic substances not listed in part 7050.0220 shall be derived by the commissioner using the procedures in this part. Numerical standards so derived have the same authority as standards listed in part 7050.0220. Any effluent limitation determined to be necessary based on standards derived under this subpart shall only be required after the discharger has been given notice of the specific effluent limitations and an opportunity for public hearing. The requirements in chapter 7001 regarding notice of National Pollutant Discharge Elimination System and State Disposal System permits can satisfy the notice and opportunity for hearing requirements in this subpart.

Subp. 5. **Definitions.** For the purposes of parts 7050.0218 to 7050.0220, the following terms have the meanings given them.

A. "Acute-chronic ratio" or "ACR" means the ratio of the acute toxicity, expressed as a LC50 or EC50 of a toxicant to its chronic toxicity expressed as the chronic value. The ACR is used as a factor for estimating chronic toxicity on the basis of acute toxicity.

B. "Acute toxicity" means a stimulus severe enough to rapidly induce a response. In toxicity tests, a response is normally observed in 96 hours or less. Acute effects are often measured in terms of mortality or other debilitating effects.

C. "Bioaccumulation factor" or "BAF" means the concentration of a substance in one or more tissues of an aquatic organism, exposed from any source of the substance but primarily from the diet and bottom sediments in addition to the water column, divided by the average concentration in the solution in which the organism had been living.

D. "Bioconcentration factor" or "BCF" means the concentration of a substance in one or more tissues of an aquatic organism, exposed only to the water as the source of the substance, divided by the average concentration in the solution in which the organism had been living.

E. "Cancer potency factor" or "ql*" means a factor indicative of a chemical's human cancer causing potential. The ql* is the upper 95 percent confidence limit (one-sided) of the slope from a linear nonthreshold dose-response model used by the USEPA to provide an upper bound estimate of incremental cancer risk. The ql* assumes a lifetime exposure and is expressed in days times milligram toxicant per kilogram body weight (d x kg/mg).

F. "Chronic toxicity" means a stimulus that lingers or continues for a long period of time, often one-tenth the life span or more. A chronic effect can be mortality, reduced growth, reproduction impairment, harmful changes in behavior, and other nonlethal effects.

G. "Chronic criterion" or "CC" means the highest water concentration of a toxicant to which organisms can be exposed indefinitely without causing chronic toxicity.

H. Chronic value" means the geometric mean of the highest tested concentration that did not cause an unacceptable adverse effect and the lowest tested concentration that did cause an unacceptable adverse effect, and in which all higher test values cause an effect, in an approved chronic test.

I. "Cold water fisheries" means a community of fish including species of trout and salmon from the Salmonidae family that inhabit trout waters as defined in part 7050.0420.

J. "Criterion" means a number or numbers established for a substance derived under this part, or issued by the USEPA, to protect aquatic life, humans, or wildlife.

K. "Duration" means the time over which the instream concentration of a substance is averaged for comparison with the standard.

L. "Effect concentration" or "EC50" means the toxicant concentration that causes equilibrium loss, immobilization, mortality, or other debilitating effects in 50 percent of the exposed organisms during a specific time of observation.

M. "Final acute value" or "FAV" means an estimate of the concentration of a material corresponding to the cumulative probability of 0.05 in the distribution of all the acute toxicity values for the genera or species from the acceptable acute toxicity tests conducted on a substance. The FAV is the acute toxicity limitation applied to mixing zones in part 7050.0210, subpart 5; and to dischargers in parts 7050.0211, subpart 1; 7050.0212, subpart 6; and 7050.0214, subpart 1.

N. "Genus mean acute value" or "GMAV" means the geometric mean of the SMAVs available for the genus.

O. "K value" means the fraction of the total allowable daily dose of a toxic substance that is attributed to drinking water and fish consumption relative to other sources of the substance to humans, such as air or food, in the calculation of criteria. In the absence of sufficient data to establish a chemical-specific K value, the K value will be 0.2.

P. "Lethal concentration" or "LC50" means the toxicant concentration killing 50 percent of the exposed organisms in a specific time of observation.

Q. "Lowest observable adverse effect level" or "LOAEL" means the lowest tested concentration that caused a statistically significant occurrence of an adverse effect in comparison with a control when all higher test concentrations caused adverse effects.

R. "Maximum criterion" or "MC" means the highest concentration of a toxicant in water to which aquatic organisms can be exposed for a brief time with zero to slight mortality. The MC equals the FAV divided by two.

S. "National methods" means the methods the USEPA uses to develop aquatic life criteria as described in Stephan, C.E., D.J. Mount, D.J. Hansen, J.H. Gentile, G.A. Chapman, and W.A. Brungs, 1985, "Guidelines for deriving numerical national water quality criteria for the protection of aquatic organisms and their uses," USEPA, Office of Research and Development, Environmental

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

Research Laboratories, Duluth MN; Narragansett, RI, Corvallis, OR. 98 p; available through the National Technical Information Service, Springfield, VA.

T. "No observable adverse effect level" or "NOAEL" means the highest tested concentration that did not cause a statistically significant occurrence of an adverse effect in comparison with a control when no lower test concentration caused an injurious or adverse effect.

U. "Octanol to water partition coefficient" or "K_{ow}" means the ratio of the concentration of a substance in the octanol phase to its concentration in the aqueous phase of a two-phase octanol to water system after equilibrium of the substance between the two phases has been achieved. The $\log_{10} K_{ow}$ has been shown to be proportional to the bioconcentration potential of lipophilic organic chemicals.

V. "Parachor" means the surface tension adjusted molar volume, and specifically is the molecular weight of a liquid times the fourth root of its surface tension, divided by the difference between the density of the liquid and the density of the vapor in equilibrium with it; essentially constant over wide ranges of temperature. Parachor relates to the physical properties of a molecule that affect its potential to bioaccumulate in aquatic organisms.

W. "Reference dose" or "RfD" means an estimate of a daily exposure to the human population, including sensitive subpopulations, that is likely to be without appreciable risk or deleterious effects over a lifetime. The RfD dose is expressed in units of daily dose and was formerly known as the acceptable daily intake.

X. "Species mean acute value" or "SMAV" means the geometric mean of all the available and acceptable acute values for a species.

Y. "Standard" means a number or numbers established for a substance to protect a specified beneficial use. The standard for a toxic substance includes the lowest of the chronic criteria, established to protect aquatic life, humans, or wildlife; the MC; and the FAV. Some substances do not have an MC or an FAV due to insufficient data. For these substances, the CC alone is the standard.

Z. "Toxic pollutant" has the meaning given it in part 7050.0185, subpart 2, item F.

AA. "USEPA" means the United States Environmental Protection Agency.

BB. "Water quality characteristic" means a characteristic of natural waters, such as total hardness or pH, that can affect the toxicity of a substance to aquatic organisms.

Subp. 6. **Adoption of USEPA national criteria.** The USEPA establishes aquatic life criteria under section 304(a)(1) of the Clean Water Act, United States Code, title 33, section 1314. The USEPA criteria, subject to modification as described in this subpart, are applicable to Class 2 waters of the state. The USEPA has described the national methods for developing aquatic life criteria in "Guidelines for deriving national numerical water quality criteria for the protection of aquatic organisms and their uses," available through the National Technical Information Service, Springfield, VA.

USEPA criteria that vary with an ambient water quality characteristic such as total hardness or pH will be established for specific waters or reaches using data available to the commissioner. Central values such as the means or medians for the characteristic will be used unless there is sufficient evidence to support using different values. Values for water quality characteristics can be estimated for specific waters or reaches that have no data by using data from a nearby watershed with similar chemical properties.

A. The USEPA criteria are adopted unchanged by the agency, unless modified under item C, as the criteria applicable to designated trout waters. Trout (Class 2A) waters are listed in parts 7050.0420 and 7050.0470.

B. The USEPA criteria are adopted, subject to modification as described in this item, for application to the cool and warm water fisheries habitats. Cool and warm water fisheries (Class 2Bd, 2B, and 2C) waters are defined in part 7050.0430 or listed in part 7050.0470.

(1) Acute data, in the form of the ranked genus mean acute values used by the USEPA to determine the national criteria, are the data used to determine the Class 2Bd, 2B, and 2C criteria.

(2) GMAVs for fish in the family Salmonidae are deleted from the lowest of the ranked GMAVs so that all of the lowest four GMAVs in the USEPA data set are for nonsalmonid species. Following these deletions, no other salmonid GMAVs are deleted. If none of the lowest four GMAVs in the USEPA data set are for salmonid species, no GMAVs are deleted. The minimum of eight GMAVs specified in the national methods must be met, except that nonsalmonid fish can take the place of the salmonid requirement if the prescribed deletions eliminate all salmonids from the national data set.

(3) The number of GMAVs in the USEPA criteria data set is reduced by the number of salmonid GMAVs deleted.

(4) The FAV is determined according to the national methods as follows:

(a) for each species for which one or more acute value is available, a SMAV is calculated as the geometric mean of all the acceptable acute values;

(b) for each genus for which one or more SMAV is available, a GMAV is calculated as the geometric mean of all the SMAVs;

(c) the GMAVs are ranked from the lowest to the highest;

(d) a rank is assigned to the GMAVs from "1" for the lowest to "N" for the highest, and if two or more GMAVs are identical, successive ranks are arbitrarily assigned;

(e) the cumulative probability (P) for each GMAV is calculated as rank/(N + 1);

(f) the four GMAVs that have cumulative probabilities closest to 0.05 are selected, and if there are less than 59 GMAVs, these will always be the lowest four GMAVs; and

(g) using the selected GMAVs and their respective cumulative probabilities, calculate:

$$S^2 = \frac{\Sigma((\ln GMAV)^2) - ((\Sigma(\ln GMAV))^2/4)}{\Sigma(P) - ((\Sigma(\sqrt{P})^2/4)}$$

$$L = (\Sigma(\ln GMAV) - S(\Sigma(\sqrt{P})))/4$$

$$A = S(\sqrt{0.05}) + L$$

$$FAV = e^A$$

where: FAV = final acute value.
N = number of GMAVs
P = rank/N + 1
ln = natural logarithm
S,L, and A are intermediate steps

(5) If, as a result of the recalculation of the USEPA criterion for application to Class 2Bd, 2B, and 2C waters, the FAV for the Class 2Bd, 2B, and 2C water is lower than the FAV for Class 2A waters, the Class 2Bd, 2B, and 2C FAV will be changed to equal the Class 2A FAV , unless the lower Class 2Bd, 2B, and 2C FAV is justified based on the available toxicological data.

(6) The MC is the FAV divided by two.

(7) The CC is determined using the national methods. If sufficient chronic data is available to determine the CC directly from chronic values, salmonid chronic values will be deleted from the national data set following the same procedures used for acute data in this item. If sufficient chronic data is not available, the USEPA ACR, subject to modification under item C, is divided into the FAV to determine the CC.

C. If the commissioner finds that the information that supports a USEPA criterion is no longer current or complete for reasons including, but not limited to, changes to the relationship between a water quality characteristic and toxicity; the ACR; the weight given to toxicity data for a commercially or recreationally important species; the RfD; the ql*; or the BAF; then the commissioner shall evaluate all available information and modify the criterion according to the information and with the objectives in subpart 2. Any effluent limitation determined to be necessary based on criteria derived under this item shall only be required after the discharger has been given notice to the specific effluent limitations and an opportunity for public hearing. The requirements in chapter 7001 regarding notice of National Pollutant Discharge Elimination System and State Disposal System permits can satisfy the notice and opportunity for hearing requirements in this item.

Subp. 7. **Toxicity-based criteria.** Toxicity-based aquatic life criteria shall be determined using the methods in this subpart when no USEPA criterion is available.

A. Criteria shall be determined using the USEPA method if the minimum data required in this item and item B are met. Data for saltwater organisms can be used for nonionizable organic chemicals. Data for saltwater organisms cannot be used for ionizable organic or inorganic chemicals. Data for all North American species can be used. A minimum of eight GMAVs representing the following groups must be available:

(1) species in three families in the phylum Chordata, one of which must be a salmonid;

(2) a freshwater or saltwater crustacean;

(3) a freshwater cladoceran;

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

(4) a family in a phylum other than Chordata or Arthropoda; and

(5) two other families not in the phylum Chordata.

B. The additional acute data requirements in subitems (1) and (2) apply when developing criteria for pesticides.

(1) If the chemical is an insecticide, one of the eight GMAVs required in item A, subitem (5), must be for an insect.

(2) If the chemical is a herbicide, the eight GMAVs required in item A must be supplemented with acute data for two plant species, one of which is an algal species.

C. The FAV is calculated as described in subpart 6, item B, subitem (4). No more than two of the lowest four GMAVs may be for a saltwater species.

D. The MC is the FAV divided by two.

E. The CC is the FAV divided by an ACR. Available chronic data are used to determine ACRs as described in item F and measured chronic values are compared to the CC. If an approved chronic value for a commercially, recreationally, or ecologically important freshwater species is lower than the CC, the CC will be set to equal that chronic value.

F. The ACR is determined according to subitems (1) to (3).

(1) A measured ACR is determined by dividing the acute value by the chronic value for the same species from tests that meet the requirements for determining ACRs in the national method. If more than one ACR is available for a species, a species mean ACR is calculated as the geometric mean of the available ACRs.

(2) A minimum of three measured ACRs, each for a different species, must be available to determine a final measured ACR. The final measured ACR is the geometric mean of all the available species mean ACRs.

(3) If no measured ACRs are available, the following default ACRs shall be used:

(a) an ACR of 20 is used with nonpesticide, nonbioaccumulative organic chemicals with log K_{ow} values of three or less; and

(b) an ACR of 55 is used with pesticides, inorganic chemicals, or bioaccumulative organic chemicals with log K_{ow} values greater than three.

(4) If two or fewer measured ACRs are available, the default ACRs in subitem (3) are incorporated into the calculation of the final ACR as follows:

(a) if two measured ACRs are available, the final ACR is the geometric mean of the two measured ACRs and the appropriate default ACR; and

(b) if one measured ACR is available, the final ACR is the geometric mean of the measured ACR and two appropriate default ACRs.

G. If the acute data available do not meet the requirements in items A and B, toxicity-based criteria can be determined by the method in this item. This method is not applicable to ionizable organic chemicals, or to bioaccumulative organic chemicals and pesticides with BCFs greater than 5,000 or log K_{ow} values greater than 5.19.

(1) Acute data are assembled. A minimum of three acute values in the following groups must be available:

(a) a member of the class Osteichthyes (fish);

(b) a member of the class Crustacea, such as a water flea, amphipod, or crayfish; and

(c) a third animal species.

(2) For insecticides, a fourth acute value must be available for an insect species in addition to the acute values required in subitem (1).

(3) For herbicides, two acute values for plant species, one of which is an algal species, must be available in addition to the acute values required in subitem (1).

(4) Data for saltwater species can be used for nonionizable organic chemicals, except that the lowest acute value must be for a North American freshwater species.

(5) SMAVs are calculated as the geometric mean of all the acute values for one species.

(6) GMAVs are calculated as the geometric mean of the SMAVs.

(7) The lowest GMAV from among the available GMAVs is selected.

(8) The FAV is calculated by dividing the lowest GMAV by the appropriate factor listed below, depending on the number of GMAVs available.

Number of GMAVs	Factor	Number of GMAVs	Factor
3	11	12	3.6
4	10	13	3.4
5	9	14	3.2
6	8	15	3.0
7	7	16	2.8
8	6	17	2.6
9	5	18	2.4
10	4	19	2.2
11	3.8	20 or more	2.0

(9) The MC is calculated by dividing the FAV by two.

(10) A final ACR is determined as described in item F.

(11) The CC is calculated by dividing the FAV by the appropriate ACR.

(12) If chronic data are available, they are used to determine measured ACRs as described in item F, and chronic data is compared to the CC.

Subp. 8. **Human health-based criteria.** Human health-based aquatic life criteria protect humans from potential adverse effects of eating fish and edible aquatic organisms from Class 2 waters and from the consumption of drinking water from Class 1 surface waters.

The RfDs used to calculate criteria for noncarcinogenic chemicals and the q1*s used to calculate criteria for carcinogenic chemicals are obtained from the Integrated Risk Information System (IRIS), online, maintained and made available by the USEPA, Office of Health and Environmental Assessment, Environmental Criteria and Assessment Office, Cincinnati, OH.

A. Criteria for noncarcinogenic chemicals applicable to surface waters designated Class 2A or 2Bd are calculated as follows:

$$\text{dfCC mg/l} = \frac{\text{RfD mg/kg/day} \times 70\ \text{kg} \times \text{K}}{2\ \text{l/day} + [0.030\ \text{kg/day (BAF)}]}$$

where dfCC = drinking water plus fish consumption criterion in mg/l
RfD = reference dose in mg/kg/day
70 kg = standard weight of an adult K = exposure attributed to drinking water and fish consumption (see item E)
2 l/day = two liters of water consumed per day
0.030 kg/day = amount of fish assumed to be consumed per day
BAF = final BAF in liters per kg.

B. Criteria for noncarcinogenic chemicals applicable to Class 2 surface waters are calculated as follows:

$$\text{fCC mg/l} = \frac{\text{RfD mg/kg/day} \times 70\ \text{kg} \times \text{K}}{0.01\ \text{l/day} + [0.030\ \text{kg/day (BAF)}]}$$

where fCC = fish consumption criterion in mg/l
0.01 l/day = assumed incidental ingestion of water.

C. Criteria for carcinogenic chemicals applicable to surface waters designated both Class 1 and 2 are calculated as follows:

$$\text{dfCC mg/l} = \frac{70\ \text{kg} \times 10^{-5}}{\text{q1*}\ [2\ \text{l/day} + 0.030\ \text{kg/day (BAF)}]}$$

where 10^{-5} = a risk level of one chance in 100,000
q1* = the cancer potency factor in days x kg/mg.

D. Criteria for carcinogenic chemicals applicable to Class 2 surface waters are calculated as follows:

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

$$\text{fCC mg/l} = \frac{70 \text{ kg} \times 10^{-5}}{q1^* [0.01 \text{ 1/day} + 0.030 \text{ kg/day (BAF)}]}$$

E. A default exposure value (K) of 0.2 will be used unless the Minnesota Department of Health uses a different exposure value in the calculation of a drinking water criterion, or sufficient exposure data is available to support an alternative value.

Subp. 9. **Bioaccumulation.** A final BAF can be determined either from bioaccumulation measurements in the field or from laboratory bioconcentration experiments. Laboratory tests should have a duration of at least 28 days, or the bioconcentration should have achieved steady state. Bioconcentration tests should meet the requirements in the national methods.

If measured BAFs and BCFs are not available for lipophilic substances, a final BAF can be estimated using the relationship between bioconcentration and the log of the octanol to water partition coefficient (log K_{ow}) as described in item D.

A. A final BAF for inorganic substances is equal to the geometric mean of the available BCFs and BAFs. The BCFs and BAFs can be for either whole body or edible tissue, or both.

B. A final BAF for lipophilic substances is determined when measured BAFs or BCFs and percent lipid data are available according to subitems (1) to (10).

(1) Measured BAFs and BCFs are assembled from the scientific literature, USEPA documents, and other credible sources. BAFs and BCFs may be for edible portions of aquatic organisms or for the whole body.

(2) Normalized BAFs and BCFs are obtained by dividing the BAFs and BCFs by the arithmetic average percent lipid for the test organisms.

(3) Species mean BAFs are calculated as the geometric mean of all the normalized BAFs for a species. Species mean BCFs are calculated as the geometric mean of all the normalized BCFs for a species.

(4) A chemical-specific mean BAF or BCF is calculated as the geometric mean of the species mean BAFs or BCFs. The species mean normalized BAFs and BCFs for chemicals with log K_{ow} values less than three are averaged together. The species mean normalized BAFs and BCFs for chemicals with log K_{ow} values of three or more are averaged separately.

(5) A final BAF for a chemical with a log K_{ow} value of less than three is determined as follows:

(a) for cold water fish, the normalized mean of the combined BAFs and BCFs is multiplied by six percent lipid; and

(b) for cool and warm water fish, the normalized mean of the combined BAFs and BCFs is multiplied by 1.5 percent lipid.

(6) A final BAF for a chemical with a log K_{ow} value of three or more, for which measured BAFs and percent lipid data are available, is determined by multiplying the normalized mean BAF by six percent lipid for Class 2A waters or 1.5 percent lipid for Class 2Bd, 2B, and 2C waters.

(7) The final BAF for chemicals with a log K_{ow} value of three or more, for which BCF and percent lipid data are available, is the value determined in =subitem (6), multiplied by the appropriate factor from subitem (8).

(8) The BCF to BAF adjustment factor is applicable to lipophilic chemicals with log K_{ow} values greater than three, unless credible chemical-specific data indicates the application of the factor is not appropriate. A value of six is used to calculate the factor for chemicals with log K_{ow} values greater than six. The BCF to BAF adjustment factor is calculated using the following equation; the results shall not be less than one nor greater than 15: Log_{10} (BCF to BAF factor) = 0.441 $\log_{10} K_{ow}$ - 0.0017 Parachor - 0.686.

(9) The following are representative factors from the equation in subitem (8):

K_{ow}	Factor (at Parachor = 500)
3.0	0.6 (1.0 is used)
3.5	1.0
4.0	1.7
4.5	2.8
5.0	4.7
5.5	7.8
6.0 and greater	12.9

(10) When both measured BAFs and BCFs are available for chemicals with log K_{ow} values greater than three, the commissioner will evaluate both BCFs and BAFs and other credible scientific evidence to select the appropriate values to use.

C. A final BAF is determined for lipophilic substances having measured BAF or BCF data, but no percent lipid data, as follows:

(1) the geometric mean of the species mean BAFs is the final BAF;

(2) the geometric mean of the species mean BCFs and BAFs is the final BAF for chemicals having log K_{ow} values less than three; and

(3) the final BAF for chemicals having log K_{ow} values of three or more is the geometric mean of the species mean BCFs multiplied by the appropriate factor from the equation in item B, subitem (8). Chemicals may have both BAF and BCF data. The geometric mean BCF will be adjusted by the factor from the equation in item B, subitem (8), and the results compared to the measured BAFs. The commissioner will evaluate both BCFs and BAFs and other credible scientific evidence to select a final BAF. BAF data are usually preferred over BCF data.

D. A final BAF for lipophilic organic chemicals is determined according to subitems (1) to (4) when no measured BAFs or BCFs are available.

(1) A BCF can be estimated based on the relationship between BCFs and the log K_{ow}. A value of six is used to calculate the BCF for chemicals with log K_{ow} values greater than six. The equation is: Log_{10} BCF = 0.79 Log_{10} K_{ow} value - 0.40. Where $\log_{10}$ K_{ow} = the log of the octanol to water partition coefficient.

If measured log K_{ow} values are not available in the literature, they may be estimated using quantitative structure activity relationships. The average percent lipid of the organisms used to establish this relationship is 7.6.

(2) BCFs estimated from the equation in subitem (1) are adjusted for the percent lipid of edible portions.

(a) The BCF for cold water fish equals the estimated BCF from the equation in subitem (1) times 6/7.6.

(b) The BCF for cool and warm water fish equals the estimated BCF from the equation in subitem (1) times 1.5/7.6.

(3) The final BAF for chemicals with log K_{ow} values less than three equals the estimated BCF from subitem (2).

(4) The final BAF for chemicals with log K_{ow} values of three or more equals the estimated BCF from subitem (2), multiplied by the factor from the equation in item A, subitem (8).

Subp. 10. **Taste and odor criteria.** The agency shall limit the addition of pollutants to surface waters to the extent necessary to protect fish and other edible freshwater organisms from acquiring objectionable tastes and odors. The agency will use the USEPA organoleptic criteria, established under section 304(a)(1) of the Clean Water Act, United States Code, title 33, section 1314, when establishing concentrations above which unacceptable tastes and odors could be imparted to aquatic organisms.

Subp. 11. **Wildlife-based criteria.** The agency shall use the procedures in this subpart to establish wildlife-based criteria. Wildlife criteria shall protect wildlife consumers of freshwater aquatic organisms from adverse effects of toxic substances. Wildlife criteria are applicable to all waters of the state, subject to the exceptions in subpart 12, item B, subitem (2).

A. Wildlife-based criteria shall be determined using toxicological information from scientifically acceptable studies of wildlife or domestic animal species, exposed to toxic chemicals through ingestion including gavage.

B. Wildlife-based criteria are calculated using the following formula:

$$\text{WCC mg/l} = \frac{\text{NOAEL} \times \text{BWt} \times \text{SSF}}{\text{DW} + (\text{F} \times \text{BAF})}$$

where: WCC = wildlife CC mg/l

NOAEL = no observable adverse effect level in mg of substance per kg of body weight per day (mg/kg BWt/day) as derived from mammalian or avian toxicity studies.

If the NOAEL is in mg/l, the NOAEL will be multiplied by the average daily volume of water consumed by the test animals in liters per day and divided by the average weight of the test animals in kg.

If the NOAEL is in mg/kg of food consumed, the NOAEL will be multiplied by the average amount of food consumed daily by the test animals and divided by the average weight of the test animals in kg.

BWt = average body weight of test organisms in kg.

SSF = species sensitivity factor to account for difference in the sensitivity in test species. This factor will vary between 1 and 0.1. The appropriate factor will be determined by the commissioner based on credible scientific evidence on the relative sensitivity of the test organism compared to other wildlife species.

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

DW = average volume of water consumed per day by the test animals in liters.
F = average amount of food consumed per day by test animals in kg.
BAF = BAF in liters per kg.

C. Drinking (DW) and feeding (F) rates for test organisms can be estimated using the following equations if these rates are not available from the original study:

(1) for mammalian species:

(a) $DW = 0.099 \times (BWt)^{0.90}$; and

(b) $F = 0.0687 \times (BWt)^{0.82}$; and

(2) for avian species:

(a) $DW = 0.059 \times (BWt)^{0.67}$; and

(b) $F = 0.058 \times (BWt)^{0.65}$.

D. A final BAF for calculating a wildlife chronic criterion (WCC) is determined as in subpart 9, except that the BCFs and BAFs are adjusted to represent whole body BCFs and BAFs.

(1) Normalized BCFs and BAFs are multiplied by 12 percent lipid for WCC applicable to Class 2A waters.

(2) Normalized BCFs and BAFs are multiplied by five percent lipid for WCC applicable to Class 2Bd, 2B, and 2C waters.

(3) If percent lipid data is not available, whole body BCFs and BAFs are used as reported.

(4) BCFs estimated using the relationship between BCFs and the log K_{ow} are normalized by dividing the estimated BCF by 7.6 and then multiplying by 12 for cold water fisheries or by five for cool and warm water fisheries.

(5) Measured or estimated BCFs for lipophilic organic chemicals with log K_{ow} values in the range of three or more are multiplied by the factor from subpart 9, item B, subitem (8).

Subp. 12. **Applicable standards.** The standard for a substance consists of three numbers: the CC, the MC, and the FAV. The standards for toxic substances for the waters of the state are the lowest of the applicable criteria derived under this part. Specific standards for toxic substances are listed in part 7050.0220, or may be derived as required by the commissioner under subpart 4.

A. Applicable standards for Class 1 and 2 surface waters are the lowest of the following criteria:

(1) a CC and MC based on toxicity to aquatic organisms from subpart 6 or 7;

(2) a CC based on plant toxicity from subpart 6 or 7;

(3) a dfCC or fCC from subparts 8 and 9;

(4) a concentration that will prevent unacceptable taste or odor in water, fish, or other edible aquatic organisms from subpart 10; or

(5) a WCC from subpart 11.

B. Applicable standards for Class 7 waters are the lowest of the following criteria:

(1) a WCC from subpart 11, if aquatic organisms can be sustained in the Class 7 water so that they are subject to predation by wildlife; or

(2) other drinking water or aquatic life standards for toxic substances, consistent with the uses Class 7 waters are protected for under part 7050.0200.

C. To prevent acutely toxic conditions, concentrations of toxic substances from point or nonpoint sources, singly or in mixtures, must not exceed the FAV as a one-day average at the point of discharge or in the waters of the state consistent with parts 7050.0210, subpart 5; 7050.0211, subpart 1; 7050.0212, subpart 6; and 7050.0214, subpart 1.

Mixtures of substances will be considered additive in their acutely toxic effects according to the following formula unless an alternative model is supported by credible evidence:

$$\frac{C1}{FAV1} + \frac{C2}{FAV2} + \ldots + \frac{Ci}{FAVi}$$

equals a value of one or more, an acutely toxic condition is indicated

where: C1 .... Ci is the concentration of the first to the ith toxicant.
FAV1 .... FAVi is the FAV for the first to the ith toxicant.

D. To prevent chronically toxic conditions, concentrations of toxic substances must not exceed the applicable CC or MC in the waters of the state, as specified in items A and B, averaged over the following durations: the MC will be a one-day average; the CC, based on toxicity to aquatic life, will be a four-day average; and the CC, based on human health or wildlife toxicity, will be a 30-day average.

E. Concentrations of carcinogenic chemicals from point or nonpoint sources, singly or in mixtures, should not exceed a risk level of one chance in 100,000 in the waters of the state. Carcinogenic chemicals will be considered additive in their effect according to the following formula unless an alternative model is supported by credible evidence. The additive formula applies to chemicals that have a human health-based standard calculated with a cancer potency factor.

$$\frac{C1}{CC1} + \frac{C2}{CC2} + \ldots + \frac{Ci}{CCi}$$

equals a value of one or more, a risk level greater than 10^{-5} is indicated

where: C1 .... Ci is the concentration of the first to the ith carcinogen.
CC1 .... CCi is the drinking water plus fish consumption criterion (dfCC) or fish consumption criterion (fCC) for the first to the ith carcinogenic chemical.

F. For carcinogenic or highly bioaccumulative chemicals with BCFs greater than 5,000 or log K_{ow} values greater than 5.19, the human health-based CC may be two or more orders of magnitude smaller than the acute toxicity-based MC. If the commissioner finds that a very large MC and FAV, relative to the CC for such substances, is not protective of the public health, the MC and the FAV shall be reduced according to the following guidelines:

If the ratio of the MC to the CC is greater than 100, the CC times 100 should be substituted for the applicable MC, and the CC times 200 should be substituted for the applicable FAV. The agency shall provide an opportunity for a public hearing as required in subpart 4 when the FAV and MC, reduced according to the procedures in this item, are used as the basis for an effluent limitation in a permit.

Subp. 13. **Site-specific standards.** The standards derived under this part, or the standards in part 7050.0220, are subject to review and modification as a result of information pertaining to a specific surface water reach or segment. If substantial site-specific information is available that shows that a site-specific standard is more appropriate than the statewide standard for a particular water or reach in question, the site-specific information will be the basis for the modification.

The information supporting a site-specific standard can be provided by the commissioner, or by any person outside the agency. The commissioner shall evaluate all data in support of a modified standard and determine whether a change in the standard for a specific water or reach is justified.

The agency shall provide an opportunity for a public hearing as required in subpart 4 when a modified standard is used as the basis for an effluent limitation in a permit.

7050.0220 SPECIFIC STANDARDS OF QUALITY AND PURITY FOR DESIGNATED CLASSES OF WATERS OF THE STATE.

Subpart 1. **General.** The numerical water quality standards in subparts 2 to 8 ~~shall~~ prescribe the qualities or properties of the waters of the state that are necessary for the designated public ~~use or benefit and which,~~ uses and benefits. If the ~~limiting conditions given~~ standards in this part are exceeded, ~~shall be~~ it is considered indicative of a polluted condition which is actually or potentially deleterious, harmful, detrimental, or injurious with respect to designated uses or established classes of the waters of the state.

Subp. 2. **Class 1. Domestic consumption.**

A. Class ~~A~~ 1A. The quality of this class of the waters of the state shall be such that without treatment of any kind the raw waters will meet in all respects both the mandatory and recommended requirements of the Public Health Service Drinking Water Standards-1962 for drinking water as specified in Publication No. 956 published by the Public Health Service of the United States Department of Health, Education and Welfare, and any revisions, amendments, or supplements to it. This standard will ordinarily be restricted to underground waters with a high degree of natural protection. The basic requirements are given below:

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

Substance or Characteristic	Limit or Range
Total coliform organisms	1 most probable number per 100 milliliters
Turbidity value	5 NTUs
Color value	15 Pt.-Co. units
Threshold odor number	3
Methylene blue active substance (MBAS)	0.5 milligram per liter
Arsenic (As)	0.01 milligram per liter
Chlorides (Cl)	250 milligrams per liter
Copper (Cu)	1 milligram per liter
Carbon chloroform extract	0.2 milligram per liter
Cyanides (CN)	0.01 milligram per liter
Fluorides (F)	1.5 milligrams per liter
Iron (Fe)	0.3 milligram per liter
Manganese (Mn)	0.05 milligram per liter
Nitrates as N	10 milligrams per liter
Phenol as phenol	0.001 milligram per liter
Sulfates (SO_4)	250 milligrams per liter
Total dissolved solids	500 milligrams per liter
Zinc (Zn)	5 milligrams per liter
Barium (Ba)	1 milligram per liter
Cadmium (Cd)	0.01 milligram per liter
Chromium (Hexavalent, Cr)	0.05 milligram per liter
Lead (Pb)	0.05 milligram per liter
Selenium (Se)	0.01 milligram per liter
Silver (Ag)	0.05 milligram per liter
Radioactive material	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

B. Class ~~B~~ 1B. The quality of this class of the waters of the state shall be such that with approved disinfection, such as simple chlorination or its equivalent, the treated water will meet in all respects both the mandatory and recommended requirements of the Public Health Service Drinking Water Standards-1962 for drinking water as specified in Publication No. 956 published by the Public Health Service of the United States Department of Health, Education and Welfare, and any revisions, amendments, or supplements ~~thereto~~. This standard will ordinarily be restricted to surface and underground waters with a moderately high degree of natural protection. The physical and chemical standards quoted above for Class ~~A~~ 1A waters shall also apply to these waters in the untreated state.

C. Class ~~C~~ 1C. The quality of this class of the waters of the state shall be such that with treatment consisting of coagulation, sedimentation, filtration, storage, and chlorination, or other equivalent treatment processes, the treated water will meet in all respects both the mandatory and recommended requirements of the Public Health Service Drinking Water Standards-1962 for drinking water ~~as~~ specified in Publication No. 956 published by the Public Health Service of the United States Department of Health, Education and Welfare, and any revisions, amendments, or supplements ~~thereto~~. This standard will ordinarily be restricted to surface waters, and groundwaters in aquifers not considered to afford adequate protection against contamination from surface or other sources of pollution. Such aquifers normally would include fractured and channeled limestone, unprotected impervious hard rock where water is obtained from mechanical fractures~~,~~ or joints~~, etc.,~~ with surface connections, and coarse gravels subjected to surface water infiltration. The physical and chemical standards quoted above for Class ~~A~~ 1A waters shall also apply to these waters in the untreated state, except as listed below:

Substance or Characteristic	Limit or Range
Turbidity value	25 NTUs

D. Class ~~D~~ 1D. The quality of this class of the waters of the state shall be such that after treatment consisting of coagulation, sedimentation, filtration, storage, and chlorination, plus additional pre, post, or intermediate stages of treatment, or other equivalent treatment processes, the treated water will meet in all respects the recommended requirements of the Public Health Service Drinking

Water Standards-1962 for drinking water as specified in Publication No. 956 published by the Public Health Service of the United States Department of Health, Education and Welfare, and any revisions, amendments, or supplements ~~thereto~~. This standard will ordinarily be restricted to surface waters, and groundwaters in aquifers not considered to afford adequate protection against contamination from surface or other sources of pollution. Such aquifers normally would include fractured and channeled limestone, unprotected impervious hard rock where water is obtained from mechanical fractures~~,~~ or joints~~, etc.,~~ with surface connections, and coarse gravels subjected to surface water infiltration. The concentrations or ranges given below shall not be exceeded in the raw waters before treatment:

Substance or Characteristic	Limit or Range
Arsenic (As)	0.05 milligram per liter
Barium (Ba)	1 milligram per liter
Cadmium (Cd)	0.01 milligram per liter
Chromium (Hexavalent, Cr)	0.05 milligram per liter
Cyanide (CN)	0.2 milligram per liter
Fluoride (F)	1.5 milligrams per liter
Lead (Pb)	0.05 milligram per liter
Selenium (Se)	0.01 milligram per liter
Silver (Ag)	0.05 milligram per liter
Radioactive material	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

In addition to the above listed standards, no sewage, industrial waste, or other wastes from point or nonpoint sources, treated or untreated, shall be discharged into or permitted by any person to gain access to any waters of the state classified for domestic consumption so as to cause any material undesirable increase in the taste, hardness, temperature, chronic toxicity, corrosiveness, or nutrient content, or in any other manner to impair the natural quality or value of the waters for use as a source of drinking water.

Subp. 3. **Class 2. Fisheries and recreation.**

A. Class ~~A~~ 2A. The quality of this class of the waters of the state shall be such as to permit the propagation and maintenance of warm or cold water sport or commercial fishes and their habitats and be suitable for aquatic recreation of all kinds, including bathing, for which the waters may be usable. ~~Limiting concentrations or ranges of substances or characteristics which should not be exceeded in the waters~~ This class of surface waters is also protected as a source of drinking water. The applicable standards are given below, with substances considered carcinogenic and having human health-based standards followed by a (c). Part 7050.0218, subpart 12, item F, should be referenced for FAVs and MC values noted with an asterisk (*):

~~Substance or Characteristic~~	~~Limit or Range~~
~~Dissolved oxygen~~	~~Not less than 7 milligrams per liter at all times (instantaneous minimum concentration)***~~
~~Temperature~~	~~No material increase~~
~~Ammonia (N)*~~	~~0.016 milligram per liter (un-ionized as N)~~
~~Chlorides (Cl)~~	~~50 milligrams per liter~~
~~Chromium (Cr)~~	~~0.02 milligram per liter~~
~~Copper (Cu)~~	~~0.01 milligram per liter or not greater than 1/10 the 96 hour TLM value~~

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

~~Cyanides (CN)~~	~~0.02 milligram per liter~~
~~Oil~~	~~0.5 milligram per liter~~
~~pH value~~	~~6.5 - 8.5~~
~~Phenols as phenol~~	~~0.01 milligram per liter and none that could impart odor or taste to fish flesh or other freshwater edible products such as crayfish, clams, prawns and like creatures. Where it seems probable that a discharge may result in tainting of edible aquatic products, bioassays and taste panels will be required to determine whether tainting is likely or present.~~
~~Turbidity value~~	~~10 NTUs~~
~~Color value~~	~~30 Pt. Co. units~~
~~Fecal coliform organisms~~	~~200 organisms per 100 milliliters as a geometric mean measured in not less than five samples in any calendar month, nor shall more than 10% of all samples taken during any calendar month individually exceed 400 organisms per 100 milliliters. (Applies only between March 1 and October 31.)~~
~~Radioactive materials~~	~~Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.~~
~~Total residual chlorine**~~	~~0.005 milligram per liter~~

Substance or Characteristic		Standards	
(c) = carcinogen	CC	MC	FAV
Acenapthene ug/l	12	41	81
Acrylonitrile (c) ug/l	0.38	1140*	2281*
Aluminum, total ug/l	87	748	1496
Ammonia un-ionized as N ug/l	16	none	none

*The percent un-ionized ammonia can be calculated for any temperature and pH by using the following formula taken from ~~Thurston, R. V., R. C. Russo, and K. Emerson, 1974. Aqueous ammonia equilibrium calculations. Technical Report Number 74-1, Fisheries Bioassay Laboratory, Montana State University, Bozeman, MT. 18 p~~ Emerson, K., R.C. Russo, R.E. Lund, and R.V. Thurston, 1975. Aqueous ammonia equilibrium calculations; effect of pH and temperature. Journal of the Fisheries Board of Canada 32: 2379-2383.

$$f = \frac{1}{10^{(pk_a - pH)} + 1} \times 100$$

where:

f = the percent of total ammonia in the un-ionized state

~~$pk_a = 0.0901821 + \frac{2729.92}{T}$, dissociation constant for ammonia~~

$pk_a = 0.09 + \frac{2730}{T}$, dissociation constant for ammonia

T = temperature in degrees Kelvin (273.16° Kelvin = 0° Celsius)

Anthracene ug/l	0.029	0.78	1.6
Arsenic, total ug/l	50	360	720
Benzene (c) ug/l	5.9	4400*	8800*
Bromoform ug/l	103	2900	5800

Cadmium, total ug/l

The CC shall not exceed: exp.(0.7852[ln(total hardness mg/l)]-3.49).

The MC shall not exceed: exp.(1.128[ln(total hardness mg/l)]-3.828).

The FAV shall not exceed: exp.(1.128[ln(total hardness mg/l)]-3.1349).

Cadmium standards in ug/l at various hardness values

Hardness mg/l			
50	0.66	1.8	3.6
100	1.1	3.9	7.8
200	2.0	8.6	17.1

Carbon tetra-chloride (c) ug/l	1.9	1750*	3500*
Chlordane (c) ug/l	0.000073	1.2*	2.4*
Chloride mg/l	230	860	1720
Chlorine, total residual ug/l	6	19	38

**Applies to conditions of continuous exposure, where continuous exposure refers to chlorinated effluents ~~which~~ that are discharged for more than a total of two hours in any 24-hour period.

Chlorobenzene ug/l (Monochlorobenzene)	10	423	846
Chloroform (C) ug/l	49	2235	4471
Chlorpyrifos ug/l	0.041	0.083	0.17

Chromium +3, total ug/l

The CC shall not exceed: exp.(0.819 [ln(total hardness mg/l)] + 1.561).

The MC shall not exceed: exp.(0.819[ln(total hardness mg/l)] + 3.688).

The FAV shall not exceed: exp.(0.819[ln(total hardness mg/l)] + 4.380).

Chromium +3 standards in ug/l at various hardness values

Hardness mg/l			
50	117	984	1966
100	207	1737	3469
200	365	3064	6120
Chromium +6, total ug/l	11	16	32

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

Color value			
Pt.-Co. units	30	none	none
Copper, total ug/l			

The CC shall not exceed: exp.(0.62[ln(total hardness mg/l)]-0.57).

The MC shall not exceed: exp.(0.9422[ln(total hardness mg/l)]-1.464).

The FAV shall not exceed: exp.(0.9422[ln(total hardness mg/l)]-0.7703).

Copper standards in ug/l at various hardness values

Hardness mg/l			
50	6.4	9.2	18
100	9.8	18	35
200	15	34	68
Cyanide, free ug/l	5.2	22	45
Dissolved oxygen mg/l	7 as a daily minimum	none	none

***This dissolved oxygen standard ~~shall be construed to require~~ requires compliance with the standard 50 percent of the days at which the flow of the receiving water is equal to the lowest weekly flow with a once in ten-year recurrence interval (7Q10).

DDT (c) ug/l	0.00011	0.55*	1.1*
1,2-Dichloroethane (c) ug/l	3.5	45050*	90100*
Dieldrin (c) ug/l	0.0000065	1.25*	2.5*
Di-2-Ethylhexyl phthalate (c) ug/l	1.94	none	none
Di-n-Octyl phthalate ug/l	30	825	1650
Endosulfan ug/l	0.056	0.11	0.22
Endrin ug/l	0.0033	0.090	0.18
Ethylbenzene ug/l	68	1859	3717
Fecal coliform organisms			

Not to exceed 200 organisms per 100 milliliters as a geometric mean of not less than five samples in any calendar month, nor shall more than ten percent of all samples taken during any calendar month individually exceed 400 organisms per 100 milliliters. The standard applies only between March 1 and October 31.

Fluoranthene ug/l	1.1	199	398
Heptachlor (c) ug/l	0.000088	0.26*	0.52*
Heptachlor epoxide (c) ug/l	0.00012	0.27*	0.53*
Hexachlorobenzene (c) ug/l	0.000056	none	none
Lead, total ug/l			

The CC shall not exceed: exp.(1.273[ln(total hardness mg/l)]-4.705).

The MC shall not exceed: exp.(1.273[ln(total hardness mg/l)]-1.460).

The FAV shall not exceed: exp.(1.273[ln(total hardness mg/l)]-0.7643).

Lead standard in ug/l at various hardness values

Hardness mg/l			
50	1.3	34	68
100	3.2	82	164
200	7.7	197	396
Lindane (c) ug/l (Hexachlorocyclohexane, gamma-)	0.0030	1.0*	2.0*
Mercury, total ug/l	0.0069	2.4*	4.9*

Methylene chloride (c) ug/l (Dichloro-methane)	44.7	9600*	19200*

Nickel, total ug/l

The CC shall not exceed the human health-based criterion of 88 ug/l. For waters with total hardness values less than 50 mg/l, the CC shall not exceed: exp.(0.846[ln(total hardness mg/l)] + 1.1645.

The MC shall not exceed: exp.(0.846[ln(total hardness mg/l)] + 3.3612).

The FAV shall not exceed: exp.(0.846[ln(total hardness mg/l)] + 4.0543).

Nickel standards in ug/l at various hardness values

Hardness mg/l			
50	88	789	1578
100	88	1418	2836
200	88	2549	5098

Oil ug/l	500	5000	10000
Parathion ug/l	0.013	0.07	0.13

Pentachlorophenol ug/l

The CC shall not exceed: exp.(1.005[pH]-5.290).

The MC shall not exceed: exp.(1.005[pH]-4.830).

The FAV shall not exceed: exp.(1.005[pH]-4.1373).

Pentachlorophenol standards in ug/l at various pH values

pH			
7.0	5.7	9.1	18
7.5	9.5	15	30
8.0	16	25	50

pH value not less than 6.5 nor greater than 8.5			
Phenanthrene ug/l	2.1	29	58
Phenol ug/l	123	2214	4428
Polychlorinated biphenyls total (c) ug/l	0.000014	1.0*	2.0*

Radioactive materials

Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

Selenium, total ug/l	5.0	20	40

Silver, total ug/l

The CC shall not exceed: 0.12.

The MC shall not exceed: exp.(1.72[ln(total hardness mg/l)]-7.2156) and the FAV shall not exceed: exp.(1.72[ln(total hardness mg/l)]-6.52) provided that the MC and FAV shall be no less than 0.12 ug/l.

Silver standards in ug/l at various hardness values

Hardness mg/l			
50	n/a	0.61	1.2
100	n/a	2.0	4.1
200	n/a	6.7	13

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

Temperature			
No material increase			
2,3,7,8-Tetrachlorodibenzo -p-dioxin (c) picograms/l	0.0003	none	none
1,1,2,2-Tetrachlorethane (c) ug/l	1.1	1127*	2253*
Tetrachloroethylene (c) ug/l	2.9	428*	857*
Toluene ug/l	253	1352	2703
Toxaphene (c) ug/l	0.00039	0.73*	1.5*
1,1,1-Trichloroethane ug/l	263	2628	5256
1,1,2-Trichloroethylene (c) ug/l	25	6988*	13976*
2,4,6-Trichlorophenol ug/l	2.0	102	203
Turbidity value NTUs	10	none	none
Vinyl chloride (c) ug/l	0.14	none	none
Xylene, total m, p, and o ug/l	166	1407	2814
Zinc, total ug/l			

The CC shall not exceed: exp.(0.8473[ln(total hardness mg/l]+0.7615).

The MC shall not exceed: exp.(0.8473[ln(total hardness mg/l)]+0.8604).

The FAV shall not exceed: exp.(0.8473[ln(total hardness mg/l)]+1.5536).

Zinc standards in ug/l at various hardness values

Hardness mg/l			
50	59	65	130
100	106	117	234
200	191	211	421

B. Class 2Bd. The quality of this class of the waters of the state shall be such as to permit the propagation and maintenance of cool or warm water sport or commercial fishes and their habitats and be suitable for aquatic recreation of all kinds, including bathing, for which the waters may be usable. This class of surface waters are also protected as a source of drinking water. The standards for waters listed in item A shall apply to these waters except as listed below, with substances considered carcinogenic and having human health-based standards followed by a (c). Part 7050.0218, subpart 12, item F, should be referenced for FAVs and MC values noted with an asterisk (*):

Substance or Characteristic		Standard	
(c) = carcinogen	CC	MC	FAV
Aluminum total ug/l	125	1072	2145
Ammonia un-ionized as N ug/l	40	none	none

The percent of un-ionized ammonia can be calculated for any temperature and pH as described in item A.

Benzene (c) ug/l	6.9	4400*	8800*
Bromoform ug/l	128	2900	5800
Cadmium, total ug/l			

The CC shall not exceed: exp.(0.7852[ln(total hardness mg/l)]-3.49).

The MC shall not exceed: exp.(1.128[ln(total hardness mg/l)]-1.685).

The FAV shall not exceed: exp.(1.128[ln(total hardness mg/l)]-0.9919).

Cadmium standards in ug/l at various hardness values

Hardness mg/l			
50	0.66	15	31
100	1.1	33	67
200	2.0	73	146

Chlordane (c) ug/l	0.00029	1.2*	2.4*
Chloroform (c) ug/l	55	2235	4471
Dissolved oxygen mg/l	5 as a daily minimum	none	none

This dissolved oxygen standard requires compliance with the standard 50 percent of the days at which the flow of the receiving water is equal to the lowest weekly flow with a once in ten year recurrence interval (7Q10).

DDT (c) ug/l	0.0017	0.55*	1.1*
1,2-Dichloroethane (c) ug/l	3.8	45050*	90100*
Dieldrin (c) ug/l	0.000026	1.25*	2.5*
Endosulfan ug/l	0.15	0.28	0.56
Endrin ug/l	0.013	0.090	0.18

Fecal coliform organisms

Not to exceed 200 organisms per 100 milliliters as a geometric mean of not less than five samples in any calendar month, nor shall more than ten percent of all samples taken during any calendar month individually exceed 2,000 organisms per 100 milliliters. The standard applies only between March 1 and October 31.

Fluoranthene ug/l	4.1	199	398
Heptachlor (c) ug/l	0.00035	0.26*	0.52*
Heptachlor epoxide (c) ug/l	0.00048	0.27*	0.53*
Hexachlorobenzene (c) ug/l	0.00022	none	none
Lindane (c) ug/l (Hexachlorocyclohexane gamma-)	0.012	1.0	2.0
Methylene chloride (c) ug/l (Dichloromethane)	46	9600*	19200*
pH value	Not less than 6.5 nor greater than 9.0		
Polychlorinated biphenyls, total (c) ug/l	0.000029	1.0*	2.0*

Silver, total ug/l

The CC shall not exceed: 1.0.

The MC shall not exceed: exp.(1.72[ln(total hardness mg/l)]-7.2156) and the FAV shall not exceed: exp.(1.72[ln(total hardness mg/l)]-6.52) provided that the MC and FAV shall be no less than 1.0 ug/l.

Silver standards in ug/l at various hardness values

Hardness mg/l			
50	n/a	1.0	1.2
100	n/a	2.0	4.1
200	n/a	6.7	13

Temperature

5° F above natural in streams and 3° F above natural in lakes, based on monthly average of the maximum daily temperature, except in no case shall it exceed the daily average temperature of 86° F.

2,3,7,8-Tetrachlorodibenzo-p-dioxin (c) picograms/l	0.0012	none	none

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

1,1,2,2-Tetrachloro-ethane (c) ug/l	1.54	1127*	2253*
Toxaphene (c) ug/l	0.0016	0.73*	1.5*
Turbidity value NTUs	25	none	none
Vinyl chloride (c) ug/l	0.15	none	none

C. Class ~~B~~ 2B. The quality of this class of the waters of the state shall be such as to permit the propagation and maintenance of cool or warm water sport or commercial fishes and their habitats and be suitable for aquatic recreation of all kinds, including bathing, for which the waters may be usable. ~~Limiting concentrations or ranges of substances or characteristics which should not be exceeded in the waters~~ This class of surface water is not protected as a source of drinking water. The applicable standards are given below, with substances considered carcinogenic and having human health-based standards followed by a (c). Part 7050.0218, subpart 12, item F, should be referenced for FAVs and MC values noted with an asterisk (*):

~~Substance or Characteristic~~	~~Limit or Range~~
~~Dissolved oxygen*~~	~~Not less than 5 milligrams per liter at all times (instantaneous minimum concentration)****~~
~~Temperature~~	~~5°F above natural in streams and 3°F above natural in lakes, based on monthly average of the maximum daily temperature, except in no case shall it exceed the daily average temperature of 86°F.~~
~~Ammonia (N)**~~	~~0.04 milligram per liter (un-ionized as N)~~
~~Chromium (Cr)~~	~~0.05 milligram per liter~~
~~Copper (Cu)~~	~~0.01 milligram per liter or not greater than 1/10 the 96 hour TLM value.~~
~~Cyanides (CN)~~	~~0.02 milligram per liter~~
~~Oil~~	~~0.5 milligram per liter~~
~~pH value~~	~~6.5 - 9.0~~
~~Phenols as phenol~~	~~0.01 milligram per liter and none that could impart odor or taste to fish flesh or other freshwater edible products such as crayfish, clams, prawns and like creatures. Where it seems probable that a discharge may result in tainting of edible aquatic products, bioassays and taste panels will be required to determine whether tainting is likely or present.~~
~~Turbidity value~~	~~25 NTUs~~
~~Fecal coliform organisms~~	~~200 organisms per 100 milliliters as a geometric mean measured in not less than five samples in any calendar month, nor shall more than 10% of all samples~~

~~taken during any calendar month individually exceed 2000 organisms per 100 milliliters. (Applies only between March 1 and October 31.)~~

~~Radioactive materials~~ ~~Not to exceed the lowest concentration permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.~~

~~Total Residual Chlorine***~~ ~~0.005 milligram per liter~~

Substance or Characteristic (c) = carcinogen	CC	Standard MC	FAV
Acenapthene ug/l	12	41	81
Acrylonitrile (c) ug/l	0.89	1140*	2281*
Aluminum, total ug/l	125	1072	2145
Ammonia un-ionized as N ug/l	40	none	none

The percent un-ionized ammonia can be calculated for any temperature and pH as described in item A.

Anthracene ug/l	0.029	0.78	1.6
Arsenic, total ug/l	70	360	720
Benzene (c) ug/l	111	4400	8800
Bromoform ug/l	558	2900	5800
Cadmium, total ug/l			

The CC shall not exceed: exp.(0.7852[ln(total hardness mg/l)]-3.49).

The MC shall not exceed: exp.(1.128[ln(total hardness mg/l)]-1.685).

The FAV shall not exceed: exp.(1.128[ln(total hardness mg/l)]-0.9919).

Cadmium standards in ug/l at various hardness values

Hardness mg/l			
50	0.66	15	31
100	1.1	33	67
200	2.0	73	146
Carbon tetrachloride (c) ug/l	5.9	1750*	3500*
Chlordane (c) ug/l	0.00029	1.2*	2.4*
Chloride mg/l	230	860	1720
Chlorine, total residual ug/l	6	19	38

Applies to conditions of continuous exposure, where continuous exposure refers to chlorinated effluents that are discharged for more than a total of two hours in any 24-hour period.

Chlorobenzene ug/l (Monochlorobenzene)	10	423	846
Chloroform (c) ug/l	224	2235	4471
Chlorpyrifos ug/l	0.041	0.083	0.17
Chromium +3, total ug/l			

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

The CC shall not exceed: exp.(0.819[ln(total hardness mg/l)] + 1.561).

The MC shall not exceed: exp.(0.819[ln(total hardness mg/l)] + 3.688).

The FAV shall not exceed: exp.(0.819[ln(total hardness mg/l)] + 4.38).

Chromium + 3 standards in ug/l at various hardness values

Hardness mg/l			
50	117	984	1966
100	207	1737	3469
200	365	3064	6120
Chromium + 6, total ug/l	11	16	32

Copper, total ug/l

The CC shall not exceed: exp.(0.62[ln(total hardness mg/l)]-0.57).

The MC shall not exceed: exp.(0.9422[ln(total hardness mg/l)]-1.464).

The FAV shall not exceed: exp.(0.9422[ln(total hardness mg/l)]-0.7703).

Copper standards in ug/l at various hardness values

Hardness mg/l			
50	6.4	9.2	18
100	9.8	18	35
200	15	34	68
Cyanide, free ug/l	5.2	22	45
Dissolved oxygen mg/l	5 as a daily minimum	none	none

*This standard applies to all Class 2 waters ~~of the state~~ except for the reach of the Mississippi River from the outlet of the metro wastewater treatment works in Saint Paul (River Mile 835) to Lock and Dam No. 2 at Hastings (River Mile 815). For this reach of the Mississippi River the standard is not less than five milligrams per liter as a daily average from April 1 through November 30, and not less than four milligrams per liter at other times.

~~**See ammonia footnote for Class 2A waters.~~

~~***See chlorine footnote for Class 2A waters.~~

~~****See dissolved oxygen footnote for Class 2A waters.~~

This dissolved oxygen standard requires compliance with the standard 50 percent of the days at which the flow of the receiving water is equal to the lowest weekly flow with a once in ten year recurrence interval (7Q10).

DDT (c) ug/l	0.0017	0.55*	1.1*
1,2-Dichloroethane (c) ug/l	190	45050*	90100*
Dieldrin (c) ug/l	0.000026	1.25*	2.5*
Di-2-Ethylhexyl phthalate (c) ug/l	2.1	none	none
Di-n-Octyl phthalate ug/l	30	825	1650
Endosulfan ug/l	0.15	0.28	0.56
Endrin ug/l	0.013	0.090	0.18
Ethylbenzene ug/l	68	1859	3717

Fecal coliform organisms

Not to exceed 200 organisms per 100 milliliters as a geometric mean of not less than five samples in any calendar month, nor shall more than ten percent of all samples taken during any calendar month individually exceed 2,000 organisms per 100 milliliters. The standard applies only between March 1 and October 31.

Fluoranthene ug/l	4.6	199	398
Heptachlor (c) ug/l	0.00035	0.26*	0.52*
Heptachlor epoxide (c) ug/l	0.00048	0.27*	0.53*

Hexachlorobenzene (c) ug/l	0.00022	none	none

Lead, total ug/l

The CC shall not exceed: exp.(1.273[ln(total hardness mg/l)]-4.705).

The MC shall not exceed: exp.(1.273[ln(total hardness mg/l)]-1.460).

The FAV shall not exceed: exp.(1.273[ln(total hardness mg/l)]-0.7643).

Lead standards in ug/l at various hardness values

Hardness mg/l			
50	1.3	34	68
100	3.2	82	164
200	7.7	197	396

Lindane (c) ug/l (Hexachlorocyclohexane gamma-)	0.012	1.0	2.0
Mercury, total ug/l	0.0069	2.4*	4.9*
Methylene chloride (c) ug/l (Dichloromethane)	1561	9600	19200

Nickel, total ug/l

For waters with total hardness values greater than 143 mg/l, the CC shall not exceed the human health-based criterion of 213 ug/l. For waters with total hardness values less than 144 mg/l, the CC shall not exceed: exp.(0.846[ln(total hardness mg/l)] + 1.1645).

The MC shall not exceed: exp.(0.846[ln(total hardness mg/l)] + 3.3612).

The FAV shall not exceed: exp.(0.846[ln(total hardness mg/l)] + 4.0543).

Nickel standards in ug/l at various hardness values

Hardness mg/l			
50	88	789	1578
100	158	1418	2836
200	213	2549	5098

Oil ug/l	50	5000	10000
Parathion ug/l	0.013	0.07	0.13

Pentachlorophenol ug/l

The CC shall not exceed: exp.(1.005[pH]-5.290).

The MC shall not exceed: exp.(1.005[pH]-4.830).

The FAV shall not exceed: exp.(1.005[pH]-4.1373).

Pentachlorophenol standards in ug/l at various pH values

pH			
7.0	5.7	9.1	18
7.5	9.5	15	30
8.0	16	25	50

pH value not less than 6.5 nor greater than 9.0			
Phenanthrene ug/l	2.1	29	58
Phenol ug/l	123	2214	4428
Polychlorinated biphenyls (c) ug/l	0.000029	1.0*	2.0*

Radioactive materials

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

Not to exceed the lowest concentration permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

Selenium, total ug/l	5.0	20	40
Silver, total ug/l			

The CC shall not exceed: 1.0.

The MC shall not exceed: exp.(1.72[ln(total hardness mg/l)]-7.2156) and the FAV shall not exceed: exp.(1.72[ln(total hardness mg/l)]-6.52) provided that the MC and FAV shall be no less than 1.0 ug/l.

Silver standards in ug/l at various hardness values

Hardness mg/l			
50	n/a	1.0	1.2
100	n/a	2.0	4.1
200	n/a	6.7	13

Temperature			

5°F above natural in streams and 3°F above natural in lakes, based on monthly average of the maximum daily temperature, except in no case shall it exceed the daily average temperature of 86°F.

2,3,7,8-Tetrachlorodibenzo -p-dioxin (c) picograms/l	0.0012	none	none
1,1,2,2-Tetrachlorethane (c) ug/l	13	1127	2253
Tetrachloroethylene (c) ug/l	5.3	428	857
Toluene ug/l	253	1352	2703
Toxaphene ug/l	0.0016	0.73*	1.5*
1,1,1-Trichloroethane ug/l	263	2628	5256
1,1,2-Trichloroethylene (c) ug/l	120	6988	13976
2,4,6-Trichlorophenol ug/l	2.0	102	203
Turbidity value NTUs	25	none	none
Vinyl chloride (c) ug/l	7.6	none	none
Xylene, total m, p, and o ug/l	166	1407	2814
Zinc, total ug/l			

The CC shall not exceed: exp.(0.8473[ln(total hardness mg/l)] + 0.7615).

The MC shall not exceed: exp.(0.8473[ln(total hardness mg/l)] + 0.8604).

The FAV shall not exceed: exp.(0.8473[ln(total hardness mg/l)] + 1.5536).

Zinc standards in ug/l at various hardness values

Hardness mg/l			
50	59	65	130
100	106	117	234
200	191	211	421

~~C.~~ D. Class ~~C~~ 2C. The quality of this class of the waters of the state shall be such as to permit the propagation and maintenance of rough fish or species commonly inhabiting waters of the vicinity under natural conditions, maintain the habitat for such fisheries, and be suitable for boating and other forms of aquatic recreation for which the waters may be usable. ~~Limiting concentrations or ranges of substances or characteristics which should not be exceeded in the waters are given~~ The standards for Class 2B waters listed in item C shall apply to these waters except as listed below:

~~Substance or Characteristic~~	~~Limit or Range~~
~~Dissolved oxygen*~~	~~Not less than 5 milligrams per liter at all times (instantaneous minimum concentration.)****~~

~~Temperature~~	~~5°F above natural in streams and 3°F above natural in lakes, based on monthly average of the maximum daily temperature except in no case shall it exceed the daily average temperature of 90°F.~~
~~Ammonia (N)**~~	~~0.04 milligram per liter (un-ionized as N)~~
~~Chromium (Cr)~~	~~0.05 milligram per liter~~
~~Copper (Cu)~~	~~0.01 milligram per liter or not greater than 1/10 the 96 hour TLM value.~~
~~Cyanides (CN)~~	~~0.02 milligram per liter~~
~~Oil~~	~~10 milligrams per liter, and none in such quantities as to (1) produce a visible color film on the surface, (2) impart an oil odor to water or an oil taste to fish and edible invertebrates, (3) coat the banks and bottom of the watercourse or taint any of the associated biota, or (4) become effective toxicants according to the criteria recommended.~~
~~pH value~~	~~6.5 - 9.0~~
~~Phenols as phenol~~	~~0.1 milligram per liter and none that could impart odor or taste to fish flesh or other freshwater edible products such as crayfish, clams, prawns and like creatures. Where it seems probable that a discharge may result in tainting of edible aquatic products, bioassays and taste panels will be required to determine whether tainting is likely or present.~~
~~Turbidity value~~	~~25 NTUs~~
~~Fecal coliform organisms~~	~~200 organisms per 100 milliliters as a geometric mean measured in not less than five samples in any calendar month, nor shall more than 10% of all samples taken during any calendar month individually exceed 2000~~

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

	~~organisms per 100 milliliters. (Applies only between March 1 and October 31.)~~
~~Radioactive materials~~	~~Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.~~
~~Total residual chlorine***~~	~~0.005 milligram per liter~~

Substance or Characteristic	Standard CC	MC	FAV
Dissolved oxygen mg/l	5 as a daily minimum	none	none

~~*~~This standard applies to all Class 2 waters ~~of the state~~ except for the reach of the Mississippi River from the outlet of the metro wastewater treatment works in Saint Paul (River Mile 835) to Lock and Dam No. 2 at Hastings (River Mile 815) and except for the reach of the Minnesota River from the outlet of the Blue Lake wastewater treatment works (River Mile 21) to the mouth at Fort Snelling. For this reach of the Mississippi River the standard is not less than five milligrams per liter as a daily average from April 1 through November 30, and not less than four milligrams per liter at other times. For the specified reach of the Minnesota River the standard shall be not less than five milligrams per liter as a daily average year-round.

~~**See ammonia footnote for Class 2A waters.~~

~~***See chlorine footnote for Class 2A waters.~~

~~****See dissolved oxygen footnote for Class 2A waters.~~

This dissolved oxygen standard requires compliance with the standard 50 percent of the days at which the flow of the receiving water is equal to the lowest weekly flow with a once in ten year recurrence interval (7Q10).

Temperature

5°F above natural in streams and 3°F above natural in lakes, based on monthly average of the maximum daily temperature, except in no case shall it exceed the daily average temperature of 90°F.

For all classes of fisheries and recreation waters, the aquatic habitat, which includes the waters of the state and stream bed, shall not be degraded in any material manner, there shall be no material increase in undesirable slime growths or aquatic plants, including algae, nor shall there be any significant increase in harmful pesticide or other residues in the waters, sediments, and aquatic flora and fauna; the normal fishery and lower aquatic biota upon which it is dependent and the use thereof shall not be seriously impaired or endangered, the species composition shall not be altered materially, and the propagation or migration of the fish and other biota normally present shall not be prevented or hindered by the discharge of any sewage, industrial waste, or other wastes to the waters ~~of the state~~.

~~No sewage, industrial waste, or other wastes from point or nonpoint sources shall be discharged into any of the waters of this category so as to cause any material change in any other substances or characteristics which may impair the quality of the waters of the state or the aquatic biota of any of the above listed classes or in any manner render them unsuitable or objectionable for fishing, fish culture, or recreational uses. Additional selective limits or changes in the discharge bases may be imposed on the basis of local needs.~~

Subp. 4. **Class 3. Industrial consumption.**

A. Class ~~A~~ 3A. The quality of this class of the waters of the state shall be such as to permit their use without chemical treatment, except softening for groundwater, for most industrial purposes, except food processing and related uses, for which a high quality of water is required. The quality shall be generally comparable to Class ~~B~~ 1B waters for domestic consumption, except for the following:

Substance or Characteristic	Limit or Range
Chlorides (Cl)	50 milligrams per liter
Hardness, Ca + Mg as $CaCO_3$	50 milligrams per liter
pH value	6.5 - 8.5

B. Class ~~B~~ 3B. The quality of this class of the waters of the state shall be such as to permit their use for general industrial purposes, except for food processing, with only a moderate degree of treatment. The quality shall be generally comparable to Class ~~D~~ 1D waters of the state used for domestic consumption, except the following:

Substance or Characteristic	Limit or Range
Chlorides (Cl)	100 milligrams per liter
Hardness, Ca + Mg as $CaCO_3$	250 milligrams per liter
pH value	6.0 - 9.0

C. Class ~~C~~ 3C. The quality of this class of the waters of the state shall be such as to permit their use for industrial cooling and materials transport without a high degree of treatment being necessary to avoid severe fouling, corrosion, scaling, or other unsatisfactory conditions. The following shall not be exceeded in the waters of the state:

Substance or Characteristic	Limit or Range
Chlorides (Cl)	250 milligrams per liter
Hardness, Ca + Mg as $CaCO_3$	500 milligrams per liter
pH value	6.0 - 9.0

Additional selective limits may be imposed for any specific waters of the state as needed.

In addition to the above listed standards, no sewage, industrial waste, or other wastes from point or nonpoint sources, treated or untreated, shall be discharged into or permitted by any person to gain access to any waters of the state classified for industrial purposes so as to cause any material impairment of their use as a source of industrial water supply.

Subp. 5. **Class 4. Agriculture and wildlife.**

A. Class ~~A~~ 4A. The quality of this class of the waters of the state shall be such as to permit their use for irrigation without significant damage or adverse effects upon any crops or vegetation usually grown in the waters or area, including truck garden crops. The following concentrations or limits shall be used as a guide in determining the suitability of the waters for such uses, together with the recommendations contained in Handbook 60 published by the Salinity Laboratory of the United States Department of Agriculture, and any revisions, amendments, or supplements to it:

Substance or Characteristic	Limit or Range
Bicarbonates (HCO_3)	5 milliequivalents per liter
Boron (B)	0.5 milligram per liter
pH value	6.0 - 8.5
Specific conductance	1,000 micromhos per centimeter
Total dissolved salts	700 milligrams per liter
Sodium (Na)	60% of total cations as milliequivalents per liter
Sulfates (SO_4)	10 milligrams per liter, applicable to water used for production of wild rice during periods when the rice may be susceptible to damage by high sulfate levels.
Radioactive materials	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

B. Class ~~B~~ 4B. The quality of this class of the waters of the state shall be such as to permit their use by livestock and wildlife without inhibition or injurious effects. The limits or concentrations of substances or characteristics given below shall not be exceeded in the waters of the state:

Substance or Characteristic	Limit or Range
pH value	6.0 - 9.0
Total salinity	1,000 milligrams per liter

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

Radioactive materials	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.
~~Unspecified~~ Toxic substances	None at levels harmful either directly or indirectly.

Additional selective limits may be imposed for any specific waters of the state as needed.

Subp. 6. **Class 5. Aesthetic enjoyment and navigation.** The quality of this class of the waters of the state shall be such as to be suitable for aesthetic enjoyment of scenery and to avoid any interference with navigation or damaging effects on property. The following limits or concentrations shall not be exceeded in the waters of the state:

Substance or Characteristic	Limit or Range
pH value	6.0 - 9.0
Hydrogen sulfide as S	0.02 milligram per liter

Additional selective limits may be imposed for any specific waters of the state as needed.

Subp. 7. **Class 6. Other uses.** The uses to be protected in this class may be under other jurisdictions and in other areas to which the waters of the state are tributary, and may include any or all of the uses listed in the foregoing categories, plus any other possible beneficial uses. The agency therefore reserves the right to impose any standards necessary for the protection of this class, consistent with legal limitations.

Subp. 8. **Class 7. Limited resource value waters.** The quality of this class of waters of the state shall be such as to protect aesthetic qualities, secondary body contact use, and groundwater for use as a potable water supply. ~~The~~ Limits or concentrations of substances or characteristics given below shall not be exceeded in the waters:

Substance or Characteristic	~~Limit or Range~~ Standard
Fecal coliform organisms	~~1,000 organisms per 100 milliliters* (Applies only between May 1 and October 31.)~~

Not to exceed 1,000 organisms per 100 milliliters in any calendar month as determined by the logarithmic mean of a minimum of five samples, nor shall more than ten percent of all samples taken during any calendar month individually exceed 2,000 organisms per 100 milliliters. The standard applies only between May 1 and October 31.

pH value Not less than 6.0 nor greater than 9.0	~~6.0 - 9.0~~
Dissolved oxygen At concentrations which will avoid odors or putrid conditions in the receiving water or at concentrations at not less than 1 mg/l (daily average) provided that measurable concentrations are present at all times.	
~~Unspecified Substances~~	~~Unspecified substances shall not be allowed in such quantities or concentrations that will impair the specified uses.~~

~~*The stated value is not to be exceeded in any calendar month as determined by the logarithmic mean of a minimum of five samples, nor shall more than ten percent of all samples taken during any calendar month individually exceed 2,000 organisms per 100 milliliters.~~

Toxic Substances	Toxic substances shall not be allowed in such quantities or concentrations that will impair the specified uses.

7050.0420 TROUT WATERS.

Trout streams and trout lakes described in Department of Natural Resources Commissioner's orders ~~2089 (dated June 26, 1981)~~ 2294 (dated March 18, 1988) and 2230 (dated December 24, 1985) respectively are ~~hereby~~ classified as trout waters. Other lakes that are classified as trout waters are listed in part 7050.0470. All trout waters are classified 1B, 2A, 3B, 3C, 4A, 4B, 5, and 6.

7050.0460 WATERS SPECIFICALLY CLASSIFIED.

The waters of the state listed in part 7050.0470 are ~~hereby~~ classified as specified. The specific stretch of watercourse or the location of a waterbody is described by township, range, and section, abbreviated as T., R., S., respectively. Any community listed in part 7050.0470 is the community nearest the water classified, and is included solely to assist in identifying the water. ~~An asterisk (*) indicates the water is designated as an outstanding resource value water.~~

Outstanding resource value waters are listed in part 7050.0470 and are denoted by an asterisk (*) preceding the name of the water resource. Following the name is the effective date the water resource was designated as an outstanding resource value water and a letter code that corresponds to the applicable discharge restrictions in part 7050.0180, subpart 3 or 6. The letter code P corresponds to the prohibited discharges provision in part 7050.0180, subpart 3. The letter code R corresponds to the restricted discharges provision in part 7050.0180, subpart 6.

Waters listed in part 7050.0470 that are classified as Class 2Bd are Class 2B waters also classified for domestic consumption purposes. Applicable standards for Class 2Bd waters are listed in part 7050.0220, subpart 3, item B.

7050.0470 CLASSIFICATIONS FOR WATERS IN MAJOR SURFACE WATER DRAINAGE BASINS.

Subpart 1. **Lake Superior Basin.** The water use classifications for the listed waters in the Lake Superior Basin are as identified in items A and B:

A. Streams:

(1) Amenda Creek, (T.59, R.5W): 2C;

(2) Barber Creek (East Swan River) (Chisholm Creek) Chisholm, (T.58, R.20, S.21, 22, 26, 27, 34, 35): 7;

(3) Boulder Creek, (T.53, 54, R.14): 2C;

(4) Brule River (excluding trout waters), (T.62, 63, 64, R.1W, 1E, 2E, 3E): 1B, ~~2B~~ 2Bd, 3B;

(5) Buhl Creek, Buhl, (T.58, R.19, S.20, 29): 7;

(6) Cranberry Creek, (T.58, R.13): 2C;

(7) Elbow Creek, Eveleth, (T.57, R.17, S.6; T.57, R.18, S.1): 7;

(8) Horn Creek, (T.62, R.4W): 1B, ~~2B~~ 2Bd, 3B;

(9) Manganika Creek, Virginia, (T.58, R.17, S.19; T.58, R.18, S.24): 7;

(10) Pigeon River (South of Fowl Lake to Pigeon Bay of Lake Superior): 1B, ~~2B~~ 2Bd, 3A;

(11) Swan River, West, (T.55, R.20, 21): 2C;

(12) Temperance River (excluding trout waters), (T.59, 60, 61, 62, R.4W): 1B, ~~2B~~ 2Bd, 3B;

(13) Trappers Creek, (T.56, R.11): 2C;

(14) Unnamed Creek, Meadowlands, (T.53, R.19, S.22, 23): 7;

(15) Unnamed Ditch, Eveleth, (T.57, R.17, S.6): 7;

(16) Unnamed Ditch, Gilbert, (T.58, R.17, S.23, 24, 25, 36): 7; and

(17) *All other streams in the Boundary Waters Canoe Area Wilderness [11/5/84P]: 1B, ~~2B~~ 2Bd, 3B.

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

B. Lakes:

(1) *Alder Lake, [11/5/84P] (T.64, R.1E): 1B, 2A, 3B;

(2) *Alton Lake, [11/5/84P] (T.62, 63, R.4, 5): 1B, 2A, 3B;

(3) Bearskin Lake, East, (T.64, R.1E, 1W): 1B, 2A, 3B;

(4) *Bearskin Lake, West, [3/7/88R] (T.64, 65, R.1): 1B, 2A, 3B;

(5) *Birch Lake, [3/7/88R] (T.65, R.1, 2): 1B, 2A, 3B;

(6) Black Lake, (T.45, R.15): 1B, ~~2B~~ 2Bd, 3B;

(7) *Brule Lake, [11/5/84P] (T.63, R.2, 3): 1B, 2A, 3B;

(8) Chester Lake, (T.64, R.3E): 1B, 2A, 3B;

(9) *Clearwater Lake (Emby Lake), [11/5/84P] (T.65, R.1E): 1B, 2A, 3B;

(10) Colby Lake, (T.58, R.14): 1B, ~~2B~~ 2Bd, 3B;

(11) *Cone Lake, North, [11/5/84P] (T.63, 64, R.3): 1B, 2A, 3B;

(12) *Crystal Lake, [11/5/84P] (T.64, R.1E, 2E): 1B, 2A, 3B;

(13) *Daniels Lake, [11/5/84P] (T.65, R.1E, 1W): 1B, 2A, 3B;

(14) *Davis Lake, [11/5/84P] (T.64, R.3): 1B, 2A, 3B;

(15) *Devilfish Lake, [3/7/88R] (T.64, R.3E): 1B, 2A, 3B;

(16) *Duncan Lake, [11/5/84P] (T.65, R.1): 1B, 2A, 3B;

(17) *Dunn Lake, [11/5/84P] (T.65, R.1, 2): 1B, 2A, 3B;

(18) *Echo Lake, [3/7/88R] (T.59, R.6): 1B, 2A, 3B;

(19) *Esther Lake, [3/7/88R] (T.63, 64, R.3E): 1B, 2A, 3B;

(20) *Fan Lake, [11/5/84P] (T.65, R.2E): 1B, ~~2B~~ 2Bd, 3A;

(21) Flour Lake, (T.64, R.1E, 1W): 1B, 2A, 3B;

(22) Fowl Lake, North, (T.64, 65, R.3E): 1B, ~~2B~~ 2Bd, 3A;

(23) Fowl Lake, South, (T.64, 65, R.3E): 1B, ~~2B~~ 2Bd, 3A;

(24) *Gaskin Lake, [11/5/84P] (T.64, R.2): 1B, 2A, 3B;

(25) *Greenwood Lake, [3/7/88R] (T.64, R.2E): 1B, 2A, 3B;

(26) *Hungry Jack Lake, [3/7/88R] (T.64, 65, R.1): 1B, 2A, 3B;

(27) *Jim Lake (Jerry Lake), [3/7/88R] (T.64, R.1E): 1B, 2A, 3B;

(28) *Kemo Lake, [3/7/88R] (T.63, R.1): 1B, 2A, 3B;

(29) *Lily Lakes, [11/5/84P] (T.65, R.2E): 1B, ~~2B~~ 2Bd, 3A;

(30) McFarland Lake, (T.64, R.3E): 1B, 2A, 3B;

(31) *Misquah Lake, [11/5/84P] (T.64, R.1): 1B, 2A, 3B;

(32) *Moose Lake, [11/5/84P] (T.65, R.2E, 3E): 1B, 2A, 3A;

(33) *Morgan Lake, [11/5/84P] (T.64, R.1): 1B, 2A, 3B;

(34) *Moss Lake, [3/7/88R] (T.65, R.1): 1B, 2A, 3B;

(35) *Mountain Lake, [11/5/84P] (T.65, R.1E, 2E): 1B, 2A, 3B;

(36) *Musquash Lake, [3/7/88R] (T.63, R.1E): 1B, 2A, 3B;

(37) *Onega Lake (Omega Lake), [11/5/84P] (T.64, R.2, 3): 1B, 2A, 3B;

(38) *Otto Lake, Lower, [11/5/84P] (T.64, R.2): 1B, 2A, 3B;

(39) *Partridge Lake, [11/5/84P] (T.65, R.1): 1B, 2A, 3B;

(40) *Pike Lake, West, [11/5/84P] (T.65, R.2E): 1B, 2A, 3B;

(41) *Pine Lake, [11/5/84P] (T.64, 65, R.1E, 2E, 3E): 1B, 2A, 3B;

(42) *Ram Lake, [11/5/84P] (T.63, R.1): 1B, 2A, 3B;

(43) *Rose Lake, [11/5/84P] (T.65, R.1): 1B, 2A, 3B;

(44) Saint Mary's Lake, (T.57, R.17, S.9, 16, 17): 1C, ~~2B~~ 2Bd, 3B;

(45) *Sawbill Lake, [11/5/84P] (T.62, 63, R.4): 1B, ~~2B~~ 2Bd, 3B;

(46) Seven Beaver Lake, (T.58, R.11, 12): 2B, 3A;

(47) *South Lake, [11/5/84P] (T.65, R.1, 2): 1B, 2A, 3B;

(48) *State Lake, [11/5/84P] (T.63, 64, R.2): 1B, 2A, 3B;

(49) *Superior, Lake, [11/5/84R] (T.49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, R.14W-7E): 1B, 2A, 3A;

(50) *Swan Lake, [11/5/84P] (T.63, R.2): 1B, 2A, 3B;

(51) *Trout Lake, [3/7/88R] (T.62, R.2E): 1B, 2A, 3B;

(52) *Trout Lake, Little, [11/5/84P] (T.63, R.1): 1B, 2A, 3B;

(53) *Twin Lake, Upper (Bear Lake), [3/7/88R] (T.56, R.8): 1B, 2A, 3B;

(54) *Vista Lake, [11/5/84P] (T.64, R.1): 1B, 2A, 3B;

(55) *Wanihigan Lake (Trap Lake), [11/5/84P] (T.63, 64, R.2, 3): 1B, 2A, 3B;

(56) *Winchell Lake, [11/5/84P] (T.64, R.2, 3): 1B, 2A, 3B;

(57) *Black Lake Bog [3/7/88P] (Waters within the Black Lake Bog Scientific and Natural Area, Pine County, T.45, R.15, S.18, 19, 30; T.45, R.16, S.13, 24, 25): 2B, 3B; and

(58) *All other lakes in the Boundary Waters Canoe Area Wilderness [11/5/84P]: 1B, ~~2B~~ 2Bd, 3B.

Subp. 2. **Lake of the Woods Basin.** The water use classifications for the listed waters in Lake of the Woods Basin are as identified in items A and B:

A. Streams:

(1) Beaver Creek, (T.62, 63, R.20): 2C;

(2) Gardner Brook, (T.63, 64, R.23): 2C;

(3) Indian Sioux River, Little, (T.64, 65, R.15): 1B, ~~2B~~ 2Bd, 3B;

(4) Island River, (T.61, R.7, 8): 1B, ~~2B~~ 2Bd, 3B;

(5) Kawishiwi River, (Source to Fall Lake): 1B, ~~2B~~ 2Bd, 3B;

(6) ~~Lone Creek, (T.66, R.5): 1B, 2C;~~

~~(7)~~ Moose River, (T.68, R.18, 19): 1B, ~~2B~~ 2Bd, 3B;

~~(8)~~ (7) Moose River, (T.64, 65, 66, R.14): 1B, ~~2B~~ 2Bd, 3B;

~~(9)~~ (8) Portage Creek, (T.65, R.21): 2C;

~~(10)~~ (9) Portage River, (T.65, 66, R.14): 1B, ~~2B~~ 2Bd, 3B;

~~(11)~~ (10) Rainy River, (Outlet of Rainy Lake to Dam in International Falls): 1B, ~~2B~~ 2Bd, 3A;

~~(12)~~ (11) Rainy River, (Dam in International Falls to Railroad Bridge in Baudette): 1C, ~~2B~~ 2Bd, 3A;

~~(13)~~ (12) Rainy River, (Railroad Bridge in Baudette to Lake of the Woods): 2B, 3A;

~~(14)~~ (13) Snake River, (T.61, R.9): 1B, ~~2B~~ 2Bd, 3B;

~~(15) Stuart River, (T.65, 66, R.13): 1B, 2C;~~

~~(16)~~ (14) Zippel Creek, West Branch, (T.162, R.33, 34): 2C;

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

~~(17)~~ (15) *All other streams in the Boundary Waters Canoe Area Wilderness [11/5/84P]: 1B, ~~2B~~ 2Bd, 3B;

~~(18)~~ (16) *Purvis Lake-Ober, [11/5/84P] (Waters within the Purvis Lake-Ober Foundation Scientific and Natural Area, Saint Louis County, ~~T.61~~ T.62, R.13): 2B, 3B; and

~~(19)~~ (17) *All other streams in the Voyageurs National Park [11/5/84P]: 2B, 3B.

B. Lakes:

(1) *Adams Lake, [11/5/84P] (T.64, R.6): 1B, 2A, 3B;

(2) *Agamok Lake, [11/5/84P] (T.65, R.5, 6): 1B, 2A, 3B;

(3) *Ahmakose Lake, [11/5/84P] (T.64, R.7): 1B, 2A, 3B;

(4) *Alpine Lake, [11/5/84P] (T.65, R.5): 1B, 2A, 3B;

(5) *Amoeber Lake, [11/5/84P] (T.65, R.6, 7): 1B, 2A, 3B;

(6) *Arkose Lake, [11/5/84P] (T.64, 65, R.7): 1B, 2A, 3B;

(7) *Ashdick Lake (Caribou Lake), [11/5/84P] (T.66, R.6): 1B, 2A, 3B;

(8) *Basswood Lake, [11/5/84P] (T.64, 65, R.9, 10): 1B, 2A, 3B;

(9) *Bat Lake, [11/5/84P] (T.64, 65, R.5): 1B, 2A, 3B;

(10) *Beartrack Lake, [11/5/84P] (T.67, R.15): 1B, 2A, 3B;

(11) *Beaver Lake (Elbow Lake), [11/5/84P] (T.63, 64, R.6, 7): 1B, 2A, 3B;

(12) *Bingshick Lake, [11/5/84P] (T.65, R.4, 5): 1B, 2A, 3B;

(13) *Brandt Lake, [11/5/84P] (T.65, R.4): 1B, 2A, 3B;

(14) *Burntside Lake, [3/7/88R] (T.63, 64, R.12, 13, 14): 1B, 2A, 3B;

(15) *Camp Lake, [11/5/84P] (T.64, R.11): 1B, ~~2B~~ 2Bd, 3B;

(16) *Caribou Lake, [3/7/88R] (T.58, R.26): 1B, 2A, 3B;

(17) *Cash Lake, [11/5/84P] (T.64, R.3): 1B, 2A, 3B;

(18) *Cherokee Lake, [11/5/84P] (T.63, 64, R.4): 1B, 2A, 3B;

(19) *Cherry Lake, [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(20) *Crab Lake, [11/5/84P] (T.63, R.13, 14): 1B, 2A, 3B;

(21) Crab Lake, (T.65, R.2, 3): 1B, 2A, 3B;

(22) Crane Lake, (T.67, 68, R.16, 17): 1B, 2A, 3A;

(23) *Crooked Lake, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(24) *Crooked Lake, [11/5/84P] (T.66, R.11, 12): 1B, 2A, 3B;

(25) *Cruiser Lake (Trout Lake), [11/5/84P] (T.69, 70, R.19): 1B, 2A, 3B;

(26) *Eddy Lake, [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(27) *Ester Lake (Gnig Lake), [11/5/84P] (T.65, 66, R.6): 1B, 2A, 3B;

(28) *Eugene Lake, [11/5/84P] (T.67, R.15): 1B, 2A, 3B;

(29) *Explorer Lake (South Three Lake), [11/5/84P] (T.64, R.7, 8): 1B, 2A, 3B;

(30) Fall Lake, (T.63, 64, R.11, 12): 1B, ~~2B~~ 2Bd, 3B;

(31) *Fat Lake, [11/5/84P] (T.67, R.15): 1B, 2A, 3B;

(32) *Fay Lake, [11/5/84P] (T.65, R.5): 1B, 2A, 3B;

(33) *Fern Lake, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(34) *Fern Lake, West, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(35) *Finger Lake, [11/5/84P] (T.67, R.14): 1B, 2A, 3B;

(36) *Fishdance Lake, [11/5/84P] (T.63, R.7): 1B, 2A, 3B;

(37) *Fraser Lake, [11/5/84P] (T.64, R.7): 1B, 2A, 3B;

(38) *French Lake, [11/5/84P] (T.64, 65, R.5): 1B, 2A, 3B;

(39) *Frost Lake, [11/5/84P] (T.64, R.4): 1B, 2A, 3B;

(40) *Gabimichigami Lake, [11/5/84P] (T.64, 65, R.5, 6): 1B, 2A, 3B;

(41) *Ge-Be-On-Equat Lake, [11/5/84P] (T.67, R.14): 1B, 2A, 3B;

(42) *Gijikiki Lake (Cedar Lake), [11/5/84P] (T.65, 66, R.6): 1B, 2A, 3B;

(43) *Gillis Lake, [11/5/84P] (T.64, 65, R.5): 1B, 2A, 3B;

(44) *Gordon Lake, [11/5/84P] (T.64, R.4): 1B, 2A, 3B;

(45) *Gun Lake, [11/5/84P] (T.67, 68, R.15): 1B, 2A, 3B;

(46) *Gunflint Lake, [3/7/88R] (T.65, R.2, 3, 4): 1B, 2A, 3B;

(47) Gunflint Lake, Little, (T.65, R.2): 1B, ~~2B~~ 2Bd, 3B;

(48) *Hanson Lake, [11/5/84P] (T.65, 66, R.6): 1B, 2A, 3B;

(49) *Holt Lake, [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(50) *Howard Lake, [11/5/84P] (T.65, R.5): 1B, 2A, 3B;

(51) *Hustler Lake, [11/5/84P] (T.66, 67, R.14): 1B, 2A, 3B;

(52) *Ima Lake (Slate Lake), [11/5/84P] (T.64, R.7, 8): 1B, 2A, 3B;

(53) *Jasper Lake, [11/5/84P] (T.65, R.5): 1B, 2A, 3B;

(54) *Johnson Lake, [3/7/88R] (T.67, 68, R.17, 18): 1B, 2A, 3B;

(55) *Kabetogama Lake, [11/5/84P] (T.69, 70, R.20, 21, 22): 1B, ~~2B~~ 2Bd, 3A;

(56) *Karl Lake, [11/5/84P] (T.64, R.3, 4): 1B, 2A, 3B;

(57) *Kek Lake, Little, [11/5/84P] (T.65, R.6, 7): 1B, 2A, 3B;

(58) *Kekekabic Lake, [11/5/84P] (T.64, 65, R.6, 7): 1B, 2A, 3B;

(59) *Knife Lake, [11/5/84P] (T.65, R.7, 8): 1B, 2A, 3B;

(60) *Lake of the Clouds Lake (Dutton Lake), [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(61) *Larson Lake, [3/7/88R] (T.61, R.24): 1B, 2A, 3B;

(62) *Long Island Lake, [11/5/84P] (T.64, R.3, 4): 1B, 2A, 3B;

(63) *Loon Lake, [3/7/88R] (T.65, R.3): 1B, 2A, 3B;

(64) *Loon Lake, [11/5/84P] (T.66, 67, R.15): 1B, 2A, 3B;

(65) *Lunar Lake (Moon Lake), [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(66) *Lynx Lake, [11/5/84P] (T.66, R.14, 15): 1B, 2A, 3B;

(67) *Magnetic Lake, [3/7/88R] (T.65, R.3, 4): 1B, 2A, 3B;

(68) *Makwa Lake (Bear Lake), [11/5/84P] (T.64, R.6): 1B, 2A, 3B;

(69) *Marble Lake, [11/5/84P] (T.64, R.6): 1B, 2A, 3B;

(70) *Mayhew Lake, [3/7/88R] (T.65, R.2): 1B, 2A, 3B;

(71) *Mesaba Lake, [11/5/84P] (T.63, R.5): 1B, 2A, 3B;

(72) *Missionary Lake (East Three Lake), [11/5/84P] (T.64, R.7, 8): 1B, 2A, 3B;

(73) *Moose Lake, [11/5/84P] (T.64, R.9, 10): 1B, ~~2B~~ 2Bd, 3B;

(74) *Mora Lake, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(75) *Mukooda Lake, [11/5/84P] (T.68, R.17): 1B, 2A, 3B;

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

(76) *Namakan Lake, [11/5/84P] (T.69, R.17, 18, 19): 1B, ~~2B~~ 2Bd, 3A;

(77) *North Lake, [3/7/88R] (T.65, R.2): 1B, 2A, 3B;

(78) North Lake, Little, (T.65, R.2): 1B, ~~2B~~ 2Bd, 3B;

(79) *Ogishkemuncie Lake, [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(80) *Ojibway Lake (Upper Twin), [3/7/88R] (T.63, R.9, 10): 1B, 2A, 3B;

(81) *Owl Lake, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(82) *Oyster Lake, [11/5/84P] (T.66, R.14): 1B, 2A, 3B;

(83) *Peter Lake, [11/5/84P] (T.64, 65, R.5): 1B, 2A, 3B;

(84) *Portage Lake, [11/5/84P] (T.65, R.8): 1B, 2A, 3B;

(85) *Powell Lake, [11/5/84P] (T.64, 65, R.5): 1B, 2A, 3B;

(86) *Rabbit Lake, [11/5/84P] (T.66, R.6): 1B, 2A, 3B;

(87) *Rainy Lake, [11/5/84P] (T.70, 71, R.18, 19, 20, 21, 22, 23): 1B, ~~2B~~ 2Bd, 3A;

(88) *Raven Lake (Lynx Lake), [11/5/84P] (T.64, R.6): 1B, 2A, 3B;

(89) *Red Rock Lake, [11/5/84P] (T.65, 66, R.5): 1B, 2A, 3B;

(90) *Ruby Lake, Big, [11/5/84P] (T.66, R.14): 1B, 2A, 3B;

(91) *Saganaga Lake, [11/5/84P] (T.66, 67, R.4, 5): 1B, 2A, 3B;

(92) *Saganaga Lake, Little, [11/5/84P] (T.64, R.5, 6): 1B, 2A, 3B;

(93) *Sand Point Lake, [11/5/84P] (T.68, 69, R.16, 17): 1B, 2A, 3A;

(94) *Sea Gull Lake, [11/5/84P] (T.65, 66, R.4, 5): 1B, 2A, 3B;

(95) *Sema Lake (Coon Lake), [11/5/84P] (T.65, R.7): 1B, 2A, 3B;

(96) *Snowbank Lake, [11/5/84P] (T.63, 64, R.8, 9): 1B, 2A, 3B;

(97) *Spoon Lake (Fames Lake), [11/5/84P] (T.65, R.7): 1B, 2A, 3B;

(98) *Spring Lake, [3/7/88R] (T.68, R.18): 1B, 2A, 3B;

(99) *Strup Lake, [11/5/84P] (T.64, R.7): 1B, 2A, 3B;

(100) *Sumpet Lake, [11/5/84P] (T.61, R.7): 1B, ~~2B~~ 2Bd, 3B;

(101) *Takucmich Lake, [11/5/84P] (T.67, 68, R.14): 1B, 2A, 3B;

(102) *Tarry Lake, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(103) *Thomas Lake, [11/5/84P] (T.63, 64, R.7): 1B, 2A, 3B;

(104) *Thumb Lake, [11/5/84P] (T.67, R.14): 1B, 2A, 3B;

(105) *Topaz Lake (Star Lake), [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(106) *Town Lake, [11/5/84P] (T.63, 64, R.3, 4): 1B, 2A, 3B;

(107) *Trout Lake, Big, [11/5/84P] (T.63, 64, R.15, 16): 1B, 2A, 3B;

(108) *Trout Lake, Little (Pocket Lake), [11/5/84P] (T.68, R.17): 1B, 2A, 3B;

(109) *Tucker Lake, [11/5/84P] (T.64, R.3): 1B, ~~2B~~ 2Bd, 3B;

(110) *Tuscarora Lake, [11/5/84P] (T.64, R.4, 5): 1B, 2A, 3B;

(111) *Vera Lake, [11/5/84P] (T.64, R.8): 1B, 2A, 3B;

(112) *Virgin Lake, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(113) *Wine Lake, [11/5/84P] (T.63, R.5): 1B, 2A, 3B;

(114) *Wisini Lake, [11/5/84P] (T.64, R.7): 1B, 2A, 3B;

(115) Lake of the Woods, (T.161, 162, 163, 164, 165, 166, 167, 168, R.30, 31, 32, 33, 34, 35): 1B, ~~2B~~ 2Bd, 3A;

(116) Unnamed Swamp, Winton, (T.63, R.11, S.19; T.63, R.12, S.24): 7;

(117) *All other lakes in the Boundary Waters Canoe Area Wilderness [11/5/84P]: 1B, ~~2B~~ 2Bd, 3B; and

(118) *All other lakes in the Voyageurs National Park [11/5/84P]: 2B, 3B.

Subp. 3. **Red River of the North Basin.** The water use classifications for the listed waters in the Red River of the North Basin are as identified in items A, B, and C:

A. Streams:

(1) Badger Creek, (T.149, 150, 151, R.42, 43, 44): 2C;

(2) Barnums Creek (Burnham Creek), (T.148, 149, 150, R.44, 45, 46, 47, 48): 2C;

(3) Bois de Sioux River, (Mud Lake outlet to Breckenridge): 2C;

(4) County Ditch No. 6A-2, Rothsay, (T.135, R.45, S.21, 28, 33): 7;

(5) County Ditch No. 32, Sabin, (T.138, R.48, S.13, 14, 15, 16, 17, 18): 7;

(6) County Ditch No. 65, New York Mills, (T.135, R.37, S.18; T.135, R.38, S.13): 7;

(7) Deerhorn Creek, (T.136, R.44, 45, 46): 2C;

(8) Doran Slough, (T.131, 132, R.46, 47): 2C;

(9) Eighteen Mile Creek, (T.127, R.46, 47): 2C;

(10) Five Mile Creek, (T.127, 128, R.45): 2C;

(11) Gentilly River, (T.149, 150, R.45): 2C;

(12) Hay Creek, (T.137, 138, R.44, 45, 46): 2C;

(13) Hay Creek, (T.161, 162, 163, R.37, 38, 39): 2C;

(14) Hill River, (T.148, 149, 150, R.39, 40, 41, 42): 2C;

(15) Hoover Creek (excluding trout waters), (T.152, 153, 154, R.29, 30): 2C;

(16) Joe River, (T.162, 163, 164, R.49, 50): 2C;

(17) Joe River, Little, (T.163, R.47, 48): 2C;

(18) Judicial Ditch No. 13, Goodridge, (T.154, R.40, S.16, 17, 18): 7;

(19) Judicial Ditch No. 18, Goodridge, (T.154, R.40, S.18, 19, 27, 28, 29, 30; T.154, R.41, S.13, 14, 15, 16, 17, 18; T.154, R.42, S.7, 8, 13, 14, 15, 16; T.154, R.43, S.9, 10, 11, 12, 16): 7;

(20) Maple Creek, (T.147, 148, R.44, 45, 46): 2C;

(21) Marsh Creek, (T.144, 145, 146, R.41, 42, 43): 2C;

(22) Mustinka River, (T.127, 128, R.45, 46, 47): 2C;

(23) Mustinka River, West Branch, (T.125, 126, 127, 128, R.45, 46, 47): 2C;

(24) Otter Tail River, (Height of Land Lake to mouth): 1C, ~~2B~~ 2Bd, 3B;

(25) Rabbit River, (T.130, 131, R.45, 46, 47): 2C;

(26) Rabbit River, South Fork, (T.130, R.45, 46): 2C;

(27) Red Lake River, (Outlet of Lower Red Lake to mouth): 1C, ~~2B~~ 2Bd, 3B;

(28) Red River of the North, (Breckenridge to Canadian border): 1C, ~~2B~~ 2Bd, 3B;

(29) Roy Creek (Roy Lake Creek), (T.144, 145, R.39): 2C;

(30) Spring Creek, (T.145, 146, R.45, 46, 47): 2C;

(31) Spring Creek, (T.142, R.41, 42): 2C;

(32) Stony Creek, (T.137, R.45, 46): 2C;

(33) Sucker Creek, (T.160, 161, R.39): 2C;

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

(34) Tamarack River (Source to Stephen), (T.157, 158, R.45, 46, 47, 48): 1C, ~~2B~~ 2Bd, 3B;

(35) Twelve Mile Creek (excluding Class 7 segment), (T.126, 127, R.45): 2C;

(36) Twelve Mile Creek (County Ditch No. 1), Donnelly, (T.126, R.43, S.16, 17, 18, 19, 21, 22, 25, 26, 27; T.126, R.44, S.23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33; T.126, R.45, S.25, 26, 27, 28, 36): 7;

(37) Twelve Mile Creek, East Fork, (T.125, 126, R.44, 45): 2C;

(38) Twelve Mile Creek, West Fork, (T.125, 126, R.44, 45): 2C;

(39) Twin Lake Creek, (T.144, 145, R.40): 2C;

(40) Two Rivers, Middle Branch, (Source to Hallock): 1C, ~~2B~~ 2Bd, 3B;

(41) Two Rivers, South Branch, (T.161, R.41-49): 1C, ~~2B~~ 2Bd, 3B;

(42) Unnamed Creek, Rothsay, (T.135, R.45, S.21, 22, 23, 25, 26): 7;

(43) Unnamed Creek, Shevlin, (T.147, R.36, S.17, 18; T.147, R.37, S.11, 12, 13, 14): 7;

(44) Unnamed Ditch, Audubon, (T.139, R.42, S.4, 9): 7;

(45) Unnamed Ditch, Lake Park, (T.139, R.43, S.4; T.140, R.43, S.33): 7;

(46) Unnamed Ditch, Glyndon, (T.139, R.47, S.1, 2, 12; T.140, R.47, S.35): 7;

(47) Unnamed Ditch, Callaway, (T.140, R.41, S.6; T.140, R.42, S.1, 2, 10, 11): 7;

(48) Unnamed Ditch, Gary, (T.145, R.44, S.22, 27, 34): 7;

(49) Unnamed Ditch, Erskine, (T.149, R.42, S.34, 35): 7;

(50) Unnamed Ditch, Thief River Falls, (T.154, R.43, S.31, 32, 33): 7;

(51) Unnamed Ditch, Warroad, (T.163, R.37, S.19, 20, 21, 22, 23; T.163, R.38, S.19, 20, 21, 22, 23, 24, 30; T.163, R.39, S.25, 31, 32, 33, 34, 35, 36): 7;

(52) Whiskey Creek, (T.137, R.44, 45, 46): 2C;

(53) Whiskey Creek, (T.133, 134, R.47, 48): 2C;

(54) White Earth River, (T.143, 144, R.40, 41, 42): 2C;

(55) Willow Creek, New York Mills, (T.135, R.38, S.13, 14, 15, 16, 17, 18): 7; and

(56) Wolverton Creek, (T.135, 136, 137, R.48): 2C.

B. Lakes:

(1) Lake Bronson, (T.160, 161, R.46): 1C, ~~2B~~ 2Bd, 3B;

(2) Twin Lake, East, (T.138, R.41): 1B, 2A, 3B;

(3) Unnamed Slough, Vergas, (T.137, R.40, S.18; T.137, R.41, S.13, 24): 7; and

(4) *Green Water Lake, [11/5/84P] (Waters within the Green Water Lake Scientific and Natural Area, Becker County, T.141, R.38, S.28, 33, 34): 2B, 3B.

C. Fens:

(1) *B-B Ranch fen, [3/7/88R] (T.141, R.46, S.13): 2B, 3B;

(2) *Barnesville WMA fen, [3/7/88R] (T.137, R.45, S.1): 2B, 3B;

(3) *Chicog WMA fen, [3/7/88R] (T.148, R.45, S.20, 29, 33): 2B, 3B;

(4) *Clearbrook fen, [3/7/88R] (T.149, R.37, S.17): 2B, 3B;

(5) *Felton fen, [3/7/88R] (T.142, R.46, S.36): 2B, 3B;

(6) *Kertsonville WMA fen, [3/7/88R] (T.149, R.45, S.16): 2B, 3B;

(7) *Pankratz fen (Svedarsky's fen), [3/7/88R] (T.149, R.45, S.17): 2B, 3B;

(8) *Pembina Trail Preserve, [3/7/88P] (Waters within the Pembina Trail Preserve Scientific and Natural Area, Polk County, S.1, 2, T.148, R.45; S.18, 19, 30, 31, T.149, R.44; S.13, 24, 25, 36, T.149, R.45): 2B, 3B;

(9) *Primula Meadow (Faith fen), [3/7/88R] (T.144, R.43, S.25): 2B, 3B;

(10) *Spring Creek fen, [3/7/88R] (T.142, R.42, S.13): 2B, 3B;

(11) *Spring Prairie fen, [3/7/88R] (T.140, R.46, S.11): 2B, 3B; and

(12) *Waubun fen, [3/7/88R] (T.143, R.42, S.25): 2B, 3B.

Subp. 4. **Upper Mississippi River Basin.** The water use classifications for the listed waters in the Upper Mississippi River Basin are as identified in items A and B:

A. Streams:

(1) Alcohol Creek, (T.143, 144, R.34): 2C;

(2) Arramba Creek, (T.40, R.30): 2C;

(3) Basswood Creek, (T.141, 142, R.36): 2C;

(4) Battle Brook, (T.35, R.26, 27): 2C;

(5) Battle Creek, (T.120, R.30, 31): 2C;

(6) Bear Brook, (T.144, R.27): 2C;

(7) Bear Creek, (T.145, R.36): 2C;

(8) Beautiful Creek, (T.127, R.31): 2C;

(9) Beaver Creek, (T.136, 137, R.32, 33): 2C;

(10) Belle Creek, (T.117, 118, R.32): 2C;

(11) Birch Brook, (T.141, R.25): 2C;

(12) Black Brook, (T.41, 42, R.26): 2C;

(13) Black Brook, (T.42, 43, R.30): 2C;

(14) Blackwater Creek, (T.55, R.26): 2C;

(15) Blueberry River, (T.138, 139, R.35, 36): 2C;

(16) Bluff Creek, (T.135, 136, R.36, 37): 2C;

(17) Bogus Brook (excluding Class 7 segment), (T.37, 38, R.26): 2C;

(18) Bogus Brook, Bock, (T.38, R.26, S.13, 14): 7;

(19) Buckman Creek (excluding Class 7 segment), (T.39, 40, R.30, 31): 2C;

~~(19)~~ (20) Buckman Creek, Buckman, Buckman Coop Cry., (T.39, R.30, S.4, 5, 6, 9; T.39, R.31, S.1, 2, 10, 11; T.40, R.30, S.31; T.40, R.31, S.36): 7;

~~(20)~~ (21) Cat River (excluding trout waters), (T.136, 137, R.33, 34, 35): 2C;

~~(21)~~ (22) Chase Brook, (T.38, 39, R.27): 2C;

~~(22)~~ (23) Clearwater Creek, (T.56, 57, R.24, 25): 2C;

~~(23)~~ (24) Coon Creek, (T.43, R.29, 30): 2C;

~~(24)~~ (25) County Ditch No. 15 (Bear Creek), Bertha, (T.132, R.35, S.2; T.133, R.34, S.7; T.133, R.35, S.12, 13, 24, 25, 26, 35): 7;

~~(25)~~ (26) County Ditch No. 23, Garfield, (T.129, R.38, S.26, 27): 7;

~~(26)~~ (27) County Ditch No. 23A, Willmar, (T.119, R.34, S.29, 30; T.119, R.35, S.23, 25, 26): 7;

~~(27)~~ (28) County Ditch No. 42, McGregor, (T.48, R.23, S.29, 32): 7;

~~(28)~~ (29) County Ditch No. 63, Near Hutchinson, West Lynn Coop Cry., (T.116, R.30, S.19, 20, 21, 28, 33): 7;

~~(29)~~ (30) County Ditch No. 132, Lakeside, Lakeside Coop Cry., (T.116, R.31, S.16, 21): 7;

~~(30)~~ (31) Crane Creek (excluding Class 7 segment), (T.116, 117, R.26, 27): 2C;

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

~~(31)~~ (32) Crane Creek, Winsted, (T.117, R.27, S.14, 20, 21, 22, 23, 24, 25): 7;

~~(32)~~ (33) *Crow River, North Fork, [11/5/84R] (From the Lake Koronis outlet to the Meeker - Wright County line): 2B, 3B;

~~(33)~~ (34) Dagget Brook, (T.43, R.29, 30): 2C;

~~(34)~~ (35) Eagle Creek, (T.120, R.29): 2C;

~~(35)~~ (36) Elk River, Little, (T.130, 131, R.30, 31): 2C;

~~(36)~~ (37) Elk River, South Branch, Little, (T.130, R.30, 31, 32): 2C;

~~(37)~~ (38) Estes Brook, (T.36, 37, 38, R.27, 28): 2C;

~~(38)~~ (39) Everton Creek, (T.149, R.30): 2C;

~~(39)~~ (40) Farley Creek, (T.147, R.28): 2C;

~~(40)~~ (41) Fish Creek, (T.28, R.22): 2C;

~~(41)~~ (42) Fletcher Creek, (T.42, R.31): 2C;

~~(42)~~ (43) Foley Brook, (T.141, R.25): 2C;

~~(43)~~ (44) Frederick Creek, (T.119, R.25): 2C;

~~(44)~~ (45) Frontenac Creek, (T.145, R.34): 2C;

~~(45)~~ (46) Hanson Brook, (T.40, R.27): 2C;

~~(46)~~ (47) Hay Creek, (T.43, 44, R.30, 31): 2C;

~~(47)~~ (48) Hazel Creek, (T.127, R.29, 30): 2C;

~~(48)~~ (49) Hennepin Creek (excluding trout waters), (T.144, 145, 146, R.34, 35): 2C;

~~(49)~~ (50) Indian Creek, (T.141, 142, R.36, 37): 2C;

~~(50)~~ (51) Irish Creek, (T.129, R.31): 2C;

~~(51)~~ (52) Iron Creek, (T.135, R.32): 2C;

~~(52)~~ (53) Jewett Creek, (T.119, 120, R.30, 31): 2C;

~~(53)~~ (54) Johnson Creek, (T.137, R.28): 2C;

~~(54)~~ (55) Judicial Ditch No. 1, Lakeside, Lakeside Coop Cry., (T.116, R.31, S.28, 33): 7;

~~(55)~~ (56) Judicial Ditch No. 15, Buffalo Lake, Iowa Pork Industries, Hector, (T.115, R.31, S.15, 16, 20, 21, 29, 30; T.115, R.32, S.22, 25, 26, 27, 28, 32, 33): 7;

~~(56)~~ (57) Kettle Creek, (T.138, R.35, 36, 37): 2C;

~~(57)~~ (58) Kitchi Creek, (T.146, 147, R.29, 30): 2C;

~~(58)~~ (59) Kitten Creek, (T.137, R.34, 35): 2C;

~~(59)~~ (60) LaSalle Creek (excluding trout waters), (T.143, 144, R.35): 2C;

~~(60)~~ (61) LaSalle River, (T.144, 145, R.35): 2C;

~~(61)~~ (62) Laura Brook, (T.141, R.26): 2C;

~~(62)~~ (63) Meadow Creek, (T.128, R.30): 2C;

~~(63)~~ (64) Mike Drew Brook, (T.38, 39, R.26, 27): 2C;

~~(64)~~ (65) Mink Creek, Big, (T.41, 42, R.30, 31): 2C;

~~(65)~~ (66) Mink Creek, Little, (T.41, 42, R.29, 30, 31): 2C;

~~(66)~~ (67) *Mississippi River, [11/5/84R] (From Lake Itasca to Fort Ripley): 2B, 3B;

~~(67)~~ (68) *Mississippi River, [11/5/84R] (From Fort Ripley to the southerly border of Morrison County): 1C, ~~2B~~ 2Bd, 3B;

~~(68)~~ (69) Mississippi River, (From the southerly boundary of Morrison County to County State Aid Highway 7 bridge in Saint Cloud): 1C, ~~2B~~ 2Bd, 3B;

~~(69)~~ (70) *Mississippi River, [11/5/84R] (County State Aid Highway 7 bridge in Saint Cloud to the northwestern city limits of Anoka): 1C, ~~2B~~ 2Bd, 3B;

~~(70)~~ (71) Mississippi River, (From the northwestern city limits of Anoka to the Upper Lock and Dam at Saint Anthony Falls in Minneapolis): 1C, ~~2B~~ 2Bd, 3B;

~~(71)~~ (72) Mississippi River, (Outlet of Metro Wastewater Treatment Works in Saint Paul to river mile 830, Rock Island RR Bridge): 2C, 3B;

~~(72)~~ (73) Northby Creek, (T.140, R.27): 2C;

~~(73)~~ (74) Norway Brook, (T.139, R.30): 2C;

~~(74)~~ (75) O'Brien Creek, (T.56, 57, R.22): 2C;

~~(75)~~ (76) O'Neill Brook, (T.38, R.26): 2C;

~~(76)~~ (77) Oak Ridge Creek (Oak Creek), (T.133, 134, R.36): 2C;

~~(77)~~ (78) Pigeon River, (T.147, R.27): 2C;

~~(78)~~ (79) Pike Creek (except Class 7 segment), (T.129, R.30): 2C;

~~(79)~~ (80) Pike Creek, Flensburg, (T.129, R.30, S.17, 18, 19, 20): 7;

~~(80)~~ (81) Pillager Creek, (T.133, R.30): 2C;

~~(81)~~ (82) Pioneer Creek, (T.118, R.24): 2C;

~~(82)~~ (83) Prairie Brook, (T.36, R.27): 2C;

~~(83)~~ (84) Rat Creek, (T.144, 145, R.34): 2C;

~~(84)~~ (85) Rice Creek, (T.30, 31, 32, R.22, 23, 24): 1C, ~~2B~~ 2Bd, 3B;

~~(85)~~ (86) Rice Creek, (T.35, R.29): 2C;

~~(86)~~ (87) *Rum River, [11/5/84P] (From the Ogechie Lake spillway to the northernmost confluence with Lake Onamia): 2B, 3B;

~~(87)~~ (88) *Rum River, [11/5/84R] (From the State Highway 27 bridge in Onamia to Madison and Rice Streets in Anoka): 2B, 3B;

~~(88)~~ (89) Seven Mile Creek, (T.133, 134, R.30, 31): 2C;

~~(89)~~ (90) Six Mile Brook, (T.143, 144, R.26, 27): 2C;

~~(90)~~ (91) Skimmerhorn Creek, (T.149, R.30): 2C;

~~(91)~~ (92) Skunk Creek, (T.144, R.34): 2C;

~~(92)~~ (93) Skunk River (Co. Dt. No. 37) (Co. Dt. No. 29), Brooten, (T.123, R.35, S.4, 5, 9; T.123, R.35, S.9, 10, 11, 12; T.123, R.34, S.3, 4, 5, 6, 7, 8): 7;

~~(93)~~ (94) Snowball Creek, (T.56, R.23): 2C;

~~(94)~~ (95) Split Hand Creek, (T.53, R.24): 2C;

~~(95)~~ (96) Stag Brook, (T.121, 122, R.30, 31): 2C;

~~(96)~~ (97) Stanchfield Brook, Lower Braham, (T.37, R.23, S.3, 10, 15, 22): 7;

~~(97)~~ (98) Stocking Creek, (T.138, R.35): 2C;

~~(98)~~ (99) Stony Brook (Stoney Brook), Foley, (T.36, R.29, S.2, 9, 10, 11, 16; T.37, R.29, S.35, 36): 7;

~~(99)~~ (100) Stony Creek, (T.140, R.28): 2C;

~~(100)~~ (101) Stony Point Brook, (T.147, R.28): 2C;

~~(101)~~ (102) Sucker Creek (Gould Creek) (excluding trout waters), (T.143, 144, R.36): 2C;

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

~~(102)~~ (103) Swamp Creek, Big, (T.137, 138, 139, R.32, 33): 2C;

~~(103)~~ (104) Swamp Creek, Little, (T.136, 137, R.33): 2C;

~~(104)~~ (105) Swan Creek, (T.134, 135, R.32): 2C;

~~(105)~~ (106) Swan Creek, Little, (T.135, R.32): 2C;

~~(106)~~ (107) Swift River, (T.142, R.27): 2C;

~~(107)~~ (108) Taylor Creek, (T.128, R.31): 2C;

~~(108)~~ (109) Ted Brook Creek, (T.130, R.31): 2C;

~~(109)~~ (110) Tibbits Brook, (T.33, 34, R.26, 27): 2C;

~~(110)~~ (111) Tibbetts Creek (Tibbetts Brook), (T.39, 40, R.27, 28): 2C;

~~(111)~~ (112) Tower Creek, (T.135, R.32, 33): 2C;

~~(112)~~ (113) Two Rivers, South Branch, Albany, (T.125, R.31, S.21, 22, 23): 7;

~~(113)~~ (114) Unnamed Creek, Calumet, (T.56, R.23, S.21): 7;

~~(114)~~ (115) Unnamed Creek, Hiller Mobile Home Court, (T.119, R.26, S.22, 26, 27, 35): 7;

~~(115)~~ (116) Unnamed Creek, Grove City, (T.120, R.32, S.34, 35, 36): 7;

~~(116)~~ (117) Unnamed Creek, Albertville, (T.121, R.23, S.30; T.121, R.24, S.25, 36): 7;

~~(117)~~ (118) Unnamed Creek, Eden Valley, Ruhland Feeds, (T.121, R.31, S.2; T.122, R.31, S.35): 7;

~~(118)~~ (119) Unnamed Creek, Lake Henry, (T.123, R.33, S.11, 14): 7;

~~(119)~~ (120) Unnamed Creek, Miltona, (T.129, R.36, S.6; T.130, R.36, S.30, 31): 7;

~~(120)~~ (121) Unnamed Ditch, Braham, (T.37, R.23, S.2, 3): 7;

~~(121)~~ (122) Unnamed Ditch, Ramey, Ramey Farmers Coop Cry., (T.38, R.28, S.4, 5; T.39, R.28, S.29, 30, 32; T.39, R.29, S.25, 26, 27, 28): 7;

~~(122)~~ (123) Unnamed Ditch, McGregor, (T.48, R.23, S.31, 32): 7;

~~(123)~~ (124) Unnamed Ditch, Nashwauk, (T.56, R.22, S.4, 5; T.57, R.22, S.32): 7;

~~(124)~~ (125) Unnamed Ditch, Taconite, (T.56, R.24, S.22): 7;

~~(125)~~ (126) Unnamed Ditch, Glencoe, Green Giant, (T.115, R.28, S.21, 22, 27, 28): 7;

~~(126)~~ (127) Unnamed Ditch, Glencoe, Green Giant, (T.115, R.28, S.14, 23): 7;

~~(127)~~ (128) Unnamed Ditch, Winsted, Green Giant, (T.117, R.27, S.10, 11): 7;

~~(128)~~ (129) Unnamed Ditch, Hiller Mobile Home Court, (T.119, R.26, S.34, 35): 7;

~~(129)~~ (130) Unnamed Ditch, Kandiyohi, (T.119, R.34, S.10, 15, 21, 22, 28, 29, 32): 7;

~~(130)~~ (131) Unnamed Ditch, Belgrade, (T.123, R.34, S.19, 30): 7;

~~(131)~~ (132) Unnamed Ditch, Flensburg, (T.129, R.30, S.30; T.129, R.31, S.25): 7;

~~(132)~~ (133) Unnamed Ditch, Miltona, (T.130, R.36, S.30; T.130, R.37, S.25, 36): 7;

~~(133)~~ (134) Unnamed Stream, Winsted, (T.117, R.27, S.11, 12): 7;

~~(134)~~ (135) Unnamed Stream, Flensburg, (T.129, R.30, S.19, 30): 7;

~~(135)~~ (136) Vandell Brook, (T.37, 38, R.26): 2C;

~~(136)~~ (137) Welcome Creek, (T.56, 57, R.22): 2C;

~~(137)~~ (138) Whitney Brook, (T.39, R.26, 27): 2C;

~~(138)~~ (139) Willow River, North Fork, (T.142, R.25): 2C;

~~(139)~~ (140) Willow River, South Fork, (T.142, R.25): 2C;

~~(140)~~ (141) Wilson Creek, (T.137, R.30): 2C;

~~(141)~~ (142) Wolf Creek, (T.42, R.30): 2C;

~~(142)~~ (143) *Itasca Wilderness Sanctuary, [11/5/84P] (Waters within the Itasca Wilderness Sanctuary, Clearwater County, T.143, R.36): 2B, 3B;

~~(143)~~ (144) *Iron Springs Bog, [11/5/84P] (Waters within the Iron Springs Bog Scientific and Natural Area, Clearwater County, T.144, R.36): 2B, 3B;

~~(144)~~ (145) *Pennington Bog, [11/5/84P] (Waters within the Pennington Bog Scientific and Natural Area, Beltrami County, T.146, R.30): 2B, 3B; and

~~(145)~~ (146) *Wolsfeld Woods, [11/5/84P] (Waters within the Wolsfeld Woods Scientific and Natural Area, Hennepin County, T.118, R.23): 2B, 3B.

B. Lakes:

(1) Bald Eagle Lake, (T.30, 31, R.21, 22): 1C, ~~2B~~ 2Bd, 3B;

(2) Benedict Lake, (T.142, R.32): 1B, 2A, 3B;

(3) *Blue Lake, [3/7/88R] (T.46, 47, R.27): 1B, 2A, 3B;

(4) *Blue Lake, [3/7/88R] (T.141, R.34): 1B, 2A, 3B;

(5) *Bluewater Lake, [3/7/88R] (T.57, R.25): 1B, 2A, 3B;

(6) Centerville Lake, (T.31, R.22): 1C, ~~2B~~ 2Bd, 3B;

(7) Charley Lake, (T.30, R.23): 1C, ~~2B~~ 2Bd, 3B;

(8) Deep Lake, (T.30, R.22): 1C, ~~2B~~ 2Bd, 3B;

(9) Hay Lake, Lower, (T.137, R.28, 29): 1B, 2A, 3B;

(10) *Kabekona Lake, [3/7/88R] (T.142, 143, R.32, 33): 1B, 2A, 3B;

(11) Kennedy Lake, (T.58, R.23): 1B, 2A, 3B;

(12) LaSalle Lake, Lower, (T.145, R.35): 1B, 2A, 3B;

(13) Otter Lake, (T.30, 31, R.22): 1C, ~~2B~~ 2Bd, 3B;

(14) Pleasant Lake, (T.30, R.22, 23): 1C, ~~2B~~ 2Bd, 3B;

(15) *Pokegama Lake, [3/7/88R] (T.54, 55, R.25, 26): 1B, 2A, 3B;

(16) *Roosevelt Lake, [3/7/88R] (T.138, 139, R.26): 1B, 2A, 3B;

(17) Sucker Lake, (T.30, R.22): 1C, ~~2B~~ 2Bd, 3B;

(18) *Trout Lake, [3/7/88R] (T.55, 56, R.24): 1B, 2A, 3B;

(19) *Trout Lake, Big, [3/7/88R] (T.57, 58, R.25): 1B, 2A, 3B;

(20) *Trout Lake, Big, [3/7/88R] (T.137, 138, R.27, 28): 1B, 2A, 3B;

(21) *Trout Lake, Little, [3/7/88R] (T.57, R.25): 1B, 2A, 3B;

(22) Unnamed Swamp, Flensburg, (T.129, R.31, S.25): 7;

(23) Unnamed Slough, Miltona, (T.130, R.37, S.26, 35, 36): 7;

(24) Unnamed Swamp, Staples, (T.133, R.33, S.1): 7;

(25) Unnamed Swamp, Taconite, (T.56, R.24, S.22): 7;

(26) Vadnais Lake, (T.30, R.22): 1C, ~~2B~~ 2Bd, 3B;

(27) Wabana Lake, (T.57, R.25): 1B, 2A, 3B;

(28) Watab Lake, Big, (T.124, R.30): 1B, 2A, 3B; and

(29) Wilkinson Lake, (T.30, R.22): 1C, ~~2B~~ 2Bd, 3B.

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

Subp. 5. **Minnesota River Basin.** The water use classifications for the listed waters in the Minnesota River Basin are as identified in items A, B, and C:

A. Streams:

(1) Altermatts Creek (County Ditch No. 39), Comfrey, (T.108, R.33, S.17, 19, 20, 30; T.108, R.34, S.24, 25, 35, 36): 7;

(2) Badger Creek, (T.101, 102, R.28): 2C;

(3) Beaver Creek, East Fork (County Ditch No. 63), Olivia, Olivia Canning Company, (T.115, R.34, S.1, 2, 3, 4, 5, 6; T.115, R.35, S.1, 12, 13, 14, 23, 24, 25, 26; T.116, R.34, S.16, 20, 21, 28, 29, 30, 32, 33, 34, 35): 7;

(4) Blue Earth River, East Fork, (Brush Creek to mouth): 2C, 3B;

(5) Blue Earth River, West Fork, (Iowa border to mouth): 2C, 3B;

(6) Boiling Spring Creek (excluding Class 7 segment), (T.113, 114, R.37, 38): 2C;

(7) Boiling Springs Creek (County Ditch No. 1B), Echo, (T.113, R.38, S.5, 8; T.114, R.37, S.19, 30; T.114, R.38, S.25, 26, 27, 32, 33, 34): 7;

(8) Boot Creek (excluding Class 7 segment), (T.105, 106, R.22, 23): 2C;

(9) Boot Creek, New Richland, (T.105, R.22, S.6, 7; T.105, R.23, S.12, 13, 24): 7;

(10) Brafees Creek, (T.116, 117, R.40): 2C;

(11) Brush Creek, (Iowa border to mouth): 2C, 3B;

(12) Bull Run Creek, Little, (T.106, R.24, 25): 2C;

(13) Butterfield Creek, (T.106, 107, R.31, 32, 33): 2C;

(14) Canby Creek (excluding trout waters), (South Dakota border to mouth): 2C, 3B;

(15) Cedar Run Creek, (T.103, 104, R.32, 33): 2C;

(16) Cherry Creek, Cleveland, (T.110, R.25, S.7, 8, 16, 17; T.110, R.26, S.12): 7;

(17) Chetomba Creek (exluding Class 7 segment), (T.116, 117, R.36, 37, 38): 2C;

(18) Chetomba Creek, Prinsburg, (T.116, R.36, S.6, 7, 18, 19; T.116, R.37, S.8, 9, 14, 15, 16, 23, 24; T.117, R.36, S.8, 9, 16, 17, 21, 28, 29, 30, 31, 32): 7;

(19) Cobb Creek, Freeborn, (T.104, R.23, S.7, 8, 17; T.104, R.24, S.11, 12): 7;

~~(19)~~ (20) Cobb Creek Ditch, Freeborn, (T.103, R.23, S.2; T.104, R.23, S.14, 15, 16, 23, 26, 35): 7;

~~(20)~~ (21) Cobb River, Big, (T.104, 105, 106, 107, R.23, 24, 25, 26): 2C;

~~(21)~~ (22) Cobb River, Little, (T.105, 106, R.23, 24, 25, 26): 2C;

~~(22)~~ (23) Cottonwood Creek (excluding trout waters), (T.119, 120, 121, R.41, 42): 2C;

~~(23)~~ (24) County Ditch No. 1, Echo, (T.113, R.38, S.8, 9): 7;

~~(24)~~ (25) County Ditch No. 4, Arco, (T.110, R.44, S.5; T.111, R.44, S.32, 33): 7;

~~(25)~~ (26) County Ditch No. 4, Norwood, (T.115, R.25, S.30; T.115, R.26, S.13, 14, 24, 25): 7;

~~(26)~~ (27) County Ditch No. 5, Marietta, (T.117, R.45, S.6, 7, 18; T.117, R.46, S.1; T.118, R.46, S.23, 25, 26, 36): 7;

~~(27)~~ (28) County Ditch No. 6, Janesville, (T.107, R.24, S.4, 8, 9, 17, 18; T.107, R.25, S.13): 7;

~~(28)~~ (29) County Ditch No. 7, Lowry, (T.126, R.39, S.25, 26): 7;

~~(29)~~ (30) County Ditch No. 12, Waseca, (T.107, R.23, S.22, 23): 7;

~~(30)~~ (31) County Ditch No. 12 (Rice Creek), Belview, (T.113, R.36, S.7, 8, 18, 19; T.113, R.37, S.15, 21, 22, 23, 24): 7;

~~(31)~~ (32) County Ditch No. 14, Tyler, (T.109, R.43, S.18; T.109, R.44, S.2, 3, 11, 13, 14; T.110, R.44, S.33, 34): 7;

~~(32)~~ (33) County Ditch No. 22, Montgomery, Green Giant Company, (T.111, R.23, S.4, 9, 10; T.112, R.23, S.33): 7;

~~(33)~~ (34) County Ditch No. 27, Madison, (T.117, R.43, S.3, 4, 5, 6; T.117, R.44, S.1; T.118, R.43, S.34; T.118, R.44, S.35, 36): 7;

~~(34)~~ (35) County Ditch No. 28, Marietta, (T.118, R.46, S.22, 23, 26): 7;

~~(35)~~ (36) County Ditch No. 38, Storden, (T.107, R.37, S.28, 29): 7;

~~(36)~~ (37) County Ditch No. 40A, Lafayette, (T.111, R.29, S.8, 14, 15, 16, 17, 23, 24): 7;

~~(37)~~ (38) County Ditch No. 42, Winthrop, (T.112, R.29, S.6, 7): 7;

~~(38)~~ (39) County Ditch No. 44, Bricelyn, Owatonna Canning Company, (T.101, R.25, S.7, 8, 16, 17; T.101, R.26, S.1, 12; T.102, R.26, S.36): 7;

~~(39)~~ (40) County Ditch No. 45, Renville, (T.114, R.36, S.5, 6, 7, 18; T.114, R.37, S.13; T.115, R.36, S.7, 18, 19, 29, 30, 32): 7;

~~(40)~~ (41) County Ditch No. 46, Willmar, (T.119, R.35, S.19, 20, 29): 7;

~~(41)~~ (42) County Ditch No. 51, Le Center, (T.110, R.24, S.5, 6; T.111, R.24, S.31, 32; T.111, R.25, S.26, 35, 36): 7;

~~(42)~~ (43) County Ditch No. 54, Montgomery, (T.112, R.23, S.26, 33, 34, 35): 7;

~~(43)~~ (44) County Ditch No. 60 (Chippewa River), Millerville, Millerville Coop Cry., (T.130, R.39, S.14, 22, 23, 27, 28, 32, 33): 7;

~~(44)~~ (45) County Ditch No. 61, Kerhoven, (T.120, R.37, S.21, 22): 7;

~~(45)~~ (46) County Ditch No. 63, Hanska, (T.108, R.30, S.11, 12, 14, 17, 18, 19, 20, 21, 22, 23, 27, 28): 7;

~~(46)~~ (47) County Ditch No. 66, Bird Island, (T.115, R.34, S.15, 16, 17, 18, 22, 23): 7;

~~(47)~~ (48) County Ditch No. 87, Wells, (T.103, R.24, S.6; T.104, R.24, S.31; T.104, R.25, S.36): 7;

~~(48)~~ (49) County Ditch No. 104, Sacred Heart, (T.114, R.38, S.1, 2; T.115, R.37, S.7, 18; T.115, R.38, S.13, 24, 25, 35, 36): 7;

~~(49)~~ (50) County Ditch No. 109, Morgan, (T.111, R.34, S.4, 5, 8, 17; T.112, R.34, S.22, 23, 27, 28, 33): 7;

~~(50)~~ (51) Crow Creek, (T.112, R.35): 2C;

~~(51)~~ (52) Dry Creek, (T.108, 109, R.36): 2C;

~~(52)~~ (53) Dry Weather Creek, (T.117, 118, R.39, 40, 41): 2C;

~~(53)~~ (54) Dry Wood Creek, (T.122, R.42, 43): 2C;

~~(54)~~ (55) Echo Creek, (T.114, R.37): 2C;

~~(55)~~ (56) Eight Mile Creek, (T.111, 112, 113, R.31): 2C;

~~(56)~~ (57) Elm Creek, North Fork, (T.104, R.34): 2C;

~~(57)~~ (58) Elm Creek, South Fork, (T.103, R.34): 2C;

~~(58)~~ (59) Emily Creek, (T.118, 119, R.43): 2C;

~~(59)~~ (60) Fish Creek, (T.123, 124, R.47, 48): 2C;

~~(60)~~ (61) Five Mile Creek, (T.120, R.44): 2C;

~~(61)~~ (62) Florida Creek, (South Dakota border to mouth): 2C, 3B;

~~(62)~~ (63) Foster Creek (excluding Class 7 segment), (T.102, 103, R.24): 2C;

~~(63)~~ (64) Foster Creek, Alden, (T.103, R.23, S.31; T.103, R.24, S.25, 36): 7;

~~(64)~~ (65) Hassel Creek, (T.122, 123, R.38, 39): 2C;

~~(65)~~ (66) Hawk Creek (County Ditch No. 10), Willmar/Pennock, (T.118, R.36, S.2, 3, 8, 10, 15, 16, 17, 18, 19; T.118, R.37, S.5, 6, 7, 8, 9, 14, 15, 16, 18, 19, 23, 24, 30, 31; T.119, R.35, S.19; T.119, R.36, S.24, 25, 26, 35): 7;

~~(66)~~ (67) Hazel Run, (T.115, R.39, 40, 41, 42): 2C;

~~(67)~~ (68) Iosco Creek, (T.108, R.23): 2C;

~~(68)~~ (69) Judicial Ditch No. 1, Delavan, (T.104, R.27, S.23, 25, 26, 36): 7;

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

~~(69)~~ (70) Judicial Ditch No. 1A, Lafayette, (T.111, R.27, S.5, 6, 7; T.111, R.28, S.10, 11, 12, 15, 16, 17, 18, 19; T.111, R.29, S.24): 7;

~~(70)~~ (71) Judicial Ditch No. 5, Murdock, (T.120, R.38, S.4, 5, 6, 9, 10, 11; T.120, R.39, S.1, 4, 9, 10, 11, 12): 7;

~~(71)~~ (72) Judicial Ditch No. 6, Hanska, (T.107, R.30, S.4; T.108, R.30, S.28, 33): 7;

~~(72)~~ (73) Judicial Ditch No. 10, Hanska, (T.108, R.30, S.1; T.109, R.30, S.35, 36): 7;

~~(73)~~ (74) Judicial Ditch No. 12, Tyler, (T.109, R.43, S.9, 15, 16, 17, 18): 7;

~~(74)~~ (75) Judicial Ditch No. 29, Arco, (T.111, R.44, S.21, 28, 33): 7;

~~(75)~~ (76) Judicial Ditch No. 30, Sleepy Eye, Del Monte Corporation, (T.109, R.32, S.4, 5, 6; T.110, R.32, S.31): 7;

~~(76)~~ (77) Judicial Ditch No. 49 (Providence Creek), Amboy, (T.105, R.27, S.18, 19; T.105, R.28, S.13): 7;

~~(77)~~ (78) Lac qui Parle River, (Lake Hendricks outlet to Minnesota River): 2C, 3B;

~~(78)~~ (79) Lac qui Parle River, West Fork, (South Dakota border to mouth): 2C, 3B;

~~(79)~~ (80) Lazarus Creek, (South Dakota border to Canby Creek): 2C, 3B;

~~(80)~~ (81) Le Sueur River, Little, (T.106, R.22): 2C;

~~(81)~~ (82) Lone Tree Creek, Tracy, (T.109, R.39, S.2, 3, 4, 7, 8, 9; T.110, R.38, S.19, 20, 30; T.110, R.39, S.25, 34, 35, 36): 7;

~~(82)~~ (83) Middle Creek, (T.113, 114, R.36): 2C;

~~(83)~~ (84) Mink Creek, (T.104, R.30, 31): 2C;

~~(84)~~ (85) Minneopa Creek, Lake Crystal, (T.108, R.28, S.26, 27, 32, 33, 34): 7;

~~(85)~~ (86) Minnesota River, (Big Stone Lake outlet to the Lac qui Parle dam): 1C, ~~2B~~ 2Bd, 3B;

~~(86)~~ (87) *Minnesota River, [11/5/84R] (Lac qui Parle dam to Granite Falls): 1C, ~~2B~~ 2Bd, 3B;

~~(87)~~ (88) *Minnesota River, [11/5/84R] (Granite Falls to Redwood County State Aid Highway 11 bridge): 2B, 3B;

~~(88)~~ (89) Minnesota River, (River Mile 22 to mouth): 2C, 3B;

~~(89)~~ (90) Minnesota River, Little, (South Dakota border crossing to Big Stone Lake): 2C, 3B;

~~(90)~~ (91) Morgan Creek, (T.109, R.29, 30): 2C;

~~(91)~~ (92) Mud Creek, (T.114, R.43, 44, 45): 2C;

~~(92)~~ (93) Mud Creek, DeGraff/Murdock, (T.121, R.37, S.31; T.121, R.38, S.18, 19, 20, 28, 29, 33, 34, 35, 36; T.121, R.39, S.11, 12, 13): 7;

~~(93)~~ (94) Muddy Creek (Mud Creek) (County Ditch No. 2) (County Ditch No. 4), Chokio, (T.124, R.42, S.6, 7, 15, 16, 17, 18, 21, 22, 23; T.124, R.43, S.1, 4, 5, 6, 7, 8; T.124, R.44, S.1, 2, 3, 12; T.125, R.43, S.34, 35, 36): 7;

~~(94)~~ (95) Palmer Creek, (T.116, 117, 118, R.39): 2C;

~~(95)~~ (96) Pelican Creek, (T.130, R.41, 42): 2C;

~~(96)~~ (97) Pell Creek, Walnut Grove, (T.109, R.38, S.25, 26, 27, 28): 7;

~~(97)~~ (98) Perch Creek, (T.104, 105, 106, R.29, 30): 2C;

~~(98)~~ (99) Rice Creek, See County Ditch No. 12;

~~(99)~~ (100) Rush River, Middle Branch, Winthrop, (T.112, R.27, S.16, 19, 20, 21, 30; T.112, R.28, S.18, 19, 20, 21, 22, 25, 26, 27; T.112, R.29, S.7, 8, 9, 13, 14, 15, 16, 17, 18): 7;

~~(100)~~ (101) Saint James Creek (excluding Class 7 segment), (T.105, 106, R.31, 32, 33): 2C;

~~(101)~~ (102) Saint James Creek, Saint James, (T.106, R.31, S.5, 7, 8, 18; T.107, R.31, S.21, 22, 28, 32, 33): 7;

~~(102)~~ (103) Shakopee Creek, (T.119, 120, R.36, 37, 38, 39, 40): 2C;

~~(103)~~ (104) Silver Creek, (T.108, R.23, 24): 2C;

~~(104)~~ (105) Smith Creek, (T.113, R.35, 36): 2C;

~~(105)~~ (106) South Creek, (T.102, 103, R.28, 29, 30): 2C, 3B;

~~(106)~~ (107) Spring Branch Creek, (T.106, R.29, 30): 2C;

~~(107)~~ (108) Spring Creek, (T.110, 111, R.32, 33, 34): 2C;

~~(108)~~ (109) Spring Creek, (T.117, R.40): 2C;

~~(109)~~ (110) Stony Run, (T.121, 122, R.45, 46): 2C;

~~(110)~~ (111) Stony Run Creek, (T.116, R.40): 2C;

~~(111)~~ (112) Three Mile Creek, (T.112, R.33): 2C;

~~(112)~~ (113) Timms Creek, (T.114, 115, R.36): 2C;

~~(113)~~ (114) Unnamed Creek, Green Isle, (T.114, R.26, S.2, 3, 4, 8, 9, 17): 7;

~~(114)~~ (115) Unnamed Creek, Pennock, (T.118, R.37, S.2, 3, 4, 5; T.119, R.36, S.4, 5, 6, 7, 18, 19; T.119, R.37, S.24, 25, 26, 35): 7;

~~(115)~~ (116) Unnamed Creek, Murdock, (T.120, R.38, S.1, 2; T.121, R.38, S.35): 7;

~~(116)~~ (117) Unnamed Ditch, Burnsville Freeway Sanitary Landfill, (T.27, R.24, S.28, 33): 7;

~~(117)~~ (118) Unnamed Ditch, Bricelyn, Owatonna Canning Company, (T.101, R.25, S.10): 7;

~~(118)~~ (119) Unnamed Ditch, Alden, (T.102, R.23, S.4, 5; T.103, R.23, S.31, 32): 7;

~~(119)~~ (120) Unnamed Ditch, Truman, (T.104, R.30, S.2, 11; T.105, R.30, S.25, 26, 35): 7;

~~(120)~~ (121) Unnamed Ditch, New Richland, (T.105, R.22, S.17, 18, 19; T.105, R.23, S.24): 7;

~~(121)~~ (122) Unnamed Ditch, Lewisville, (T.105, R.30, S.3; T.106, R.30, S.14, 23, 26, 34, 35): 7;

~~(122)~~ (123) Unnamed Ditch, Waldorf, (T.106, R.24, S.34): 7;

~~(123)~~ (124) Unnamed Ditch, Waseca, (T.107, R.23, S.14, 23): 7;

~~(124)~~ (125) Unnamed Ditch, Jeffers, (T.107, R.36, S.21): 7;

~~(125)~~ (126) Unnamed Ditch, Storden, (T.107, R.37, S.19, 30): 7;

~~(126)~~ (127) Unnamed Ditch, Eagle Lake, (T.108, R.25, S.18, 19; T.108, R.26, S.13): 7;

~~(127)~~ (128) Unnamed Ditch, Walnut Grove, (T.109, R.38, S.28): 7;

~~(128)~~ (129) Unnamed Ditch, Tracy, (T.109, R.39, S.18; T.109, R.40, S.13): 7;

~~(129)~~ (130) Unnamed Ditch, Wabasso, (T.110, R.36, S.3; T.111, R.36, S.18, 19, 20, 28, 29, 33, 34; T.111, R.37, S.13): 7;

~~(130)~~ (131) Unnamed Ditch, Lafayette, (T.111, R.29, S.6, 7, 8; T.111, R.30, S.12): 7;

~~(131)~~ (132) Unnamed Ditch, Wabasso, (T.111, R.37, S.13, 24): 7;

~~(132)~~ (133) Unnamed Ditch, Montgomery, (T.112, R.23, S.33): 7;

~~(133)~~ (134) Unnamed Ditch, Near Fernando, Round Grove Coop Cry., (T.113, R.30, S.5; T.114, R.29, S.19, 20, 30; T.114, R.30, S.25, 26, 27, 28, 29, 32): 7;

~~(134)~~ (135) Unnamed Ditch, Green Isle, (T.114, R.26, S.19; T.114, R.27, S.11, 12, 13, 14, 24): 7;

~~(135)~~ (136) Unnamed Ditch, Porter, (T.114, R.44, S.21, 28): 7;

~~(136)~~ (137) Unnamed Ditch, Bongards, Bongards Creameries, (T.115, R.25, S.9, 16): 7;

~~(137)~~ (138) Unnamed Ditch, Clarkfield, (T.115, R.41, S.16): 7;

~~(138)~~ (139) Unnamed Ditch, Clarkfield, (T.115, R.41, S.16, 21): 7;

~~(139)~~ (140) Unnamed Ditch, Madison, (T.118, R.44, S.27, 28, 34, 35): 7;

~~(140)~~ (141) Unnamed Ditch, Pennock, (T.119, R.36, S.2, 3, 4, 9, 10): 7;

~~(141)~~ (142) Unnamed Ditch, DeGraff, (T.121, R.38, S.19, 29, 30): 7;

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

~~(142)~~ (143) Unnamed Ditch, Hancock, (T.122, R.40, S.6; T.122, R.41, S.1, 12; T.123, R.40, S.18, 19, 30, 31; T.123, R.41, S.11, 12): 7;

~~(143)~~ (144) Unnamed Ditch, Alberta, (T.124, R.43, S.3, 4): 7;

~~(144)~~ (145) Unnamed Ditch, Farwell, Farwell Coop Cry. Assn., (T.126, R.39, S.6): 7;

~~(145)~~ (146) Unnamed Ditch, Lowry, (T.126, R.39, S.26, 35): 7;

~~(146)~~ (147) Unnamed Ditch, Brandon, (T.129, R.39, S.21, 22): 7;

~~(147)~~ (148) Unnamed Ditch, Evansville, (T.129, R.40, S.10, 11): 7;

~~(148)~~ (149) Unnamed Dry Run, Near Minneopa, Blue Earth - Nicollet Electric, (T.108, R.27, S.16): 7;

~~(149)~~ (150) Unnamed Dry Run, Mankato, Southview Heights Coop Association, (T.108, R.26, S.19, 30; T.108, R.27, S.24): 7;

~~(150)~~ (151) Unnamed Stream, Mankato, Midwest Electric Products, (T.109, R.26, S.20, 21, 28): 7;

~~(151)~~ (152) Unnamed Stream, Savage, (T.115, R.21, S.8, 9): 7;

~~(152)~~ (153) Unnamed Stream, Dawson, Dawson Mills Soy Isolate, (T.117, R.43, S.22): 7;

~~(153)~~ (154) Wabasha Creek, (T.112, R.34): 2C;

~~(154)~~ (155) Whetstone River, (South Dakota border to mouth): 2C, 3B;

~~(155)~~ (156) Old Whetstone River Channel, Ortonville, Big Stone Canning Company, (T.121, R.46, S.16, 21): 7;

~~(156)~~ (157) Willow Creek, (T.104, 105, R.31, 32): 2C;

~~(157)~~ (158) Wood Lake Creek, (T.113, 114, R.38, 39): 2C;

~~(158)~~ (159) Yellow Bank River, North Fork, (South Dakota border to mouth): 2C, 3B;

~~(159)~~ (160) Yellow Bank River, South Fork, (South Dakota border to mouth): 2C, 3B; and

~~(160)~~ (161) Yellow Medicine River, North Fork, (South Dakota border to mouth): 2C, 3B.

B. Lakes:

(1) Amber Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(2) Bardwell Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(3) Budd Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(4) George Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(5) Hall Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(6) Mud Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(7) One Hundred Acre Slough, Saint James, (T.106, R.31, S.7): 7;

(8) Silver Lake, North, (T.101, R.30): 1C, ~~2B~~ 2Bd, 3B;

(9) Sisseton Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(10) Unnamed Marsh, Barry, (T.124, R.47, S.8): 7;

(11) Unnamed Slough, Kensington, (T.127, R.40, S.34): 7;

(12) Unnamed Slough, Brandon, (T.129, R.39, S.21, 22): 7;

(13) Unnamed Swamp, Minnesota Lake, (T.104, R.25, S.3, 4): 7;

(14) Unnamed Swamp, Storden, (T.107, R.37, S.30): 7;

(15) Unnamed Swamp, Sunburg, Sunburg Coop Cry., (T.122, R.36, S.30): 7;

(16) Unnamed Swamp, Lowry, (T.126, R.39, S.35, 36): 7; and

(17) Wilmert Lake, (T.101, R.30): 1C, ~~2B~~ 2Bd, 3B.

C. Fens:

(1) *Blackdog Preserve, [3/7/88P] (Waters within the Blackdog Preserve Scientific and Natural Area, Dakota County, T.27, R.24, S.27, 34): 2B, 3B;

(2) *Fish Hatchery fen, [3/7/88R] (T.110, R.26, S.14): 2B, 3B;

(3) *Fort Ridgely fen, [3/7/88R] (T.111, R.32, S.6): 2B, 3B;

(4) *Fort Snelling State Park fen, [3/7/88R] (T.27, R.23, S.4): 2B, 3B;

(5) *Le Sueur fen, [3/7/88R] (T.111, R.26, S.16): 2B, 3B;

(6) *Minnesota Valley fen, [3/7/88R] (T.27, R.24, S.27, 34): 2B, 3B;

(7) *Nicols Meadow fen, [3/7/88R] (T.27, R.23, S.18): 2B, 3B;

(8) *Ordway fen, [3/7/88R] (T.123, R.36, S.30): 2B, 3B;

(9) *St. Peter fen, [3/7/88R] (T.110, R.26, S.11): 2B, 3B;

(10) *Savage fen, [3/7/88R] (T.115, R.21, S.16, 17): 2B, 3B;

(11) *Sioux Nation fen, [3/7/88R] (T.114, R.46, S.17): 2B, 3B; and

(12) *Truman fen, [3/7/88R] (T.104, R.30, S.7): 2B, 3B.

Subp. 6. **Saint Croix River Basin.** The water use classifications for the listed waters in the Saint Croix River Basin are as identified in items A and B:

A. Streams:

(1) Bear Creek, (T.43, R.23, 24): 2C;

(2) Bergman Brook, (T.42, 43, R.23, 24): 2C;

(3) Groundhouse River, West Fork, (T.39, 40, R.26): 2C;

(4) Hay Creek, (T.42, 43, 44, R.15, 16): 1B, ~~2B~~ 2Bd, 3B;

(5) *Kettle River, [11/5/84R] (From the north Pine County line to the dam at Sandstone): 2B, 3B;

(6) *Kettle River, [11/5/84P] (From the dam at Sandstone to its confluence with the Saint Croix River): 2B, 3B;

(7) King Creek, (T.47, R.19): 2C;

(8) Mission Creek (excluding trout waters), (T.39, 40, 41, R.20, 21): 1B, ~~2B~~ 2Bd, 3B;

(9) Rock Creek, (T.37, 38, R.20, 21): 1B, ~~2B~~ 2Bd, 3B;

(10) Rush Creek, (T.37, R.20, 21): 1B, ~~2B~~ 2Bd, 3B;

(11) *Saint Croix River, [11/5/84R] (Wisconsin border crossing to Taylors Falls): 1B, ~~2B~~ 2Bd, 3B;

(12) *Saint Croix River, [11/5/84R] (Taylors Falls to mouth): 1C, ~~2B~~ 2Bd, 3B;

(13) Sunrise River, West Branch, (T.34, R.21, 22): 1B, ~~2B~~ 2Bd, 3B;

(14) Tamarack River, Lower, (Hay Creek to mouth): 1B, ~~2B~~ 2Bd, 3B;

(15) Tamarack River, Upper (Spruce River), (T.42, R.15, 16): 1B, ~~2B~~ 2Bd, 3B;

(16) Unnamed Ditch, Chisago City, (T.34, R.20, S.19, 29, 30, 31, 32): 7;

(17) Unnamed Ditch, Almelund, Almelund Coop Cry., (T.35, R.20, S.25): 7;

(18) Unnamed Ditch, Moose Lake, (T.46, R.19, S.30): 7;

(19) Unnamed Dry Run, Wahkon, (T.41, R.25, S.3; T.42, R.25, S.29, 32, 33, 34): 7;

(20) Unnamed Stream, Shafer, (T.34, R.19, S.32, 33, 34): 7; and

(21) *Kettle River, [11/5/84P] (Waters within the Kettle River Scientific and Natural Area, Pine County, T.41, R.20): 2B, 3B.

B. Lakes:

(1) *Grindstone Lake, [3/7/88R] (T.42, R.21): 1B, 2A, 3B;

(2) Unnamed Swamp, Shafer, (T.34, R.19, S.31, 32): 7; and

(3) *Boot Lake, [11/5/84P] (Waters within the Boot Lake Scientific and Natural Area, Anoka County, T.33, R.22): 2B, 3B.

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

Subp. 7. **Lower Mississippi River Basin.** The water use classifications for the listed waters in the Lower Mississippi River Basin are as identified in items A, B, and C:

A. Streams:

(1) Albany Creek, West, (T.110, 111, R.12, 13): 2C;

(2) Bear Creek (excluding trout waters), (T.107, R.9): 2C;

(3) Brush Valley Creek, (T.104, R.5): 2C;

(4) *Cannon River, [11/5/84R] (From the northern city limits of Faribault to its confluence with the Mississippi River): 2B, 3B;

(5) Carters Creek, Wykoff, (T.103, R.12, S.4, 9, 15, 16, 22): 7;

(6) Chub Creek, North Branch, (T.112, 113, R.19): 2C;

(7) Cold Creek, (T.110, 111, R.14): 2C;

(8) County Ditch No. 15, Kilkenny, (T.110, R.23, S.22, 23): 7;

(9) Crane Creek, (T.107, 108, R.20, 21, 22): 2C;

(10) Dakota Creek, (T.105, R.5): 2C;

(11) Dry Creek, (T.108, R.12, 13): 2C;

(12) Dutch Creek, (T.112, R.20, 21): 2C;

(13) Gilmore Creek (excluding trout waters), (T.107, R.7): 2C;

(14) Harkcom Creek, (T.108, R.16): 2C;

(15) Homer Creek, (T.106, R.6): 2C;

(16) Indian Spring Creek, (T.103, R.5): 2C;

(17) Judicial Ditch No. 1, Hayfield, (T.105, R.17, S.4, 5; T.106, R.17, S.31, 32; T.106, R.18, S.25, 26, 27, 36): 7;

(18) King Creek, (T.111, R.11, 12): 2C;

(19) Long Creek, (T.108, 109, R.12): 2C;

(20) MacKenzie Creek, (T.108, 109, R.21): 2C;

(21) Mahoney Creek, (T.103, R.10): 2C;

(22) Mound Prairie Creek, (T.104, R.5): 2C;

(23) Mud Creek, (T.108, 109, R.20, 21): 2C;

(24) Pine Creek, (T.112, 113, R.17, 18): 2C;

(25) Pleasant Valley Creek, (T.106, 107, R.6, 7): 2C;

(26) Plum Creek, (T.108, R.15): 2C;

(27) Prairie Creek, (T.110, 111, 112, R.18, 19, 20): 2C;

(28) Riceford Creek, Mabel, (T.101, R.8, S.24, 25, 26): 7;

(29) Salem Creek, (T.106, R.15, 16): 2C;

(30) Shingle Creek, (T.109, 110, R.17): 2C;

(31) Silver Creek (excluding trout waters), (T.104, 105, R.6): 2C;

(32) Silver Spring Creek, (T.108, 109, R.13): 2C;

(33) Snake Creek, (T.109, R.10): 2C;

(34) Sugar Creek (Sugarloaf Creek), (T.111, 112, R.12, 13): 2C;

(35) Sullivan Creek, (T.103, R.5): 2C;

(36) Trout Brook (Mazeppa Creek), Goodhue, (T.110, R.15, S.3, 4; T.111, R.15, S.28, 33, 34): 7;

(37) Trout Creek, Little, (T.106, R.5, 6): 2C;

(38) Trout Run Creek (Trout Creek) (excluding trout waters), (T.104, 105, R.10): 2C;

(39) Unnamed Creek, Canton, (T.101, R.9, S.20): 7;

(40) Unnamed Creek, Byron, (T.107, R.15, S.17, 20, 29): 7;

(41) Unnamed Creek, Plainview, (T.108, R.11, S.16, 17, 20, 21, 22, 27, 34): 7;

(42) Unnamed Creek, West Concord, (T.108, R.17, S.17, 20, 21): 7;

(43) Unnamed Creek, Hayfield, (T.105, R.17, S.3, 4): 7;

(44) Unnamed Ditch, Claremont, (T.107, R.18, S.27, 34): 7;

(45) Unnamed Ditch, Lonsdale, (T.112, R.22, S.25, 35, 36): 7;

(46) Unnamed Ditch, Hampton, (T.113, R.18, S.5, 6; T.114, R.18, S.31): 7;

(47) Unnamed Dry Run, Altura, (T.107, R.9, S.7, 18): 7;

(48) Unnamed Dry Run, Owatonna, Owatonna Canning Company, (T.107, R.20, S.6; T.107, R.21, S.1): 7;

(49) Unnamed Dry Run, Owatonna, Owatonna Canning Company, (T.107, R.20, S.6; T.107, R.21, S.1): 7;

(50) Unnamed Stream, Dodge Center, Owatonna Canning Company, (T.107, R.17, S.27, 34): 7; and

(51) Whitewater River, North Fork, Elgin, (T.108, R.12, S.25, 26, 27): 7.

[For text of item B, see M.R.]

C. Fens:

(1) *Cannon River fen, [3/7/88R] (T.111, R.20, S.34): 2B, 3B;

(2) *Kennedy fen, [3/7/88R] (T.105, R.7, S.15): 2B, 3B;

(3) *Rock Dell fen, [3/7/88R] (T.105, R.15, S.16): 2B, 3B; and

(4) *Perched Valley WMA fen, [3/7/88R] (T.112, R.13, S.8): 2B, 3B.

Subp. 8. **Cedar-Des Moines Rivers Basin.** The water use classifications for the listed waters in the Cedar-Des Moines Rivers Basin are as identified in items A and B:

A. Streams:

(1) Bancroft Creek, (T.103, 104, R.21): 2C;

(2) Bear Creek (excluding Class 7 segment), (Source to Iowa border): 2C, 3B;

(3) Bear Creek, North Spring Grove, (T.101, R.7, S.26, 27, 35): 7;

(4) Beaver Creek, (T.101, 102, R.13, 14): 2C, 3B;

(5) Cedar River, Little, (Source to Iowa border): 2C, 3B;

(6) Clear Creek, (T.102, R.4): 2C;

(7) County Ditch No. 11, Sherburne, (T.101, R.32, S.4, 9, 10; T.102, R.32, S.7, 8, 16, 17, 21, 27, 28, 33, 34): 7;

(8) County Ditch No. 48, Conger, (T.102, R.22, S.19, 20; T.102, R.23, S.24, 25, 26, 35): 7;

(9) Deer Creek, (T.101, R.19, 20): 2C, 3B;

(10) Dobbins Creek, (T.103, R.16, 17): 2C;

(11) Goose Creek, Twin Lakes, (T.101, R.20, S.31; T.101, R.21, S.16, 17, 18, 21, 22, 26, 27, 35, 36; T.101, R.22, S.12, 13): 7;

(12) Heron Lake Outlet, (T.104, 105, R.37): 2C;

(13) Iowa River, Little, (T.101, 102, R.14): 2C;

(14) Jack Creek, Wilmont, (T.104, R.41, S.25, 26, 30, 31, 32, 33, 34, 35, 36): 7;

(15) Lime Creek, (T.101, R.22, 23): 2C, 3B;

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

(16) Murphy Creek, (T.103, R.18): 2C;

(17) Okabena Creek (excluding Class 7 segment), (T.102, 103, R.37, 38, 40): 2C;

(18) Okabena Creek, Worthington, Worthington Lagoons and Allied Mills, (T.102, R.38, S.6, 7; T.102, R.39, S.7, 8, 9, 10, 11, 12, 14, 15, 16, 18; T.102, R.40, S.13): 7;

(19) Orchard Creek, (T.102, R.18, 19): 2C;

(20) Pine Creek (excluding Class 7 segment), (T.101, R.10): 2C, 3B;

(21) Pine Creek, Harmony, (T.101, R.9, S.31; T.101, R.10, S.24, 25, 36): 7;

(22) Roberts Creek, (T.103, 104, R.16, 17, 18): 2C;

(23) Rose Creek, (T.102, 103, R.16, 17, 18): 2C;

(24) Soldier Creek, (T.101, R.32, 33): 2C, 3B;

(25) Turtle Creek, (T.103, R.18, 19, 20): 2C;

(26) Unnamed Creek, Spring Grove, (T.101, R.7, S.14, 22, 23, 27): 7;

(27) Unnamed Creek, Emmons, (T.101, R.22, S.31): 7;

(28) Unnamed Creek, Brownsdale, (T.103, R.17, S.4, 9): 7;

(29) Unnamed Creek, Blooming Prairie, (T.104, R.18, S.5, 8, 9, 16; T.105, R.18, S.31): 7;

(30) Unnamed Creek, Iona, (T.105, R.41, S.3, 4, 9; T.106, R.40, S.19, 29, 30, 32; T.106, R.41, S.24, 25, 26, 34, 35): 7;

(31) Wapsipinicon River, (T.101, R.15): 2C, 3B;

(32) Waterloo Creek, (T.101, R.6, 7): 1B, ~~2B~~ 2Bd, 3B;

(33) Wildcat Creek (excluding trout waters), (T.103, R.4): 2C;

(34) Wolf Creek, (T.103, R.16, 17, 18): 2C; and

(35) Woodbury Creek, (T.101, 102, R.18, 19): 2C.

B. Fens:

(1) *Heron Lake fen, [3/7/88R] (T.103, R.36, S.29): 2B, 3B;

(2) *Prairie Bush Clover, [3/7/88P] (Waters within the Prairie Bush Clover Scientific and Natural Area, Jackson County, T.103, R.35, S.17): 2B, 3B; and

(3) *Thompson fen, [3/7/88R] (T.103, R.35, S.7): 2B, 3B.

Subp. 9. **Missouri River Basin.** The water use classifications for the listed waters in the Missouri River Basin are as identified in ~~item~~ items A and B:

A. Streams:

(1) Ash Creek, (T.101, R.45): 2C;

(2) Beaver Creek, (T.102, 103, 104, R.45, 46, 47): 2C, 3B;

(3) Flandreau Creek (excluding Class 7 segment), (T.107, 108, R.46, 47): 2C, 3B;

(4) Flandreau Creek, Lake Benton, (T.108, R.46, S.1, 2, 11; T.109, R.45, S.30, 31; T.109, R.46, S.36): 7;

(5) Kanaranzi Creek, (Source to Iowa border): 2C, 3B;

(6) Medary Creek, (Source to South Dakota border): 2C, 3B;

(7) Mound Creek, (T.103, 104, R.45): 2C;

(8) Mud Creek, (T.101, 102, R.45, 46): 2C, 3B;

(9) Pipestone Creek, (Source to South Dakota border): 2C, 3B;

(10) Rock River (excluding Class 7 segment), (Source to Iowa border): 2C, 3B;

(11) Rock River, Holland, (T.107, R.44, S.18, 19, 20, 29; T.107, R.45, S.12, 13): 7;

(12) Rock River, Little, (Source to Iowa border): 2C, 3B;

(13) Sioux River, Little, (Source to Iowa border): 2C, 3B;

(14) Sioux River, West Fork Little, (Source to Iowa border): 2C, 3B;

(15) Skunk Creek, (T.101, 102, R.37, 38, 39): 2C;

(16) Split Rock Creek, (Split Rock Lake outlet to South Dakota border): 2C, 3B;

(17) Unnamed Creek, Jasper, (T.104, R.46, S.6): 7;

(18) Unnamed Creek, Hatfield, (T.105, R.44, S.6, 7, 8; T.105, R.45, S.1; T.106, R.45, S.36): 7;

(19) Unnamed Creek, Hatfield, (T.106, R.45, S.34, 35, 36): 7;

(20) Unnamed Ditch, Steen, (T.101, R.45, S.31, 32): 7;

(21) Unnamed Ditch, Hills, (T.101, R.46, S.28, 33): 7; and

(22) Unnamed Ditch, Lake Benton, (T.109, R.45, S.17, 19, 20): 7.

B. Fens:

(1) Adrian fen, (T.102, R.43, S.11): 2B, 3B;

(2) Burke State Wildlife Management Area fen, (T.106, R.44, S.28): 2B, 3B; and

(3) Altona State Wildlife Management Area fen, (T.108, R.46, S.1; T.109, R.45, S.31): 2B, 3B.

REPEALER. *Minnesota Rules*, part 7050.0210, subpart 14, is repealed.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Department of Commerce

Adopted Permanent Rules Relating to Credit Unions

The rule proposed and published at *State Register*, Volume 13, Number 42, pages 2480-2482, April 17, 1989 (13 S.R. 2480) and Volume 14, Number 4, pages 149-151, July 24, 1989 (14 S.R. 149) is adopted with the following modifications:

Rules as Adopted

2675.6400 SELECT GROUP IDENTIFICATION.

Subp. 6. **Subsequent action by an existing credit union.** For an existing credit union to qualify for approval of a bylaw amendment to include an eligible select group in its field of membership, in addition to the requirements in *Minnesota Statutes*, section 52.02, the existing credit union must be capable of serving the eligible select group, and the commissioner ~~may~~ shall require:

B. a statement that ~~solicitations will not be directed at~~ the existing credit union will not solicit individuals to join the select group ~~as a condition for membership in the credit union~~.

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

Department of Natural Resources

Adopted Permanent Rules Relating to Lake Superior Shoreland Management

The rule proposed and published at *State Register*, Volume 14, Number 4, pages 158-159, July 24, 1989 (14 S.R. 158) is adopted as proposed.

Pollution Control Agency

Adopted Permanent Rules Relating to Hazardous Waste; Burning of Hazardous Waste and Used Oil

The rules proposed and published at *State Register*, Volume 14, Number 11, pages 583-595, September 11, 1989 (14 S.R. 583) are adopted with the following modifications:

Rules as Adopted

7045.0020 DEFINITIONS.

Subp. 9b. **Combustible liquid.** "Combustible liquid" ~~means a liquid that has a flash point below 200 degrees Fahrenheit and equal to or greater than 100 degrees Fahrenheit, as defined~~ has the meaning given in Code of Federal Regulations, title 49, section 173.115.

Subp. 21b. **EPA identification number.** "EPA identification number" means the number assigned by the Environmental Protection Agency to each generator, transporter, and treatment, storage and disposal facility.

Subp. 24b. **Flammable liquid.** "Flammable liquid" ~~means a liquid exhibiting a flash point below 100 degrees Fahrenheit, as defined~~ has the meaning given in Code of Federal Regulations, title 49, section 173.115.

7045.0102 MIXTURES OF WASTES.

Subpart 1. **Scope.** Except as provided in part 7045.0665, subpart ~~5~~ 1, mixtures of wastes are listed in subparts 2 and 3.

7045.0665 USE CONSTITUTING DISPOSAL.

Subp. 1a. **Land application prohibition.**

B. A person may not otherwise place used or waste oil in or on the land, unless approved by the commissioner. The application of used or waste oil in or on the land shall only be approved in the case of an accidental ~~oil~~ spill.

7045.0695 USED OIL BURNED FOR ENERGY RECOVERY.

Subpart 1. **Scope.** The requirements of this part apply to used oil that is burned for energy recovery in a boiler or industrial furnace that is not regulated under part 7045.0542 or 7045.0640. Burning used oil as a fuel is prohibited except as provided in this part. Used oil burned for energy recovery is subject to regulation under this part rather than as hazardous waste fuel under part 7045.0692, even if it exhibits a characteristic of hazardous waste identified in part 7045.0131, provided that it has not been intentionally mixed with a characteristic hazardous waste. Used oil intentionally mixed with a characteristic hazardous waste as identified in part 7045.0131 is regulated as specified in part 7045.0102, subpart 3.

Pollution Control Agency

Hazardous Waste Division

Adopted Permanent Rules Relating to Underground Storage Tank Training and Certification

The rules proposed and published at *State Register*, Volume 14, Number 11, pages 595-609, September 11, 1989 (14 S.R. 595) are adopted with the following modifications:

Rules as Adopted

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 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

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)~~ (9):

~~(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;

(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;

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; 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;

K. tank closure and removal:

(1) regulatory discussion:

(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

7105.0130 INCORPORATION BY REFERENCE.

Subp. 3. **NFPA ~~documents~~ document.** The following ~~documents are~~ document is 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~~ 1987)~~; and~~

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

Department of Transportation

Adopted Permanent Rules Relating to State Highway Market Artery System

The rules proposed and published at *State Register*, Volume 14, Number 9, pages 466-471, August 28, 1989 (14 S.R. 466) are adopted as proposed.

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

Official Notices

Pursuant to the provisions of Minnesota Statutes §14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Minnesota State Agricultural Society Minnesota State Fair

Annual Meeting Notice

The 131st annual meeting of the Minnesota State Agricultural Society, governing body of the State Fair, will be held Jan. 13, 14 and 15 at the St. Paul Radisson Hotel. For complete program information, call (612) 642-2251.

Gaming Department

Minnesota Racing Commission

Notice of Solicitation of Outside Information of Opinions Regarding the Proposed Rule Governing Class D License Applications

NOTICE IS HEREBY GIVEN that the Minnesota Racing Commission is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing Class D license applications. The adoption of the rule is authorized by *Minnesota Statutes*, sections 240.09, 240.23 and 240.13 (1988) which permits the agency to issue Class D racing licenses and promulgate rules governing the conduct of horse races held at licensed racetracks in Minnesota and any other licensed racetracks in Minnesota and any other aspect of horse racing of pari-mutuel betting which, in the opinion of the Racing Commission, affects the integrity of racing or the public health, welfare, or safety.

The Minnesota Racing Commission requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Richard Krueger
Acting Director
11000 W. 78th Street
Eden Prairie, Minnesota 55344

Oral statements will be received during regular business hours over the telephone at (612) 341-7555 and in person at the above-listed address.

All statements of information and opinions shall be accepted until January 31, 1990. Any written material received by the Racing Commission shall become part of the rulemaking record to be submitted to the Attorney General or administrative law judge in the event that the rule is adopted.

Dated: 13 December 1989

Richard Krueger
Acting Director
Minnesota Racing Commission

Executive Council State Board of Investment Land Exchange Board

Notice of Meetings of the Executive Council, State Board of Investment, Land Exchange Board, and the Investment Advisory Council

The Executive Council, State Board of Investment and Land Exchange Boards will meet on Wednesday, January 10, 1990 at 8:30 a.m. in Room 15, State Capitol, Saint Paul, MN.

The Investment Advisory Council will meet on Tuesday, January 9, 1990 at 2:00 p.m. in Conference Rooms "B" and "C", MEA Building, 41 Sherburne Avenue, Saint Paul, MN.

Board of Pharmacy

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Pharmacy Practice

NOTICE IS HEREBY GIVEN that the Board of Pharmacy is seeking information or opinions from sources outside the agency in preparing to propose the adoption or amendment of rules governing licensure of pharmacies, patient counseling, practice standards for specialty areas, inactive status licensure, unprofessional conduct, use of FAX machines, prescription refills, use of computers, controlled substances, pharmacist preceptors and dispensing by practitioners. The adoption of these rules is authorized by *Minnesota Statutes*, section 151.06, subdivision 1c, which permits the agency to adopt rules to regulate the practice of pharmacy.

The Board of Pharmacy requests information and opinions concerning the subject matter of these rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

David E. Holmstrom, Executive Director
Minnesota Board of Pharmacy
2700 University Ave. W. #107
St. Paul, MN 55114

Oral statements will be received during regular business hours over the telephone at (612) 642-0541 and in person at the above address.

All statements of information and opinions shall be accepted until March 1, 1990. Any written material received by the Board of Pharmacy shall become part of the rulemaking record to be submitted to the Attorney General or Administrative Law Judge in the event that the rule is adopted.

Dated: 22 December 1989

David E. Holmstrom
Executive Director

Minnesota Pollution Control Agency

Division of Hazardous Waste

Notice of Intent to Solicit Outside Information Regarding Proposed Rules Governing the Management of Household Hazardous Waste and the Submittal of Management Plans for Separation of Household Hazardous Waste From Solid Waste Prior to Disposal or Processing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is seeking information or opinions from outside sources in preparing to propose rules governing the management of household hazardous waste and the submittal of management plans for separation of household waste from solid waste prior to disposal or processing. Specifically, the rules being developed will include: (1) management requirements for household hazardous waste that is collected as a result of a household hazardous waste management program; and (2) requirements for owners and operators of solid waste disposal facilities or resource recovery facilities to submit management plans for separation of household hazardous waste from solid waste prior to disposal or processing. The development of the rules is authorized by *Minnesota Statutes* §§ 116.07, subd. 4 (1988) and 116.07, subd. 4 (*Minnesota Laws, 1989 First Special Session*, Chapter 1, Article 20, Section 19).

The MPCA requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing or orally. Written or oral statements should be directed to:

Patrick Carey
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
Telephone: 612/643-3478

Oral statements will be received during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday.

All statements of information and opinion will be accepted until February 2, 1990. Any written materials received by the MPCA shall become part of the rulemaking record in the event that the rule is amended.

Gerald L. Willet
Commissioner

Department of Public Safety

Emergency Response Commission

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Hazardous Chemical Reporting Fees

NOTICE IS HEREBY GIVEN that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing setting fees to be paid by a facility when the owner or operator submits its emergency and hazardous chemical inventory form required under section 11022 of the federal Emergency Planning and Community Right to Know Act, *United States Code,* title 42. The adoption of the rule is authorized by *Minnesota Statutes*, section 229 K.09, which requires the agency to adopt rules to establish a fee to cover the costs for all data management, including administration of fees, by the commission and regional review committees.

The State Department of Public Safety requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Minnesota Emergency Response Commission
290 Bigelow Building
450 North Syndicate Street
St. Paul, Minnesota 55104

Oral statements will be received during regular business hours over the telephone at (612) 643-3000 and in person at the above address.

Any written material received by the State Department of Public Safety shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Paul J. Tschida, Commissioner
Department of Public Safety

Department of Public Service

Energy Division

Notice of Extension of Deadline

The deadline of January 2, 1990 established by publication on October 9, 1989, by the Department of Public Service to seek opinions and information on proposed amendment to *Minnesota Rules* Chapter 7640 governing Residential Thermal Insulation Standards, is hereby extended to January 30, 1990.

Office of the Secretary of State

Notice of Vacancies in Multi-Member Agencies

NOTICE IS HEREBY GIVEN to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* 15.0597, subdivision 4. Application forms may be obtained from the Office of the Secretary of State, Open Appointments, 180 State Office Building, St. Paul, MN 55155-1299; (612) 297-5845, or in person at Room 174 of the State Office Building. More specific information about these vacancies may be obtained from the agencies listed below. The application deadline is January 24, 1990.

Council on Black Minnesotans
2233 University Ave., Suite 426, St. Paul 55114. 612-642-0811
Minnesota Statutes 3.9225

APPOINTING AUTHORITY: Governor. COMPENSATION: Per diem for public members.
VACANCY: One public member.

The council makes recommendations to the governor and legislature on improving the economic and social conditions of Black Minnesotans. The governor appoints seven public members who will represent the Black community and must include at least three males and three females. The legislature appoints two senators and two representatives who serve as ex-officio, non-voting members.

Medical Services Review Board
Dept. of Labor and Industry, Office of Public Affairs, 443 Lafayette Rd., St. Paul 55101. 612-296-8946
Minnesota Statutes 176.103

APPOINTING AUTHORITY: Commissioner of Labor and Industry. COMPENSATION: $35 per diem plus expenses.
VACANCY: One alternate member: physician familiar with Workers' Compensation.

The board advises on medical matters relating to workers' compensation and hears appeals under chapter 14. Members include two chiropractice members, one hospital administration member, six physician members, one employee member, one employer member, and one public member plus eight alternates. The commissioner or his designee serves as an ex-officio member. Members must file with the Ethical Practices Board.

Advisory Council on Wells and Borings
717 Delaware St. S.E., Mpls 55440. 612-623-5338
Laws of 1989, Chapter 326, Section 5

APPOINTING AUTHORITY: Commissioner of Health. COMPENSATION: $35 per diem plus expenses.
VACANCY: Two members: **One registered monitoring well contractor** (registered as a monitoring well engineer with MN Commissioner of Health to be a professional engineer registered with the Board of Architecture, Engineering, Land Surveying and Landscape Architecture, or a geologist certified by the American Institute of Professional Geologists, or a hydrologist or hydrogeologist certified by the American Institute of Hydrologists.) **One licensed exploratory borer** (to be licensed, individual must take and pass examination related to construction, location, and sealing of exploratory borings, or be a professional engineer registered under Sections 326.02-326.13 or a certified professional geologist.

The council advises the Dept. of Health on licensing water well contractors and explorers, registering, monitoring well engineers, and monitoring wells. Fifteen voting members include six water well contractors (state residents for at least three years, with at least five years experience in well drilling, no more than two from the seven county metro area); one member a licensed exploratory borer for minerals; two public members not connected with exploratory boring or water well contracting; one member a licensed elevator shaft contractor, one member must be a monitoring contractor; representatives of the Departments of Health, Natural Resources, and the Pollution Control Agency; and a representative of the Minnesota Geological Survey. Quarterly meetings.

Human Services Occupations Advisory Council
717 Delaware St. S.E., Mpls 55440. 612-623-5612
Minnesota Statutes 214.44

APPOINTING AUTHORITY: Commissioner of Health. COMPENSATION: $35 per diem plus expenses.
VACANCY: One member: to represent a third party payor to health care costs. Applicants must have expertise on health care reimbursement issues.

The council assists the commissioner in formulating policies and rules regarding the credentialing of human services occupations by the state. Thirteen members include four who represent currently licensed or registered human services occupations, two who represent human services occupations which are not currently regulated, two who represent licensed health care facilities, which can include a health maintenance organization as defined in section 62D.02, one who represents the Higher Education Coordinating Board, one who represents the State Planning Agency, one who represents a third party to health care costs, and two public members (*Minnesota Statutes* 214.01). Monthly meetings.

Occupational Safety and Health Advisory Council
Dept. of Labor and Industry, Regulations & Enforcement Asst. Comm., 443 Lafayette Rd., St. Paul 55155-4308. 612-296-5433
Minnesota Statutes 182.656

APPOINTING AUTHORITY: Commissioner of Labor and Industry. COMPENSATION: $48 per diem plus expenses.
VACANCY: One management representative.

The council advises the Dept. of Labor and Industry on administration of the state Occupational Safety and Health Act. Twelve members include three management representatives; three labor representatives; three representatives of occupational safety and health professions, and three public members. Meetings at the call of the chair.

Market Development Coordinating Council
MN Office of Waste Management, 1350 Energy Lane, St. Paul 55108. 612-649-5750
Minnesota Statutes 115A.12(1)

APPOINTING AUTHORITY: Office of Waste Management. COMPENSATION: Expenses.
VACANCY: No more than eighteen members: See the description of this new agency.

The council develops and coordinates statewide strategy for developing markets for recyclable materials and advises the Office of Waste Management on expenditure of Market Development funds. Not less than 9 nor more than 18 members: one representative each from Dept. of Trade and Economic Development, Dept. of Administration, Pollution Control Agency, Greater Minnesota Corporation, Metropolitan Council, Legislative Commission on Waste Management; also representation from local government, private recycling markets and collectors. Monthly meetings in St. Paul.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. §14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of $15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information.

Department of Administration: Materials Management Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

Commodity: Supplemental heating
Contact: Joyce Dehn 297-3830
Bid due date at 2:30pm: January 3
Agency: Inver Hills Community College
Deliver to: Inver Grove Heights
Requisition #: 27000 51620

Commodity: Editing equipment
Contact: Pam Anderson 296-1053
Bid due date at 2pm: January 4
Agency: State University
Deliver to: Mankato
Requisition #: 26071 19419

Commodity: Used Wang equipment
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: January 5
Agency: Agriculture Department
Deliver to: St. Paul
Requisition #: 04641 03237

Commodity: Detector systems (traffic lights) 4 channel
Contact: Pam Anderson 296-1053
Bid due date at 2pm: January 5
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 79050 24999

Commodity: Detector systems (traffic lights) 2 channel
Contact: Pam Anderson 296-1053
Bid due date at 2pm: January 5
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 79050 25000

Commodity: Kitchen shelving and carts
Contact: Joan Breisler 296-9071
Bid due date at 2pm: January 8
Agency: Correctional Facility
Deliver to: St. Cloud
Requisition #: 78830 10150

Commodity: Delineators
Contact: Jack Bauer 296-2621
Bid due date at 2pm: January 9
Agency: Transportation Department
Deliver to: Oakdale
Requisition #: 79900 03990

Commodity: Bituminous
Contact: Joan Breisler 296-9071
Bid due date at 2pm: January 9
Agency: Transportation Department
Deliver to: Duluth
Requisition #: Price Contract

Commodity: Winter sand
Contact: Joan Breisler 296-9071
Bid due date at 2pm: January 9
Agency: Transportation Department
Deliver to: Duluth
Requisition #: Price Contract

Commodity: Aggregates
Contact: Joan Breisler 296-9071
Bid due date at 2pm: January 9
Agency: Transportation Department
Deliver to: Duluth
Requisition #: Price Contract

Commodity: Breath alcohol screening devices
Contact: Joseph Gibbs 296-3750
Bid due date at 2pm: January 9

Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 07500 61281

Commodity: Delivery carts—kitchen
Contact: Joan Breisler 296-9071
Bid due date at 2pm: January 9
Agency: Vets Home
Deliver to: Minneapolis
Requisition #: 75200 70326

Commodity: Judicial lamps/planters—rebid
Contact: John Bauer 296-2621
Bid due date at 2pm: January 9
Agency: Judicial Center
Deliver to: St. Paul
Requisition #: 02310 17533

Commodity: Judicial chairs—Schafer—rebid
Contact: John Bauer 296-2621
Bid due date at 2pm: January 9
Agency: Judicial Center
Deliver to: St. Paul
Requisition #: 02310 17501

Commodity: Multiport Transceiver
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: January 5
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 79000 03708

Commodity: IBM AS/400 memory
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: January 9
Agency: State University
Deliver to: Winona
Requisition #: 26074 13231

Commodity: Judicial furniture—rebid
Contact: John Bauer 296-2621
Bid due date at 2pm: January 10
Agency: Judicial Center
Deliver to: St. Paul
Requisition #: 02310 17504 1

Commodity: Judicial tables/bookcases—rebid
Contact: John Bauer 296-2621
Bid due date at 2pm: January 10
Agency: Judicial Center
Deliver to: St. Paul
Requisition #: 02310 17532 1

Commodity: Judicial chairs—Taylor—rebid
Contact: John Bauer 296-2621
Bid due date at 2pm: January 10
Agency: Judicial Center
Deliver to: St. Paul
Requisition #: 02310 17499 1

Commodity: Remote display unit
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: January 9
Agency: Intertech—Administration Department
Deliver to: St. Paul
Requisition #: 02410 02151

Commodity: Used IBM PC 8088's—rebid
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: January 10
Agency: Regional Treatment Center
Deliver to: St. Peter
Requisition #: 55105 08559 1

Commodity: Spectrophotometer UV-VIS
Contact: Joseph Gibbs 296-3750
Bid due date at 2pm: January 12
Agency: State University
Deliver to: Mankato
Requisition #: 26071 19389

Commodity: Geochemical Analytical Services
Contact: Don Olson 296-3771
Bid due date at 2pm: January 16
Agency: Natural Resources Department—Minerals
Deliver to: Various
Requisition #: Price Contract

Commodity: Nursery stock
Contact: Douglas Thompson 296-3775
Bid due date at 2pm: January 16
Agency: Transportation Department
Deliver to: New Brighton
Requisition #: 79000 03554

Commodity: Fish net and twine
Contact: Douglas Thompson 296-3775
Bid due date at 2pm: January 22
Agency: Natural Resources Department
Deliver to: Hutchinson
Requisition #: 29004 13206

Department of Administration: Print Communications Division

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Printing vendors NOTE: Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.

Commodity: Bacteriological report, 7M 4-part sets, 6¼"x4", negs available, 2-sided
Contact: Printing Buyer's Office
Bids are due: January 4
Agency: Minnesota Health Department
Deliver to: Minneapolis
Requisition #: 3934

Commodity: Audio visual library 1990 catalog, 2.5M books, 130 pages, camera ready, 2-sided, 8½"x11", 3-hold punch
Contact: Printing Buyer's Office
Bids are due: January 4
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 3916

Commodity: Job Service introduction card, 30M 2-part sets, 6"x7¾" overall type to set, 1- and 2-sided
Contact: Printing Buyer's Office
Bids are due: January 4
Agency: Jobs & Training Department
Deliver to: St. Paul
Requisition #: 3941

Commodity: 1990-1991, 10M 192-page book + cover, 6″x9″, type to set from floppy disc, perfect bind
Contact: Printing Buyer's Office
Bids are due: January 5
Agency: Anoka-Ramsey Community College
Deliver to: Coon Rapids
Requisition #: 3993

Commodity: Minneapolis Sales Tax 3-forms (File Copy—110M 7⅜″x3⅝″, negs available, 2-sided); Tax Return—70M—15¾″x3⅔″ continuous, fanfold 3-up, negs available, 2-sided; Notice for Delinquency—15M 15¾″x3⅔″ continuous fanfold 3-up, negs available, 2-sided
Contact: Printing Buyer's Office
Bids are due: January 8
Agency: Revenue Department
Deliver to: St. Paul
Requisition #: 3900 3901 3902

Commodity: Continuous form, 30M 8½″x11″, negs available, 1-sided, must have union bug
Contact: Printing Buyer's Office
Bids are due: January 8
Agency: Secretary of State
Deliver to: St. Paul
Requisition #: 3981

Professional, Technical & Consulting Contracts

Capitol Area Architectural & Planning Board

Notice of National Open Design Competition for a Memorial to Minnesotans Who Died in Vietnam

The Minnesota Vietnam Veterans Memorial, Inc. and the Capitol Area Architectural and Planning Board are sponsoring a national open design competition for a memorial to those Minnesotans who died in the Vietnam conflict. It will include the names of those killed and missing in action. The memorial will be built on the grounds of the Minnesota State Capitol in St. Paul. The goal of the competition is to achieve a memorial that will be reflective in mood rather than make a political statement about the war itself. Substantial completion of the memorial is scheduled for late 1991. The total budget is approximately $700,000, with construction budget of $500,000. The design competition poster, available in early January 1990, will be mailed to all interested parties. Registration opens in January 1990, design submittals are due in late April 1990. Registration by interdisciplinary teams is encouraged.

Contact:

FORECAST Public Artworks
Competition Advisor
Capital Area Architectural and
Planning Board (CAAPB)
Room B-46, State Capitol
St. Paul, MN 55155
612/296-7138

Council on Disability

Notice of Request for Proposals to conduct search for executive director

The Minnesota State Council on Disability is seeking proposals for assistance to conduct a search that will result in hiring a new executive director.

The State Council on Disability is authorized to employ a person in the unclassified service of the state as Executive Director. This position is currently vacant and the Council is interested in filling the position with a qualified person. The Council is seeking a contractor who would conduct a search for an executive director and in other ways assist the Council to recruit and hire an executive director. The contractor must have experience seeking applicants for positions in government and the human services area.

Proposals are due in the office on the Council before 4:30 p.m. on January 22, 1990.

For additional information contact:

Kurt Strom, Acting Executive Director
145 Metro Square Building
7th Place and Jackson
St. Paul, MN 55101
Phone: 296-1742
296-6785 TDD

Minnesota Historical Society

Request for Proposals for Cleaning of Audio Tapes

The Minnesota Historical Society is seeking proposals for the cleaning of audio tapes. These services, which will be provided under contract, are outlined in detail in the Request for Proposal (RFP). The formal RFP may be requested and inquiries directed to: Mark Schwartz, Contract Officer, 1500 Mississippi St., St. Paul, MN 55101, (612) 296-2155. The deadline for submitting completed proposals is the end of the business day (5:00 p.m.) Tuesday, January 16, 1990. Late proposals will not be accepted.

Department of Human Services

Notice of Request for Proposal for Pre-Certification Investigations (Fraud Prevention Investigations)

NOTICE IS HEREBY GIVEN that the Assistance Payments Division, Department of Human Services, is seeking proposals concerning the establishment of pilot grant programs for Fraud Prevention Investigations to test the effectiveness of conducting pre-certification investigations at the point of application for assistance.

This program is being established to:

- Reduce fraudulent receipt of AFDC and Food Stamp monies up-front at the application stage.
- Reduce post investigations and the need for recovery of lost program funds.
- Minimize the possibility of clients becoming involved in criminal prosecutions.
- Ensure the amount of assistance issued is correct.

Approximately $218,000 (state funds) and $436,000 (federal match funds) will be available for no less than 4 pilot projects for an 18 month period.

Proposals must be received by February 16, 1990.

A letter of intent must be received by January 29, 1990.

The Department of Human Services will notify grantees of their selection no later than March 2, 1990 and reserves the right to negotiate final funding conditions.

For a copy of the full Request for Proposal (RFP) or other information contact:

Brian Shields
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3834
(612) 296-0323
Fax # (612) 297-5840

Department of Natural Resources

Division of Parks and Recreation

Request for Proposal for Statewide Campsite and Accommodation Reservation System

The Minnesota Department of Natural Resources is requesting proposals to provide a reservation system for camping and lodging in 60 Minnesota State Parks. The State of Minnesota welcomes all interested parties to submit proposals. This Request for Proposal does not obligate the State to complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest. The State also reserves the right to negotiate details of the project tasks outlined in this request.

All costs of the vendor providing this service will be covered by charging users a cost per reservation to be identified in the proposal submitted by the vendor.

A. SCOPE OF PROJECT

The Minnesota Department of Natural Resources, Division of Parks & Recreation (hereafter referred to as "the Division") desires to offer a centralized reservation service to the public visiting state parks and recreation areas. This service will replace the existing reservation system in which each park accepts reservations for its own campsites, group camps, group centers and lodging facilities.

The Division manages 65 state parks and recreation areas located throughout the state. Of these sixty-five parks, 61 have campgrounds; 52 have rustic group camps (campsites with tables, fire rings, toilets and a water source); 6 have modern group centers (buildings for lodging, dining and sanitation); 2 have semi-modern group centers (buildings for dining and sanitation); 3 parks have one rental housekeeping cabin each; and one, Itasca State Park, has a lodge complex and rental cabins.

B. GOALS AND OBJECTIVES

The Department of Natural Resources, Division of Parks & Recreation desires to enter into an agreement with an outside source to provide a centralized reservation system for camping and lodging facilities.

The intent of this endeavor is to provide an efficient, effective centralized system capable of determining the current status of reservation vacancies in all parks, making reservations for any available overnight facilities, providing basic information on the state park system and individual parks to users, giving assistance to the caller in obtaining a suitable alternate location for a reservation if the first choice is unavailable, and disseminating the reservation information to the individual parks.

C. BACKGROUND AND OVERVIEW

The Minnesota Department of Natural Resources, Division of Parks & Recreation initiated its campsite reservation system in 1981 as a result of camper interest.

Each succeeding year until 1987, when all staffed parks with campgrounds came on line, the number of reservations taken has increased. The numbers of reservations taken for the past two years are indicated below:

Fiscal Year 1988: 22,021 reservations
Fiscal Year 1989: 31,125 reservations

The reservation fee has remained at $3.00 since the reservation system began. However, during the earlier years the procedures for making reservations changed slightly each year. For the past few years, the procedures have been relatively consistent:

1. Reservations have been made by phone or in person by contacting the park at which the party is interested in staying.

2. Reservations have been accepted up to 15 days prior to arrival for any day of the year. Reservations have been accepted Monday through Friday, 8:00 a.m. to 4:00 p.m.

3. The following information has been needed to reserve a site: name, address and phone number; date and time of arrival and departure; number in the party; type and size of camping equipment; and if an electrical site is requested.

4. Campsite reservations have been held until 8:00 p.m. of arrival date. If the party had not arrived by 8:00 p.m. and had not requested an extension, the campsite could be rented to someone else. All parks close at 10 p.m.

5. Specific sites have not been guaranteed.

6. Up to three reservations have been accepted per phone call or visit.

7. A nonrefundable reservation fee has been charged for each campsite reserved, payable on arrival.

8. The percent of total sites a park offers for reservations has been not less than 50% nor more than 75%.

Facilities:

The state parks in Minnesota that provide overnight accommodations vary tremendously in the facilities, activities and environment offered. They range from large (34,037 acres at St. Croix) to small (187 at Monson Lake); from rugged and hilly (Whitewater) to

prairie (Blue Mounds, Buffalo River) to water-based (Lake Carlos, Lake Shetek) and from remote (Zippel Bay, Judge Magney) to urban (William O'Brien, Afton).

The number of campsites varies from a high of 218 at Itasca to a low of 18 at Moose Lake.

Campsites also vary greatly. Some are strictly backpacking sites, others are suitable only for tent camping, and others are suited for recreational vehicles of varying sizes. More than 900 sites have electrical hookups.

The facilities currently available in Minnesota State Parks include:

- 3808 Drive-in sites (942 are electrical sites)
- 131 Backpack sites
- 86 Walk-in sites
- 75 Canoe sites
- 8 Class 1 Group centers in 6 parks
- 3 Class 2 Group centers in 3 parks
- 52 Class 3 Group camps in 52 parks
- 3 Rental housekeeping cabins in 3 parks

In addition, Itasca State Park has the following facilities:

- 6 One room housekeeping cabins
- 1 Two bedroom housekeeping cabin (Squaw Lake)
- 5 One bedroom cabins
- 1 Two bedroom cabin
- 6 Three bedroom cabins
- 1 Fourplex cabin (4 rooms)
- 1 Motel unit—Nicollet Court (18 rooms)
- 1 Clubhouse (10 rooms)
- 1 Lodge—Douglas Lodge (7 rooms)

Some campgrounds offer showers, flush toilets, playground equipment, and other developed facilities; others offer only vault toilets. The current camping fees are:

- Semi-modern (30 parks) $8.00/campsite/night
- Semi-modern $7.00/campsite/night
- Rustic $6.00/campsite/night
- Electricity $2.00/campsite/night
- Backpacking/Canoe $5.00/campsite/night

Some parks are very accessible; they have multiple phone lines and adequate staff to answer phones during business hours. Others, however, are minimally staffed and are unable to answer the phone during some periods. Some parks are located in areas where the only available phone service is a four party line.

Currently, 30 parks are equipped with IBM personal computers and 35-40 parks will be receiving fax machines before the project completion date.

D. PROJECT TASKS

Contractor Obligations.

The contractor will provide the following:

1. A computerized reservation system for the public to make a reservation for an appropriate non-specific campsite or other overnight accommodation at a specific park for a time period within the maximum set by the Division.

If the caller's requested park does not have suitable campsites or other overnight accommodations available, a computer search will be made to determine the availability of a suitable campsite or accommodation at another park. If a caller is interested in an accommodation with specific characteristics or services (i.e. electrical hook-ups), a computer search will be made to determine the availability of a suitable accommodation within the requested park or at another park.

The contractor will provide a national toll free "800" number for reservation requests and information.

The contractor will provide information concerning the state parks and the facilities which are available along a specific route to anyone attempting to make a reservation for camping, overnight accommodation or shelter facilities.

A caller shall be able to make a reservation for a vehicular campsite, walk-in campsite or backpacking campsite from one hundred-twenty (120) days in advance of the date of arrival up until three (3) days prior to the date of arrival. Approximately 70% of the campsites available in each park will be reservable.

A park user shall be able to make reservations for group camps, group centers, lodging rooms and cabins from 360 days in advance up until three (3) days in advance of the date of arrival; or as mutually agreed upon by the Division and the Contractor. During the five days prior to the 360 day period, the present occupant of the group camps and group centers shall have the option to renew for the following year. The Division will reserve the right to remove group centers from the Contractor's reservation system effective on the first or second anniversary of the effective date of the contract. All group camps, group centers, lodging rooms and cabins will be reservable. Horse camps will not be included in the reservation system.

Reservations made for each park shall be provided to the park or to a location specified for the park by computer or fax machine at least two days prior to arrival. (i.e. Friday reservations may be accepted through Tuesday and must be provided for the park on Wednesday.) This information shall also be available upon request at any time prior to the day when it must be delivered.

Contractor hours of operation shall be a minimum of Monday through Saturday, 8:00 a.m. through 6:00 p.m. Central Time, or as agreed upon in writing by both parties.

2. Any computer software needed, to include the supply, installation, and maintenance of the software. Upgrading and replacing all computer software shall be the responsibility of the contractor. Software supplied by the contractor shall be compatible with the IBM P.C.s used in Minnesota State Parks. The present communication software used by parks is CROSSTALK. If that is compatible with the Contractor's system, communications software need not be provided by the Contractor.

Those areas which have a computer or fax machine hook-up capability with the Contractor's main computer system will have the ability to request by phone, any and all reservation information necessary to successfully operate the reservation system at the park level. The cost of the phone call via computer modem or fax machine will be the responsibility of the State.

Those areas which have computer hook-up capability with the Contractor's main computer system will have the ability to receive operator messages and cancel reservations with the Contractor when notified of the cancellation by the user.

A work station with the features of an on-line terminal will be located at the Division's central office at 500 Lafayette Road, St. Paul, Minnesota and at Itasca State Park, Lake Itasca, Minnesota, and will be connected to the Contractor's main reservation system by modem or phone line. These work stations will function as on-line terminals and will have the capability to transfer data between the main system and local files for off-line processing. When connected to the main system, these work stations shall access other features as needed.

The Contractor shall be responsible for training Contractor and Division employees in the operation of all computer hardware and software related to the operation of the reservation system. The level of training shall be adequate to provide for the effective use of the software at the mutual agreement of both parties.

The Contractor shall have the capability to provide reservation information to each park via fax machines and shall be responsible for providing training adequate for the operation of the reservation system.

3. Sufficient staff to handle incoming calls for reservations. For the purpose of this proposal, "sufficient" means that callers should be able to access the reservation phone line at least once every hour.

4. A collection system whereby the Contractor will collect from the caller a reservation fee. A reservation fee as agreed upon will be charged for any campsite, group camp, group center, lodge room or cabin reserved. Fees for the option period, if exercised by the Division, are subject to negotiation but will not exceed the previous year's reservation fee by more than 20 percent.

The Contractor will accept MasterCard and Visa credit cards (and others at their option and expense) as a method of payment for phone-in reservations, and shall provide a method to accept personal checks as a means of payment for mail-in reservations.

The reservation fee is nonrefundable. The Contractor will handle cancellations which are received on the "800" number without charge and will notify the affected park. A written policy and procedures covering cancellations will be mutually developed by the Division and the contractor prior to the start of the reservation system.

5. A reporting system which will provide, as a minimum, the following information: the number of reservations taken (by park by day); the names and addresses of users; and summaries of user data collected at the time a reservation is made, in a form mutually agreed upon by the Division and the Contractor. Reports will be submitted on a monthly basis.

6. All forms needed to operate the reservation system. These forms will be printed at the Contractor's expense and provided to the Division by the Contractor at the Contractor's expense.

7. The capability to provide confirmation numbers. For each campsite, cabin or room reserved; a confirmation number will be provided to the customer and that number will be provided to the park where the reservation is made. The numbering system will include a park code number assigned by the Division.

8. The collection of data necessary to train its staff. The Contractor through its own personnel and its own expense will assemble the necessary data on each park and its accommodations for the purpose of training its own staff.

9. Assistance to the Division in collecting an inventory of each park's campsites, lodging and other facilities necessary to the operation of the Contractor's computer system. The Contractor will provide a standardized information form. This form will include campsite type, campsite length, lodging accommodations, location, description and any other necessary information.

10. A performance bond in the amount of $20,000. to the State of Minnesota to insure operation performance upon the agreement of the contract by both parties. The performance bond shall be payable to: State of Minnesota, Department of Natural Resources, Division of Parks & Recreation.

All monies earned as interest as a result of this bond shall be returned to the Contractor. The Division reserves the right to terminate the contract for cause if performance is not in the public interest.

11. A marketing plan as part of the Request for Proposal, identifying expenditures of a minimum of $10,000 per year through the life of the contract, for marketing of the reservation system. The marketing shall be as agreed upon by the Division and failure to provide marketing to the extent of the plan, documented by the Contractor, will result in payment to the Division of the balance of the $10,000 not spent.

12. Notification of specific information to each caller seeking a reservation. The Contractor shall inform each caller seeking a reservation through the Contractor's reservation system the following information.

a. An entrance fee is required to gain access to each state area and this fee is in addition to the camping, lodging and reservation fee.

b. The locations at the park where annual and daily park permits can be purchased and where the customer must check in at the park to pay camping and lodging fees.

c. Park closing hours and that the failure to arrive prior to a time to be determined at the Division's discretion will void the Division's obligation to honor the reservation for that night.

d. Other information as identified by the Division which is necessary to assure appropriate use of the overnight accommodations.

13. A reservation service starting May 1, 1990, continuously through the term of the contract ending December 31, 1992, except on those holidays agreed upon by the Division. At the option of the State the contract may be extended for a five year renewal term, expiring December 31, 1997.

14. A mailing list of reservation system users to the Division without charge upon request. The sale of any lists by the contractor is not permitted.

15. A method by which the Contractor can identify persons who will not be permitted further use of the reservation system because of abuses, etc. when such persons have been identified to the Contractor by the Division.

16. A method by which the Contractor shall exclude reservations for specific campsites, group camps, group centers and cabins upon notification by the Division for reasons of rehabilitation or other events.

Responder may propose additional tasks or activities if they will substantially improve the results of the project.

E. DEPARTMENT CONTACTS

Prospective responders who have any questions regarding this Request for Proposal may call or write:

Ronald G. Hains
Operations Manager
Minnesota Department of Natural Resources
Division of Parks & Recreation
500 Lafayette Road
St. Paul, MN 55155-4039
(612) 296-2609

PLEASE NOTE: Other Department personnel are not allowed to discuss the project with responders before the submittal of proposal deadline.

A formal question and answer period will be conducted by Mr. Hains and other Division representatives at **1 p.m. on January 17, 1990,** at the Division's office listed above. Bidder representatives are encouraged to attend.

F. SUBMISSION OF PROPOSALS

All proposals must be sent to and received by:

Ronald G. Hains
Operations Manager
Minnesota Department of Natural Resources
Division of Parks & Recreation
500 Lafayette Road
St. Paul, MN 55155-4039

not later than 2 p.m., January 24, 1990.

Late proposals will not be accepted. Submit three copies of proposal. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. Each copy of the proposal must be signed, in ink, by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project.

G. PROJECT COMPLETION DATE

The centralized reservation system will be fully operational by Tuesday, May 1, 1990.

H. PROPOSAL CONTENTS

The following will be considered minimum contents of the proposal:

1. A restatement of the objectives, goals and tasks to show or demonstrate the responder's view of the nature of the project.

2. An identification and description of the deliverables to be provided by the responder.

3. An outline of the responder's background and experience with particular emphasis on local, state, and federal government work; and identification of personnel to conduct the project, with detailed information about their training and work experience. No change in personnel assigned to the project will be permitted without the approval of the Operations Manager, Division of Parks & Recreation.

4. A detailed cost and work plan which will identify the major tasks to be accomplished and be used as a scheduling and managing tool as the basis for invoicing.

5. Identification of the level of the Division's participation in the project as well as any other services to be provided by the Division.

6. Identification of the reservation fee to be charged to each user which will be the sole source of revenue for the Contractor to cover the costs of the proposed reservation system. The State will pay nothing to the Contractor to implement the reservation system.

An alternate proposal must also be submitted to include the charge per reservation and any other differences in the proposal, if the Contractor is required to locate the reservation facility and offices within the state of Minnesota. For purposes of the alternate proposal, this facility shall house an operational manager and a sufficient number of operators to take the reservations. **NOTE: If the basic proposal is for a facility located within Minnesota this alternate need not be included. Failure to include it, otherwise, shall make the entire proposal void.**

I. EVALUATION

All proposals received by the deadline will be evaluated by representatives of the Department of Natural Resources. In some instances, an interview will be part of the evaluation process. Factors upon which proposals will be judged include, but are not limited to, the following:

1. Expressed understanding of project objectives.

2. Project work plan.

3. Project cost detail as identified by the fee per reservation made to be charged to users to cover the costs.

4. Qualifications of both company and personnel. Experience of project personnel will be given greater weight than that of firm.

Evaluation and selection will be completed by February 1, 1990. Results will be sent immediately by mail to all responders.

Minnesota Racing Commission

Notice of Contractual Positions for Assistant Veterinarian and Substitute Assistant Veterinarian

Assistant Veterinarian

The Minnesota Racing Commission is accepting applications for the contractual position of Assistant State Veterinarian for the 1990 race meet at Canterbury Downs in Shakopee, Minnesota. Approximate dates for employment are from mid-April through mid-October, 1990. Per Diem compensation is $210.00 maximum per race day worked; $100.00 maximum per non-racing day worked.

Qualified candidates must have served in a regulatory veterinary capacity in previous years, and must be licensed to practice veterinary medicine in the State of Minnesota (or eligible for licensure).

Resumes and letters of application should be sent to Dr. Camille McArdle, Minnesota Racing Commission, 11000 West 78th Street, Suite #201, Eden Prairie, Minnesota 55344. Applications must be received by 4:30 p.m. on Wednesday, January 31, 1990.

Substitute Assistant Veterinarian

The Minnesota Racing Commission is accepting applications for the contractual position of substitute Assistant State Veterinarian for the 1990 race meet at Canterbury Downs in Shakopee, Minnesota. Approximate term of the contract will run from mid-April through mid-October, 1990, with incumbents working on an as-needed/on-call basis. There are no guarantees of maximum or minimum days of work to be performed. Per Diem compensation ranges from $50.00 to $165.00 depending on shift worked and experience level of applicant.

Qualified candidates must be licensed to practice veterinary medicine in the State of Minnesota (or eligible for licensure).

Resumes and letters of application should be sent to Dr. Camille McArdle, Minnesota Racing Commission, 11000 West 78th Street, Suite #201, Eden Prairie, Minnesota 55344. Applications must be received by 4:30 p.m. on Wednesday, January 31, 1990.

Minnesota Racing Commission

Notice of Contractual Position of State Stewards

State Stewards

The Minnesota Racing Commission is accepting applications for the contractual position of State Steward (two positions) for the 1990 race meet at Canterbury Downs in Shakopee, Minnesota. Approximate dates of employment are from mid-April through mid-October, 1990. Per Diem compensation is $230.00 per day/six days per week.

Qualified candidates must have served as a steward, racing secretary, assistant racing secretary, starter, placing judge, patrol judge, paddock judge, or clerk of scales at one or more recognized race meetings for a period of not less than 60 days per year during at least three of the five preceding calendar years or has had at least five years experience as a jockey.

Resumes and letters of application should be sent to the Minnesota Racing Commission, 11000 West 78th Street, Suite #201, Eden Prairie, Minnesota 55344. Applications must be received by 4:30 p.m. on Wednesday, January 31, 1990.

Department of Transportation

Request for Proposals for Inter-City Bus Operations from Morris, MN to Minneapolis

The Minnesota Department of Transportation is seeking individuals, firms, and/or joint ventures to submit proposals for the design, promotion, **actual** operation and evaluation of a one year maximum inter-city bus service **demonstration** project. The project would be designed to provide same day round-trip service from Morris, MN into Minneapolis. Because the lack of effective marketing is viewed as the major barrier to profitability, marketing strategy will be highly rated in ranking proposals. Proposers may find a team approach utilizing a service provider and marketing firm more advantageous in developing concepts and strategies for a profitable service design.

The Department of Transportation wants the project to demonstrate whether this regular route service can be operated profitably. Funding will be provided by the State of Minnesota through the Transit Assistance Program. The successful proposal will be innovative in its **project** service concept, marketing approach and service delivery. The submission date for completed proposals is 3:30 p.m. February 6, 1990. Late proposals will not be accepted. This Request for Proposal does not obligate the State to complete the project and the State reserves the right to cancel this solicitation if it is construed to be in its best interest.

A copy of the Request for Proposal may be received by contacting Frank Bibeau, Office of Transit, Room 815, Transportation Building, St. Paul, Minnesota 55155, telephone (612) 296-2036.

Department of Transportation (Mn/DOT)

Electrical Services Division Section

Request for Facilities Management Consultants to Develop a Maintenance Management System for Traffic Signals and Freeway Lighting

Mn/DOT Electrical Services Section is advertising for experienced facilities management consultants to develop a comprehensive maintenance management system for traffic signals and freeway lighting. This includes database design for a record generating, work tracking system capable of statewide communications.

The system must be capable of managing:

- 1000 signal installations with 14,000 records (1 + Megabytes), and approximately 400 signal maintenance activities monthly.
- 25,000 freeway lighting units with 4000 records (1 Megabytes), and approximately 250 lighting maintenance activities monthly.

A request for technical proposal will be available to interested applicants prior to January 12, 1990.

Further information about the maintenance management system and the statewide communications and maintenance activities is available. Contact:

Tom Grimes
Minnesota Department of Transportation
Electrical Services Section
Fort Snelling Complex
6000 Minnehaha Avenue
St. Paul, Minnesota 55111
Phone (612) 297-4426

A copy of the Expression of Interest must be received by January 12, 1990.

ISSUE DATE:	January 2, 1990
PRE PROPOSAL CONFERENCE:	January 18, 1990
PROPOSALS DUE:	February 16, 1990
FINALISTS NOTIFICATION:	February 26, 1990
INTERVIEWS:	March 9, 1990
SELECTION:	March 12, 1990

Non-State Public Contracts

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as $1,000. Contact the editor for further details.

Metropolitan Council

Invitations for Sealed Bids for Printing Services for Metropolitan Council

The Metropolitan Council, Mears Park Centre, 230 E. Fifth St., St. Paul 55101, is requesting sealed bids to print the Metro Monitor.

Specifications for printing the publication can be obtained by contacting Nadine Farrington, publications unit, at 291-6478.

Sealed bids will be accepted by the Metropolitan Council until 4 p.m. January 18, 1990. The Council's purchasing officer will open the sealed bids publicly in the Council offices at 10 a.m. January 19.

All sealed bids shall be marked "Bids to print Metro Monitor—to be opened on January 19." Bids shall be mailed to Nadine Farrington, Community Services Department, Metropolitan Council, Mears Park Centre, 230 E. Fifth St., St. Paul, MN 55101.

The Metropolitan Council reserves the right to reject any or all bids, and to waive any minor irregularities or deviation from the specifications.

Supreme Court Decisions

Decisions of the Supreme Court Filed 29 December 1989

C1-89-1623 In re Petition for Disciplinary Action against Robert V. Maki, an Attorney at Law of the State of Minnesota. Supreme Court.

Indefinitely suspended. Per Curiam.

Orders

CX-89-888 State of Minnesota v. David Vincent Steele, Appellant. Court of Appeals.

Denied. Popovich, C.J.

Announcements

Campaign Finance Meeting: A public meeting discussion registration and reporting requirements of principal campaign committees, political committees, and political funds will be held Friday, January 12, 1990, in the State Office Building, Room 181, 100 Constitution Ave., capitol complex, St. Paul, from 9:30 a.m. to 11:30 a.m. Ethical Practices Board staff will review current laws and rules governing campaign finance disclosure. For information, contact the Ethical Practices Board, 625 North Robert St., St. Paul, MN 55101-2520, (612) 296-5148.

Environmental Quality Board (EQB): Comments are due January 24 on Environmental Assessment Worksheets (EAWs) for the following projects at their listed regional governing unit: **PAA Aitkin Peat Mining Project,** Minn. Dept. of Natural Resources (612) 296-9562; **Runway Use System, Minneapolis-St. Paul International Airport,** Metropolitan Airports Commission (612) 726-1892; **Upgrade of Randall Wastewater Treatment Facility,** Minn. Pollution Control Agency (612) 296-7794. Scoping EAWs will be performed on the following projects with meetings scheduled as listed: **West Publishing/Eagan Corporate Center,** City of Eagan (612) 454-8100, with a meeting on Jan. 18 at 4 p.m. in the Eagan City Hall, 3839 Pilot Knob Road, Eagan; **Ritz Block Development,** City of Minneapolis (612) 673-2351, with a meeting Jan. 16 at 3:30 p.m. in Room 210A Minneapolis City Hall; **I-494 Reconstruction, Minnesota River to I-394,** Minn. Dept. of Transportation (612) 593-8400, with a meeting scheduled Jan. 17 at 7 p.m. at the Edina Community Center, 5701 Normandale Road, Edina. A draft environmental impact statement (DEIS) is available for the **Consolidated End Use Concept Sand and Gravel Mining Operations and Reclamation Plans for Apple Valley,** EQB (612) 431-8800, with a meeting scheduled for Jan. 23 at 7:30 p.m. at the Apple Valley Community Center, 14603 Hayes Road, Apple Valley. The **Camp Ripley Demolition Debris Disposal Site** will have an alternate review, copies of the EAW will be available for public review at the Little Falls City Library, Pine River Kitchigami Regional Library and the Facilities Management Office, Camp Ripley. A petition has been received for environmental review of the **KCHK Radio Tower, Montgomery** by LeSueur County, contact Terry Bovee, zoning administrator, LeSueur County, Box 146, County Highway Bldg., LeCenter, MN 56057. There will be a public hearing on the matter of the **Alteration of the Cross Section of Unnamed Wetland (19-430W)** in Sections 14 and 15, Township 112 North, Range 20 West, Dakota County, by Herman Ohmann, with the hearing on Jan. 9 at the Northfield City Hall, Northfield. To discuss informal disposition call William A. Szotkowski, special assistant attorney general (612) 296-0690.

Check Bulk Chemical Storage Tanks: Because of winter temperatures, officials at the Minnesota Department of Agriculture are advising owners of bulk fertilizer and pesticide tanks to check for leaks that may cause chemical spills. "By immediately tending to any accidents brought on by cold temperatures owners can prevent adverse effects on the environment," said Roger Mackedanz, pesticide regulatory specialist. "It is also a good idea to periodically check your tanks and containers throughout the entire winter." Owners who discover leaks in tanks or site gauges are asked to immediately report them to the Minnesota Department of Agriculture by calling (612) 649-5451, metro, or 1-800-422-0798, Greater Minnesota.

Funds for Energy Assistance: The federal government has allocated $55.2 million for the Minnesota Energy Assistance Program. Minnesota's share for fiscal year 1990 is an increase of $400,000 over last year's funding, according to Commissioner Joe Samargia, Dept. of Jobs and Training. More than $44 million of the funds are being made available for distribution immediately to local delivery agencies. The Energy Assistance Program helps low-income households with the costs associated with keeping heat in the house. Services provided include financial help to pay heating bills, conservation and repair activities, consumer education and crisis assistance. Last year, more than 108,000 Minnesota households received energy assistance. Households eligible for assistance are those with incomes at or below 135 percent of the poverty guidelines. For a household of two, the income limit is $10,996. For a household of four people, it is $16,336. People wishing to apply for energy assistance should contact their local delivery agency for an appointment or call 1-800-652-9747.

Rental Housing Assistance: The Metropolitan Council Housing and Redevelopment Authority will take applications from low-income families, elderly people and people with physical and developmental disabilities for placement on a waiting list for the Section 8 rent assistance program on Thursday, Jan. 18, 1990. Applications will be taken from 8:30 a.m. to

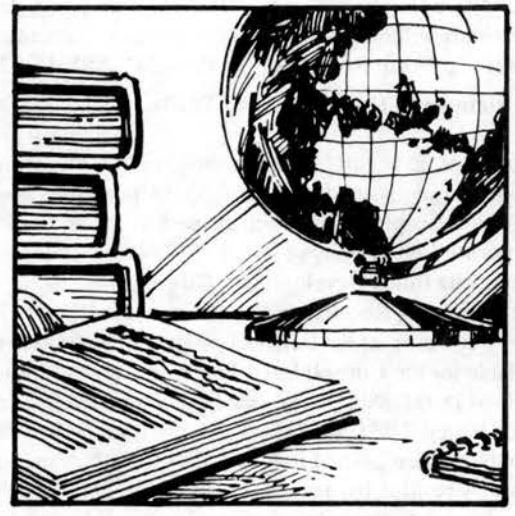
4 p.m. ***on that day only*** for the one- and two-bedroom waiting lists. People interested in applying must do so in person. Applications will be taken at 25 Metro Square Bldg., 7th and Robert Streets, in downtown St. Paul, as well as selected suburban locations. The Section 8 program helps people with low incomes rent housing in any of 98 communities in Anoka, Carver, suburban Hennepin (outside Minneapolis), suburban Ramsey (outside St. Paul), and Washington Counties. Applicants will be placed on a waiting list until certificates or vouchers become available. Priority placement is given to people who are homeless, living in substandard housing, paying more than 50 percent of income for rent, or are displaced by natural disaster, government action or domestic violence. For the one-bedroom list, applicants must be either 62 years or older, handicapped, disabled, or married with no dependents. For the two-bedroom list, families must have at least one—but not more than two—dependents. Family income cannot exceed $14,800 for one person, $16,900 for two people, $19,050 for three people, and $21,150 for four people. Applications will also be taken at the following locations: in western Hennepin County at Mound City Hall, 5341 Maywood Road; in southern Hennepin County at Southdale Regional Library, 7001 York Av. S., Edina; in northern Hennepin County at Brooklyn Park Community Library, 8600 Zane Av. N., Brooklyn Park; in Carver County at Carver County HRA, 308 N. Broadway, Carver; in Anoka County at Anoka City Hall, 2015 1st Av. N., Anoka, and Community United Methodist Church, 950 Gould Av., Columbia Heights; in Washington County at the county government center, 14900 N. 61st St., Stillwater, and the Washington County HRA, 321 Broadway, St. Paul Park. Call the Metro HRA at 291-7428 for more information. The Section 8 program is an equal housing opportunity program.

Get Smart with these Education Resources

Board of Teaching-Licensure Rules 1987. *Minnesota Rules* Chapter 8700. Requirements for the issuance and renewal of all licenses, from vo-tech and hearing impaired to librarians and media generalists. Includes the Code of Ethics for Minnesota Teachers, and standards for teachers prepared in other states. Code #3-74, $7.00 plus tax.

Education Directory 1988-89. All the elementary and secondary schools in the state. Includes Minnesota school districts, superintendents, boards, principals, district addresses, phone numbers and enrollment figures. Code #1-93, $7.00 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add $1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. ***Prices are subject to change.***



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Good Business Decisions are Made with Good Information

Minnesota Manufacturer's Directory. More than 7,000 entries that include name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2, $76.50 plus tax.

Business and NonProfit Corporation Act 1989. A handy reference that contains all the state laws governing the establishment and conduct of corporations in Minnesota. Includes *Minnesota Statutes* Chapters 80B, 302, 302A and 317. Code #2-87, $15.00 plus tax.

Minnesota Guidebook to State Agency Services 1987-1990. Packed with information to help you cut through red tape for easy and fast dealing with state agencies, this treasure of information opens state government to you. Its 640 pages describe agencies, how they work, listing contacts, addresses, phones, and license requirements, grants, forms, reports, maps, publications and much more. Gives historical, statistical and important data useful in hundreds of ways. Code #1-4. $15.00 plus tax.



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Resolve Bargaining Disputes and Grievances

Public Employment Labor Relations Act 1987. The collective bargaining rights and responsibilities of public employers and public employees. Details employees' right to organize and the legislature's authority. Code #2-90, $5.00 plus tax.

Public Sector Labor Relations in Minnesota. A practical resource and training guide analyzing public sector labor relations in Minnesota. A special emphasis on contract administration, grievance handling and the arbitration process. 286 pages, paperbound. Code #10-51, $12.50.

Minnesota Guidebook to State Agency Services 1987-1990. A treasure of helpful, useful, and interesting information about Minnesota state government. This important resource guides you through applications, fees, licenses, reports, history and travel highlights. Describes agencies in detail, giving addresses, phones and contact people. Code #1-4, $15.00 plus tax.



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

A Wise Investment—the rules of the game

Securities Laws, 1987. Governs the activities of broker/dealers, agents and investment advisors. *Minnesota Statutes* Chapter 80A. Code #2-12, $6.00 plus tax.

Securities Rules, 1988. Rules implementing the legislative mandate. Subjects include equity securities and investment companies. *Minnesota Rules* Chapter 2875. Code #3-5, $14.00 plus tax.

Minnesota Guidebook to State Agency Services, 1987-1990. Packed with information to help you, this 640-page resource guides you through license requirements, forms, fees, reports, services, grants, and more. Its listing of addresses, phones, and agency descriptions cut red tape for easy and fast service from state agencies. Code #1-4, $15.00 plus tax.



TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add $1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

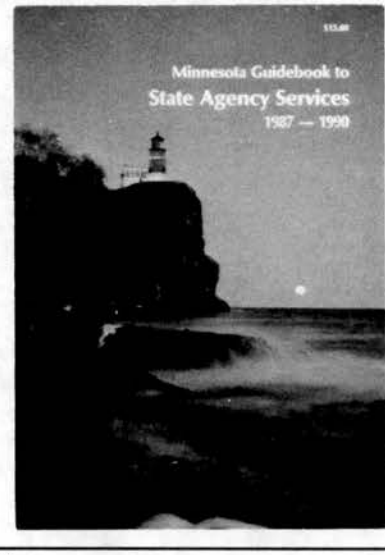
A Beacon to Guide You—Minnesota's Owners Manual

You'll enjoy smooth sailing through your business with state government with the ***Minnesota Guidebook to State Agency Services 1987-1990.***

Considered one of the finest resources to Minnesota's state agencies, this valuable and useful book is a treasure awaiting your discovery.

Packed with information to help you, its 640 pages guide you through license requirements, forms, fees, reports, services, grants, hotlines, maps, history, travel highlights and more. Its listing of addresses, phones, and agency descriptions cuts red tape so you get easy and fast service.

Copies cost $15.00 (+90¢ tax, MN residents only). Make checks out to the "State of Minnesota" and send to the Print Communications Division, 117 University Avenue, St. Paul, MN 55155. MasterCard and VISA orders can be taken over the phone by calling (612) 297-3000 or toll-free in Minnesota 1-800-652-9747.



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Welcome wildlife to your property



Landscaping for Wildlife. Attract wildlife to your land and gardens, farms and woodlots by spreading nature's welcome mat. Songbirds, butterflies, hummingbirds, pheasants, deer and other wildlife are drawn through these gardening tips and landscaping techniques that add natural beauty to your property and habitat for wildlife. Over 70 color photos and 144 pages give you simple, enjoyable, and inexpensive methods for adding the right touches for a "wildlife party" on your grounds, whether urban or rural. Stock #9-15, $8.95 plus tax.

Woodworking for Wildlife. Songbirds, owls, ducks, geese, loons and other wildlife will show appreciation for your skills by adding a "wild" dimension to your property. Carefully illustrated with a variety of game bird and mammal box designs, this booklet provides important tips on the placement of next in proper habitat areas and maintenance requirements. Construction diagrams included. 47 pp. Stock #9-14, $3.95 plus tax.

Wildlife Set. Order both books above as a set and save 15%. Stock #9-20, $10.95 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add $1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**

Publication editors: As a public service, please reprint this ad in your publication, either as is, reduced, or redesigned to suit your format.

Getaway in Style



Room at the Inn Wisconsin. Includes hard-to-find lodgings in out-of-the-way places, as well as in Wisconsin's major metropolitan areas and most popular vacation destinations. 224pp. Stock #19-3. $9.95 plus tax.

Room at the Inn Minnesota. Looking for a weekday or weekend get-away? For a business meeting or simply pleasure? This is the only guide to more than 50 historic "Bed & Breakfast" homes, hotels, and country inns and all are within a day's drive of the Twin Cities. 127pp. Stock #19-72, $9.95 plus tax.

Roughing It Elegantly. A guide for the canoe camper visiting the BWCA, Voyageurs Park and Quetico Provincial Park. Full of practical tips and information: planning, organizing, packing, site location, and camp set-up. Simple, creative, enjoyable meals are a major feature. 159pp. Stock #9-3, $9.95 plus tax.

Guide to Wilderness Canoeing. A unique blend of practical information and personal philosophy. Subjects covered include: spring and fall canoeing, traditional versus modern canoe design, and different paddling techniques. 143pp. Stock #19-81, $6.95 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add $1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**

Publication editors: As a public service, please reprint this ad in your publication, either as is, reduced, or redesigned to suit your format.



Armchair Adventures in Minnesota

Our Minnesota. More than 100 full-color photos by Les and Craig Blacklock portray Minnesota in her seasonal beauty, with text from the personal journal of Fran Blacklock's thirty years of traveling the state. Stock #9-23. $12.95 plus tax.

Minnesota Geographic Names. Place names by the thousand, with even more intriguing historical tidbits, in this over 800-page book. A must for the Minnesota-lover! Stock #17-13, $12.95 + tax.

Historic Sites and Place Names of Minnesota's North Shore. John Fritzen, long time employee of the Minnesota DNR draws upon his almost 40 years as a forester, mostly spent on Minnesota's colorful and legendary North Shore, to regale readers with tales of timbermen, pioneer settlers, miners, commercial fishermen and others. Black and white photos. Stock #9-11. $3.50 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add $1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. ***Prices are subject to change.***

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Minnesota's Bookstore

Publications, Services, Subscriptions

Order Form on Back—For Information, Call 297-3000

NEW PUBLICATIONS:

Minnesota Rules 1989. An 11-volume set of rules from the approximately 75 agencies empowered to promulgate rules by the Administrative Procedure Act. Stock #18-200, $160.00 + tax, or $15 for individual volumes. ***NOTE:*** This is a subscription service for the set, entitling subscriber to updates as they are produced.

Chemical Dependency Programs Directory 1989. Features comprehensive listings for programs ranging from Prevention/Intervention Services to a wide range of Treatment Services. Each type of program includes an alphabetical listing of facilities and brief narrative description of programming provided. Stock No. 1-12, $15.00 plus tax.

Process Parenting—Breaking the Addictive Cycle. A training manual that provides parent education and treatment techniques for professionals who work with recovering chemically dependent parents or dysfunctional families. Stock No. 5-4, $15.00 plus tax.

It's Never Okay: A Handbook for Professionals on Sexual Exploitation by Counselors and Therapists. Therapeutic and prevention issues and employer responsibilities are discussed in this task force report, as well as recommended curriculum for training institutions for counselors and therapists. Stock No. 14-16, $19.95

Hazardous Waste Rules 1989. Governs the storage, treatment, utilization, processing, transfer, and disposal of hazardous waste. Contains the complete requirements for application for permits for discharge of hazardous waste on construction and operation of a treatment facility. Stock No. 3-71, $16.95 plus tax.

Environmental Quality Board Rules 1989. Essential for long-term planning. Details the scope, purpose and objectives of the rules. Explains the need for environmental impact statements and the review process. Includes a special section on large energy facilities and high voltage transmission lines. Stock No. 3-54, $5.00 plus tax.

OTHER PUBLICATIONS

Our Minnesota. More than 100 full-color photos by Les and Craig Blacklock portray Minnesota in her seasonal beauty, with text from the personal journal of Fran Blacklock's thirty years of traveling the state. Stock #9-23. $13.95 plus tax.

Historic Sites and Place Names of Minnesota's North Shore. John Fritzen, long time employee of the Minnesota DNR draws upon his almost 40 years as a forester, mostly spent on Minnesota's colorful and legendary North Shore, to regale readers with tales of timbermen, pioneer settlers, miners, commercial fishermen and others. Black and white photos. Stock #9-11. $3.50 plus tax.

Landscaping for Wildlife. Attract songbirds, deer, butterflies, hummingbirds, pheasants, and other wildlife to your property by using the tips in this 144-page, 4-color book. Stock #9-15, $8.95 plus tax. See "Special Set Offer" below.

Woodworking for Wildlife. Carefully illustrated with a variety of game bird and mammal box designs, including maintenance requirements and important tips on placement of nests in proper habitat areas. 47 pages with diagrams. Stock #9-14, $3.95 plus tax. See "Special Set Offer" below.

"Special Set Offer." Save 15% by purchasing the two books together on wildlife mentioned above. Stock #9-20, $10.95 plus tax.

Minnesota Manufacturer's Directory, 1989. More than 7,000 entries listing name, address, phone, staff size, sales volume, market area, year of establishment, type of firm, CEO, sales or marketing and purchasing managers, and four manufactured products. Stock #40-2. $76.50 + $4.59 sales tax.

SUBSCRIPTIONS:

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court Calendar, Supreme Court and Tax Court Decisions. Annual subscription $130; Trial Subscription (13 weeks) $40.00; Single copies $3.50.

Workers Compensation Decisions. Volume 40. Selected landmark decisions of the Worker's Compensation Court of Appeals. Annual subscription. $105.00.

SERVICES:

Mailing Lists. Lists of Minnesota licensed professionals and permit holders. Write or call (612) 297-2552 for a free mailing list catalog which contains available lists, selections, formats, pricing and ordering information.

American Flag. Perfect for home or office. 3′ x 5′ with embroidered stars. Heavy nylon bunting. Code No. 6-1. $21.00, plus tax.

1989 Lake Map Index. Listing over 4,000 lake maps. Free.

1989 Publication Catalog of Minnesota's Bookstore. Lists publications available through Minnesota's Bookstore. Free.

State Register Binder. Durable 3½ inches, forest green binders imprinted with the *State Register* logo. $6.50 plus 39¢ tax.

STATE OF MINNESOTA

Department of Administration

Print Communications Division

117 University Avenue • St. Paul, Minnesota 55155

Metro Area 612-297-3000 (FAX: 612-296-2265)
In Minnesota, toll free 1-800-652-9747

Second Class
U.S. Postage
Paid
Permit No.
326630
St. Paul, MN

Please notify us of any address changes so that we can continue to give you our best service. Include your old mailing label to speed your service.



TO ORDER:

Complete attached order blank. Include either your VISA/MasterCard or American Express credit card number with the expiration date, or a check/money order made out to the State of Minnesota. Orders by phone are accepted when purchasing with your credit card. Please include a phone number where you can be reached during the day in case we have questions about your order.

Please include 6% sales tax and $1.50 postage and handling.

PREPAYMENT REQUIRED.

Merchandise may be returned if it is in resalable condition with a $1.50 restocking charge.

NOTE:

STATE REGISTER and other subscriptions do not require sales tax or postage and handling fees.

MasterCard VISA

Metro area (612) 297-3000
In Minnesota toll-free 1-800-652-9747
Facsimilie (FAX) (612) 296-2265

Prices subject to change without notice.

Please allow about 6 weeks for delivery. In a hurry? Stop by our Bookstore. Bookstore Hours 8 a.m.-4:30 p.m., Monday through Friday.

For Your Convenience, photocopy this order blank

Code No.	Quantity	Description	Item Price	Total

Name or Company			**Subtotal**	
Attention			Plus 6% tax MN Residents Only	
Address				
City	State	Zip	Postage/Handling (per order)	**$1.50**
American Express/VISA/MasterCard No.			**TOTAL**	
Signature	Expiration Date	Telephone (During Day)		

Proposed Language from Commentors [MN Propane Gas Ass'n]

LIQUEFIED PETROLEUM GAS FACILITIES AND PIPING

Sec. 2215. In addition to the requirements of this chapter for gas piping, the facilities and piping for use with liquefied petroleum gas shall meet the following requirements:

Liquefied petroleum gas facilities shall conform to approved standards. Liquefied petroleum gas facilities and their locations shall be approved by the building official and shall conform to state and local fire-prevention regulations.

Where liquefied petroleum gas facilities serve more than one customer through separate piping systems, each system shall be identified in a manner satisfactory to the building official.

Liquefied petroleum gas facilities shall be so placed as to be readily accessible for inspection, reading, testing and shutting off the gas supply. Service piping and main supply shutoff valves shall be outside of the building. Main supply valves shall be of approved type and readily accessible.

Gas piping inlets shall be located with respect to the proposed liquefied petroleum gas facility location in accordance with the requirements of this section.

Pipe-joint compounds used on threaded connections shall be insoluble in liquefied petroleum gas.

Every valve and appurtenance used in liquefied petroleum gas systems shall be designed and approved for use with liquefied petroleum gas.

Discharge from relief valves shall be into open air and shall be not less than 5 feet horizontally away from any opening into a building which is below the discharge.

LP Gas appliances, LP Gas applications and installations must be in accordance with the rules of the Minnesota State Fire Marshal and this code.

✓20-day comment period requested

Copies of Proposed Rules ***BCSD***

The BCSD must make available copies of the proposed rules at the hearing.

EXHIBITS ***CWH*** PROVIDED IN LIST FROM PEGGI WHITE

Introduce as exhibits the documents required to be filed with the ALJ per:

1400.0300,	Subpart 1A	Proposed Rules w/ certification of approval as to form by the revisor of statutes attached
	Subpart 1B	Order for hearing that contains the required info
	Subpart 1E	Statement of Need and Reasonableness
1400.0600		PREFILED DOCUMENTS

These documents were not filed 25 days prior to the hearing but we have been informed that this defect is harmless because no one ~~required~~ requested a review of the documents prior to the period of the BCSD's submission.

+ Solicited Opinions ✓
Defect In Notice to Adopt W/o A Hearing ✓

Showing ***CWH***

The agency makes its affirmative presentation of facts showing the need for and the reasonableness of the proposed rules and can present any other evidence it deems necessary.

WE WISH TO RELY ON OUR STATEMENT OF NEED AND REASONABLENESS FOR OUR AFFIRMATIVE PRESENTATION OF FACTS REQUIRED BY THE RULES. ✓ X AI will do this

EXCEPTION: MECHANICAL CODE HEARING

ISSUE 1: Modifying Language of Minn. Rules 1346.2215. The Attorney General is of the opinion that this modification deletes Section 2215, replacing it with the language stated above in the proposed rules.

Legal Agrument:

1. This type of modifying language was used throughout the proposed rules.

2. The proposed language of the rules was approved by the reviser of statutes.

3. Offer A.G. Opinion Memo into Evidence.

****"NOT SUBSTANTIAL CHANGE" Argument if ALJ requires BCSD to change language to: "... is deleted and replaced with the following."***

1. We believe that the language in the proposed rules states precisely what the new language would states; t/4 the change is merely a grammatical one.

ISSUE 2: Table 21-C of the Minnesota Rules 1346.2133

The BCSD is aware that TABLE 21-C of the proposed Minn. Rules 1346.2133 which was printed in the State Register is the incorrect table. This printing error is the result of an inadvertent mistake by the Revisors Office. (The correct Table was submitted by the BCSD; however, the Revisors Office printed the old Table. So, the footnotes do not coincide.) (p. 1549)

The Attorney General's Office is of the opinion that this error is not a substantial one. The BCSD wishes to respond to any comments heard today regarding this error during the 3-day response period following the close of the submissions period.

Opportunity for Questions

Interested persons are given an opportunity to address questions to the BCSD representatives and witnesses or to interested persons making oral statements.

Opportunity for Presenting Statements and Evidence

Interested persons are given the chance to present oral and written statements and evidence re the rules.

Questioning by ALJ

The ALJ can question all persons, including BCSD.

Further Agency Evidence ***BCSD***

The BCSD can present any other evidence it wants and interested persons can respond.

General Structure of Hearings

Registration of Participants (General)

All persons intending to present evidence or ask questions must register with the ALJ b/4 presenting their evidence or questions.

1. People can indicate to the ALJ in writing their desire to be informed of the date that the ALJ's report will be available.

2. People can indicate to the BCSD in writing if they want to be informed of the date that the BCSD adopts the final rules, if the agency does so, and files the rules with the SoS.

Notice of Procedure (ALJ)

The ALJ:

1. Convenes the hearing and explains the purpose of the hearing the the procedure which will be followed at the hearing.

2. Notifies the people present that the record will remain open for 5 working days following the hearing, OR FOR A LONGER PERIOD NOT TO EXCEED 20 CALENDAR DAYS IF HE SO ORDERS, for receipt of written statements concerning the proposed rules. Also states that the statements will be available for review at the ALJ's office.

REQUEST 20 DAYS

3. Notifies all persons that, WITHIN 3 BUSINESS DAYS AFTER THE CLOSE OF THE SUBMISSION PERIOD, any person, INCLUDING THE AGENCY, may respond in writinig to any new information submitted, and that such responses will be included in the rulemaking record.

Registration of Lobbyists

The ALJ advises persons present re the requirements of the lobbyists per statute.

Agency Representatives ***CWH AND ALL BCSD REPRESENTATIVES***

The BCSD must identify themselves for the record.

ELEVATOR CODE ERRATA

Page 1619. Rule 1305.5105 in the third line we would like to drop the word "major" as a modifier of the word alteration because there is no definition in the ANSI Standard nor the proposed code to define what it means. The term alteration by itself is defined.

Page 1620. Rule 1035.5108 item subscript (a). In the last sentence we need to insert the word "are" between the words there and more so the sentence will read: When there are more than four elevators ... etc.

Page 1621. Rule 1035.5108 item (e)3 exception (top of page 1621) We proposed to drop the initials UBC preceding Section 5107(e)6 and change the reference to 5108(e)6 in order to avoid the confusion that could arise in referring to the printed information in Chapter 51 of the Uniform Building Code when the reference is to a following section of this new proposed rule.

Rule 1305.5112 A 17.1-1987 ANSI Rule 208.1 is amended to read as follows: All machines shall be of the traction type. Winding drum machines shall not be permitted on new elevator installations nor replacements on existing installation. This language is essentially the same as exists in MN Rule 1320.0600 Subp. 3. The elevator code committee desires that this item remain in the code.

Page 1624. Rule 1305.5118 add the following to item (b) which was inadvertently omitted in the transfer of information from the existing Rule of 1320.0300 Subp. 3 which reads: "Any installation which is materially changed subsequent to the date of enactment of this code shall comply with all of the requirements covering a new installation. A material change shall be defined as any change which moves the location, increases or decreases the length of travel, changes the type of operation, increases the speed or carrying capacity, or changes the types of power supply of an existing installation." The inclusion of this item retains what is currently in the code.

ANSI A17.1-1987 Rule 110.13 Entrances, Swing Type is amended to read: Horizontal swing doors, either single-section or center-opening two-section, shall not be permitted on new elevator installations nor as replacements on existing installations except the administrative authority may approve such installation if the conditions are such as to make it impossible to install other than swing doors.

ANSI A17.1-1987 Rule 210.1a Types of Operating Devices is amended by adding the following paragraph to the existing language.

210.1a Types of Operation Devices. All operating devices shall be of the enclosed electric type. Rope or rod operating devices actuated directly by hand, or rope operating devices actuated by wheels, levers, or cranks, shall not be used on new installations.

Such types of operating devices must be removed from existing installations and replaced as new. This replacement action will not be considered as a material change.

The correlating language found in the existing MN Rule 1300.0600 was requested to be retained by the elevator committee for clarity in application. It has been relocated in its appropriate section of ANSI A17.1-1987 with wording changes that fit the application and not intended to change the intent of the current rule.

ANSI A17.1-1987 Rule 204.2d Side Emergency Exits is amended to read: Side emergency exits on elevator cars shall not be permitted.

ANSI A17.1-1987 Rule 301.7 Car Enclosures, Car Doors and Gates and Car Illumination is amended by adding the following exception: Exception; side exits. Side emergency exits on elevator cars shall not be permitted.

ANSI A17.1-1987 Rule 1603.6 Car Enclosures, Car Doors and Gates, and Car Illumination is amended by adding the following exception to the section: Exceptions; side exits. Side emergency exits on elevator cars shall not be permitted.

ANSI A17.1-1987 Rule 1708.3 Car Emergency Exits is amended as follows:

1708.3a top Emergency Exits (unchanged).

1708.3b Uphill Emergency Exit This section is to be deleted in its entirety and the following language substituted in its place.

Side emergency exits on elevator cars shall not be permitted.

1708.3c Emergency Exit Unloading Platforms (deleted).

ANSI A17.1-1987 Rule 1803.4 Car Enclosures, Car Doors and Gates and Car Illumination is amended by adding the following exception to the section. Exception; side exits. Side emergency exits on elevator cars shall not be permitted.

MECHANICAL CODE ERRATA

We offer the following information as proposed errata to the published document of the State Register dated January 2, 1990, Volume 14, Number 27.

Proposed Mechanical Code Rule 1346. Page 1533. Statement of Need for and Reasonablenes of the Proposed Rule.

1346.0608 - add the word "is" after the first word of the paragraph to read: This is a new section, etc.

1346.0710 - change the word "test" to text.

Page 1535. 1346.2122 - change the last word in the first line from "in" to "on" which would then read "The amendment emphasizes that the operating instructions for the equipment installed must remain in on the job for the owners use.

1346.2127 - In the third line change the word "is" to "if". so that the last statement would read "this section identifies that if that condition should arise."

The following errata is found in the proposed rules as submitted.

Page 1545. 1346.2108. Item #1. 2nd line changes the word "damage" to "injury" Equipment is damaged. People are injured.

Page 1549. The wrong table No. 21-C is printed and a new table should have been substituted in its place. That table is available for your review. The footnotes are based on the new Table No. 21-C.

Page 1553. Section 2215 as printed in the State Register has been misunderstood. After conversation with Senior Assistant Revisor Craig Lindeke and Special Assistant Attorney General Charlene Hatcher the proposal as printed would delete the items of the 1988 UMC found in Section 2215 and the language as printed will be the amended section. There may be comments on this section from attendees of this hearing.

STATE BUILDING CODE ERRATA

We offer the following errata to Rule 1305

Page 1570 Statement of Need and Reasonableness of the proposed rule.

Rule 1305.1100 -- The statement should be withdrawn because the companion rule has been withdrawn.

The Statement of Need and Reasonableness was inadvertently omitted for rule change 1305.1100 for the definition of Dwelling unit. The change to the definition of the state code has been created by the revisors office in changing the manner in which the section of the code is addressed.

Rule 1305.1795 Table 5-E the number 6 in parenthesis should be deleted from the line item of Group E occupancies. It is appropriate to have the footnote applicable for all occupancies in keeping with rule 1305.1600 which amends Section 510(c) of the Uniform Building Code.

Rule 1305.2100, the reference to Section 802(b) should read Section 802(c).

Page 1572 -- Rule 1305.4950 Table 23-A -- This statement should likewise be withdrawn because the companion change to the rule has been withdrawn.

Page 1571. Rule 1305.3860 in the statement of need and reasonableness the word "Division" should be deleted. This is to keep the rule as published in the 1988 Code.

Page 1584. Rule 1305.3860 Section 1215. Delete the word and number identified as "Division 1" from the language of the rule. This is to keep the rule langauge as published in the 1988 code.

PLUMBING CODE ERRATA

The following items are errata to the Plumbing Code

Page 1605. Rule 4715.0420 preceding item 6M the ASTM should not be included following the title of General Drainage.

Page 1606. Rule 4715.0800 third paragraph has deleted the phrase "provided exposed parts in contact with water." This phrase should not be deleted but retained in the code as presently written.

Page 1610. Rule 1715.2110 in the heading of the columns the words Only allowed where no back presure is possible is intended to apply to the three right hand columns collectively.

page 1611. Rule 4715.2190 the third paragraph. We would like to substitute the word "designated" for the word approved in this item.

OFFICE OF ADMINISTRATIVE HEARINGS
RULE HEARING PROCEDURES

This rulemaking hearing is being conducted by an Administrative Law Judge from the Minnesota Office of Administrative Hearings. The office is an independent agency of state government and is not associated in any way with the agency which is proposing to adopt rules today.

This hearing is part of the process by which agency rules are adopted under the Minnesota Administrative Procedure Act. During this rulemaking proceeding, the agency must (1) document its statutory authority to adopt the proposed rule, or to repeal or amend an existing rule; (2) demonstrate that it has fulfilled all relevant substantive and procedural requirements of law or rule; and (3) demonstrate the need for and reasonableness of each portion of the proposed rule with an affirmative presentation of facts. There will be an opportunity for the public to ask questions and to make oral statements following the agency presentation. As noted in the Procedures Section, there will also be an opportunity to submit written comments or statements. Instructions on how to submit written comments are on the reverse side of this sheet.

The procedure at the hearing is as follows:

1. Explanation of procedure by Administrative Law Judge.
2. Submission of written exhibits by the agency.
3. Agency presentation.
4. Questions and statements by the public.

(If you have a time problem, please notify the Administrative Law Judge who will make every effort to accommodate you.)

Following the hearing, the Administrative Law Judge will complete a report dealing with the issues of statutory authority, compliance with substantive and procedural requirements, whether any changes proposed to the published rules constitute a substantial change, and the need for and reasonableness of each section of the rule. The report may also summarize comments made and may suggest certain changes to the proposed rule. The report will be available to members of the public at the cost of reproduction. If you wish to be notified when the report is available, please write your name and address on one of the envelopes provided at the registration desk.

After receiving the Administrative Law Judge's report, and the Chief Administrative Law Judge's report if there is an adverse finding, and the entire hearing record, the agency will decide whether to adopt, withdraw or modify the proposed rule based upon a consideration of the comments made during this rule hearing proceeding. However, the agency must wait at least five (5) days after issuance of the Administrative Law Judge's report, and the Chief Administrative Law Judge's report, if applicable, before taking any action.

After the hearing, the agency may modify the proposed rules. However, if the agency makes modifications other than those recommended or required by the Administrative Law Judge or the Chief Administrative Law Judge, it must submit the rules as modified and proposed for final adoption to the Chief Administrative Law Judge, who will determine whether the modifications constitute changes which are so substantial that a new notice and hearing are required.

SPECIFIC PROCEDURES

1. Everyone attending the hearing is requested to sign the hearing register to ensure an accurate record of the number of people attending the hearing. The hearing register is located on the registration table.

2. If you wish to make an oral statement, please place a check mark in the appropriate column on the hearing register. Everyone who desires to speak will have an opportunity to do so. When you go to the designated speaker's area, state and spell your name, address, and the interest or group, if any, you represent. Any speaker may ask questions of the agency panel and, in turn, may be questioned by the agency panel, the Administrative Law Judge, or other persons. The Administrative Law Judge may limit repetitive or immaterial statements or questioning.

3. The hearing is being recorded [on tape or by a court reporter] for possible later transcription. Therefore, speakers should remember the following:

(a) It is important that you speak loudly, clearly and slowly.
(b) All statements must be clearly verbalized--a nod cannot be recorded.
(c) All technical terms and proper names must be spelled out the first time they are mentioned.
(d) Only one person may speak at a time.

4. Anyone who desires to submit written comments may do so at this hearing or within five (5) working days of the close of the hearing. The Administrative Law Judge may, during the hearing, extend the period for receipt of comments up to 20 calendar days. Such material should be submitted to the Administrative Law Judge at:

Office of Administrative Hearings
5th Floor, Flour Exchange Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415

The materials must be RECEIVED before 4:30 p.m. on the date on which the submission period closes in order to be considered.

5. After the period for submission of written comment ends, you will have an additional three-working-day period for filing a written response to any comments which were submitted during the 5 to 20 day comment period. Additional or new evidence may not be submitted during this period. The responses must be RECEIVED at the Office of Administrative Hearings before 4:30 p.m. on the third working day.

6. An individual who falls within the definition of lobbyist contained in Minn. Stat. Ch. 10A must register with the Ethical Practices Board within five (5) days of becoming a lobbyist. Lobbyist registration forms may be obtained by writing the Ethical Practices Board, 625 No. Robert Street, Saint Paul, Minnesota 55101, or telephoning 612/296-5148. Please contact the Board if you have any questions concerning lobbyist registration and reporting requirements.

SF-00006-03

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT of Administration
BUILDING CODES & STANDARDS

TO: Steve Mihalchick
Administrative Law Judge

DATE: 1/30/90

FROM: Peggi White
Office Manager

PHONE: 6-4626

SUBJECT: PUBLIC HEARING - FEBRUARY 2, 1990

Enclosed please find four copies of Affidavit of Mailing, Certificate of Mailing list, one copy of the State Register dated April 4, 1988 containing the notice of Solicitation, one copy of the State Register dated January 2, 1990 containing the four notices, statements of need and reasonableness, and proposed rules, and the comments received from the notice of solicitation.

Representing the Division will be Elroy Berdahl and Alvin Kleinbeck, Mr. Milt Bellin of the Plumbing Unit, Minnesota Health Department, will address the plumbing code amendments, Mr. Jim Berg of Dept. of Labor and Industry will address elevator amendments and Charlene Hatcher of the Attorney General's Office will be available for agency testimony.

If you have any questions, please call me.

pw
enclosures

TABLE NO. 21-C--CONTROLS AND LIMIT DEVICES FOR AUTOMATIC BOILERS

BOILER GROUP	FUEL	FUEL INPUT RANGE 1 (Inclusive)	TYPE OF PILOT 2	Safety Control Timing (Nominal Maximum Time in Seconds)				ASSURED FUEL SUPPLY CONTROL 4	ASSURED AIR SUPPLY CONTROL 5	LOW FIRE START UP CONTROL 6	PRE-PURGING CONTROL 7	HOT WATER TEMPERATURE AND LOW WATER LIMIT CONTROLS 8	STEAM PRESSURE AND LOW WATER LIMIT CONTROLS 9	APPROVED FUEL SHUTOFF 10	POC 10	CONTROL AND LIMIT DEVICE SYSTEM DESIGN 11
				TRIAL FOR PILOT	Trial For Main Burner Flame		MAIN BURNER FLAME FAILURE 3									
					DIRECT ELECTRIC IGNITION	FLAME PILOT										
A	GAS	0-400,000 BTU/h	Interrupted Intermittent or Continuous	90	Not Allowed	90	90	Not Required	Required	Not Required	Not Required	Required	Required	Required	Not Required	Required
B	Gas	400,001 999,999 BTU/h	Interrupted Intermittent	15	Not Allowed	15	2-4	Hi Gas Required	Required	Not Required	Required	Required	Required	Required	Not Required	Required
C	Gas	1,000,000 2,499,999 BTU/h	Interrupted	15	Not Allowed	15	2-4	Lo/Hi Gas Required	Required	Required	Required	Required	Required	Required	Required	Required
D	Gas	2,500,000 over BTU/h	Interrupted	10	Not Allowed	10	2-4	Lo/Hi Gas Required	Required	Required	Required	Required	Required	Required	Required	Required
E	Oil	0-5 GPM	Any Type	15	90	90	90	Not Required	Required	Not Required	Not Required	Required	Required	Required	Not Required	Required
F	Oil	Over 5 GPM	Interrupted	15	Not Allowed	15	2-4	Required	Required	Not Required	Required	Required	Required	Required	Not Required	Required
G	Oil	7 to 10 GPM	Interrupted	15	Not Allowed	10/15	2-4	Lo - Oil Required	Required	Required	Required	Required	Required	Required	Not Required	Required
H	Oil	Over 10 GPM	Interrupted	15	Not Allowed	10/15	2-4	Lo - Oil Required	Required	Required	Required	Required	Required	Required	Not Required	Required
K	Electric	All	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Required	Required	Not Required	Not Required	Required

State of Minnesota

STATE REGISTER

Department of Administration—Print Communications Division



Rules edition
Published every Monday

2 January 1990

Volume 14, Number 27

Pages 1515-1740

STATE REGISTER

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

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

***A Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.**

Printing Schedule and Submission Deadlines

Vol. 14 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
27	Monday 18 December	Friday 22 December	Tuesday 2 January
28	Friday 22 December	Friday 29 December	Monday 8 January
29	Friday 29 December	Monday 8 January	Tuesday 16 January
30	Monday 8 January	Friday 12 January	Monday 22 January

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

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

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

The *STATE REGISTER* is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *STATE REGISTER Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme and tax courts; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *STATE REGISTER* be self-supporting, the following subscription rates have been established: the Monday edition costs $130.00 per year and includes an index issue published in August (single issues are available at the address listed above for $3.50 per copy); the combined Monday and Thursday editions cost $195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for $60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

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

Rudy Perpich, Governor

Sandra J. Hale, Commissioner
Department of Administration

Stephen A. Ordahl, Director
Print Communications Division

Robin PanLener, Editor

Paul Hoffman, Assistant Editor

Debbie George, Circulation Manager

Bonita Karels, Staff Assistant

FOR LEGISLATIVE NEWS

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

SENATE

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

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

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

HOUSE

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

This Week—weekly interim bulletin of the House.

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

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

Contents

Minnesota Rules: Amendments & Additions

Issue 27 (issues #1-26 appeared in #26) 1518

Commissioner's Orders

Natural Resources Department

Commissioner's Scientific and Natural Area Orders for:
- Order #49: Hythecker Prairie 1519
- Order #50: Bonanza Prairie 1519
- Order #51: Uncas Dunes 1520
- Order #53: Savage Fen 1520
- Order #54: Pembina Trail 1521
- Order #55: Felton Prairie 1521
- Order #56: Townsend Woods 1522
- Order #57: Eagle Nest Island No. 4 1522
- Order #58: Lake Johanna 1522
- Order #59: Otter Tail Prairie 1523
- Order #60: Twin Valley Prairie 1523
- Order #61: Osmundson Prairie 1524
- Order #62: Prairie Coteau 1524
- Order #63: Frenchman's Bluff 1525
- Order #64: Kellogg Weaver 1526
- Order #65: McGregor Marsh 1526
- Order #66: Moose Mountain Northern Hardwoods ... 1527
- Order #68: Shooting Star Prairie 1527

Proposed Rules

Administration Department

Minnesota State Building Code 1528
- Mechanical Code 1528
- Building Code 1563
- Plumbing Code 1591
- Elevator Code 1612
- Electrical Code 1625

Human Services Department

Community alternatives for disabled individuals under age 65 1627

Labor & Industry Department

Occupational safety and health standards 1646

Minnesota State Lottery

Lottery retailers 1650
Prize payments 1657

Pollution Control Agency

Water quality program development 1662

Adopted Rules

Commerce Department

Credit unions 1717

Natural Resources Department

Lake Superior shoreland management 1718

Pollution Control Agency

Hazardous waste; burning of hazardous waste and used oil 1718
Underground storage tank training and certification 1718

Transportation Department

State highway market artery system 1719

Official Notices

Minnesota State Agricultural Society (Minnesota State Fair)

Annual meeting notice 1720

Gaming Department—Minnesota Racing Commission

Opinion sought on rule for class D license applications .. 1720

Executive Council
State Board of Investment
Land Exchange Board
Investment Advisory Council

Meeting notices 1720

Pharmacy Board

Opinion sought on rules for pharmacy practice 1721

Pollution Control Agency

Opinion sought for rules for management of household hazardous waste 1721

Public Safety Department

Opinion sought on rule for hazardous chemical reporting fees 1722

Public Service Division—Energy Division

Extension of deadline for comment on residential thermal insulation standards 1722

Secretary of State

Vacancies in multi-member agencies 1722

State Contracts & Advertised Bids

Administration Department

Materials Management Division: Commodities and requisitions open for bid 1724
Print Communications Division: Printing, typesetting, design, and mailing services open for bid 1725

Professional, Technical & Consulting Contracts

Capitol Area Architectural & Planning Board

National open design competition for a memorial to Minnesotans who died in Vietnam 1726

Disability Council

Proposals sought to conduct search for executive director 1726

Minnesota Historical Society

Proposals sought for cleaning of audio tapes 1727

Human Services Department

Proposals sought for pre-certification investigations for fraud prevention 1727

Natural Resources Department

Proposals sought for statewide campsite and accommodation reservation system 1728

Minnesota Racing Commission

Contractural positions for assistant veterinarian and substitute assistant veterinarian 1733
Contractural position of state stewards 1733

Transportation Department

Proposals sought for inter-city bus operations from Morris, Minnesota to Minneapolis 1733
Request for consultants to develop a maintenance management system for traffic signals and freeway lighting 1734

Non-State Public Contracts

Metropolitan Council

Invitations for sealed bids for printing services 1734

Supreme Court Decisions

Decisions, opinions and orders filed Friday 29 December 1989 1735

Announcements 1735

Minnesota Rules: Amendments and Additions

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

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

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

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

Rules Index for issue 27 (Issues 1-26 appeared in #26)

Administration Department

1300.2100-1302.0900 (proposed) 1563
1305.0100; .0150; .0800; .1000; .1100; .1590; .1775; .1795; .2050; .2600; .3860; .3900; .4100; .4850; .5340; .5360; .5380; .5385; .5400 s.2907; .5710; .5720; .5730; .5740; .5900; .6430; .6901; 1335.0600; .1000; .1100; .1950; .2150; .3100; 1360.0900; .3600 (proposed) 1563
1305.0300; .1750; .1790; .2100; .2400; .3000; .3100; .3200; .3300; .3600; .3700; .4200; .4500; .4900; .5300; .5310; .5500; .5800; .6550; .6600; .6900 (proposed repealer) 1563
1305.5100-.5118 (proposed) 1612
1315.0200 (proposed) 1625
1320.0100; .0200; .0300; .0400; .0500; .0600; .0605; .0610; .0615; .0620; .0625; .0630; .0635; .0638; .0640; .0645; .0650; .0655; .0660; .0665; .0670; .0675; .0680; .0785; .2001; .2005; .2010; .2015; .2020; .2025; .2030; .2035; .2100; .2200; — .2300; .2400 (proposed repealer) 1612
1346.0050-.2600 (proposed) 1528

Commerce Department

2675.6400 (adopted) 1717

Health Department

4715.0100; .0200; .0310; .0320; .0420; .0500; .0520; .0580; .0620; .0800; .0805; .0810; .0820; .0860; .1220; .1240; .1260; .1300; .1305; .1380; .1440; .1590; .1930; .1940; .1941; .2020; .2100; .2110; .2120; .2163; .2190; .2230; .2260; .2440 (proposed) 1591
4715.2130; .2140; .3900; .4000 (proposed repealer) 1591

Labor & Industry Department

5205.0010 (proposed) 1646

Natural Resources Department

6120.2800 (adopted) 1718

Pollution Control Agency

7001.0520; 7045.0020; .0102; .0120; .0125; .0214; .0219; .0665;.0692; .0695 (adopted) 1718
7045.0100; .0125 s.10, 11 (repealed) 1718
7050.0150; .0180; .0185; .0210; .0211; .0212; .0214; .0218; .0220; .0460; .0470 (proposed) 1662
7050.0210 s.14 (proposed repealer) 1662
7105.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0110; .0120; .0130 (adopted) 1718

Minnesota State Lottery

7856.1000-.7070 (proposed) 1650
7857.2000-.7000 (proposed) 1657

Transportation Department

8815.0100; .0200; .0300 (adopted) 1719

Human Services Department

9505.3010-.3140 (proposed) 1627

Commissioners' Orders

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 49 Hythecker Prairie Scientific and Natural Area

WHEREAS, certain lands in Dodge County, Minnesota, described as:

The Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section Thirty-one (31), Township One Hundred Seven North (107N), Range Eighteen West (18W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain mesic tall grass prairie communities, as well as the following rare, threatened or endangered plant species: wild indigo (*Baptisia bracteata* and *B. leucantha*), rattlesnake master (*Eryngium yuccifolium*), wild quinine (*Parthenium integrifolium*), tuberous Indian plantain (*Cacalia plantaginea*), cowbane (*Oxypolis rigidior*), and cream gentian (*Gentiana flavida*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Hythecker Prairie Scientific and Natural Area. Furthermore, the Hythecker Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general public educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 50 Bonanza Prairie Scientific and Natural Area

WHEREAS, certain lands in Big Stone County, Minnesota, described as:

Government Lots 1, 2, 3, and the Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) and the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) lying easterly of the State Park road and its northern extension to the north line of Section Twenty (20) excepting that part of the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) of Section 20 not acquired by the State of Minnesota as shown on the attached Exhibit A, and as posted, all in Township One Hundred Twenty-three (123) North, Range Forty-eight (48) West.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain a glacial-till hill prairie plant community as well as the state threatened plant Missouri milkvetch (*Astragalus missouriensis*) and the rare prairie moonwort (*Botrychium campestre*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Bonanza Prairie Scientific and Natural Area. Furthermore, the Bonanza Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 51 Uncas Dunes Scientific and Natural Area

WHEREAS, certain lands in Sherburne County, Minnesota, described as:

The Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) of Section Thirty-five (35), Township Thirty-four North (34N), Range Twenty-seven West (27W); and those lands in the North Half of the Southeast Quarter (N 1/2 SE 1/4) and the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section Twenty-one (21), Township Thirty-four North (34N), Range Twenty-seven West (27W) as shown on the attached Exhibit A and as posted.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain state threatened sand prairie and dry sand savanna communities, which contain the following rare, threatened or endangered animal and plant species: Uncas Skipper (*Hesperia uncas*), Blanding's turtle (*Emydoidea blandingii*), annual skeleton-weed (*Lygodesmia rostrata*), small-leaved pussytoes (*Antennaria aprica*), and sea beach needlegrass (*Aristida tuberculosa*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Uncas Dunes Scientific and Natural Area. Furthermore, the Uncas Dunes Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area, except that public hunting is permitted during the open seasons established for those lands located in Section 35, Township 34 North, Range 27 West.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 53 Savage FEN Scientific and Natural Area

WHEREAS, certain lands in Scott County, Minnesota, described as:

The Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) of Section Seventeen (17), Township One Hundred Fifteen North (115N), Range Twenty-one West (21W), EXCEPT the West 329.43 feet (as measured along the north and south lines thereof).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain high quality mesic blacksoil prairie and calcareous fen communities that contain the following rare, threatened or endangered plant species: whorled nut-rush (*Scleria verticillata*), valerian (*Valeriana edulis*), sterile sedge (*Carex sterilis*), twig rush (*Cladium mariscoides*), false asphodel (*Tofieldia glutinosa*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Savage Fen Scientific and Natural Area. Furthermore, the Savage Fen Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

JOSEPH N. ALEXANDER, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 54; Amending Order No. 21 Pembina Trail Scientific and Natural Area

WHEREAS, certain lands in Polk County, Minnesota, described as:

The Southeast Quarter (SE 1/4) of Section Thirteen (13), Township One Hundred Forty-nine North (149N), Range Forty-five West (45W) and the Southeast Quarter (SE 1/4) of Section Three (3), Township One Hundred Forty-eight North (148N), Range Forty-five West (45W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain an undisturbed example of wet-mesic and mesic prairie plant communities that contain the following rare, threatened, endangered or special concern plant and animal species: prairie white-fringed orchid (*Platanthera praeclara*), sticky false asphodel (*Tofieldia glutinosa*); marsh arrow grass (*Triglochin palustris*); hall's sedge (*Carex hallii*); yellow rail (*Coturnicops noveboracensis*); upland sandpiper (*Bartramia longicauda*); and greater prairie chicken (*Tympanuchus cupido*); and that the lands have the same qualities of those lands already designated as the Pembina Trail Scientific and Natural Area by Commissioner's Scientific and Natural Area Order No. 21; and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to the Pembina Trail Scientific and Natural Area. Furthermore, the Pembina Trail Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general public educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 55; Amending Order No. 45 Felton Prairie Scientific and Natural Area

WHEREAS, certain lands in Clay County, Minnesota, described as:

Government Lots One (1) and Two (2), Section Thirty (30), Township One Hundred Forty-two North (142N), Range Forty-five West (45).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain mesic blacksoil prairie northwest and calcareous fen plant communities and the following rare, endangered or restricted plants and animals: small white lady's-slipper (*Cypripedium candidum*), upland sandpiper (*Bartramia longicauda*), greater prairie chicken (*Tympanuchus cupido*), prairie vole (*Microtus ochrogaster*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to the Felton Prairie Scientific and Natural Area. Furthermore, the Felton Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 56; Amending Order No. 39 Townsend Woods Scientific and Natural Area

WHEREAS, certain lands in Rice County, Minnesota, described as:

The Northwest Quarter of the Southeast Quarter (NW 1/4 SE 1/4) of Section Eighteen (18), Township One Hundred Nine North (109N), Range Twenty-two West (22W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain an example of the state endangered Big Woods plant community undergoing successional change and that the lands are contiguous with those lands already designated as the Townsend Woods Scientific and Natural Area; and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to the Townsend Woods Scientific and Natural Area. Furthermore, the Townsend Woods Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 57 Eagle Nest Island No.4 Scientific and Natural Area

WHEREAS, certain lands in St. Louis County, Minnesota, described as:

Tract Forty (40), Section Twenty-four (24), Township Sixty-two North (62N), Range Fourteen (14) West, according to the United States Government Survey thereof.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain an undisturbed red pine community containing habitat suitable for nesting by bald eagles (*Haliaeetus leucocephalus*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Eagle Nest Island No. 4 Scientific and Natural Area. Furthermore, the Eagle Nest Island No. 4 Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 58 Lake Johanna Scientific and Natural Area

WHEREAS, certain lands in Pope County, Minnesota, described as:

Tract Thirty-eight (38) Township One Hundred Twenty-three North (123N), Range Thirty-six West (36W), Section Seventeen (17), according to the United States Government Survey thereof.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain one of the largest and most diverse nesting colonies for colonial waterbirds in Minnesota, with birds such as great blue herons (*Ardea herodias*), double-crested cormorants (*Phalacrocorax auritus*), great egrets (*Casmerodius albus*) and black-crowned night herons (*Nycticorax nycticorax*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Lake Johanna Scientific and Natural Area. Furthermore, the Lake Johanna Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities at all times of the year except for a period running between April 1 and July 15 when it is closed to the public except by written permission of the commissioner or his agent.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 59 Otter Tail Prairie Scientific and Natural Area

WHEREAS, certain lands in Otter Tail County, Minnesota, described as:

The Southeast Quarter (SE 1/4) of Section Seventeen (17), Township One Hundred Thirty-one North (131N), Range Forty-four West (44 W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain a mesic blacksoil prairie community as well as the following rare, endangered or threatened plant or animal species: northern gentian (*Gentiana affinis*), greater prairie chicken (*Tympanuchus cupido*), upland sandpiper (*Bartramia longicauda*) and marbled godwit (*Limosa fedoa*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Otter Tail Prairie Scientific and Natural Area. Furthermore, the Otter Tail Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 60; Amending Order No. 22 Twin Valley Prairie Scientific and Natural Area

WHEREAS, certain lands in Norman County, Minnesota, described as:

That part of the Northeast Quarter (NE 1/4) of Section Twenty-three (23), Township One Hundred Forty-three North (143N), Range Forty-five West (45W) described as follows: Beginning at the Northwest corner of said Northeast Quarter (NE 1/4); thence South 00°37′30″ West along the West line of said Northeast Quarter (NE 1/4) 2641.93 feet, more or less, to the Southwest corner thereof; thence North 13 54′24″ East 2720.35 feet, more or less, to the North line of said Northeast Quarter (NE 1/4); thence North 89°53′35″ West along the North line thereof 625 feet, more or less, to the place of beginning.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain a wet-mesic prairie community as well as the following rare, endangered or restricted plant and animal species: small white lady's-slipper (*Cypripedium candidum*), greater prairie chicken (*Tympanuchus cupido*), Wilson's phalarope (*Phalaropus tricolor*), upland sandpiper (*Bartramia longicauda*), sandhill crane (*Grus canadensis*), marbled godwit (*Limosa fedoa*), prairie vole, (*Microtus ochrogaster*), and Dakota skipper (*Hesperia dacotae*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to Twin Valley Prairie Scientific and Natural Area. Furthermore, the Twin Valley Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 61 Osmundson Prairie Scientific and Natural Area

WHEREAS, certain lands in Faribault County, Minnesota, described as:

The North One Hundred Eighty-five (185) feet of the Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4) of Section Thirty-six (36), Township One Hundred and One North (101N), Range Twenty-four West (24W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain a mesic blacksoil prairie community, as well as the following rare, threatened or endangered plant species: tuberous Indian plantain (*Cacalia plantaginea*) and rattlesnake master (*Eryngium yuccifolium*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Osmundson Prairie Scientific and Natural Area. Furthermore, the Osmundson Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area as long as they are not inconsistent with an easement for ingress and egress over the east 30 feet of the North One Hundred Eighty-five (185) feet of said Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4) lying westerly of the township road right-of-way for access to the remainder of said Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4).

Dated at Saint Paul, Minnesota, this 22nd day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 62; Amending Order No. 37 Prairie Coteau Scientific and Natural Area

WHEREAS, certain lands in Pipestone County, Minnesota, described as:

The Northeast Quarter (NE 1/4) of Section Thirty-two (32), Township One Hundred Eight North (108N), Range Forty-four West (44W), EXCEPT the highway right-of-way of record, and EXCEPT the railroad right-of-way AND EXCEPT that part of the Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4) of Section Thirty-two (32), Township One Hundred Eight North (108N), Range Forty-four West (44W), lying southeasterly of the right-of-way of the Great

Northern Railway Company; which lies northwesterly of a line running parallel with and distant 100 feet southeasterly of the following described line: Beginning at a point on the south line of said Section Thirty-two (32), distant 65.4 feet East of the South Quarter corner thereof; thence running northeasterly at an angle of 51°56′ with said south section line for 4600 feet and there terminating; containing 0.97 acres; and the Southeast Quarter (SE 1/4) of Section Twenty-nine (29), Township One Hundred Eight North (108N) Range Forty-four West (44W), except those cultivated lands which are part of Buffalo Ridge WMA as shown on the attached map.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain glacial-till hill prairie plant community types as well as the following rare, threatened or endangered plant and animal species: Ottoe Skipper (*Hesperia ottoe*), Dakota skipper (*Hesperia dacotae*), and prairie moonwort (*Botrychium campestre*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to Prairie Coteau Scientific and Natural Area. Furthermore, the Prairie Coteau Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 63 Frenchman's Bluff Scientific and Natural Area

WHEREAS, certain lands in Norman County, Minnesota, described as:

The North half of the South half of the Southeast Quarter (N 1/2 S 1/2 SE 1/4), the North four (4) rods of the South half of the Southeast Quarter of the Southeast Quarter (S 1/2 SE 1/4 SE 1/4), and the East 620 feet of the South half of the Southeast Quarter of the Southeast Quarter (S 1/2 SE 1/4 SE 1/4), EXCEPT the North Sixty-six (66) feet thereof, of Section Eighteen (18), Township One Hundred Forty-three North (143N), Range Forty-three West (43W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain dry, gravel prairie plant communities as well as the following rare, threatened or endangered plant and animal species: Dakota skipper (*Hesperia dacotae*), prairie moonwort (*Botrychium campestre*), and grasshopper mouse (*Onychomys leucogaster*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Frenchman's Bluff Scientific and Natural Area. Furthermore, the Frenchman's Bluff Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 64; Amending Order No. 23 Kellogg Weaver Scientific and Natural Area

WHEREAS, certain lands in Wabasha County, Minnesota, described as:

The Southeast Quarter (SE 1/4) and the East half of the Northeast Quarter (E 1/2 NE 1/4) of Section Seven (7), the Northwest Quarter (NW 1/4) and that part of the Northeast Quarter (NE 1/4) of Section Eight (8) lying West of the following described line:

Beginning at a point on the South line of said Northeast Quarter (NE 1/4) 1,137.18 feet East of the Southwest corner thereof, thence North 10°17′ East 344.52 feet, thence North 18°20′ West 727.98 feet, thence North 54°02′ West 258.06 feet, thence North 39°42′ West 193.38 feet, thence North 20°02′ West 755.04 feet, thence North 14°36′ West 650.10 feet to the North line of said West half of said Northeast Quarter (W 1/2 NE 1/4), said point being 170.94 feet East of the Northwest corner of said Northeast Quarter (NE 1/4) and there terminating.

All of the foregoing tract being in Township One Hundred Nine North (109N), Range Nine West (9W).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain dry sand prairie plant communities as well as the following rare, threatened or endangered plant and animal species: clasping milkweed (*Asclepias amplexicaulis*), wild indigo (*Baptisia leucophaea and B. leucantha*), goats rue (*Tephrosia virginiana*), yellow-fruited sedge (*Carex annectens*), rough-seeded fameflower (*Talinum rugospermum*), sea-beach needlegrass (*Aristida tuberculosa*), purple sand grass (*Triplasis purpurea*), cliff goldenrod (*Solidago sciaphila*), Ohio spiderwort (*Tradescantia ohiensis*), rhombic-petaled evening primrose (*Oenothera rhombipetala*), Ottoe Skipper (*Hesperia ottoe*), Blandings turtle (*Emydoidea blandingii*), and black and scarlet jumping spider (*Phidippus apacheanus*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to Kellogg Weaver Scientific and Natural Area. Furthermore, the Kellogg Weaver Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 65 McGregor Marsh Scientific and Natural Area

WHEREAS, certain lands in Aitkin County, Minnesota, described as:

Government Lots 1, 2, 3, and 4, the South Half of the Northwest Quarter (S 1/2 NW 1/4) and the South Half of the Northeast Quarter (S 1/2 NE 1/4) of Section Five (5), EXCEPTING the Soo Line Railroad right-of-way, Township Forty-seven (47) North, Range Twenty-three (23) West.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain an extensive sedge marsh with the following rare, threatened or endangered animal species: yellow rail (*Coturnicops noveboracensis*) and sharp-tailed sparrow (*Ammodramus caudacutus*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by Minnesoeta Statutes §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as McGregor Marsh Scientific and Natural Area. Furthermore, the McGregor Marsh Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area, except that public hunting is permitted during legal open seasons.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 66 Moose Mountain Northern Hardwoods Scientific and Natural Area

WHEREAS, certain lands in St. Louis County, Minnesota, described as:

Tract "B" of Registered Land Survey No. 8 and the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section Twenty-two (22), Township Fifty-one (51) North, Range Thirteen (13) West.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain an excellent example of a threatened northern hardwoods community, that contains the following rare, threatened or endangered plant species: white baneberry (*Actea pachypoda*), carolina spring beauty (*Claytonia caroliniana*) and moschatel (*Adoxa moschatellina*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Moose Mountain Northern Hardwoods Scientific and Natural Area. Furthermore, the Moose Mountain Northern Hardwoods Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 68 Shooting Star Prairie Scientific and Natural Area

WHEREAS, certain lands in Mower County, Minnesota, described as:

All that abandoned railroad right-of-way located in and passing through Section Thirteen (13), Township One Hundred One (101) North, Range Fifteen (15) West, which abandoned right-of-way is a 100 foot strip being 50 feet on each side of a center line, as identified as Parcels Nos. 6 and 7 on Chicago, Milwaukee and St. Paul Railroad Company map MINN 9-2 and being a part of that property conveyed to the Grantor by the Trustee of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company by deed recorded in Book 426 at pages 218-220 in the Mower County Recorder's Office.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain a high quality mesic tall grass prairie community as well as the following rare, threatened or endangered plant species: wild indigo (*Baptisia bracteata* and *B. leucantha*), rattlesnake master (*Eryngium yuccifolium*), tuberous Indian plantain (*Cacalia plantaginea*), Southern rain orchid (*Habenaria flava*), Sullivant's milkweed (*Asclepias Sullivantil*), and wild quinine (*Parthenium integrifolium*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Joseph N. Alexander, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Shooting Star Prairie Scientific and Natural Area. Furthermore, the Shooting Star Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at Saint Paul, Minnesota, this 16th day of November, 1989.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Proposed Rules

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

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

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

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

Department of Administration

Proposed Permanent Rules Relating to the Minnesota State Building Code

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Administration proposed to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes* section 16B.61.

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

Any person may make a written request for public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.13 to 14.20.

PLEASE NOTE: That if twenty-five or more persons submit written requests for a public hearing within the 30 day comment period, a hearing will be held on February 2, 1990, unless a sufficient number withdraw their request in accordance with the notice of hearing on these same rules published in the *State Register* and mailed to persons registered with the State Department of Administation. To verify whether a hearing will be held, please call the Department of Administration, Building Codes and Standards Division between 8:00 and 4:30 on February 1, 1990, at (612) 296-4626.

Persons who want to submit comments or written requests for a public hearing must submit such comments or requests to:

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

Comments or requests for a public hearing must be received by the Department of Administration, Building Codes and Standards Division, by 4:30 p.m. on January 31, 1990.

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

A free copy of this rule is available on request for your review from Margaret White.

The proposed rule establishes minimum uniform rules for the State of Minnesota by adopting a model code, namely, the *Uniform Mechanical Code, 1988 Edition* and making amendments to it in order to be consistent with *Minnesota Statutes* and laws and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the information relied on to support the proposed rule has been prepared and is available from Margaret White on request.

It is felt by the Building Codes and Standards Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, section 14.115, division 1, and pursuant to *Minnesota Statutes*, section 14.115 subdivision 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11

If no hearing is required on adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Margaret White.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held on February 2, 1990 at the Sheraton Airport Hotel, 2525 East 78th Street, Bloomington, Minnesota 55425, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

PLEASE NOTE HOWEVER, that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the department of administration, building codes and standards division. To verify whether a hearing will be held, please call the Building Codes and Standards Division between 8:00 a.m. and 4:30 p.m., on February 1, at (612) 296-4626.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to Steve M. Mihalchick, Administrative Law Judge, Office of Administrative Hearings, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 349-2544, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 to 14.50. The rule hearing is

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

governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed rule establishes minimum uniform rules for the State of Minnesota by adopting the model code, namely, the *Uniform Mechanical Code, 1988 Edition,* and making amendments to it in order to be consistent with *Minnesota Statutes* and laws and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 16B.61.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

It is felt by the Building Codes and Standards Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, section 14.115, division 1, and pursuant to *Minnesota Statutes*, section 14.115 subdivision 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Copies of the proposed rules are now available and one free copy may be obtained by writing to:

Margaret White
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

Additional copies will be available at the hearing. If you have any questions on the content of the rule you may contact Margaret White, Elroy Berdahl, or Alvin Kleinbeck at (612) 296-4639.

NOTICE: A person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative and or administrative action by communication or urging others to communicate with public officials;

b) who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Statement of Need and Reasonableness

The above-captioned proposed rules are changes in Chapter 1345 of the Rules promulgated as the *Minnesota State Building Code* known as the "Heating, Ventilating, Air-Conditioning (HVAC), and Refrigeration Rule," referenced Rules 1345.0010 through 1345.3300 as in effect on April 8, 1985 and reprinted June 1987.

Under *Minnesota Statute*, Section 16B.61, the Commissioner of Administration is charged with the responsibility of promulgating the *Minnesota State Building Code*. The Code must conform insofar as practicable to recognized national model building codes generally accepted and in use throughout the United States. Also, model codes with necessary modifications and statewide specialty

codes may be adopted by reference. It is the duty of the commissioner to amend the *Minnesota State Building Code* to maintain the most modern code standards regarding minimum safeguards of life, limb, health, property and public welfare together with regulating and controlling the design, construction, quality of materials, use and maintenance of buildings and structures. *Minnesota Statutes* 16B.59 states that "the construction of buildings should be permitted at the least possible costs consistent with recognized standards of health and safety."

Chapter 1345 of the *Minnesota State Building Code* was first published as a part of the *Minnesota Building Code* in its inception in 1972 known as SBC 7101 to SBC 8505. This HVAC CODE was a state proprietary code promulgated in the late 1960's for state owned buildings. There has been no substantive change to the rules since the original adoption to the state code in 1972.

It is the desire of the Minnesota Building Codes and Standards Division to adopt the 1988 Edition of the Uniform Mechanical Code as promulgated by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, and the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, California 91789, with appropriate amendments to satisfy Minnesota climatic and construction needs. It is more cost effective to adopt a model code with limited amendments than to revise an existing proprietary code to bring it into today's standards, therefore, the action taken by these proposed rules will repeal Rules 1345.0010 to 1345.3300 and through proper procedures, adopt the 1988 Edition of the *Uniform Mechanical Code* as amended to be known as Rules 1346.0050 to 1346.2600.

The proposed rules conform as far as practicable to model mechanical codes. The reflect amendments for regional utilization and construction in keeping with the legislative intent of *Minnesota Statutes* Section 16B.61. The proposed amendments provide for added requirements to certain sections, change wording to clarify the intent of application for certain sections, adopt and update to current national model code standards, and language changes requested by the Office of the Minnesota Revisor of Statutes designed to eliminate redundant wording and use of archaic language.

Any business entity with constructs, expands or remodels buildings is required to comply with the *Minnesota State Mechanical Code*. When adopted, these proposed rules become part of the *Minnesota State Building Code* and will be applicable to all future construction. The rules are not applicable to existing mechanical systems structures unless they are declared hazardous and unsafe, or as otherwise modified using guidelines established by Section 104 of the proposed *Minnesota Uniform Mechanical Code, 1988 Edition*.

The Building Codes and Standards Division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed by *Minnesota Statutes* Section 14.115, subd. 2, for reducing the impact of the rules on small businesses.

The proposed rules do not require businesses to make reports so the requirements for reporting identified in items (a), (b), and (c) are not applicable.

Compliance requirements of items (a), (b), (c), and (e) are not appropriate because the purpose of these rules is to establish a minimum uniform standard for construction of all public, private, commercial, industrial or residential equipment and structures within the State of Minnesota to protect life, limb, health, property, and public welfare of the residents of the state at the least possible cost consistent with recognized standards. *Minnesota Statutes* Section 16B.59 (1984). To exempt small businesses from any or all requirements of the rules would be contrary to the statutory objectives that are the basis of the proposed rulemaking, *Minnesota Statutes*, Section 16B.59, 16B.61, and 16B.64. The legislature has specifically mandated that the uniformity of building standards is in the public interest. *Minnesota Statutes* Section 16B.61, Subdivision 1, Adoption of Code, states in part:

"—The code (and any amendments thereof) must conform insofar as practicable to model building codes generally accepted and in use through the United State.-"

Minnesota Statutes Section 14.115, subd. 2(d) calls for the establishment of performance standards for small businesses as one method of reducing the adverse impact of rules upon them. The code and its amendments are based on the application of scientific principles, approved tests and professional judgement; and to the extent practicable, are in terms or results rather than requiring specific methods or materials. The code uses performance standards wherever possible.

Since the performance standards apply across the board to all entities subject to the code, the methods of reducing the impact of the rules provided by Subdivision 2(d) has been utilized. No special changes are necessary for small businesses.

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

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

Elroy Berdahl, Supervisor, Consultant Section, and Alvin Kleinbeck, Code Administrator, Consultant Section, of the Building Codes and Standards Division will appear on behalf of the proposed rules at the hearing if a hearing is required. They will testify regarding the need for and reasonableness of the proposed rules. The substance of the testimony is set forth herein.

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

General:	Study of the *Uniform Mechanical Code* as becoming the mechanical code of the State of Minnesota has ensured over the past eight years. The study committee composed of individuals representing industry, contractors, governmental inspectors and interested citizens have proposed the bulk of changes that are recommended to the body of the *Uniform Mechanical Code* as being applicable to the needs and construction practices found in Minnesota. The proposed changes will be addressed individually as to their need for and reasonableness of the requirements that will be formulated in the composition of the code. Comments will be made only on those sections that are amended or added.
1346.0101 Title Section 101	This section identified the name of the code and prescribes the sections of the code and appendices that are mandatory for adoption and enforcement, except as modified by the appropriate amendments.
1346.0201 Powers and Duties of Building Official Section 201(a)	This section is re-worded to provide direction and clarity in the responsibility of local government to apply and enforce the code within the intent and purpose of the *Minnesota State Building Code.*
1346.0203 Board of Appeals Section 203	This section is amended to include the requirements of the local Board of Appeals to file the report of the boards finding with the state building inspector.
1346.0204 Violations Section 204	This amendment identifies that any violation of the code is a misdemeanor under *Minnesota Statutes.*
1346.0304 Fees Section 304(b)	This section is amended to indicate that the fee structure is to be established by the local government except for the requirements fixed by statute.
1346.0307 Table 3-A Mechanical Permit Fees Section 307	This item is repealed because the fee structure is given to the needs of the local government and should not be dictated by the code unless it is applicable. The local government may use the fee schedule published in Section 307 if it chooses to do so by local ordinance.
1346.0403 to 1346.0421 Definitions	A number of definitions have been added in their appropriate sequence to define the terms used in the code. The words or groups of words identifying materials, equipment, systems and processes are needed to help understand the application of the code when these terms are encountered. The definitions are based on *Minnesota Statutes*, other recognized national documents, and the "state of the art" industry systems or equipment. The definitions should be self explanatory as to their use and application.
1346.0504 Installation 504(f)	The language of the *Uniform Mechanical Code* is deleted and reference is made that the requirements for Liquid Petroleum Gas Appliance Section applications and installations must comply with the rules of the Department of Public Safety.
1346.0602 Combustion Air Openings Section 602(a) Location	The changes in this section remove the opening requirements from an intended enclosure around the fuel utilization equipment and require the combustion air to be supplied from the exterior of the structure. It also indicates that the inlet be located above grade so that it has less potential from being sealed off by snow or other obstructions.
1346.0603 Source of Combustion Air Section 603(a)	This change is needed to inform the owner, designer, or contractor that all combustion air is required to be secured from the exterior of the building and prohibits combustion air from being secured from the attic.

1346.0604 Combustion Air Ducts Section 604	Item #2 is amended to require the size of the combustion air supply to be at least equal to the discharge flue of the appliance served. Dampers for combustion air are generally prohibited by the code. This amendment will allow combustion air to be controlled by dampers if designed in accordance with Section 602(b) of the code. The amendment will also permit other methods to be used when installed in accordance with the manufacturers instructions and approved by the building official. Items 3 and 6 are repealed because these items are not in keeping with the amended requirements for the installation of combustion air provisions.
1346.0605 Gravity Type Furnaces Section 605	This section reinforces the requirement that combustion air is also necessary for gravity type furnaces.
1346.0606 Special Conditions Created by Mechanical Exhausting or Fireplaces	It is necessary to provide combustion air or air for exhausting when other items in the building are operating that discharge air to the exterior—i.e. kitchen exhaust fans, bathroom fans, fireplaces, etc.
1346.0607 Area of Openings Section 607	This item is amended to provide a ratio of combustion air needed for various sizes of fuel BTU inputs for the proper supply to the utilizing equipment.
1346.0608 Required air for Equipment Section 608	This a new section to be added addressing the requirement for providing air for the control and dissipation of heat generated by equipment in various installations in addition to that required for combustion air.
1346.0706 Return and Outside Air Section 706(d)	This amendment requires that various dampers are to be provided to balance and control the movement of air within and throughout the system.
1346.0710 Furnaces Installed on Roofs or Exterior Walls of Buildings Section 710(h)	The word "readily" is deleted from the test to remove some unnecessary stringent requirements.
1346.0807 Room Heaters Section 807	This amendment prohibits the use of free standing room heaters in sleeping rooms because of the potential depletion of the oxygen supply in the room.
1346.0808 Duct Furnaces Section 808	This amendment provides a standard whereby duct type furnaces may be used. Items (c) and (d) have been repealed because the climatic needs for the State of Minnesota would require a closed room/ building condition and venting of products of combustion are necessary for the physical well-being of the occupants of the structure.
1346.0809 Infrared Heaters	This proposed change provides for the inclusion of Infrared Heaters installed in keeping with N.F.P.A. standards and guidelines and requires that combustion air and makeup air must be provided for each unit.

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

1346.0906 Vent Termination Section 906	This section is reduced in its content by eliminating the mandate for a vent terminus cap unless it is part of the system approval. Experience has shown that some vent caps can deteriorate and collapse to block off the flue and create a potential carbon monoxide situation.
1346.0913 Masonry Chimneys Section 913	This amendment provides for the type of liner or liners that are permitted when a masonry chimney is to be used for a gaseous fuel.
1346.1521 Gas Fire Air Conditioners Section 1521	This amendment provides for identification of the N.F.P.A. standard to be used for the installation of gas air-conditioners.
1346.2003 Commercial Hoods and Kitchen Ventilation Section 2003 (i)	The amendment changes the requirements to indicate that tempered air must be provided for the makeup air and establishes a minimum temperature at the discharge into the room. The amendment also requires that for compensating hoods, 80% of the make up air must be obtained from the room area to provide for a better discharge of air across the cooking surface of the kitchen equipment.
APPENDIX B CHAPTER 21 1346.2101 to 1346.2106 Steam and Hot Water Broilers Section 2101 to 2106	This chapter is revised to incorporate the terms of low-pressure and low-temperature to the steam and hot-water boiler and piping systems. High pressure systems are regulated by the rules of the Department of Labor and Industry. The first six sections provide for language clarification, equipment inclusion and some definitions used in this chapter only. The changes are necessary to provide for better application and enforcement of the requirements found in this chapter.
1346.2107 Expansion Tanks Section 2107	The majority of the changes in this section clean up the language provision that a permanently identifying tag must be attached to the valve between the boiler and main and that the tank must be kept open at all times except when draining the tank.
1346.2108 Safety and Relief Valve Discharge Section 2108	This amendment identifies when and where the safety or relief valve must be used, the size of the valve, and the disposition of the liquid discharged by the system. It is required as a measure of safety for the operation of the system.
1346.2109 Shutoff Valves Section 2109	This change reinforces the need for shut-off valves in the various equipment and requires that valves must be tested and listed for the use applied.
1346.2110 Gas Pressure	This section is reduced from the original and amended to indicate that the requirements are found in UMC Chapter 22.
1346.2111 Low Water Cut-off Section 2111	This item is rewritten and amended to provide the requirements of the safety devices to detect when low water levels necessitate shutting down the system.
1346.2113 Automatic Boilers Section 2113	A new table 21-C is established for the requirements of various controls for the safe and efficient operation of various sizes of equipment. The references found in this section have been revised to identify the requirements provided in the table.
1346.2114 Clearance for Access Section 2114	Amendments are made to this section to provide for a more workable clearance to the equipment needing repair and cleaning.

1346.2115 Boiler Room Enclosures Section 2115	This section is amended to give specific guidelines for the installation of equipment in confined space, alcoves, and closets, and establishes the minimum area of a room housing a boiler.
1346.2120 Fuel Piping Section 2120	Chapters 25 and 26 are new additional chapters to the code and each identify fuel piping needs for various fuels. It is necessary to identify in this section that additional requirements for fuel piping is found in their respective chapters.
1346.2122 Operating Adjustment and Instructions Section 2122	The amendment emphasizes that the operating instructions for the equipment installed must remain in the job for the owners use.
1346.2123 Inspectors Test	The amendments to this section are added to emphasize that equipment required to be inspected and tested must be made accessible and secondly that an installation designed and the installation supervised by a design professional may be tested and inspected by that design professional when approved by the Building Official.
1346.2124 Operating Permit Section 2124	This item is repealed because Minnesota does not require an operating permit and there is no current intent to require an operating permit.
1346.2125 Maintenance Inspection Section 2125	The maintenance inspection is based on an operating permit and since the operating permit is repealed there is not need for this section.
1346.2126 Operation and Maintenance of Boiler and Pressure Vessels Section 2126	This section is repealed because it is used in conjunction with Section 2124 and Section 2125 which are repealed by the adoption of this code, hence this section is not needed.
1346.2127 Steam, Liquid and Piping Systems	Changes are made to this section to include the word liquid in lieu of water and expands the application to systems. This section addresses the fact that the Department of Labor and Industry has regulations that could have some cross enforcement situations and this section identifies that is that condition should arise, the Department of Labor and Industry rules must be followed. This section includes a number of items that are changed because of the state of the art uses of materials and the deletion of materials that have been determined to be detrimental to one physical well-being.
1346.2130 Table No. 21-C Section 2130	Table Number 21-C has been revised to comply with Minnesota code changes and requirement for equipment. The same format is used but information in the matrix and footnotes are based on the Minnesota amendments.
Chapter 22 1346.2201 Fuel and Gas Piping General Section 2201	This chapter deals with the requirements of fuel or gas piping supplying fuel to fuel utilization equipment. Changes have been made to clarify the intent and application of this chapter.
1346.2202 Definitions Section 2202	Certain definitions have been added to include subject matter that is a part of the code and not otherwise defined in the code. Certain items have been repealed because the item or items defined are not used in the utility supply systems.

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

1346.2205 Workmanship Section 2205	This amendment allows the support of equipment by the piping system when the manufacturers instructions will allow the suspension.
1346.2206 Inspection and Testing Section 2206	The amendment to this section describes the procedure for testing the rough piping system of fuel piping. It also addresses the requirement for a final inspection of piping after the equipment is connected to the system. The UMC permission of CO_2 or nitrogen pressure test has been repealed in the Minnesota adoption because of problems that have been experience in its use.
1346.2211 Gas Meter Installation Section 2211(f)	These requirements have been added to the meter location to provide for additional safety.
1346.2212 Material for Gas Piping Section 2212	The amendments made to this section describe what materials may be used if complying to the appropriate standards and deletes materials that are problematic with the nature of the fuel supplied.
1346.2213 Installation of Gas Piping Section 2213	This section contains a number of amendments that provide guidance for the installer in the limitations on piping applications including sizing which requires welding for safety reasons, piping limitations in concealed spaces, protection from corrosion to avoid deterioration of the materials, and the requirement for valves and valving to control the distribution of the fuel to each service area. The requirement for a tracer material for nonmetallic pipe has been repealed because the use of non-metallic piping has been repealed for distribution systems.
1346.2215 Liquefied Petroleum Gas Facilities Piping Section 2215	This section is amended to indicate the additional requirements for Liquefied Petroleum is found in the rules of the *Minnesota State Fire Code.*
1346.2216 Leaks Section 2216	The amendment to this section provides for a method of testing for leaks. It also identifies the materials that cannot be used in making the leak tests because of the potential hazards involved. Other adjustments are incorporated for clarity.
1346.2220 High Pressure Gas Piping Section 2220	This section is amended for clarity of application and identifies that it must be approved by the local Building Official and fuel supplier to determine the availability of high-pressure fuel supply.
346.2221 Tables No. 22-D-2 No. 22-D-3 No. 22-D-4 Section 2221	These tables of the current HVAC Code provide for gas pipe sizing based on the natural gas supplied by the utilities operating in Minnesota. These tables are appropriate for continued use in the sizing of the distribution lines of the gas piping installation in buildings. The tables that are part of the UMC are not repealed because if the specific gravity of gas being supplied were changes these tables would be applicable. Each supplier establishes the specific gravity of the fuel supplied.
Chapter 25 1346.2501 Subpart 1	This is a new chapter to Appendix "B" which expands the requirements for the installation, testing, or repair of all gas or fuel burning systems, burners, and equipment. The Mechanical Committee selected to prepare amendments in the adoption of the Uniform Mechanical Code through their deliberations felt that these regulations are necessary for the proper installation, testing, repair and operation of the equipment identified.
1346.2502 Subp. 2	This rule identifies recognized national standards that are appropriate in the support of this chapter.
1346.2503 Subp. 3	This subpart reaffirms that only approved gas or fuel burning equipment may be installed and used.
1346.2504 Subp. 4	This subpart establishes testing processes that must be conducted when placing the equipment into operation in order to assure a safe operation.
1346.2505 Subp. 5	This requirement addresses the operation of a pilot light when used in the ignition of fuel being utilized by the equipment.

1346.2506 Subp. 6	This section outlines the test for safe and efficient burner operation of the fuel utilization equipment.
1346.2507 Subp. 7	This subpart prescribes the method of testing appliances when placed into operation to satisfy the proper combustion venting and operation of equipment being placed into service. A tag, identifying the date and name of the person doing the testing, must be attached to the equipment in case further tests must be performed. Also when the final inspection is made and a problem is encountered the person whose name is on the tag can be contacted to assist in resolving the problem.
1346.2508 Subp. 8	This part establishes the limits of CO, the required minimum efficiency of the fuel burning equipment and requirement for the use of regulators on gas burning systems or appliances.
1346.2509 Subp. 9	This part identifies the minimum equipment that must be a part of the installation of each fuel burning system based on the Btu/h input to the equipment.
1346.2510 Subp. 10	This subpart describes the minimum requirements for the identity of appliances with a consumption of over 400,000 Btu/h to be supplied by the contractor when seeking approval for a permit to install such equipment.
Chapter 26 1346.2601 Subpart 1	This subpart applies to the installation, testing, or repair of oil or fuel burning appliances similar to the requirements of the gas or fuel burning appliance identified in Chapter 25.
Subp. 2	For the installation of oil burning equipment, certain standards are applicable or identified in Appendix "C" under item "O" listing such standards ANSI, UL, as well as other requirements addressed in the UMC itself.
Subp. 3	A number of definitions have been added to this subpart to identify and define terms applicable to the installation and operation of oil burning equipment. The definitions are based on national standards such as the National Fire Protection Association (NFPA), American National Standards Institute (ANSI), and Underwriters Laboratories (UL). These definitions are not found in other sections of this code and are specifically directed towards the use and application of oil burning equipment.
Subp. 4	This part reaffirms that any equipment utilized in the installation and operation of an oil burning unit must meet the approval of the building official prior to installation and operation. It also provides for alternate approvals when special equipment is evaluated by a recognized testing agency and is ultimately installed in keeping with the approved testing and listing.
Subp. 5	This section indicates the various standards that may be used in the installation and operation of oil burning equipment. It provides that operational testing of the equipment must be done by the installer prior to acceptance and approval by the building official. A detailed process is identified for testing such operation of the equipment that is placed into service to assure a reasonable level of safety in the operation of the equipment.
Subp. 6	This subpart establishes the criteria which must be met in the performance of the equipment placed into service. The requirements for efficiency, stack temperature, carbon dioxide, oxygen, smoke test of the oil being used, monoxide limits, etc., for the various Btu/h input provided to the equipment.
Subp. 7	This subpart provides for specific requirements for various valves, controls, and systems to be employed with the installation of equipment based on consumption of products. These controls are necessary to provide a reasonable amount of safety in the operation of the equipment.
Subp. 8	This section places the requirements for the equipment to be identified with a name plate or other process in order to identify the various information necessary to evaluate that the appropriate application of the equipment has been made and provides for the supplying of the wiring, piping, and control system diagrams for assistance in repair, installation, or maintenance of the equipment.

Dated: 14 December 87

Sandra J. Hale, Commissioner
Department of Administration

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

Rules as proposed (all new material)

1346.0050 TITLE; INCORPORATION BY REFERENCE.

This chapter is known and may be cited as the "Minnesota Uniform Mechanical Code." As used in this chapter, "the code" and "this code" refer to this chapter.

Chapters 1 to 20 and appendixes A, B, and C of the 1988 edition of the Uniform Mechanical Code, promulgated by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601 and the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, California 91789, are incorporated by reference as part of the Minnesota Uniform Mechanical Code with the amendments in this chapter. As used in this chapter, "UMC" means the Uniform Mechanical Code incorporated in this part.

1346.0201 SECTION 201.

UMC Section 201(a), the second paragraph, is amended to read as follows:

The building official may render interpretations of this code and enforce rules supplemental to this code to clarify the application of this code. The interpretations and rules must conform with the intent and purpose of the Minnesota State Building Code.

1346.0203 SECTION 203.

UMC Section 203(a), the last sentence of the first paragraph, is amended to read as follows:

The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official and to the state building inspector within 15 days of the decision.

1346.0204 SECTION 204.

UMC Section 204 is amended by adding a sentence to read as follows:

A violation of this code is a misdemeanor (*Minnesota Statutes*, section 16B.69).

1346.0304 SECTION 304.

UMC Section 304(b) is amended to read as follows:

(b) Permit Fees. All permit fees must be established by the local authority except in areas outside the enforcement authority of a city. The fee charged for the issuance of permits and inspections for a single family dwelling may not exceed the greater of $100 or 0.005 times the value of the structure, addition, or alteration (*Minnesota Statutes*, section 16B.62). The fee structure in UMC Table 3-A may be used as a guideline in establishing a fee schedule to be used by the municipality.

1346.0309 TABLE 3-A.

UMC Table No. 3-A, Mechanical Permit Fees, is deleted in its entirety.

1346.0403 SECTION 403.

UMC Section 403 is amended by adding the following definitions:

"Accessible installation" means to be accessible, such as exposed in shafts or tunnels, or concealed by readily removable construction.

"Appliance fuel connector" means an assembly of listed and approved semi-rigid or flexible tubing and fittings to carry fuel between a fuel piping outlet and a fuel burning appliance installed as required by its listing and approved by this code and the building official.

1346.0404 SECTION 404.

UMC Section 404 is amended by adding the following definitions:

"Boiler, high pressure" means a boiler furnishing steam at pressures in excess of 15 pounds per square inch or hot water at temperatures in excess of 250 degrees Fahrenheit, or at pressures in excess of 30 pounds per square inch.

"Boiler, low pressure hot water" or "boiler, low pressure steam" means a boiler furnishing hot water at pressures not exceeding 30 pounds per square inch and at temperatures not more than 250 degrees Fahrenheit, or steam at pressures not more than 15 pounds per square inch.

"Btu" or "British thermal unit" means the amount of energy required to raise the temperature of one pound of water one degree Fahrenheit.

"Btu/h" means the number of Btu's used in an hour.

1346.0405 SECTION 405.

UMC Section 405 is amended by adding the following definitions:

"Continuous pilot" means a pilot that burns without turndown throughout the entire period that the boiler is in service, whether or not the main burner is firing.

"Conversion burner" means a gas burner accessory or device designed to supply gaseous fuel to and properly burn the fuel within the combustion chamber zone of a boiler, furnace, or other device originally designed to use another fuel.

1346.0406 SECTION 406.

UMC Section 406 is amended by adding the following definitions:

BKBM Consulting Co.

"Direct gas-fired makeup air heater" means a gas heating device in which gas is burned and in which the products of combustion are mixed with the air that is to be heated in passing through the heater. The installation includes the unit and equipment from its outside air inlet to the outlet where the heated air leaves the unit with all appropriate control devices.

"Dual fuel burner" means a gas burner firing into the same combustion chamber zone into which another fuel is used and connected to an approved flue.

1346.0407 SECTION 407.

UMC Section 407 is amended by adding the following definition:

"Exposed" means visible and accessible without the removal of any other item.

1346.0408 SECTION 408.

UMC Section 408 is amended by adding the following definitions:

"Fire code" means the Minnesota Uniform Fire Code promulgated jointly by the Western Fire Chiefs Association and the International Conference of Building Officials, as adopted by the Minnesota Department of Public Safety.

"Fuel" means natural, manufactured, or liquified petroleum gas, or a mixture of these gases; all grades of fuel oil; coal; wood; or any other combustible or flammable material; or a mixture of combustible or flammable materials.

"Fuel burner" means a device used to convey the appropriate fuel into the combustion chamber zone, in close proximity to its combustion air supply to permit a stable controlled heat release compatible with the burner design, listing, and applicable approvals in a boiler, furnace, device, or appliance. It includes appliances designed to burn gas fuel, dual fuel appliances, conversion burners, direct gas-fired makeup air heaters, or any other fuel burning appliance.

"Fuel burning equipment" includes a fuel burner, vent connectors, fuel burning systems, vent flues, chimney liners, fans, blowers, valves, control devices, combustion air, and all accessories for proper and safe operation of the appliance.

"Fuel burning system" means the fuel burner and a conveyance system for the purpose of introducing the appropriate fuel into the combustion chamber zone.

"Fuel gas" means natural, manufactured, or liquified petroleum gas or a mixture of these gases.

1346.0409 SECTION 409.

UMC Section 409 is amended by adding the following definitions:

"Gas burner" means a device for the final conveyance of gas or a mixture of gas and air to the combustion chamber zone of a boiler, furnace, device, or appliance used in connection with a heating system and includes gas-designed appliances, conversion burners, direct gas-fired makeup air heaters, and dual fuel burners.

"Gas burning equipment" includes gas burners, vent connectors, vent flues, chimney liners, and all piping from the appliance shutoff valve, fans, blowers, control devices, and accessories connected to the burner.

"Gas-designed appliance" means a space heating appliance designed for the exclusive use of gaseous fuel, except for an auxiliary heater installed in an approved masonry fireplace.

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

1346.0410 SECTION 410.

UMC Section 410 is amended by adding the following definitions:

"High pressure gas piping system" means a system that operates at a pressure exceeding 14 inches water column.

"High pressure piping" means high pressure piping used in the installation of hot water or steam heating boilers, any system of piping hot water or other medium used for heating that exceeds 30 pounds per square inch gauge and 250 degrees Fahrenheit, or any system of high pressure steam piping, but does not include high pressure piping under the direct jurisdiction of the United States (*Minnesota Statutes*, section 326.461, subdivision 2).

1346.0411 SECTION 411.

UMC Section 411 is amended by adding the following definitions:

"Inaccessible installation" means those sections of piping systems installed in walls, floors, ceilings, or other areas where access cannot be made without the removal of permanent construction.

"Interlock" means a device that senses a limit or off-limit condition or improper sequence of events, shuts down the offending or related piece of equipment, and prevents proceeding in an improper sequence to prevent a hazardous condition from developing.

"Intermittent pilot" means a pilot that burns during light-off and while the main burner is firing and that is shut off with the main burner.

"Interrupted pilot" means a pilot that burns during light-off and that is shut off during normal operation of the main burner.

1346.0414 SECTION 414.

UMC Section 414 is amended by adding the following definition:

"Low pressure gas piping system" means a system operating at a pressure of 14 inches or less water column.

BKBM Consulting Co. PMC

1346.0418 SECTION 418.

UMC Section 418 is amended by adding the following definitions:

"Package boiler" means a boiler equipped and shipped complete with electrical elements or fuel burning equipment, automatic controls and accessories, and mechanical draft equipment, if used.

"Pilot" means a burner smaller than the main burner that is ignited by a spark or other independent and stable ignition source and that provides ignition energy required to immediately light off the main burner.

"Piping system" means the method of conveying liquid, vapor, steam, gases, or slurry from one point to another for purposes of this code, including accessories, appurtenances, and equipment necessary for its proper operation.

"Pressure vessel" means an unfired, closed container for liquids, gases, or vapors subjected to pressures exceeding 15 pounds per square inch, or steam and hot water under any pressure.

"Proof of closure switch" means a switch in the safety shut-off valve that will prove that the valve is 100 percent closed. The switch must be interlocked into the system to prevent any starting procedure unless proven closed. The switch must close when the valve has had an overtravel of the valve seat.

"Psig" means pounds of pressure per square inch as read from a measurement device or gauge.

"Purge" means an acceptable method of scavenging the combustion chamber, boiler passages, and breeching to remove all combustion gases. It consists of at least four air changes for trial of ignition, and after lockout at high fire damper setting, at least 90 seconds.

1346.0421 SECTION 421.

UMC Section 421 is amended by adding the following definition:

"Service piping" means the piping and equipment between the street gas main and the structure gas piping system inlet that is installed, controlled, and maintained by the serving gas supplier.

1346.0504 SECTION 504.

UMC Section 504(f) is amended to read as follows:

(f) LPG Appliances. LPG applications and installations must be in accordance with the rules of the Minnesota State Fire Marshal and this code.

1346.0602 SECTION 602.

UMC Section 602(a) is amended to read as follows:

Section 602. (a) Location. Openings for combustion air must be located in an exterior wall or roof or in areas that fully communicate to the exterior of the building. Openings in walls must be located at least one foot above grade where it penetrates the exterior wall.

1346.0603 SECTION 603.

UMC Section 603 is amended to read as follows:

Section 603. (a) Air from outside. Combustion air must be obtained from outside the building through continuous ducts of the required cross-section area, complying with Section 607, extending from the appliance area to the outside of the building. Caution must be taken in the installation of the combustion air ducts so that equipment located in the room will not be subjected to freezing temperatures.

(b) Prohibited sources. Openings and ducts must not connect appliance enclosures with attic spaces.

1346.0604 SECTION 604.

UMC Section 604 is amended to read as follows:

Section 604. (a) General. Combustion air ducts must:

1. be of galvanized steel complying with chapter 10 or equivalent corrosion-resistant material approved for this use.

2. have a minimum cross-sectional area at least equal to the required flue serving the equipment requiring combustion air, and discharge the air at a point not more than one foot above the floor of the equipment area;

3. have the same cross-sectional area as the free area of the opening to which it is connected; and

4. serve a single appliance enclosure.

(b) Dampers. Dampers may be installed as required in UMC Section 602(b).

(c) Other installations. A manufacturer's installation instructions that require combustion air supply and distribution different than what is provided for in this section may be approved by the building official.

1346.0605 SECTION 605.

UMC Section 605 is amended to read as follows:

Section 605. Gravity-type warm air furnaces must be provided with combustion air as specified in this code. Combustion and cold air return for gravity-type warm air furnaces may be obtained from the same area.

1346.0606 SECTION 606.

UMC Section 606 is amended to read as follows:

Section 606. Operation of exhaust fans, kitchen ventilation systems, clothes dryers, or fireplaces must be considered in determining combustion air requirements to avoid unsatisfactory operation of installed fuel burning appliances.

1346.0607 SECTION 607.

UMC Section 607 is amended to read as follows:

Section 607. (a) General. The free area of openings, ducts, or plenums supplying combustion air to rooms or spaces containing fuel burning appliances must be as required by this section.

(b) Fuel inputs greater than 400,000 Btu/h. All rooms containing fuel utilization equipment must be provided with combustion air with openings communicating directly to the outside. The net free opening area of these openings must be as follows:

1. Gravity-type fuel burners. The net free area of the combustion air openings must be not less than one square inch for each 5,000 Btu/h input, with a minimum free area of not less than 100 square inches.

2. Power-type fuel burners. The net free area of the combustion air opening must be not less than one-half square foot for each 1,000,000 Btu/h input, with a minimum free area of not less than one-half square foot.

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

(c) Fuel inputs less than 400,000 Btu/h. Openings of ducts supplying combustion air must have a net free open area not less than the minimum required common flue of flues serving the fuel utilization equipment. The combustion air system must discharge the air at a point not more than one foot above the floor.

EXCEPTION: In lieu of the application in this paragraph, the combustion air supply system may be introduced into the cold air return of the heating system with an outlet provided in the supply duct. The size of the supply outlet must be equal to one-half of the cross-sectional area of the common flue or flues serving the fuel utilization equipment.

(d) Designed installations. With prior approval, compliance with paragraphs (b) and (c) is not required for an installation that has been professionally designed to ensure an adequate supply of combustion air.

1346.0608 SECTION 608.

UMC Section 608 is added to read as follows:

Section 608. Equipment ventilation. In addition to air needed for combustion and dilution of flue gases, air for the fuel utilization equipment must be provided as follows:

1. All equipment installations. Adequate ventilation must be provided in areas housing fuel utilization equipment to prevent the accumulation of gas or fuel vapors beyond the danger point if a leakage occurs.

2. In confined spaces. If the floor area of the fuel utilization equipment compartment is less than twice the floor area used by the equipment in the space, ventilation air must be supplied to the confined space through at least two openings communicating to the interior of the building as follows:

A. Ventilation air outlet grille located in the wall or door of the space at a height above the draft hood opening. The net free area of the opening must be at least one square inch for each 2,000 Btu/h input.

B. Ventilation air inlet grille located in the wall or door of the space at a height at or below the combustion air outlet to the burner. The net free area of the opening must be at least one square inch for each 2,000 Btu/h input.

1346.0706 SECTION 706.

UMC Section 706(d) is amended to read as follows:

(d) Dampers. Volume dampers must not be placed in the air inlet to a furnace in a manner that will reduce the required air to the furnace.

Volume dampers, splitters, and deflectors must be provided for all ducts to permit balancing of the system. The dampers, splitters, and deflectors must be set according to air measurements of the system and must be locked in place. In finished or inaccessible locations, a friction-type register box damper may be used.

1346.0710 SECTION 710.

UMC Section 710(h) is amended to read as follows:

(h) Access. Every furnace installed in or on an exterior wall of a building that is designed so that the burners or controls must be serviced from the outside of the building must be accessible.

A furnace located on the roof of a building must be accessible.

Permanent ladders providing roof access must:

1. have side railings that extend at least 30 inches above the roof edge or parapet wall;

2. have landings less than 18 feet apart measured from the finished grade;

3. be at least 14 inches in width;

4. have rungs not more than 14 inches on center; and

5. have a minimum of a 3-1/2 inch toe space.

EXCEPTIONS:

1. Permanent exterior ladders providing roof access need not extend closer than eight feet to the finish grade.

2. A portable ladder may be used for access for furnaces on the single-story portion of a Group M or R Occupancy.

1346.0807 SECTION 807.

UMC Section 807(a) is amended to read as follows:

Section 807. (a) Vented freestanding. Vented freestanding room heaters must not be installed in bedrooms or sleeping quarters when

the heaters depend on air for combustion from the room in which they are placed. When approved by the building official, vented freestanding room heaters may be installed in other types of rooms and must be installed with clearances from combustible material as set forth in Table No. 5-A.

UMC Section 807(c) and (d) are deleted in their entirety.

1346.0808 SECTION 808.

UMC Section 808 is added to read as follows: BKBM

Section 808. Duct furnaces. Installation of duct furnaces must comply with the requirements of NFPA 54-1984. errata

1346.0809 SECTION 809.

UMC Section 809 is amended to read as follows:

Section 809. Infrared heaters. Installation of infrared heaters must comply with the requirements of NFPA 54-1988.

NOTE: Mechanical exhaust must be provided in the quantity recommended by the manufacturer and be sufficient to prevent condensation in the space to be heated. Heaters must be installed so they will not operate until the exhaust air quantity has been proved. Makeup air must be provided to the space to be heated.

1346.0906 SECTION 906. BKBM

UMC Section 906(a) is amended to read as follows:

Section 906. (a) General. Vents must extend above the roof surface through a flashing. : does this outlaws vent cap

1346.0913 SECTION 913.

UMC Section 913(b), the first two paragraphs, are amended to read as follows:

(b) Gas venting into masonry chimneys. Lined and unlined masonry chimneys may be used to vent gas appliances, provided:

1. An approved liner must be installed in a masonry chimney when the combined input is less than 400,000 Btu/h or when considered necessary by the building official considering local problems of vent gas condensate. The liner must comply with one of the following:

A. aluminum 2S-H14, 1/2 hard, thickness .032 inches to eight inches diameter, temperatures not to exceed 550 degrees Fahrenheit at outlet of equipment;

B. stainless steel No. 302, No. 26 U.S. Standard gauge to eight inches diameter, No. 24 U.S. Standard gauge to eight inches diameter;

C. vitreous coated steel of No. 22 U.S. Standard gauge before coating;

D. class "B" vents approved by Underwriters Laboratories, or other approval and listing agencies, temperatures not to exceed 550 degrees Fahrenheit at outlet of appliance; or

E. other types of liners as approved by the building official.

1346.1521 SECTION 1521.

UMC Chapter 15 is amended by adding a section to read as follows:

Gas Air Conditioners

Section 1521. The installation of gas-fired air conditioners must comply with the requirements of NFPA 54-1988 Section 6.2.

1346.2003 SECTION 2003. : d/this exempts kitchen hoods BKBM

UMC Section 2003(i) is amended to read as follows:

(i) Makeup air. Each room provided with an exhaust system must have air supplied to the room equal to the amount of air to be exhausted. Makeup diffusers must be located to prevent a short circuiting of air furnished to the exhaust system. Windows and doors must not be used for the purpose of providing makeup air. The exhaust and makeup air systems must be connected by an electrical interlocking switch. Exhaust systems must be provided with tempered makeup air. Tempered air is air of a temperature not less than 55 degrees Fahrenheit, measured at the flow of air from the discharge diffuser into the room. Compensating hoods must meet the

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

airflow requirements in Section 2003(g), 2, 3, and 4. Compensating hoods must extract at least 80 percent of their required exhaust airflow from the kitchen area.

1346.2101 SECTION 2101.

UMC Appendix B, Section 2101, is amended to read as follows:

Section 2101. The purpose of this chapter is to establish and provide minimum standards for the protection of public welfare, health, safety, and property by regulating and controlling the quality, location, and installation of low pressure, low temperature steam and hot water boilers, pressure vessels, piping systems, and their equipment and appurtenances.

1346.2102 SECTION 2102.

UMC Appendix B, Section 2102, the first paragraph, is amended to read as follows:

Section 2102. This chapter applies to the construction, installation, operation, repair, and alteration of all boilers, pressure vessels, piping systems, and their equipment and appurtenances.

1346.2104 SECTION 2104.

UMC Appendix B, Section 2104, the first paragraph, is amended to read as follows:

Section 2104. The definitions in this section apply to this chapter, unless a word's context clearly indicates a different meaning. For additional definitions, see Chapter 4 of this code.

UMC Appendix B, Section 2104, is amended by adding the following definitions:

"Accessible installation" means accessible whether in a shaft, tunnel, or other concealed space by readily removable construction.

"Exposed installation" means installation that is visible and accessible without the removal of an item of construction.

"Inaccessible installation" means inaccessible whether in a shaft, tunnel, or other concealed space and only accessible by the removal of permanent construction.

"Piping system" means the method of conveying liquid, vapor, steam, gases, or slurry from one point to another for purposes of this code, including accessories, appurtenances, and equipment necessary for proper operation.

UMC Appendix B, Section 2104, the definitions of "package boiler" and "pressure vessel (unfired)," are amended to read as follows:

"Package boiler" means a boiler equipped and shipped complete with electrical heating elements or fuel burning equipment, automatic controls and accessories, and mechanical draft equipment, if used.

"Pressure vessel" means an unfired, closed container for liquids, gases, or vapors subjected to pressures exceeding 15 pounds per square inch, or steam and hot water under any pressure.

1346.2106 SECTION 2106.

UMC Appendix B, Section 2106(b) and (e), are amended to read as follows:

(b) Controls. Required electrical, mechanical, safety, and operating controls must carry approval of an approved testing agency. Electrical controls must be designed and built so that they are suitable for installation in the environment in which they are located, and must comply with the National Electrical Code as adopted.

(e) Welding. Welding on pressure vessels and piping must be done by approved welders in conformity with nationally recognized standards. This welding is subject to the approval of the building official.

1346.2107 SECTION 2107.

UMC Appendix B, Section 2107(a), (b), and (c) are amended to read as follows:

Section 2107. (a) General. A hot water heating system must be provided with an air expansion tank securely fastened to the structure. Supports must be adequate to carry twice the weight of the tank filled with water without placing any strain on connecting piping. Hot water heating systems incorporating hot water tanks or fluid relief columns must be installed to prevent freezing under normal operating conditions.

EXCEPTION: Small expansion tanks installed consistent with manufacturer's recommendations may be supported by the piping if so designed.

(b) Systems with open expansion tank. Systems equipped with an open expansion tank to satisfy thermal expansion must be provided with an indoor overflow from the upper portion of the expansion tank in addition to an open vent. The indoor overflow must be carried within the building to a suitable plumbing fixture.

(c) Closed-type systems. Systems of the closed type must have an airtight tank or other suitable air cushion that will be consistent with the volume and capacity of the system, and must be suitably designed for a hydrostatic test pressure of 2-1/2 times the allowable working pressure of the system. Expansion tanks for systems designed to operate at or above 50 psig must be constructed according to nationally recognized standards approved by the building official. Provisions must be made for draining the tank without emptying the system, except for pressurized tanks. The valve between the boiler or mains and the expansion tank must have permanently attached to it a metal tag having substantially the following wording stamped or etched on it: "This valve must be OPEN at all times except when draining the expansion tank."

1346.2108 SECTION 2108.

UMC Appendix B, Section 2108, is amended to read as follows:

Section 2108. A hot water liquid boiler or heat exchanger must be equipped with a pressure relief valve and a steam boiler must be equipped with a safety valve. Pressure relief and safety valves must be rated and installed according to ASME boiler and pressure vessel code.

1. Discharge piping from safety and relief valves must be directed to a position so that the danger of scalding a person is minimized and away from operating controls, thus preventing damage to the person. In no case may the discharge piping be more than 18 inches from the floor.

2. Inlet and discharge pipes are to be the full size of the valve opening and the discharge end must be reamed and unthreaded.

3. If manifolding two or more valve discharges, the piping must be sized so that its area is equivalent or greater than the combined areas of the discharge openings.

4. Discharge piping from a safety or relief valve when rising up must be provided with a drain opening to prevent the accumulation of condensate at the valve.

5. The required relieving capacity of the pressure relieving device or devices on a boiler or heat exchanger must be equal to or greater than the maximum output of the boiler or heat exchanger.

6. To prevent excessive loss of relieving capacity of the discharge piping because of length of pipe, the discharge piping must be increased in size.

: quantified

1346.2109 SECTION 2109.

UMC Appendix B, Section 2109, is amended to read as follows:

Section 2109. An approved manual shutoff valve must be installed upstream of all control devices on the main burner of a gas-fired boiler. The takeoff point for the gas supply to the pilot must be upstream of the gas shutoff valve of the main burner and must be valved separately. A union or other approved means of disconnect must be provided immediately downstream of these shutoff valves. All boilers, vessels, equipment, and their appurtenances must have approved valves on the inlet and outlet of the unit. Approved valves must be used in a manner consistent with their testing and listing.

1346.2110 SECTION 2110.

UMC Appendix B, Section 2110, is amended to read as follows:

Section 2110. See Chapter 22, section 2220(c), for the requirements of pressure regulators.

1346.2111 SECTION 2111.

UMC Appendix B, Section 2111, is amended to read as follows:

Section 2111. An automatically-fired hot water heating or steam generating boiler must be equipped with an automatic low water fuel cutoff to automatically cut off the fuel supply when the surface of the water falls to the lowest safe water level according to items a, b, and c.

(a) An automatically-fired hot water boiler or group of boilers piped together having a rated input in excess of 400,000 Btu/h per hour must be equipped with an automatic low water fuel cutoff to stop the fuel supply when the surface of the water falls below the lowest safe permissible water level established by the boiler manufacturer.

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

(b) A boiler installed at an elevation where all radiation in the system is below the safe boiler level must be equipped with an automatic low water fuel cutoff to stop the fuel supply when the surface of the water falls below the lowest safe permissible water level established by the boiler manufacturer.

(c) A low water cutoff must be installed when recommended by the manufacturer's installation instructions or listing and when special consideration and installations will require a low water cutoff to protect a hot water or steam boiler in the opinion of the building official.

1346.2113 SECTION 2113.

UMC Appendix B, Section 2113, is amended to read as follows:

Section 2113. Automatic boilers must be equipped with controls and limit devices as set forth in Table No. 21-C. The building official may approve solid fuel-fired boilers that can meet the safety requirements for automatic gas or oil-fired boilers.

1346.2114 SECTION 2114.

UMC Appendix B, Section 2114, is amended to read as follows:

Section 2114. If boilers are installed or replaced, clearance must be provided to allow access for inspection, maintenance, and repair. Passage must have an unobstructed width of not less than 36 inches on all sides of the equipment. Clearance for repair and cleaning may be provided through a door or access panel into another area if the opening is of sufficient size.

EXCEPTION: Subject to the approval of the building official, boilers may be installed with a side clearance of less than 36 inches if the lesser clearance is part of the testing and listing of the equipment and does not inhibit inspection, maintenance, and repair.

Clearance from the top of the boiler to the ceiling for hot water and steam boilers under 400,000 Btu/h must be at least three feet. Clearance for hot water and steam boilers over 400,000 Btu/h must be at least four feet.

Package boilers, miniature boilers, low pressure heating boilers, and hot water supply boilers with no manhole on top of shell and not exceeding any of the above limits must have a minimum clearance of two feet from the ceiling.

1346.2115 SECTION 2115.

UMC Appendix B, Section 2115, is amended to read as follows:

Section 2115. Boiler rooms and enclosures and their access must comply with UMC chapter 7 and the requirements of the Minnesota State Building Code.

Boilers must not be installed in confined spaces such as alcoves or closets unless specifically approved for the installation. Boilers must be installed to allow sufficient area around the equipment for service and maintenance.

Boiler rooms in other than one- and two-family dwellings must have an area of at least ten times the area occupied by the boiler. If additional equipment is located in the boiler room, additional area must be provided equal to the area occupied by the equipment plus required clearance for servicing. At least 36 inches of clear space must be provided in front of all zone valves, control, and other necessary devices for access and servicing.

1346.2120 SECTION 2120.

UMC Appendix B, Section 2120, is amended to read as follows:

Section 2120. Fuel piping must conform to the requirements of UMC Chapters 22, 25, and 26 or the standard cited in Appendix C, Reference Standards - Oil Tanks, Piping, etc.

1346.2122 SECTION 2122.

UMC Appendix B, Section 2122, is amended to read as follows:

Section 2122. Hot water and steam boiler installations must have all controls set, adjusted, and tested by the installing contractor, and a complete control diagram of a permanent legible type, with complete boiler operating instructions, must be furnished by the installer for each installation. The instruction information must remain at the job site for the owner's use.

1346.2123 SECTION 2123.

UMC Appendix B, Section 2123, is amended to read as follows:

Section 2123. An installation for which a permit is required must not be put into service until it has been inspected and approved by the building official. The owner or the owner's representative shall notify the building official that the installation is ready for inspection and test and provide access for the inspection or test. The owner or the owner's representative shall also post in a conspicuous position on the installation a notice in substantially the following form: "Warning! This installation has not been inspected and approved by the building official and must not be covered or concealed until it has been inspected or approved." It is unlawful for anyone other

than the building official to remove the notice. The building official shall require tests the official considers necessary to determine that the installation complies with the UMC. The tests must be made by the owner or the owner's representative in the presence of the building official.

EXCEPTION: Installations designed and supervised by a registered professional engineer may be inspected and tested by that engineer in lieu of the above requirements when approved by the building official.

If the owner or the owner's representative requests inspection of a boiler before its installation, the building official shall make the inspection.

1346.2124 SECTION 2124.

UMC Appendix B, Section 2124, is deleted in its entirety.

1346.2125 SECTION 2125.

UMC Appendix B, Section 2125, is deleted in its entirety.

1346.2126 SECTION 2126.

UMC Appendix B, Section 2126, is deleted in its entirety.

1346.2127 SECTION 2127.

UMC Appendix B, Section 2127, is amended to read as follows:

pressures question

Section 2127. Piping systems must comply with the following requirements:

EXCEPTION: High pressure piping systems that are part of a heating system must comply with *Minnesota Statutes*, sections 326.46 to 326.52, and the rules of the Department of Labor and Industry.

1. Piping systems in which the pressure exceeds 30 psig or the temperature exceeds 250 degrees Fahrenheit must comply with nationally recognized standards approved by the building official, *Minnesota Rules*, chapter 5230, and the requirements of item 2.

2. Piping systems in which the pressure does not exceed 30 psig and the temperature does not exceed 250 degrees Fahrenheit must comply with the requirements in A to F. If there is a conflict between this code and the rules of the Department of Labor and Industry, the most restrictive must apply.

A. Materials and construction.

(1) Pipe. Pipe must be brass, copper, cast iron, galvanized or black wrought iron, galvanized or black steel, or other approved materials. Plastic pipe must not be used in any service of 120 degrees Fahrenheit or more.

EXCEPTION: Galvanized pipe is not permitted for use in steam systems.

(2) Tubing. Tubing must be copper water tube, type K, L, or M.

EXCEPTION: Type M copper must not be used in steam systems.

(3) [Unchanged.]

(4) Fittings. (i) Plain screwed fittings must be brass, bronze, cast iron, galvanized or black mallable iron, or galvanized or black steel.

EXCEPTION: Galvanized pipe and galvanized fittings must not be used in steam systems.

(ii) and (iii) [Unchanged.]

(iv) [Deleted in its entirety.]

(5) to (9) [Unchanged.]

(10) Gaskets. Flange gaskets must be of metal or other approved materials.

(11) to (15) [Unchanged.]

B. [Unchanged.]

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

C. Connections.

(1) to (5) [Unchanged.]

(6) [Deleted in its entirety.]

(7) Copper water tubing. Joints in copper tubing must be soldered, sweated, or brazed.

(8) Piping to tubing. Joints connecting piping to tubing must be made with adapter fittings connected as required in items (1) to (7).

D. and E. [Unchanged.]

F. Hangers and supports. All piping and equipment must be adequately supported to the satisfaction of the building official. Hot water and steam piping must be supported, anchored, and provided with swing joints, expansion loops or joints, or other means to avoid excessive strain on piping, equipment, or the building structure by metal hangers or other approved hangers, and spaced so that there will be no sag in the piping between points of suspension. When fastened to walls, piping, and equipment must be securely supported by metal brackets or pipe supports spaced so that there will be no sag in the piping between points of suspension. Supports must be arranged so that there will be no undue strain on the threads of any pipe or fittings and equipment connected to it. The maximum spacing of hangers and minimum hanger rod size for steel and copper must be as follows:

Nominal Pipe Size (in inches)	Maximum Span (in feet)	Minimum Rod Diameter (in inches)
Up to 3	10	3/8
3	12	1/2
3 1/2	13	1/2
4	14	5/8
5	16	5/8
6	17	3/4
8	19	7/8
10	22	7/8
12	22	7/8

(1) [Unchanged.]

(2) Horizontal piping.

(i) [Unchanged.]

(ii) In ground. Piping and tubing in the ground must be laid on a firm bed for its entire length, except where support is otherwise provided that is adequate in the judgment of the building official.

G. Installation.

(1) [Unchanged.]

(2) Wall thickness. (i) Piping must be at least standard weight brass or copper, Class 150 cast iron, standard weight wrought iron, or ASTM Schedule 40 steel.

(ii) [Unchanged.]

(3) to (6) [Unchanged.]

(7) Underground piping.

(i) [Unchanged.]

(ii) Beneath buildings.

Ferrous piping. [Unchanged.]

Copper tubing. [Unchanged.]

Asbestos-cement. [Deleted in its entirety.]

(iii) Outside of buildings - black wrought-iron and black steel.

Asbestos-cement. [Deleted in its entirety.]

(iv) and (v) [Unchanged.]

(8) Aboveground piping.

(i) to (v) [Unchanged.]

(vi) [Deleted in its entirety.]

(vii) [Unchanged.]

(viii) Drainage. Means must be provided to drain all piping into an approved floor drain.

(ix) [Unchanged.]

(9) [Unchanged.]

H. Pressure testing.

(1) [Unchanged.]

(2) Media. The piping must be tested with water or other approved methods.

(3) to (6) [Unchanged.]

3. Hot water piping systems in which the design temperature does not exceed 120 degrees Fahrenheit may be constructed of polybutylene pipe or tubing of SDR-11 conforming to specification ASTM D 3309.

A. to D. [Unchanged.]

E. Installation details.

(1) to (4) [Unchanged.]

(5) Above ground piping.

(i) [Unchanged.]

(ii) [Delete in its entirety.]

(6) [Unchanged.]

F. Pressure testing.

(1) [Unchanged.]

(2) Media. The piping must be tested with water or other approved materials.

(3) [Unchanged.]

1346.2133 TABLE NO. 21-C.

UMC Appendix B, Table No. 21-C, is amended to read as follows:

TABLE NO. 21-C—CONTROLS AND LIMIT DEVICES FOR AUTOMATIC BOILERS

				SAFETY CONTROL TIMING (Nominal Maximum Time in Seconds)											
					TRIAL FOR MAIN BURNER FLAME										
BOILER GROUP	FUEL	FUEL INPUT RANGE[1] (Inclusive)	TYPE OF PILOT[2]	TRIAL FOR PILOT	DIRECT ELECTRIC IGNITION	FLAME PILOT	MAIN BURNER FLAME FAILURE[3]	ASSURED FUEL SUPPLY CONTROL[4]	ASSURED AIR SUPPLY CONTROL[5]	LOW FIRE START UP CONTROL[6]	PRE-PURGING CONTROL[7]	HOT WATER TEMPERATURE AND LOW WATER LIMIT CONTROLS[8]	STEAM PRESSURE AND LOW WATER LIMIT CONTROLS[9]	APPROVED FUEL SHUTOFF[10]	CONTROL AND LIMIT DEVICE SYSTEM DESIGN[11]
A	Gas	0-400,000 Btu/h	Any type	90	Not Required	90	90	Not Required	Required	Not Required	Not Required	Required	Required	Not Required	Required
B	Gas	400,001-2,500,000 Btu/h	Interrupted or intermittent	15	15	15	2-4	Not Required	Required	Not Required	Not Required	Required	Required	Not Required	Required
C	Gas	2,500,001-5,000,000 Btu/h	Interrupted or intermittent	15	15	15	2-4	Required	Required	Required	Required	Required	Required	Required	Required
D	Gas	Over 5,000,000 Btu/h	Interrupted	15	15	15	2-4	Required	Required	Required	Required	Required	Required	Required	Required
E	Oil	0-400,000 Btu/h	Any type	Not Required	90	90	90	Not Required	Required	Not Required	Not Required	Required	Required	Not Required	Required
F	Oil	400,001-1,000,000 Btu/h	Interrupted	Not Required	30	30	2-4	Required	Required	Not Required	Not Required	Required	Required	Not Required	Required
G	Oil	1,000,001-3,000,000 Btu/h	Interrupted	Not Required	15	15	2-4	Required	Required	Not Required	Not Required	Required	Required	Not Required	Required
H	Oil	Over 3,000,000 Btu/h	Interrupted	15	15	60	2-4	Required	Required	Required	Required	Required	Required	Required	Required
K	Electric	All	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required	Required	Required	Not Required	Required

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

FOOTNOTES FOR TABLE NO. 21-C

[1]Fuel input must be determined by the maximum burner input as shown on the burner nameplate.

[2]Automatic boilers must have one flame failure device on each burner that must prove the presence of a suitable ignition source at the point where it will reliably ignite the main burner, except that boiler group E that is equipped with direct electric ignition must monitor the main burner. Boiler group A equipped with continuous pilot must accomplish 100 percent shutoff within 90 seconds after flame failure. Boiler groups G and H trial for ignition timing is ten seconds for distillate oils and 15 seconds for oil requiring preheating.

[3]Electronic safety equipment must be provided for all burners exceeding 400,000 Btu/h input, except on multiple burner equipment where each section of 400,000 Btu/h input or fraction of it is supervised by an approved safety pilot.

[4]Boiler groups B, C, and D must have controls interlocked to accomplish a nonrecycling fuel shutoff upon high or low gas pressure and boiler groups B, C, D, F, G, and H using steam or air for fuel atomization must have controls interlocked to accomplish a nonrecycling fuel shutoff upon low atomizing steam or air pressure. Boiler groups F, G, and H equipped with a preheated oil system must have controls interlocked to provide fuel shutoff upon low oil temperature. Boiler groups F, G, and H must have controls for high oil temperature, and groups G and H must have controls for low oil pressure.

[5]Automatic boilers must have controls interlocked to shut off the fuel supply in the event of draft failure if forced or induced draft fans are used or, in the event of low combustion air flow, if a gas power burner is used. If a single motor directly driving both the fan and the oil pump is used, a separate control is not required.

[6]Boiler groups B, C, D, G, and H, when firing in excess of 400,000 Btu/h per combustion chamber, must be provided with low fire start of its main burner system to permit smooth light-off. This will normally be a rate of approximately one-third of its maximum firing rate.

[7]Boiler groups B, C, D, F, G, and H must not permit pilot or main burner trial for ignition operation before a purging operation. Purging is an acceptable method of scavenging the combustion chamber, boiler passages, and breeching to remove all combustion gases. It consists of at least four air changes for trial of ignition and after lockout at high fire damper setting, at least 90 seconds minimum. An atmospheric gas burner with no mechanical means of creating air movement or an oil burner that obtains two-thirds or more of the air required for combustion without mechanical means of creating air movement must not require purge by means of four air changes so long as its secondary air openings are not provided with means of closing. If burners have means of closing secondary air openings, a time delay must be provided that puts these closures in a normally open position for four minutes before an attempt for ignition. An installation with a trapped combustion chamber must in every case be provided with a mechanical means of creating air movement for purging.

[8]Every automatic hot water supply boiler, low pressure hot water heating boiler, and power hot water boiler must be equipped with two high temperature limit controls with a manual reset on the control with the higher setting interlocked to shut off the main fuel supply, except that manual reset on the high temperature limit control must not be required on an automatic package boiler not exceeding 400,000 Btu/h input and that has been approved by an approved testing agency. Every automatic hot water heating, power boiler, and package hot water supply boiler exceeding 400,000 Btu/h input must be equipped with one low water level limit control with a manual reset interlocked to shut off the fuel supply installed to prevent damage to the boiler and to permit testing of the control without draining the heating system.

[9]Every automatic low pressure steam heating boiler, small power boiler, and power steam boiler must be equipped with two high-steam pressure limit controls interlocked to shut off the fuel supply to the main burner with manual reset on the control with the higher setting and two low water level limit controls, one of which must be provided with a manual reset device and independent of the feed water controller.

[10]Boiler groups A, B, C, D, E, F, G, and H must use approved safety shutoff valves for the main burner fuel shutoff that must be interlocked to the flame safeguard control devices required under UMC Chapter 25. On oil burners where the safety shutoff valves will be subjected to pressures in excess of ten pounds per square inch when the burner is not firing, relief valves must be provided. Proof of closing valves must be provided for boiler groups C and D of over 1,000,000 Btu/h. The requirements in NFPA 85-A may be used for boilers of groups D and H with Btu/h input of over 12,500,000.

[11]Control and limit device systems must be grounded with operating voltage not to exceed 150 volts. Control and limit devices must interrupt the ungrounded side of the current. A readily accessible means of manually disconnecting the control circuit must be provided with controls so arranged that when they are de-energized the burner must be inoperative.

1346.2201 SECTION 2201.

UMC Appendix B, Section 2201, is amended to read as follows:

Section 2201. This chapter governs the installation or repair of fuel or gas burning systems, fuel or gas burners, fuel or gas burning equipment, and fuel or gas piping systems in connection with a building or structure or within the property lines of premises, other than service pipe.

1346.2202 SECTION 2202.

UMC Appendix B, Section 2202, is amended by deleting in their entirety the definitions of "high-distribution pressure" or "second-state pressure" and medium pressure" and by adding the following definitions in their proper sequence:

"Fuel gas burner" means a device to convey fuel or gas into the combustion chamber or zone of a furnace, boiler, device, or appliance in close proximity to its combustion air supply to permit a stable controlled heat release compatible with the burner and systems design.

"Fuel gas burning system" means a system of burners and the systems for conveying fuel gas to burners for any purpose, piping and accessories for natural gas, manufactured gas, and liquified petroleum gas. If required, a vent system to dispose of products of combustion is a part of the fuel gas burning system.

"High pressure gas" means gas in a piping system that operates at pressures exceeding a 14-inch water column.

"Liquified petroleum gas," "LPG," or "LP gas" means and includes a material in either the liquid or gaseous state composed predominantly of any of the following hydrocarbons or mixtures of them: propane, propylene, normal butane or isobutane, and butylenes.

"Low pressure gas" means gas in a piping system that operates at pressures of 14-inch or less water column.

1346.2205 SECTION 2205.

UMC Appendix B, Section 2205, is amended to read as follows:

Section 2205. Gas piping must not be strained or bent and appliances may not be supported by or develop strain or stress on supply piping. Gas piping supplying appliances designed to be supported by the piping may be used to support appliances when installed according to the manufacturer's instructions.

1346.2206 SECTION 2206.

UMC Appendix B, Section 2206(c), items 1 and 2, are amended to read as follows:

1. Rough piping inspection. The inspection must be made after gas piping authorized by the permit has been installed and before any piping has been covered or concealed or any fixture or appliance has been attached. The inspection must include a determination that the gas piping size, material, and installation meet the requirements of this chapter. The inspection must include an air pressure test at which time the fuel piping used must stand a pressure of not less than 25 psig, for at least 12 hours but not less than 1-1/2 times the working pressure. Tests must be made using air pressure or other approved means and must be made in the presence of the building official or the official's representative. Necessary apparatus for conducting the test must be furnished by the permit holder.

2. Final piping inspection. The inspection must be made after piping authorized by the permit has been installed, after all parts that are to be covered or concealed are concealed, and after fixtures, appliances, or shutoff valves have been attached.

1346.2211 SECTION 2211.

UMC Appendix B, Section 2211(f), is amended to read as follows:

(f) Meter location. Gas meters must not be located under a show window or under interior stairways or in engine, boiler, heater, or electric meter rooms. If not prohibited by other regulations, gas meters may be located in the open under exterior stairways. Gas meters must be placed at least three feet from any source of ignition.

1346.2212 SECTION 2212.

UMC Appendix B, Section 2212, is amended to read as follows:

Section 2212. Pipe used for the installation, extension, alteration, or repair of gas piping must be standard weight wrought iron, galvanized or black steel, copper, or brass of full weight standard gauge and thickness, and must comply with either ANSI/ASTM-A-53 or A-120 standards, as applicable (see NFPA-54-1988 Sect. 2.6.2). Copper and brass pipe must comply with ANSI/ASTM D2420. Steel piping run outside exposed above ground must be galvanized or coated with an approved rust resistant material. Fittings for screw or flange piping, except stopcocks and valves, must be malleable iron or steel. Copper tubing must be of standard type K or L, or equivalent, complying with ASTM specifications.

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

Joints must be made by approved flared gas fittings or by brazing with a material having a melting point in excess of 1,000 degrees Fahrenheit. Compression-type fittings must not be used for this purpose.

Copper or iron tubing must not be used for piping within the burner zone of the burners.

Gas pipe must be new or may have been used previously for conveying gas. It must be in good condition, clean, and free from internal obstructions. Burred ends must be reamed to the full bore of the pipe.

Valves and appurtenances for gas piping must be designed and approved for use with fuel gas.

1346.2213 SECTION 2213.

UMC Appendix B, Section 2213, is amended to read as follows:

Section 2213. (a) Joints. Joints in the piping system, unless welded, must be screwed joints having approved standard threads. Screwed joints must be made with approved pipe joint material, insoluble in fuel gas, and applied to the male threads only. Piping 2-1/2 inches or larger must have welded joints.

(b) Location. Gas piping must not be installed in or on the ground under a building or structure and exposed gas piping must be kept at least six inches above grade or structure. Concealed, unprotected gas piping may be installed above grade in approved recesses or channels.

EXCEPTIONS: 1. If necessary due to structural conditions, approved-type gas piping may be installed in other locations if permission has been first obtained from the building official.

2. If gas piping is to be run in false ceilings and the space is to be used as an air plenum, the piping must have all connections made by welding or brazing. No valves, threads, unions, or connectors are permitted.

(c) Drip tees. Drip tees comprised of a tee fitting with the bottom outlet capped must be installed at the base of supply piping dropping down to an automatically controlled gas burner or appliance, before any regulator or automatic gas valve, and ahead of all pounds-to-inches pressure regulators. The tee must be installed so that the gas enters the tee from the top and leaves at a 90 degree angle from the inlet.

(d) Corrosion and covering protection. Ferrous gas piping installed underground in exterior locations must be protected from corrosion by approved coatings or wrapping materials. Horizontal metallic piping must have at least six inches of earth cover or equivalent protection.

(e) Corrosion isolation. If soil conditions present a corrosion problem, underground ferrous gas piping must be electrically isolated from the rest of the gas system with listed isolation fittings installed at least six inches above grade.

(f) [Unchanged.]

(g) Building shutoff. If meters are installed inside the building, a main shutoff valve must be installed in a readily accessible location inside the building on the street side of the meter.

If a meter or meters are installed on the exterior of the building walls, a main shutoff valve the same as the main building gas supply must be installed on the inside of the building between the meter and the first branch gas line. The shutoff valve must be installed in the first readily accessible location for use and operation and must have a permanently attached handle. In multiple dwellings, the main shutoff valve must not be located in an apartment or locked room, but must be in the utility room or otherwise located to be readily accessible to all occupants of the building at all times.

All main shutoff valves must be approved, lubricated plug-type, ball-type, or of a type approved by the administrative authority. Main shutoff valves controlling several gas piping systems must be placed an adequate distance from each other so they will be easily accessible for operation and must be installed to be protected from physical damage. Each valve must be plainly marked with a metal tag attached by the installing contractor so that the gas piping system supplied through it can be readily identified. A shutoff valve must be installed at every location where safety, convenience of operation, and maintenance demands.

In multiple tenant buildings supplied through a master meter or one service regulator when a meter is not provided, or where meters or service regulators are not readily accessible from the appliance location, an individual shutoff valve for each apartment or for each separate house line must be provided in an accessible location.

(h) and (i) [Unchanged.]

(j) Valves. Valves used in connection with gas piping must be of approved types, including, but not limited to, approved lubricated plug-type, ball-type, or a type approved by the building official.

Gas valves must be of the lever handle type and be installed in the piping system serving each appliance, located within easy reach of the appliance. For inputs exceeding 1,000,000 Btu/h or where metering or regulating pressure exceeds 14 inches water column, the valve must be an approved, lubricated plug-type, ball-type, or of a type approved by the building official.

(k) and (l) [Unchanged.]

(m) [Deleted in its entirety.]

(n) [Unchanged.]

1346.2215 SECTION 2215.

UMC Appendix B, Section 2215, is amended to read as follows:

Section 2215. In addition to the requirements of this chapter, the facilities and piping for use with liquified petroleum gas must comply with *Minnesota Rules*, part 7510.3260.

1346.2216 SECTION 2216.

UMC Appendix B, Section 2216, is amended to read as follows:

Section 2216. Leaks. Leaks in gas or fuel piping must be located by applying soapy water to the exterior of the piping or by using a meter leak test to locate the leaks.

Fire or acids must not be used to locate or repair leaks. Substances other than air or inert gas, such as nitrogen, may not be introduced into the gas or fuel piping. It is unlawful to introduce halogenated hydrocarbons such as freon into a gas piping system or a fuel piping system.

It is not permissible to repair defects in gas or fuel piping systems or fittings. After a leak is located, the defective pipe or fittings must be removed and replaced with sound materials.

1346.2220 SECTION 2220.

UMC Appendix B, Section 2220, is amended to read as follows:

Section 2220. (a) General. Approval of the building official and verification from the serving gas or fuel supplier of the availability of the desired pressure must be obtained before a high pressure gas or fuel piping system is installed.

(b) Applicability. This part applies to high pressure gas or fuel piping systems.

(c) Pressure regulators. Approved regulators must be installed on high pressure gas or fuel piping systems, in approved locations either outside the building or when vented to the outside, in nonhazardous, well ventilated interior locations, and must be readily accessible for servicing. Each regulator must have a separate vent to the outside.

EXCEPTIONS: Pounds-to-inches water column regulators installed at the appliance location and equipped with limiting orifices capable of releasing not more than five cubic feet of gas per hour when supplied with five pounds per square inch pressure need not be vented to an outside location if the appliance regulators have been approved by the building official. These appliance regulators, when installed at each appliance location, must:

1. be connected to the same piping material used to pipe the structure (a listed gas connector may be used to attach the low pressure piping downstream of the regulator to the appliance manifold);

2. have an approved gas valve in the supply line upstream of the pounds-to-inches water column regulator;

3. be accessible;

4. have the upstream pressure identified by a metal tag permanently attached to the regulator stating: "Warning! 1/2 to 5 pounds natural gas pressure. DO NOT REMOVE"; and

5. be installed in a location that communicates with a ventilated area.

An approved gas valve must be installed immediately preceding each regulator. Regulators that may be subjected to mechanical damage must be substantially protected to the satisfaction of the building official.

(d) Three or five psig. Tables Nos. 22-F and 22-G may be used to size a natural gas piping system carrying three or five psig gas. The procedure to determine the size of each section of the system is similar to that in UMC Section 2219 using the pipe length from the meter to the most remote regulator and sizing the downstream low pressure piping from Table No. 22-D.

(e) [Unchanged.]

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

(f) Corrosion and cover protection. Buried gas piping must be protected from corrosion as required by UMC Section 2213 and must have a minimum earth cover of six inches. Piping must be covered with at least six inches of hand-placed selected backfill devoid of rocks, building materials, or other matter that may damage the pipe or wrapping.

1346.2226 TABLES NOS. 22-D-1; 22-D-2; 22-D-3; AND 22-D-4.

Subpart 1. UMC Appendix B, Chapter 22, is amended by adding Table 22-D-1 to read as follows:

Length in Feet	NOMINAL IRON PIPE SIZE, INCHES								
	½	¾	1	1¼	1½	2	2½	3	4
10	132	278	520	1050	1600	3050	4800	8500	17500
20	92	190	350	730	1100	2100	3300	5900	12000
30	73	152	285	590	890	1650	2700	4700	9700
40	63	130	245	500	760	1450	2300	4100	8300
50	56	115	215	440	670	1270	2000	3600	7400
60	50	105	195	400	610	1150	1850	3250	6800
70	46	96	180	370	560	1050	1700	3000	6200
80	43	90	170	350	530	990	1600	2800	5800
90	40	84	160	320	490	930	1500	2600	5400
100	38	79	150	305	460	870	1400	2500	5100
125	34	72	130	275	410	780	1250	2200	4500
150	31	64	120	250	380	710	1130	2000	4100
175	28	59	110	225	350	650	1050	1850	3800
200	26	55	100	210	320	610	980	1700	3500

Subp. 2. UMC Appendix B, Chapter 22, is amended by adding Table No. 22-D-2 to read as follows:

Length in Feet	NOMINAL PIPE OR I. D. TUBING SIZE									
	⅜	½	¾	1	1¼	1½	2	2½	3	4
5	145	280	750	1080	2200	3450	7000	11200	20000	42000
10	98	187	500	760	1550	2450	4950	8000	14200	29500
15	78	148	395	620	1300	2000	4000	6500	11500	24000
20	66	126	335	520	1100	1700	3450	5600	10000	21000
30	52	100	265	440	900	1400	2850	4600	8300	17000
40	44	84	225	380	795	1200	2500	4000	7200	14500
50	39	74	200	345	700	1100	2200	3550	6350	13000
60	35	67	180	315	640	1000	2000	3250	5800	12000
70	32	61	165	290	600	920	1850	3000	5400	11000
80	30	57	153	270	560	860	1750	2800	5050	10400
90	28	53	142	255	520	810	1650	2650	4750	9700
100	26	50	134	240	500	770	1580	2500	4500	9300
125	23	44	118	215	450	690	1400	2250	4000	8400
150	21	39	106	195	410	620	1290	2050	3650	7600
175	19	36	97	180	380	580	1190	1900	3400	7000
200	18	34	90	170	355	540	1100	1780	3200	6600
250	16	30	79	150	315	490	980	1600	2850	5900
300	14	26	71	140	285	445	900	1460	2600	5400

Subp. 3. UMC Appendix B, Chapter 22, is amended by adding Table No. 22-D-3 to read as follows:

Length in Ft.	NOMINAL PIPE OR I. D. TUBING SIZE										
	¼	⅜	½	¾	1	1¼	1½	2	2½	3	4
5	190	440	850	2300	2900	6000	9200	19000	30000	54000	110M
10	128	295	570	1540	2000	4200	6500	13000	20000	38000	80000
15	100	235	450	1200	1650	3400	5300	10900	17500	31000	64000
20	85	200	380	1030	1400	2900	4600	9300	15000	27000	55000
30	67	160	300	820	1150	2400	3700	7000	12000	22000	45000
40	57	125	255	700	1000	2100	3200	6500	10500	19000	39000
50	50	117	225	610	900	1850	2850	5800	9400	17000	35000
60	46	108	205	550	820	1700	2600	5400	8600	15500	31000
70	41	96	185	500	760	1600	2450	5000	8000	14000	29500
80	38	90	173	470	710	1500	2250	4700	7500	13000	27500
90	30	84	162	440	660	1400	2150	4400	7000	12500	26000
100	34	79	152	410	625	1300	2000	4150	6700	12000	25000
125	30	69	135	360	570	1150	1800	3700	6000	10500	22000
150	27	63	122	325	520	1080	1650	3400	5400	9800	20000
175	25	58	112	300	480	1000	1550	3100	5000	9000	18500
200	23	53	102	280	450	940	1450	2900	4750	8400	17000
250	20	47	90	240	400	850	1300	2600	4300	7500	15500
300	18	42	81	220	370	760	1150	2400	3900	7000	14000

Subp. 4. UMC Appendix B, Chapter 22, is amended by adding Table No. 22-D-4 to read as follows:

Length in Ft.	NOMINAL PIPE OR I. D. TUBING SIZE										
	¼	⅜	½	¾	1	1¼	1½	2	2½	3	4
5	540	1260	2400	6500	10500	21000	31000	58000	90000	150M	310M
10	360	850	1630	4350	7600	15000	22000	41000	64000	110M	220M
15	285	670	1280	3450	6200	12000	18000	34000	52000	90000	180M
20	240	570	1080	2950	5400	10500	15000	29000	45000	790M	150M
30	192	450	860	2300	4400	8600	13000	24000	36000	630M	125M
40	163	380	730	2000	3800	7500	11000	20000	32000	55810	110M
50	143	335	645	1750	3350	6700	9800	18000	2?000	49000	97000
60	130	300	580	1560	3050	6100	9000	17000	26000	45900	90000
70	118	275	530	1430	2800	5600	8200	15000	24000	41000	82000
80	110	255	490	1330	2650	5200	7700	14000	22000	38000	77000
90	102	240	460	1230	2500	4900	7200	13500	21000	36500	72000
100	96	225	430	1160	2350	4700	6800	12500	20000	34500	70000
125	85	198	380	1025	2100	4150	6100	11300	18000	31000	62000
150	76	178	340	920	1900	3800	5600	10400	16000	28400	56000
175	69	164	315	845	1800	3550	5200	9700	15500	20000	53000
200	64	146	290	780	1700	3300	4900	9000	14000	24000	49000
250	58	140	255	690	1500	2950	4300	8100	12500	22800	44000
300	51	120	230	620	1350	2700	4000	7400	11500	19000	40000

1346.2500 CHAPTER 25.

UMC Appendix B is amended by adding a new chapter to read as follows:

Chapter 25

INSTALLATION AND TESTING OF GAS- OR FUEL-FIRED EQUIPMENT

Subpart 1. SECTION 2501.

Section 2501. General. Chapter 25 governs the installation and testing or repair of gas or fuel burning systems, gas or fuel burners, gas or fuel burning equipment, and gas or fuel piping systems used in connection with buildings or structures or within the property lines of the premises.

Subp. 2. SECTION 2502.

Section 2502. Standards. The standards to be used in conjunction with this chapter are the appropriate standards published by ANSI/UL-1984, NFPA 54-1988, and NFPA 85A-1987.

Subp. 3. SECTION 2503.

Section 2503. Use of approved equipment. Only approved gas or fuel burning equipment may be used. "Approved" means acceptable to the administrative authority as to design, equipment, installation, or intended use as required by the UMC. Devices listed for a specific purpose by an approved testing agency may be considered as meeting the requirements of the UMC.

Subp. 4. SECTION 2504.

Section 2504. Placing equipment in operation. After completion of all installations, the installer shall test all safety and operating controls and venting before placing the burner in service. The correct input of fuel must be determined and the fuel-to-air ratio set. Each gas or fuel burner must be adjusted to its proper input according to the manufacturer's instructions. Overrating of burners is prohibited.

1. The rate of flow of the gas or fuel must be adjusted to within plus or minus two percent of the required Btu/h rating at the manifold pressure specified by the manufacturer. When the prevailing pressure is less than the manifold pressure specified, the rates must be adjusted at the prevailing pressure.

2. For conversion burners installed in hot water boilers or warm air furnaces, the rate of flow of the gas or fuel in Btu/h must be adjusted to within plus or minus five percent of 1.7 times the calculated Btu/h heat loss of the building in which it is installed.

3. For conversion burners installed in steam boilers, the gas or fuel hourly input demand must be adjusted to meet the steam load requirements. The gas or fuel input demand necessitated by an oversized boiler must be established and added to the input demand for load requirements to arrive at a total input demand.

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

Subp. 5. SECTION 2505.

Section 2505. Pilot operation. Pilot flames must be effective to ignite the gas or fuel at the main burner or burners and must be adequately protected from drafts. Pilot flames must not become extinguished when the main burner or burners are turned on or off in a normal manner either manually or by automatic controls.

Subp. 6. SECTION 2506.

Section 2506. Burner operation. In making the tests to determine compliance with this section, care must be exercised to prevent the accumulation of unburned gas or fuel in the appliance or flues that might result in explosion or fire.

1. The flames from each burner must freely ignite the gas or fuel from adjacent burners when operating at the prevailing gas or fuel pressure and when the main control valve is regulated to deliver at one-third the full gas or fuel rate.

2. Burner flames must not flash back after immediate ignition nor after turning the fuel cock until the flow rate to the burner is one-third the full supply.

3. Burner flames must not flash back when the gas or fuel is turned on or off by an automatic control mechanism.

4. Main burner flames must ignite freely from each pilot when the main control valve is regulated to one-third the full gas or fuel rate or when the pilot flame is reduced to a minimum point at which it will actuate the safety device.

5. When ignition is made in a normal manner, the flame must not flash outside the appliance.

6. Burners must not expel gas or fuel through air openings when operating at prevailing pressure.

Subp. 7. SECTION 2507.

Section 2507. Method of test. 1. The appliance must be allowed to operate until the stack temperature becomes stabilized after which a sample of the undiluted flue products must be taken from the appliance flue outlet, ahead of the draft hood. The sample taken must be analyzed for carbon monoxide, carbon dioxide, and oxygen.

NOTE: Furnace designs incorporating induced draft assemblies may require a flue gas sample to be taken ahead of the inducer fan.

2. The venting, safety, and operating controls of the appliance must be checked by the installer to ensure their proper and safe operation.

3. After completion of the test of newly-installed gas or fuel burner equipment as provided in this section, the installer shall file with the building official complete records of the test on a form approved by the building official. A tag stating the date of the test and the name of the tester must be attached to the appliance at the main valve.

Subp. 8. SECTION 2508.

Section 2508. (a) The concentration of oxygen in the undiluted flue products of gas burners must in no case be less than four percent nor more than ten percent. The allowable limit of carbon monoxide must not exceed 0.04 percent.

The flue gas temperature of a gas designed appliance, as taken on the appliance side of the draft hood, must not exceed 480 degrees Fahrenheit above the room temperature surrounding the appliance.

The oxygen figures do not apply when there is an approved oxygen trim system on the burner that is designed for that use, including a combustion interlock.

Performance standards for atmospheric burners must meet the following requirements:

1. minimum of 74 percent efficiency as determined by flue gas analysis method at appliance flue outlet;

2. carbon monoxide concentration in flue gas not greater than 0.04 percent;

3. stack temperature not greater than 480 degrees Fahrenheit, plus ambient;

4. carbon dioxide concentration between six and nine percent; and

5. oxygen concentration between four and ten percent.

(b) Gas or fuel burners over 1,000,000 Btu/h input must be tested in the presence of the building official in a manner set forth by the administrative authority before the installation is approved. Testing must include safety and operating controls, input, flue gas analysis, and venting. Flue gas must be tested at high and low fires. Provisions must be made in the piping system to allow firing test in warm weather.

(c) Installation of oxygen trim systems, modulating dampers, or other draft control or combustion devices must require a supervised startup as in (b).

(d) Direct fired heaters must require a supervised startup as in (b).

(e) The wiring diagram of the installation and suitable operating instructions must be supplied and posted near the appliance.

(f) Gas pressure regulators are required on all installation of gas burning equipment. Regulators must be installed consistent with the listing and approval of the unit. All gas regulators must be designed to regulate gas at a pressure of not less than the protected metering pressure. All pounds-to-pounds and pounds-to-inches regulators must be of a full lockup type. Regulator vents must not be vented into a combustion chamber. All regulators must be vented to the outside of the building, except that regulators equipped with and approved for use with vent limiting devices to limit the escape of gas from the vent opening in the event of diaphragm failure may be used without outside vents when approved.

(g) All regulator installations must comply with the following:

1. regulators must be installed according to the manufacturer's instructions;

2. regulators must be rated to supply the total load required;

3. regulators must be exposed and readily accessible for servicing and in no case may regulators be covered by a ceiling or other unventilated construction; and

4. regulators must be provided with an accessible shutoff valve and union for servicing. When regulators are required to be vented to the outside of the building, vent piping must be sized according to the manufacturer's instructions. Vent piping must terminate a minimum of six feet away from any combustion or air inlet to the building and must be suitably screened and hooded to prevent accidental closure of the vent pipe. Regulators must be vented individually unless otherwise approved by the building official. Regulator vents must not terminate into a vent connector, breeching stack, chimney, or combustion chamber.

Subp. 9. SECTION 2509.

Section 2509. Special requirements based on Btu/h input. (a) 0 to 400,000 Btu/h per burner:

1. one approved manual shutoff valve with lever handle;

2. an approved regulator vented to the outside or with an approved vent limiter;

3. a flame safety pilot control capable of providing 100 percent shutoff in the event of flame or pilot failure;

4. two controls, one operating and one high limit, activated by temperature or pressure, as appropriate; and

5. approved automatic safety shutoff valve to provide 100 percent shutoff.

(b) All installations over 400,000 Btu/h must include the following basic controls:

1. two controls, one operating and one high limit, actuated by temperature or pressure, as appropriate;

2. one high gas or fuel pressure interlock manual reset;

3. if hot water or steam, one low water cutoff;

4. one electronic flame safeguard pilot control;

5. a separately supervised and proven pilot, 100 percent shutoff;

6. for power burners, a fuel/air interlock fan proving switch; and

7. for atmospheric burners and power burners, a combustion air damper proving switch.

(c) Additional controls based on 400,000 to 999,999 Btu/h must be as follows:

1. one manual shutoff with lever handle;

2. a regulator full lockup type, vented outside;

3. two safety shutoff valves in series, maximum five seconds closing time;

4. a manual firing cock;

5. a programmed flame safeguard control with manual reset lockout; and

6. power burners must include proven prepurge.

(d) Controls based on 1,000,000 to 2,499,000 Btu/h input must be as follows:

1. one manual shutoff with lever handle;

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

2. a regulator full lockup type, vented outside;

3. two safety shutoff valves in series, five seconds maximum closing time, with one valve being solenoid or hydro type and a second valve being hydro type with proof of closure, and neither valve being modulating, diaphragm, or butterfly type;

4. low gas or fuel pressure interlock, manual reset;

5. leak test port;

6. burner pressure test port;

7. separate firing rate control valve;

8. manual firing cock;

9. programmed electronic flame safeguard, including manual reset lockout, 100 percent shutoff, separately safety supervised, and proved pilot, with power burners including a proven purge of at least four air changes before trial for ignition and after lockout at high fire damper setting at least 90 seconds minimum;

10. high limit must be manual reset; and

11. if steam or hot water, two low water cutoffs, with one being a manual reset.

(e) Controls based on 2,500,000 Btu/h input and above must be as follows:

1. manual shutoff valve with lever handle;

2. regulator full lockup type, vented outside;

3. two hydro type safety shutoff valves in series, maximum one second closing time, in event of flame failure, with one valve having proof of closure and neither valve being modulating, butterfly, diaphragm, or solenoid type;

4. low gas or fuel pressure interlock, manual reset;

5. high gas or fuel pressure interlock, manual reset;

6. leak test port;

7. separate firing rate control valve;

8. manual firing cock;

9. burner pressure test port;

10. programmed flame safeguard, including proved low fire start, manual reset lockout, 100 percent shutoff, separately safety supervised, and proved pilot; and

11. power burners must include a proven purge of at least four air changes before trial for ignition and after lockout at high fire dampers setting at least 90 seconds minimum.

Subp. 10. SECTION 2510.

Section 2510. Equipment information. (a) All installations of gas or fuel burners with a consumption of over 400,000 Btu/h and all combination gas or fuel burners must be approved before installation. The following information must be supplied as required by the building official:

1. name, model, and serial number of the burner;

2. input rating and type of fuel;

3. name of the nationally recognized testing laboratory that tested and listed the unit;

4. name, model, and serial number of furnace or boiler that the burner will be installed in if not part of a complete package;

5. complete wiring diagram showing the factory and fuel wiring installed or to be installed including all controls, identified by the brand name and model number; and

6. a print of the gas or fuel train from the manual shutoff to the appliance showing all controls that will be installed, their names, model numbers, and approvals.

(b) All installations of gas or fuel burners over 400,000 Btu/h and all combination gas and oil or other combination fuel burners that are installed in new or renovated boiler or equipment rooms or are installed in a package with the boiler or furnace must include the following information, in addition to that required in item (a), subitems 1 to 6, for approval before installation:

1. a complete piping diagram from the supply source showing all components and materials identified by brand name and model number with relevant approvals;

2. detailed provisions for combustion air, venting, and stacks; and

3. a floor plan drawn to scale showing all relevant equipment. Contractors must receive approval of a plan or specifications or both before proceeding with an installation.

1346.2600 CHAPTER 26.

UMC Appendix B is amended by adding a new chapter to read as follows:

Chapter 26

INSTALLATION AND TESTING OF OIL- OR FUEL-FIRED EQUIPMENT

Subpart 1. SECTION 2601.

Section 2601. General. This chapter governs the installation, testing, or repair of oil or fuel burners, oil or fuel burning systems, oil or fuel burning equipment, and the oil or fuel piping systems used in connection with buildings or structures and equipment within the property lines of the premises.

Subp. 2. SECTION 2602.

Section 2602. Accepted practices. The installation, testing, and repair of oil or fuel burning equipment systems must comply with the standards in UMC Appendix C and other information outlined in the UMC such as, but not limited to, combustion air, flue requirements, room clearance, and controls.

Subp. 3. SECTION 2603.

Section 2603. Definitions. Except as defined in this chapter or in UMC, Section 402, words used in this chapter have the meanings given in the Uniform Building Code and Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1981.

The definitions in this subpart apply to the oil- or fuel-fired equipment requirements. Certain definitions in part 1346.3002 may also apply to this section.

1. "Antiflooding device" means a primary safety control that causes the flow of oil or fuel to be shut off after a rise in oil or fuel level or after receiving excess oil or fuel, and that operates before the hazardous discharge of oil or fuel can occur.

2. "Burner, automatically ignited" means a burner equipped so that main burner fuel may be turned on and ignited automatically.

3. "Burner, manually ignited" means a burner equipped so that main burner fuel is turned on only by hand and ignited under supervision.

4. "Burner, mechanical draft type" means a burner that includes a power-driven fan, blower, or other mechanism as the primary means for supplying the air for combustion.

5. "Burner, natural draft type" means a burner that depends primarily on the natural draft created in the chimney or venting system to induce air required for combustion into the burner.

6. "Constant level valve" means a device for maintaining within a reservoir a constant level of oil fuel for delivery to an oil burner.

7. "Control limit" means an automatic safety control responsive to changes in fluid flow or level, pressure, or temperature, and that is normally set beyond the operating range for limiting the operation of the controlled equipment by shutting off the energy supply.

8. "Control, safety" means automatic controls including relays, switches, and other auxiliary equipment used in conjunction with them to form a safety control system that are intended prevent unsafe operation of the controlled equipment.

9. "Draft booster" means a power operated fan, blower, or other device installed in the chimney connector to increase the natural draft developed in the connected chimney.

10. "Draft regulator, barometric" means a device built into a fuel burning appliance or made part of a chimney connector or vent connector that functions to reduce excessive draft through an appliance to a desired value by admitting ambient air into the appliance chimney, chimney connector, vent, or vent connector.

11. "Fuel oil" means any hydrocarbon oil as specified by ASTM D396, or the Canadian Government Specification Board, 3-GP-28, and having a flash point of not less than 100 degrees Fahrenheit.

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

12. "Indirect-fired appliance" means an oil or fuel burning appliance in which products of combustion (flue gases) are not mixed in the appliance with the air or other medium being heated.

13. "Installation" means the complete setting in place, ready for operation, of oil or fuel burning equipment with its accessories and equipment.

14. "Labeled" means having attached a label, symbol, or other identifying mark of an organization acceptable to the building official and concerned with product evaluation, that maintains periodic inspection of production of labeled equipment or materials and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.

15. "Listed" See UMC, Section 414.

16. "Oil or fuel burner" means a device for burning oil or fuel in heating appliances such as boilers, furnaces, water heaters, and ranges. It may be a pressure atomizing gun type, a horizontal or vertical rotary type, or a mechanical or natural draft vaporizing type.

17. "Oil or fuel burning equipment" means an oil or fuel burner of any type with its tank, piping, wiring, controls, and related devices and including all oil or fuel burners, oil- or fuel-fired units, and heating and cooking appliances.

18. "Pump, automatic oil or fuel" means a pump, not an integral part of an oil or fuel burner, that automatically pumps oil or fuel from the supply tank and delivers the oil by gravity under a constant head to an oil burning appliance, and that is designed to stop pumping automatically in case of total breakage of the oil or fuel supply line between the pump and the appliance.

19. "Pump, oil or fuel transfer" means an oil or fuel pump, automatically or manually operated, that transfers oil or fuel through continuous piping from a supply tank to an oil or fuel burning appliance or to an auxiliary tank, and that is not designed to stop pumping automatically in case of total breakage of the oil or fuel supply line between the pump and the appliance.

20. "Tank, auxiliary" means a tank having a capacity of not over 60 gallons listed for installation in the supply piping between a burner and its main fuel supply tank. It may be included as an integral part of an automatic pump, a transfer pump, or may be a separate tank.

21. "Tank, gravity" means a supply tank from which the oil or fuel is delivered directly to the burner by gravity.

22. "Tank, integral" means a tank that is furnished by the manufacturers as an integral part of an oil or fuel burning appliance.

23. "Tank, storage" means a separate tank that is not connected to the oil or fuel burning appliance.

24. "Tank, supply" means a separate tank connected directly or by a pump to the oil or fuel burning appliance.

25. "Tank, vacuum or barometric" means a tank not exceeding five gallons capacity that maintains a definite level of oil or fuel in a sump or similar receptacle by barometric feed. Fuel is delivered from the sump to the burner by gravity.

26. "Valve, manual oil or fuel shutoff" means a manually operated valve in an oil or fuel line for the purpose of turning on or completely shutting off the oil or fuel supply to the burner.

27. "Valve, oil or fuel control" means an automatically or manually operated device consisting essentially of an oil or fuel valve for controlling the fuel supply to a burner.

Subp. 4. SECTION 2604.

Section 2604. Approval of equipment. Oil or fuel burning equipment must be approved. "Approved" means acceptable to the building official as to design, equipment, installation, or intended use as required by the UMC. Devices listed for a specific purpose by an approved testing agency may be considered as meeting the requirements of the UMC.

Subp. 5. SECTION 2605.

Section 2605. Installation of oil or fuel burning equipment. (a) General. The installation of oil or fuel burning equipment must be in keeping with the requirements of the appropriate ANSI/UL Standards, NFPA 31-1987, or the UMC.

(b) Placing equipment in operation. Following completion of all installation, the installer shall test all safety and operating and venting before placing the burner in service. The correct input of fuel must be determined and the fuel-to-air ratio set.

Each fuel burner must be adjusted to its proper input according to the manufacturer's instructions. Overrating of burners is prohibited.

(c) Conversion burners. For conversion burners installed in hot water boilers or warm air furnaces, the rate of flow of the fuel in Btu/h must be adjusted to within plus or minus five percent of 1.7 times the calculated Btu/h heat loss of the building in which it is installed.

For conversion burners installed in steam boilers, the fuel hourly input demand must be adjusted to meet the steam load requirements. The fuel input demand necessitated by an oversized boiler must be established and added to the input demand for load requirements to arrive at a total input demand.

(d) Pilot operation. Pilot flames must be effective to ignite the fuel at the main burner and must be adequately protected from drafts.

Pilot flames must not become extinguished when the main burner is turned on or off in a normal manner either manually or by automatic controls.

(e) Burner operation. In conducting tests to determine compliance with the requirements of this section, care must be exercised to prevent the accumulation of unburned fuel in the appliance that might result in an explosion or fire.

1. The flames from the burner must freely ignite the fuel when operating at the prevailing fuel pressure and when the main control valve is regulated to deliver at one-third the full fuel rate.

2. Burner flames must not flash back after immediate ignition nor after turning the fuel cock until the flow rate to the burner is one-third the full supply.

3. Burner flames must not flash back when the fuel is turned on or off by an automatic control mechanism.

4. Main burner flames must ignite freely from the pilot when the main control valve is regulated to one-third the full fuel rate or when the pilot flame is reduced to a minimum point that will actuate the safety device.

5. When ignition is made in a normal manner, the flame must not flash outside the appliance.

6. Burners must not expel fuel through air openings when operating at prevailing pressure.

(f) Method of test. The appliance must be allowed to operate until the stack temperature becomes stabilized after which a sample of the undiluted flue products must be taken from the appliance flue outlet ahead of the draft hood.

The sample taken must be analyzed for carbon monoxide, carbon dioxide, and oxygen.

NOTE: Furnace designs incorporating induced draft assemblies may require flue gas samples to be taken ahead of the inducer fan.

The venting, safety, and operating controls of the appliance must be checked by the installer to ensure proper and safe operation. After completion of the test of newly installed fuel burner equipment as provided in this section, the installer must file with the building official complete records of the test on a form approved by the building official. A tag stating the date of the test and the name of the tester must be attached to the appliance at the main appliance valve.

Oil- or fuel-fired equipment must have draft in water and smoke samples taken.

Subp. 6. SECTION 2607.

Section 2607. Appliance performance. (a) The concentration of oxygen in the undiluted flue products of burners must not be less than four percent or more than ten percent. The flue gas temperature of oil or fuel designed appliances, as taken on the appliance side of the barometric damper, must not exceed 700 degrees Fahrenheit above that of the room temperature surrounding the appliance. Draft in water and smoke samples must also be taken.

Installation of appliances must meet the following performance standards:

1. minimum of 75 percent efficiency as determined by flue gas analysis method at appliance flue outlet;

2. stack temperature not greater than 700 degrees Fahrenheit, plus ambient;

3. carbon dioxide between eight and 13 percent;

4. oxygen between four and ten percent;

5. smoke test no higher than #2 for light oils, or #4 for heavier oils, over #4 oil;

6. draft not less than 0.01 inch water column over fire; and

7. monoxide not greater than 0.04 percent.

(b) Fuel burners over 1,000,000 Btu/h input must be tested in the presence of the building official in a manner set forth before the installation is approved.

Testing must include safety and operating controls, input, flue gas analysis, and venting. Flue gas must be tested at high and low fires. Provisions must be made in the piping system to allow firing in warm weather.

(c) Installation of oxygen trim systems, modulating dampers, or other draft control or combustion devices must require a supervised startup as in (b).

(d) The wiring diagram of the installation and suitable operating instruction must be supplied and posted near the appliance.

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

Subp. 7. SECTION 2608.

Section 2608. Special requirements based on Btu/h input. (a) zero to five gallons oil per hour consumption:

1. one approved manual shutoff valve with lever handle;

2. a flame safeguard control capable of providing 100 percent shutoff in the event of flame or pilot failure;

3. two controls, one operating and one high limit, activated by temperature or pressure, as appropriate; and

4. approved automatic safety shutoff valve to provide 100 percent shutoff.

(b) over five gallons per hour consumption:

1. two controls, one operating and one high limit, actuated by temperature or pressure, as appropriate;

2. one electronic flame safeguard control, manual reset;

3. air fuel interlock fan proving interlock;

4. combustion air interlock;

5. atomizing medium proving switch;

6. two safety shutoff valves in series with a combined flame failure response and valve closing time not to exceed five seconds with strainer directly before the valve;

7. a separately supervised and proven pilot 100 percent shutoff, combined flame failure response, and valve closing time not to exceed five seconds. Direct spark ignition is allowed only in the case of #2 oil or lighter and if approved by the building official;

8. one manual shutoff valve;

9. low temperature oil or fuel switch for oil or fuel requirement preheating;

10. separate firing rate control valve;

11. oil pump must not operate or rotate while alternate fuel is firing;

12. proven purge of at least four air changes before trial for ignition and after lockout at high fire damper setting at least 90 seconds minimum;

13. pressure relief valve must be provided between safety shutoff valves and between pump and safety valves if an integral valve is used with a pump;

14. there must be a relief device to prevent over pressure of oil or fuel train or oil or fuel piping components, which may be integral with a pump;

15. there must be a separate relief device on each transfer pump; and

16. high oil or fuel temperature interlock for oil or fuel requiring preheating.

(c) seven to ten gallons per hour consumption:

1. a low oil or fuel pressure switch, manual reset;

2. flame safeguard must be a programmed type with a manual reset proven low fire start; and

3. firing cock.

(d) ten gallons per hour or more consumption:

1. one high oil or fuel pressure switch, manual reset.

(e) 12,500,000 Btu/h or more consumption:

1. two oil or fuel valves in series, one with proof of closure combined with flame failure response, and with valve closing time not exceeding two seconds; and

2. compliance with NFPA 85-A-1987.

(f) Shutoff valve. All oil or fuel burner installations must include a nonelectric shutoff valve that is held open by a fuseable link designed to close at 165 degrees Fahrenheit, installed near the burner in the same room as the burner. This must prevent the flow of oil or fuel to the burner through the supply and return pipes.

Subp. 8. SECTION 2609.

Section 2609. Equipment information. (a) All installations of oil or fuel burners with consumption over five gallons per hour and all combination fuel burners must be approved before installation. The following information must be supplied as required by the building official:

1. name, model, and serial number of the burner;

2. input rating and type of fuel;

3. name of the nationally recognized testing laboratory that tested and listed the unit;

4. name, model, and serial number of furnace or boiler that the burner will be installed in if not part of a complete package;

5. complete wiring diagram showing the factory and fuel wiring installed or to be installed including all controls, identified by the brand name and model number; and

6. a print of the oil or fuel train from the manual shutoff to the appliance showing all controls that will be installed, their names, model numbers, and approvals.

(b) All installations of oil or fuel burners consuming over three gallons per hour and all combination gas/oil or other combination fuel burners that are installed in new or renovated boiler or equipment rooms or are installed in a package with the boiler or furnace must include the following information in addition to that required in paragraphs 1 to 6 above, for approval before installation:

1. a complete piping diagram from the supply source showing all components and materials identified by brand name, and model number with relevant approvals;

2. provisions for combustion air, venting, and stacks must be completely detailed; and

3. a floor plan drawn to scale showing all relevant equipment. Contractors must receive approved plan and/or specifications before proceeding with an installation.

REPEALER. *Minnesota Rules*, parts 1345.0010 to 1345.3300, are repealed.

Department of Administration

Proposed Permanent Rules Relating to the Minnesota State Building Code

Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing if Twenty-Five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Administration proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, Section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes* Section 16B.61.

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

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons, submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, Section 14.13 to 14.20.

PLEASE NOTE: That if twenty-five or more persons submit written requests for a public hearing within the 30 day comment period, a hearing will be held on February 2, 1990, unless a sufficient number withdraw their request in accordance with the notice of hearing on these same rules published in the *STATE REGISTER* and mailed to persons registered with the State Department of Administration. To verify whether a hearing will be held, please call the Department of Administration, Building Codes and Standards Division on February 1, 1990, between the hours of 8:00 a.m. and 4:30 p.m., at 612-296-4626.

Persons who want to submit comments or written requests for a public hearing must submit such comments or requests to:

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

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

Comments or requests for a public hearing must be received by the Department of Administration, Building Codes and Standards Division, by 4:30 p.m. on January 31, 1990.

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

A free copy of this rule is available on request for your review from Margaret White.

The proposed rule establishes minimum uniform rules for the State of Minnesota by adopting the entire model code, namely, the *Uniform Building Code, 1988 Edition* and making minor amendments to it in order to be consistent with *Minnesota Statutes* and laws and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the information relied on to support the proposed rule has been prepared and is available for review from Margaret White on request.

It is felt by the Building Codes and Standards Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, Section 14.115, Division 1, and pursuant to *Minnesota Statutes*, Section 14.115 Subd. 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, Section 14.11.

If no hearing is required on adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Margaret White.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held on February 2, 1990 at the Sheraton Airport Hotel, 2525 East 78th Street, Bloomington, Minnesota 55425, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

PLEASE NOTE HOWEVER that the hearing will be canceled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *STATE REGISTER* and mailed to persons registered with the Department of Administration, Building Codes and Standards Division. To verify whether a hearing will be held, please call the Building Codes and Standards Division on February 1, 1990, between 8:00 a.m. and 4:30 p.m. at (612) 296-4626.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to Steve M. Mihalchick, Administrative Law Judge, Office of Administrative Hearings, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 349-2544, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record to be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three day period, the agency, may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be admitted during the three day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, Sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed rule establishes minimum uniform rules for the State of Minnesota by adopting the entire model code and making minor amendments to it in order to be consistent with *Minnesota Statutes* and law and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, Section 16B.61.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, Section 14.11.

It is felt by the Building Codes and Standards Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, Section 14.115, Division 1, and pursuant to *Minnesota Statutes*, Section 14.115 Subd. 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to:

Margaret White
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

Additional copies will be available at the hearing. If you have any questions on the content of the rule you may contact Margaret White, Elroy Berdahl, or Alvin Kleinbeck at (612) 296-4639.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11 as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials;

(b) who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Statement of Need and Reasonableness

The above-captioned proposed rules are amendments to the existing *Minnesota State Building Code*.

Pursuant to *Minnesota Statutes*, Section 16B.61, the Commissioner of the Department of Administration is charged with the responsibility of promulgating the *Minnesota State Building Code*. It is the duty of the commissioner to amend the *Minnesota State Building Code* to maintain the most modern code standards regarding minimum safeguards to life, limb, health, property, and public welfare together with regulating the controlling and design, construction, quality of materials, use and maintenance of buildings and structures.

The *Minnesota State Building Code* Rules, 1987 printing, effective February 9, 1987, *Minnesota Rules* 1300.0100 to 1300.2000,

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

1305.0100 to 1305.7100, 1310.0100 to 1310.9300, 1315.0200, 1320.0100 to 1320.2400, 1325.1000 to 1325.9500, 1330.0100 to 1330.2100, 1335.0200 to 1335.3000, 1340.0200 to 1340.9900, 1345.0100 to 1345.3300, 1350.0100 to 1350.9200, 1355.0100, 1360.0100 to 1360.3600, 1365.0200 to 1365.0800, 4215.0100 to 4215.6100 and 4715.0100 to 4715.6000, adopted the 1985 Edition of the *Uniform Building Code* by reference with certain amendments as a portion of the *Minnesota State Building Code*. The amendments to the 1987 publication of the rules update the *Minnesota State Building Code* to incorporate the adoption of the *1988 Edition of the Uniform Building Code* as promulgated by the International Conference of Building Officials, Whittier, California.

The proposed rules contain certain amendments to the *Minnesota State Building Code*, including Chapter 1300, new Chapters 1301 and 1302, Chapter 1305 which adopts and includes amendments to the 1988 Edition of the *Uniform Building Code;* Chapter 1335, Floodproofing Regulations; Chapter 1355, the Minnesota Plumbing Code; and Chapter 1360, Prefabricated Structures Code.

The proposed rules conform as far as practicable to model building codes. They reflect amendments for regional utilization in keeping with the legislative intent of *Minnesota Statutes* Section 16B.61. The amendments provide for a reorganization of certain sections to place them within respective subject matter, change wording to clarify the intent where there has been confusion in application of certain sections, adopt and update to current national model code standards, and language changes requested by the Office of the Minnesota Revisor of Statutes designed to eliminate redundant wording and use of archaic language.

Any business entity which constructs, expands or remodels buildings is required to comply with the *Minnesota State Building Code*. When adopted, these proposed rules become part of the *Minnesota State Building Code* and will be applicable to all future construction. The rules are not applicable to existing structures unless they are declared unsafe (hazardous and substandard buildings, *Minnesota Statutes* Section 463.15 to 463.26) or as otherwise modified by Section 104 of the *Minnesota State Building Code, 1988 Edition*.

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

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

"...The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States..."

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

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

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

General

Chapter 1300.0100 to 1300.2000 is hereby repealed and the chapter has been rewritten and divided into three chapters to separate out distinct subject matter involved and to create new chapters to address the separate subjects. Chapter 1300.2100 to 1300.3100 will address the purpose, application, and scope of the *Minnesota State Building Code*, which is composed of a variety of codes both national in scope and some proprietary in nature.

This chapter identifies certain definitions, rules for an appeal, state surcharge fee structure, required and optional administration of sections of the code, among other items described by the code.

New chapter 1301 is created to address the requirements for building official certification and the rules for the maintenance of the certification in the section identified as "Continuing Education".

Chapter 1305 adopts the 1988 edition of the *Uniform Building Code* with certain amendments applicable

to Minnesota climactic conditions and construction practices. Chapter 1310 Building Security, 1315 Electrical Code, 1320 Elevators and Related Devices, 1330 Fallout Shelters, 1340 Facilities for the Handicapped, 1365 Appendix on Snow Loads, remain unchanged.

Portions of Chapter 1335 will be amended to reflect language changes requested by the Federal Emergency Management Agency on floodproofing regulations. Chapter 1355 which adopts the Minnesota Department of Health rules identified as Chapter 4715 will contain some amendments proposed by that department.

Chapter 1360.0900 and 1360.3600 will contain proposed amendments to update those specific requirements.

1300.2100 Purpose and Application	This section identifies the responsibilities of the adoption and enforcement of the *Minnesota State Building Code* including the adoption of the code by reference. It indicates that the code is based upon the provisions of minimum standards to safeguard life or limb, health, property, and general welfare of the public by regulating and controlling design, construction, quality of materials, use and occupancy, location and maintenance of structures within a jurisdiction. It addresses the responsibility of the application of the code to a municipality.
1300.2300 Scope	This section further delineates the use and application of the building codes for buildings and structures built in a community. It identifies that where codes differ between a general requirements and a specific requirement, the specific requirements applies. This section also identifies the application of the appendices items.
1300.2400 Definitions	This section identifies certain words or items used in the codes and provides for the definitions used application of the code.
1300.2500 Application for Appeal	This section is the same as section 1300.0400 of the *1987 Edition of the Minnesota State Building Code* and is not amended.
1300.2600 Application for Appeal	This section is similar to section 1300.0500 of the *1987 Edition of the Minnesota State Building Code*. The changes involved in this section reflect the changes in statute 16B.67. The changes extend the time frame in which an appeal can be filed from 30 days to 180 days. The fee involved in filing an appeal has been raised from $20 to $70. The review "de novo" has been eliminated and a statement included that "An appeal must be heard as a contested case under Chapter 14" of the statutes. The law has also been changed to indicate that the party that does not prevail pays for the costs involved with the hearing except for the costs of the state attorney's fees.
1300.2700 State Surchage Fees	The language of this section is unchanged from section 1300.0600 of the *1987 Edition of the Minnesota State Building Code*.
1300.2800 Minnesota State Building Code Information and Assistance	The language of this section is unchanged from section 1300.0700 of the *1987 Edition of the Minnesota State Building Code*.
1300.2900 Requirements and Optional Administration	The language of this section is unchanged from section 1300.1900 of the *1987 Edition of the Minnesota State Building Code*.
1300.3000 Disclaimer Clause	The language of this section is unchanged from section 1300.1800 of the *1987 Edition of the Minnesota State Building Code*.
1300.3100 Severability	The language of this section is unchanged from section 1300.0100 of the *1987 Edition of the Minnesota State Building Code*.

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

CHAPTER 1301 BUILDING OFFICIAL CERTIFICATION

General

As addressed earlier, a new chapter 1301 is created which pertains to the rules of certification and continuing education of building officials. Much of the language contained in Section 1300.0800 to 1300.1000 of the *Minnesota State Building Code* is incorporated in this section together with new proposed rules and identifies the various certification classifications used to identify the requirements for certification and maintenance of the certification.

1301.0100 Purpose

The purpose of this section is to establish the guidelines for certification and maintenance of certification as a building official.

1301.0200 Forms of Certification

This section describes the various forms of certification presently applicable for use in the state.

Subp. 1

The "Grandfathered" class is issued to those who were administering the code for a community on May 27, 1971 and have continued to serve that community since the inception of the state building code. This classification requires certification maintenance as a Class II certified individual.

Subp. 2

The "State Certified" class is issued to those who acquired their certification by passing a written test and passed an oral interview. This classification also requires certification maintenance as a "Class II" individual.

Subp. 3

The "Class I Certification" is granted to individuals with a minimal amount of education and training and was successful in passing a written examination. This class has the inspection responsibility limited to one- and two-family dwellings and their accessory structures. This class will require certification maintenance as outlined in 1301.0700 to 1301.1100 of this chapter. This classification will no longer be issued after July 1, 1990.

Subp. 4

The "Class II Certification" is granted to those possessing a predetermined qualification and successfully passing a written examination. Those possessing this classification is responsible for all building code administration for a municipality. The certification maintenance for a person in this class is outlined in 1301.0700 to 1301.1100 of this chapter.

1301.0300 Certification Prerequisites

On July 1, 1990, the requirements for certification will be modified to provide a more specific and less variable prerequisite to become a certified building official. Tests are offered on a national level that are acceptable to the state building inspector in meeting the requirements of education and training suitable to performing the administrative function of building inspection and administration.

1301.0400 Application for Certification

Any person possessing the required prerequisites may submit an application and fee for taking an examination based upon the legal and administrative procedures intrinsic to the State of Minnesota.

1301.0500 Examination

This section outlines the process by which the State Department of Employee Relations will have the responsibility of giving the examination for certification and the process which is necessary if one fails the exam or fails to appear on the appointed date.

1301.0600 Education and Training

This section is a repeat of the existing statement found in SBC Section 1300.0800 which indicates the responsibility of the state building inspector to sponsor training programs for various governmental entities as well as design and construction professionals as well as the general public.

CONTINUING EDUCATION

General

This part is a repeat of *Minnesota Rules* 1300.0940 to 1300.0948 established in 1987 to provide guidelines for the maintenance of building official certification through continuing education. For the detailed statement of need and reasonableness of this issue please refer to the *State Register*, Volume II, Number 43, pages 1977 to 1981, April 27, 1981 (11 SR 1977). The major change of this section is the renumbering of the rules as follows:

1300.0940 to 1301.0700
1300.0942 to 1301.0800
1300.0944 to 1301.0900
1300.0946 to 1301.1000
1300.0948 to 1301.1100

1301.1200 Removal from Office Revocation of Certification	This section is a relocation of SBC 1300.1000 to this location in section 1301.1200 to follow an appropriate sequence of information.

CHAPTER 1302 BUILDING CONSTRUCTION APPROVALS AND STATE AGENCY APPROVAL RULES

General	This new chapter is developed to outline the rules and procedures of the Minnesota State Building Codes and Standards Division as it deals with state owned public buildings and buildings which require approval by another state agency. A recent change in the Statutes has added to the definition of municipality meeting the requirements of *Minnesota Statutes* 368.01 the following: "...or the State of Minnesota for public buildings." Some of the rules of this section are a transfer of exisiting rule found in the 1987 Edition of Chapter 1300 (1300.1100 Plan Review Function, definitions found in 1300.0300 and 1300.1400, and 1300.1700 State Plan Review Fees). Because of the mixture of information listed it is felt that it is most appropriate to establish a new section and new specific language rather than revising existing sections. The statement of need for and reasonableness of these rules will be addressed individually in the following items.
1302.0100 Title	This simple statement identifies the application of the rule to certain buildings construction and state agency buildings approval.
1302.0200 Purpose	These rules will establish the procedure for the review approval of construction drawings and specifications as well as establishing fees for the plan review and inspection of the approved building construction by the Minnesota State Building Codes and Standards Division when applicable.
1302.0300 Scope	These rules will provide administrative direction to state and local government agencies, school boards and administrators, members of the design professionals, construction industry, inspectional services and the state building inspector to achieve compliance with certain public buildings.
1302.0400 Definitions	This section defines terms used in this chapter, identifying such as: municipality, certification of plans, public buildings, etc.
1302.0500 Plan Review Function	This section identifies that the state building inspector is responsible for the review of all building plans, specifications with related documents, provide for inspection of certain buildings and grounds which are the direct responsibility of the state, a state agency or others required to be administered by the commissioner of administration. This section identifies what information and the quantity of materials, which must be submitted for reviewal and/or approval.
1302.0600 Fees	The fee schedule to be adopted is the same fee schedule found in the *Uniform Building Code*, Table 3-A as modified by the proposed rules and includes the statement that the surcharge as identified in *Minnesota Statutes* 16B.70 is required for public buildings.
1302.0700 Review Comments and Approvals	This section establishes the requirements for written comments of code violations in the design of plans or information submitted for review and the responsibility of the designer to respond to the comments outlining methods of correcting the errors or omissions identified prior to the authorization of construction.
1302.0800 Code Administration for Certain Buildings	This section indicates that the state building inspector shall provide for the issuance of permits, inspections, and enforcement of the code for certain buildings within the state. The state building inspector may contract with qualified individuals, other state agencies, or enter into any other legal agreement to provide the service.
1302.0900 Contracting for Services	This section identifies the opportunity of the state building inspector to enter into a contractual agreement with qualified individuals, agencies, municipalities, etc., to conduct plan review services, inspections, and follow-up for all or part of the services required for public buildings.

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

CHAPTER 1305 UNIFORM BUILDING CODE REQUIREMENTS

1305.0100 Adoption of the 1988 UBC	This item is changed to reflect the Edition date of the code being adopted and the excepted parts of the code as qualified by 1300.0900 and amended by parts 1305.0150 to 1356.6902. (See the General Statement at the beginning of the evidence and argument for support of the need for and reasonableness of the proposed rules.)
1305.0150 Required and Optional Provisions	This section identifies which appendices provisions of the *1988 Uniform Building Code* are declared mandatory and which are optional for the local government to adopt and administer.
1305.0300 Section 104(a)	This section is proposed to be repealed because the requirements referred to in Section 1210 is found in the *1988 Edition of the UBC* and the R-4 Occupancy is to be considered to be amended to be included in the R-3 Occupancy classification. Unsafe conditions are already addressed in Section 203 of the UBC and *Minnesota Statutes* 463.15 to 463.261.
Section 104(f)	Section 104(f) item 4, is a requirement that is virtually impossible to achieve because of the unknowns of existing structures and the general inability to find complete plans and specifications for the existing building. The manner in which historic buildings can be repaired, altered, restored, rehabilitated, etc., is found in *Minnesota Statutes* 13B.60 therefore the current language of the state code should be deleted.
1305.0800 Section 304(a)	(a) This section in the SBC is repealed because the *1988 Edition of the UBC* satisfies the intent. Item (b) remains unchanged from previous Minnesota rules.
1305.1000 Section 307(a)	The intent of this change is not to repeal any previous action but to organize the section in keeping with the UBC format. Sections (b), (c), (d), (e), and (f) are unchanged.
1305.1100 Section 405 Definition	A new definition for "deck" is added to the definition section of the code to clarify the intent of terminology commonly used by the construction industry.
1305.1370 Section 419	The definitions for recyclable materials and recycling have been added to the definitions section to include the language identifying the requirements established by *Minnesota Statutes* 16B.61, Subdivision 3a.
1305.1775 Section 515	This item identifies the requirements for recycling space to be provided at new or significantly remodeled structures when an area of 1000 square feet or more is provided. Certain structures are exempt from this requirement.
Section 509(e) Maximum Length	The language of the intent in this section has been relocated to keep within the structure of the UBC format. No new additional changes have been proposed.
Section 509(i)	The word "walk" is added to "ways" to make to terminology consistent with the language of this section. The word will now read "walkways".
1305.1750 Section 514 Roof Access	This section is being repealed because rooftop access should appropriately be addressed in the Mechanical Code. The proposed adoption of the Uniform Mechanical Code will contain methods of providing access to the roof for such rooftop equipment.
1305.1790 UBC Chapter 5 Table 5-B	The required separations of buildings of mixed occupancies that this amendment addressed is now found in the body of the code and is no longer required as an amendment.
1305.1795 UBC Chapter 5 Table 5-E	This is the sanitation requirements for occupancies outlined in the code and is amended by the removal of footnote (6) from the "Group E" occupancies and relocates the footnote at the end of the title because it is most appropriate to have the requirement applicable to all occupancies and not just the one.
1305.2050 Section 801 Group E Occupancies	Division 3 occupancies of this section is amended to reflect the rule adopted on August 24, 1987 which changed the number from "6" to "10" as the threshold for this group. (For further information see *State Register*, 12 S.R. 325.)
1305.2100 Section 802 Special Provisions	This item is repealed in favor of the existing language found in Section 802(b) of the 1988 UBC.

1305.2400 Section 905 Group H Occupancies	This item is being repealed to be consistent with the national model code language of the *1988 Edition of the UBC* and in formulation of the *Minnesota State Building Code* and *Minnesota Statutes* 16B.59 Subd. 1 in the adoption of model code language as applicable.
1305.2600 Section 1002 Special Provisions	This section is being amended to allow for the use of an "Exception" which is a part of the original code language but will restrict the application to certain types of construction for these "Group 3 Occupancies".
1305.3000 Section 1201 Group R Division 4 Occupancies	This amendment is being repealed because of the adoption of Appendix 12 Division 1 as modified by this code to be an option for the construction of one and two family dwellings when adopted by the local government in their adoptive procedures.
1305.3100 O & TFCD Section R-202	This item is being relocated to Appendix 12 Division 1.
1305.3200 O & TFDC Section R-204	This item is being relocated to Appendix 12 Division 1.
1305.3300 P & TFDC Section R-211	This item is being relocated to Appendix 12 Division 1.
1305.3600 Section 1205 Light, Ventilation and Sanitation	This amendment was introduced into the code at the time of the energy crunch and was included to provide for reduced energy loss through the exterior envelope of a residential structure. Experience shows that this is rarely adhered to in the design of dwellings and the practice is to increase the size of the glazed openings in the structures. The preponderance of states using the UBC or other model codes have not reduced these requirements and the Minnesota State Building Codes and Standards Division in keeping with the intent of *Minnesota Statutes* 16B.59 is returning to the published UBC standard. Therefore this item is repealed.
1305.3700 Section 1210 Fire Warning and Sprinkler Systems	This section is being repealed to accept the current language in the 1988 UBC. This section is re-written and includes language contained in the current state amendment.
1305.3820 Section 1214 Access to Buildings and Facilities	This section of the 1988 UBC is being repealed because the requirements for "Facilities for the Handicapped" is contained in the SBC Chapter 1340 and UBC Section 511 items (c) and (d).
1305.3860 Section 1215 Sound Transmission	This section is added to this section to alert designers, contractors, and inspectors that the Appendix Chapter 35 is a mandatory section of the code for Group R Division Occupancies.
1305.3900 Section 1216 Deadbolt Locks	This section is only renumbered to maintain a proper code number sequence. This changes current Section 1214 to Section 1216.
1305.3950 Section 1217 Double Cylinder Deadbolt Locks	This is a new section which has been added to comply with the statutory requirements found in *Minnesota Statutes* 16B.61 item (h).

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

1305.4100 Section 1711 Guardrails	The changes in this section add the word "deck" in the list of items where guardrails are required and relocates an existing paragraph to the end of the section because the "Exceptions" which follow the statement area applicable to the first paragraph and not to the second paragraph.
1305.4200 Section 1712 Foam Plastic Insulation	This item being repealed because the intent of the section that was previously amended is now found in Section 1712 of the 1988 UBC.
1305.4500 Section 1807 (h) and (m) Special Provisions for Group B, Div. 2 Bldgs. and Group R, Div. 1	This section deals with the "hi-rise" applications of the code and have been amended on a national level necessitating an amendment to bring the state code into compliance with the national standards. (h) Elevators, of the 1988 UBC contains acceptable language that makes the state amendment no longer necessary. (m) Automatic sprinkler system alternatives has been deleted from the *1988 Edition of the 1988 UBC* and is no longer applicable because of the restructuring of Section 1807 of the UBC. Therefore this section is repealed.
1305.4850 Section 2311 Importance Factor	This section has been re-lettered in the *1988 Edition of the UBC*. The lettering is changed from (h) to (i).
1305.4900 Section 2312 Earthquake Regulations	This state amendment is repealed because the *1988 Edition of the UBC* has been revised to again place Minnesota in a "0" Earthquake Zone and the state amendment is no longer necessary.
1305.4950 Table 23-A	Line item number four is amended adding the word "deck" to the items listed. This identifies the load design requirements for deck construction.
1305.5300 Section 2510 Metal Plate Connectors	This item is repealed from the state rules because it is now a part of the *Uniform Building Code*.
1305.5310 Section 2516 Sec. 2516(c)11 Weather Exposure	This amendment in the *Minnesota State Building Code* is being repealed in favor of the language already in the body of the UBC.
1305.5340 Section 2607(h)5	This section is amended to identify that corrosive environments require special attention in the application of reinforcing steel and specific concrete cover in their placement.
1305.5360 Section 2618(o)	Items 3, 4, 5, 6, 7 and 8 are added to this section provide for added protection in corrosive environments. It describes how repair to tendon sheathing is to be repaired. It also describes the properties required of the corrosive preventative materials to be used to provide the protection.
1305.5380 Section 2618(t)	Item 5 is added to this section to address the requirement for "watertight" protection of the encapsulation of tendons to anchors as well as the wedge cavity. Watertight is also defined as it applies to this section.
1305.5385 Table 26-A-8	This table prescibes the performance requirements to test for corrosive preventative coating of posttentioned tendons.
1305.5400 Section 2907(a)2 Soil Under Slab-on-Grade Const. for Buildings	This section is further amended to reflect the capability of slab-on-grade construction can be designed to support various loads as applied. The revised language clarifies this limitation.
1305.5500 Section 3203 Shake, Shingle and Tile Roofs	This section of the 1988 UBC has been revised and certain requirements are found in the tables at the end of the chapter. These tables also include requirements for "Severe Climate" applications which will be used to replace the amendment to this section indicating the "entire state of Minnesota would be deemed as an area subject to roof ice buildup". The *1988 Edition of the UBC* is sufficient to satisfy this intent. The tables will be amended to reflect such a statement. Therefore this section is repealed.

1305.5710 Table No. 32-B-1 1305.5720 Table No. 32-B-2 1305.5730 Table No. 32-D-1 1305.5740 Table No. 32-D-2 Shingle and Shingle or Shake Tile Roof Covering	A footnote with the appropriate number will be added to the end of each table. In Table No. 32-B-1 and Table 32-B-2 following the section in the left hand column identified as "Severe Climate"; in Tables No. 32-D-1 and 32-D-2 following the section in the left hand column identified as "Underlayment". The footnote will read as follows: "The entire State of Minnesota is subject to wind-driven snow or roof-ice buildup."
1305.5800 Section 3304 Doors	This section of the *Minnesota State Building Code* is repealed in favor of the language in the 1988 UBC which the Minnesota State Building Code Division believes covers the intent of the amendment which has been in the state code.
1305.5900 Section 3305(h)1 Corridors and Exterior Exit Balconies Exception 3	This section is further amended to limit the application to "existing" buildings and not to be used for all structures new or existing. The code has included these requirements for "mall" construction and the pedestrian walkways associated with such development since this section was originally introduced into the code. There are still areas where it is applicable to existing buildings and should not be used for new buildings since the code addresses the construction of such uses for new buildings with limited amendments.
Exception 4	The language of this amendment is revised to reflect terminology used in Chapter 38 of this code. It is needed to provide consistency in the code.
1305.6300 Section 3802(i) Spec. Automatic Fire Ext. Systems	The only change to take place in this section is the identifying letter. This change is changing the item from "(h)" to "(i)".
1305.6430 Table 38-A	Footnote number 8 is added to identify the requirements of the table as amended to return to the four story criteria when the sprinkler system is required by UBC Section 3802(h). This is consistent with footnote number 7 but utilized through a different application.
1305.6550 Section 4305 Wiring in Plenums	This item is being returned to the body of the code to identify that there are regulations identified in the Mechanical and Electrical Codes. The item is needed to be used as reference to the codes where the requirements are found. Therefore the state rule is repealed.
1305.6900 Section 6001 Chapter 25, 25-17	This item is repealed from the *Minnesota State Building Code* because the items referenced in the amendment are a part of the 1988 UBC.
1305.6902 O & TFDC Appendix 12 Division I	The One- and Two-Family Dwelling Code is one of the appendices which is listed as an optional code which may be adopted by a local unit of government and enforced as published with certain amendments. The exception to the general statement indicates that the requirements for energy conservation, plumbing installations, electrical installations and mechanical installations must be in keeping with the appropriate codes. Other basic requirements for frost footing depth, snow loads, roof severe weather construction will be the same as the requirements of the UBC as amended by the SBC.
Division II	This section is repealed because it is a section that deals with a new Group R Division 4 Occupancy of the UBC which addresses the requirements for group care facilities. The SBC has specific requirements for such occupancies and this section is not appropriate to be included and is therefore repealed.

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

1335.0600 1335.1000 1335.1100 1335.1950 1335.2150 1335.3100	The changes in this section are changes required by the Federal Emergency Management Agency to bring our flood proofing regulations up to date with the federal criteria. It places a more stringent criteria for construction on buildings that require floodproofing and limits the application of dikes, levees, or floodwalls that have been permitted in the previous code. The Department of Natural Resources has changed their land use ordinance recommendations to communities to be consistent with the FEMA rules.
1360.0900 Inspection Subp. 4	This amendment expands the responsibility of dealers and owners of prefabricated buildings to notify the state building inspector when buildings have been damaged after receiving a certificate so that direction can be given to bring the building into compliance.
1360.3600 Fees	The fee requirements of this section is being amended to be consistent with the fee structure established by Section 1302.0600 of these rules.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Rules as Proposed (all new material)

1300.2100 PURPOSE AND APPLICATION.

Subpart 1. **Purpose.** Parts 1300.2100 to 1300.3100 govern responsibilities undertaken pursuant to *Minnesota Statutes*, sections 16B.59 to 16B.73. They relate to the administration and enforcement of the Minnesota State Building Code.

The purpose of the code is to provide minimum standards to safeguard life and limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location, and maintenance of all structures within a jurisdiction that adopts and enforces the code, and certain equipment specifically covered by the code.

The purpose of the code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of the code.

Subp. 2. **Application.** The code applies statewide and supersedes the building code of any municipality. The code does not apply to agriculture buildings except with respect to state inspections required or rulemaking authorized.

1300.2300 SCOPE.

The code applies to the construction, alteration, moving, demolition, repair, and use of any building or structure within a municipality, except work located primarily in a public way, public utility towers and poles, mechanical equipment not specifically regulated in the code, and hydraulic flood control structures.

If different sections of the code specify different materials, methods of construction, or other requirements, the most restrictive section governs. If there is a conflict between a general requirement and a specific requirement, the specific requirement applies.

If reference is made in the code to the appendix, the provisions in the appendix do not apply unless a local authority has specifically adopted them.

1300.2400 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1300.2100 to 1300.3100.

Subp. 2. **Administrative authority.** "Administrative authority" means building official.

Subp. 3. **Agricultural building.** "Agricultural building" means a building that meets the requirements of *Minnesota Statutes*, section 16B.60, subdivision 5.

Subp. 4. **Building official.** "Building official" means the municipal building code administrative authority certified under *Minnesota Statutes*, section 16B.65, subdivisions 2 and 3.

Subp. 5. **City.** "City" means a home rule charter or statutory city.

Subp. 6. **Code.** "Code" means the Minnesota State Building Code adopted under *Minnesota Statutes*, section 16B.61, subdivision 1, including chapters 1300, Code Administration; 1301, Certification; 1302, Public Building Approvals; 1305, Adoption of the Uniform Building Code with certain amendments; 1310, Building Security; 1315, Adoption of the National Electrical Code; 1320, Adoption of ANSI/ASME A17.1 Safety Codes for Elevators and Escalators with certain amendments; 1330, Fallout Shelters; 1335, Floodproofing Regulations; 1340, Facilities for the Handicapped; 1346, Mechanical Systems; 1350, Manufactured Homes; 1355, Plumbing; 1360, Prefabricated Buildings; and 1365, Appendix on Snow Loads.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of administration.

Subp. 8. **Mandatory terms.** Mandatory terms include "must" and "shall," which have the same meaning.

Subp. 9. **Mayor and city council.** "Mayor" and "city council" mean governing body whenever they appear in the code.

Subp. 10. **Municipality.** "Municipality" means a city, county, or town meeting the requirements of *Minnesota Statutes*, section 368.01, subdivision 1, the University of Minnesota, or the state of Minnesota for public buildings.

Subp. 11. **State building inspector.** "State building inspector" means the person who, under the direction and supervision of the commissioner, administers the code.

Subp. 12. **State-owned buildings.** "State-owned buildings" means buildings and structures financed in whole or in part by state funds that are under the exclusive jurisdiction and custodial control of one or more state departments or agencies.

Subp. 13. **Town.** "Town" means a town meeting the requirements of *Minnesota Statutes*, section 368.01.

Subp. 14. **UBC.** "UBC" means the Uniform Building Code, as promulgated by the International Conference of Building Officials, Whittier, California, 1988 edition.

1300.2500 CODE ADOPTION AND AMENDMENTS.

Under *Minnesota Statutes*, section 16B.61, the code is adopted and periodically updated to include current editions of national model codes in general use and existing statewide specialty codes and their amendments.

Under *Minnesota Statutes*, section 16B.64, subdivision 6, amendments to the code may be proposed and initiated by any interested person. Proposed amendments must be submitted in writing on a form provided by the commissioner.

1300.2600 APPLICATION FOR APPEAL.

Subpart 1. **Form of request.** Under *Minnesota Statutes*, section 16B.67, a person aggrieved by the final determination of a municipality as to the application of the code may, within 180 working days of that determination, appeal to the commissioner. The appeal must be accompanied by a cashier's check, certified check, money order, or equivalent, payable in the amount of $70 to the "Commissioner of Administration."

Subp. 2. **Contents of request.** The appeal must contain the following:

A. the name and address of the applicant appealing the decision;

B. the attorney representing the applicant, if any;

C. municipality information, including the name of the municipality, the building official, and the local appeal board chair;

D. a description of the property, including the address of property involved;

E. a description of the structure, including occupancy, size, and construction type;

F. a copy of the municipality's written decision;

G. the specific nature of the appeal, including but not limited to code sections that are applicable to the specific question, code sections that may indirectly apply, and a listing of issues involved; and

H. any other relevant information requested in writing by the commissioner.

Subp. 3. **Hearing.** The commissioner shall arrange for the Office of Administrative Hearings to conduct a hearing on an appeal under *Minnesota Statutes*, sections 14.57 to 14.69. The party not prevailing shall pay the costs of the contested case hearing, including fees charged by the Office of Administrative Hearings and the expenses of transcript preparation. Costs under this subpart do not include attorney fees.

Subp. 4. **Copies of determinations.** Copies of final determinations of the commissioner must be sent to the appellant and the municipality involved or the attorney representing the appellant or municipality.

1300.2700 STATE SURCHARGE FEES.

All municipal permits issued for work under the code are subject to a surcharge fee. The fees are established by *Minnesota Statutes*, section 16B.70. Reports and remittances by municipalities must be filed with the commissioner, directed to the attention of the state building inspector.

Surcharge fees imposed by the state are in addition to municipal permit fees. Surcharge report forms and information may be obtained by writing the commissioner, to the attention of the state building inspector.

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

1300.2800 MINNESOTA STATE BUILDING CODE INFORMATION AND ASSISTANCE.

Building code information or assistance may be obtained by contacting the state building inspector in writing or by telephone.

1300.2900 REQUIRED AND OPTIONAL ADMINISTRATION.

Subpart 1. **Administration required.** The following chapters of the code must be administered by a municipality:

A. chapter 1315, electrical code, except when administered by the Board of Electricity;

B. chapter 1320, elevators and related machines, except when administered by the Department of Labor and Industry;

C. chapter 1330, technical requirements for fallout shelters;

D. chapter 1340, facilities for the handicapped;

E. chapter 1346, Minnesota Uniform Mechanical Code;

F. chapter 1350, manufactured homes;

G. chapter 1355, plumbing code;

H. chapter 1360, prefabricated structures; and

I. chapter 1365, variation on snow loads.

Subp. 2. **Administration optional.** The following chapters of the code are not mandatory but may be adopted without change by a municipality:

A. chapter 1310, building security; and

B. chapter 1335, floodproofing regulations, parts 1335.0300 to 1335.3100, sections 200.2 to 1405.3.

1300.3000 DISCLAIMER CLAUSE.

The inclusion of specific requirements relative to the manner of installation of any plant or equipment in one or more parts of the code does not limit this procedure to any particular type of installer or provide a basis upon which determination of the right to perform a procedure shall be made. The authority for this determination is in the various licensing statutes or ordinances for each type of installer who performs the work.

1300.3100 SEVERABILITY.

If any provision of the Minnesota State Building Code is held invalid, the invalidity does not affect any other provisions of the code that can be given effect without the invalid provision, and to this end, the provisions of the code are declared to be severable.

BUILDING OFFICIAL CERTIFICATION

1301.0100 PURPOSE.

The purpose of parts 1301.0100 to 1301.0600 is to establish procedures for certification of building officials and prerequisites for persons applying to be certified.

1301.0200 FORMS OF CERTIFICATION.

Subpart 1. **Grandfathered certification.** A grandfathered certification is identified with the letter "M" on the certification card. This classification is granted to a person who was serving a community as a building inspector on May 27, 1971, and continued to serve in that position through July 1, 1972. A person with this certification may only serve the community the person was serving on July 1, 1972. This certification requires continuing education the same as a Class II certified individual under subpart 4.

Subp. 2. **State certification.** A state certification is identified with the letter "S" on the certification card. This certification is granted to a person who acquired certification by a written test and an oral evaluation. A person with this certification may serve as a building official for any municipality. This certification requires continuing education the same as a Class II certified individual under subpart 4.

Subp. 3. **Class I certification.** A Class I certification is identified as "Class I" on the certification card. This classification is granted to a person who met a prerequisite and passed a written examination. This classification places a restriction to only allow the person to administer the code for one- and two-family dwellings and their accessory structures. Effective July 1, 1990, this class will no longer be issued. A person with this classification may continue to hold this classification by submitting evidence of fulfilling the appropriate continuing education programs established by parts 1301.0700 to 1301.1200. A person with this classification may apply for a Class II certification if the person meets the qualifications and passes the test in part 1301.0300.

Subp. 4. **Class II certification.** A Class II certification is identified as "Class II" on the certification card. This certification is

granted to a person who met a prerequisite and passed a written examination. A person certified as Class II may perform code administration for all buildings and structures within the scope of the code for any municipality. d/n specify building official

1301.0300 CERTIFICATION PREREQUISITES.

After June 30, 1990, a person desiring certification as a building official shall comply with one of the prerequisites in items A to E and pass a written examination on the appropriate laws and administration requirements for the state. The person must:

A. possess a certificate as a certified building official issued following successful passage of a written examination given by the Council of American Building Officials;

B. be certified as a certified building inspector and a certified plans examiner by the International Conference of Building Officials;

C. have a certificate issued by a nationally recognized testing agency in subject matter that would compare to item A or B;

D. have a certificate offered through a community college system in the discipline of building inspection technology and a minimum of two years of experience with a building inspection department of a municipality; or

E. have an Associate in Applied Science degree in building inspection technology offered through the community college system.

1301.0400 APPLICATION FOR CERTIFICATION.

A person seeking certification as a building official shall submit a completed application to the state building inspector on an application form provided by the commissioner, along with a $70 fee payable to the state. The state building inspector shall review applications for compliance with prerequisites in part 1301.0300. The state building inspector shall forward the application to the Department of Employee Relations for examination if the prerequisites are satisfied.

1301.0500 EXAMINATION.

A. An examination must be given by the Department of Employee Relations under the rules of that department, consistent with *Minnesota Statutes*, section 16B.65, subdivision 3.

B. If the applicant fails the examination or fails to appear, the applicant shall be permitted to retake the examination or be scheduled for a second administration of the examination at least 30 calendar days after notification of the test results.

C. If the applicant fails the examination a second time or fails to appear for a second scheduled administration, the applicant shall wait six months and then may resubmit an application under part 1301.0400.

1301.0600 EDUCATION AND TRAINING.

Within limitations of personnel and funds, the state building inspector shall provide training programs for municipal building officials, legislative bodies, administrative staff persons, design professionals, the construction industry, and the general public.

Information concerning available training programs may be obtained from the state building inspector by written or telephone inquiry.

CONTINUING EDUCATION

1301.0700 AUTHORITY; PURPOSE.

Parts 1301.0700 to 1301.1200 establish the guidelines for building official certification maintenance under *Minnesota Statutes*, section 16B.65, subdivision 7.

1301.0800 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1301.0700 to 1301.1200.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of administration.

Subp. 3. **Continuing education unit.** "Continuing education unit" means ten hours of educational instruction.

Subp. 4. **State building inspector.** "State building inspector" means the director of the Building Codes and Standards Division of the Department of Administration.

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

Subp. 5. **Unit of instruction.** "Unit of instruction" means three hours of structured educational participation in a program listed in part 1301.1000.

1301.0900 UNITS OF INSTRUCTION REQUIRED.

This part establishes the number of units of instruction required within a three-year period to maintain certification.

A. A Class I certified building official must receive credit for 18 units of instruction through any of the programs described in part 1301.1000, subpart 1 or 2.

B. A Class II certified building official must receive credit for 24 units of instruction through any of the programs described in part 1301.1000, subpart 1 or 2.

1301.1000 CREDIT FOR INSTRUCTION.

Subpart 1. **Approved programs.** The following programs are approved for the indicated number of units of instruction:

A. annual Building Official Institute of Minnesota, two units per day of attendance;

B. Minnesota State Building Codes and Standards Division seminars, 2.5 units per day of attendance;

C. International Conference of Building Officials seminars, three units per continuing education unit earned;

D. International Conference of Building Officials annual education and code development conference, two units per day of attendance;

E. State International Conference of Building Officials chapter meetings, one unit per meeting with a minimum three-hour educational program;

F. regional building official meetings, one unit per meeting with a minimum three-hour educational program;

G. area building official luncheon meetings, 0.25 unit per meeting;

H. community college building inspection technology and related courses, three units per credit earned;

I. area vocational technical training institute courses in construction, management, or supervision, one unit per three hours of instruction or related shop work;

J. certification in an International Conference of Building Officials certification program taken after January 1, 1985, four units per certificate;

K. certification as a certified building official by the Council of American Building Officials after January 1, 1985, six units; and

L. teaching a course at the community college level in the building inspection technology program or a course at an area vocational technical institute, one unit per three hours of instruction.

Subp. 2. **Other courses.** Courses offered by other states, correspondence schools, universities, or other institutes of learning that offer building code administration and enforcement-related courses must be considered on an individual basis. Each building official must prearrange for unit approval with the state building inspector to receive credit. Units must be approved on the basis of comparison with the items in subpart 1.

Subp. 3. **Mandatory courses.** The state building inspector shall require that specific courses be taken, if necessary, to insure continuing education in relevant code application, administration, or enforcement practices. The requirements may include training courses when new codes or legislative mandates are adopted.

Subp. 4. **Credit for repeat of courses.** Credit for an educational offering will be allowed only once during a three-year cycle.

Subp. 5. **Review of courses.** All continuing education courses are subject to periodic review and evaluation by the commissioner or the commissioner's agent.

1301.1100 REQUIREMENTS FOR RECERTIFICATION.

Subpart 1. **Submission of information.** Each certified building official must provide evidence to the state building inspector on forms approved by the state building inspector and provided by the Building Codes and Standards Division of attendance or participation in an educational offering and indicate the number of units of instruction earned. The information must be submitted to the state building inspector 60 days before the last day of the third calendar year following the date of the last certification issued. For example, for a person certified before January 1, 1985, the last day of the third calendar year is December 31, 1987.

Subp. 2. **Certificate of renewal.** The commissioner shall issue a certificate of renewal, valid for three years, to each applicant who has provided the evidence of units of instruction earned within the time indicated in subpart 1 and has submitted the $20 renewal fee.

Subp. 3. **Extension of time for compliance.** The state building inspector may grant an extension of time for compliance with parts

1301.0700 to 1301.1200 if the person requesting the extension of time shows cause for the extension. The extension does not relieve the building official from complying with the continuing education requirements for the immediate subsequent three-year period.

Subp. 4. **Reinstatement of certificate.** A building official who has let certification lapse must be reinstated based on proof of earning continuing educational units, as required, if no more than three years has passed since the certification has lapsed or since taking the test provided for certification as a building official. In either case, the appropriate fee must be submitted with the application.

1301.1200 REMOVAL FROM OFFICE AND REVOCATION OF CERTIFICATION.

Under *Minnesota Statutes*, section 16B.65, subdivision 5, upon notice and hearing, a building official may be removed from office and have his or her certification revoked if competent evidence is submitted to the commissioner indicating that a building official has consistently failed to act in the public interest in performance of duties. A hearing must be held pursuant to the provisions of *Minnesota Statutes*, chapter 14, governing contested case proceedings.

1302.0100 TITLE.

This chapter shall be known as the "Building Construction Approvals and State Agency Approval Rules."

1302.0200 PURPOSE.

The purpose of this chapter is to establish fees and procedures for the review of building plans, specifications, and related documents and provide for inspection services for certain buildings to determine compliance with the code, and to establish fees and procedures for the review of building plans, specifications, and related documents implementing code content that are required to be submitted to a state agency.

1302.0300 SCOPE.

This chapter provides code administrative direction to state and local government officials, school boards and administrators, architects, engineers, contractors, and inspectors, and for the state building inspector to provide for total code administration for certain buildings for compliance with the code.

1302.0400 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter.

Subp. 2. **Certification.** "Certification" means the certification and signature of the designing professional who has prepared the plans, specifications, and other documents in accordance with part 1800.4200.

Subp. 3. **Code.** "Code" has the meaning given in part 1300.2400, subpart 6.

Subp. 4. **Municipality.** "Municipality" has the meaning given in part 1300.2400, subpart 10.

Subp. 5. **Public building.** "Public building" means a building and its grounds, the cost of which is paid for by the state or a state agency.

Subp. 6. **State building inspector.** "State building inspector" has the meaning given in part 1300.2400, subpart 11.

1302.0500 PLAN REVIEW FUNCTION.

Subpart 1. **General.** The state building inspector shall:

A. review building plans and specifications with related documents;

B. provide for inspection of any public building and its grounds;

C. provide plan review services for any construction project for which plans and specifications are required to be submitted to a state agency; and

D. required to be administered by the commissioner of administration.

Subp. 2. **Materials to be submitted.** Plans and specifications for new construction, additions, and remodeling must be submitted for public buildings and grounds and buildings for which plans and specifications are required to be submitted to a state agency.

Subp. 3. **Quantity of materials required to be submitted.** A person who must submit plans and specifications under this part shall submit:

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

A. two complete sets of drawings, specification books, and other relevant documents necessary to evidence code compliance, with appropriate certification on each sheet of the drawings and the title page of the specifications book;

B. a completed plan review and construction authorization application form provided by the state building inspector; and

C. the appropriate fee established by part 1302.0600.

1302.0600 FEES.

Subpart 1. **General.** Fees for building permits and the review of plans and specifications submitted under part 1302.0500, subpart 2, must be paid as set forth in the following fee schedule or as adopted by a municipality.

A. The total valuation and fee schedule is:

(1) $1 to $500, $15;

(2) $501 to $2,000, $15 for the first $500 plus $2 for each additional $100 or fraction thereof, to and including $2,000;

(3) $2,001 to $25,000, $45 for the first $2,000 plus $9 for each additional $1,000 or fraction thereof, to and including $25,000;

(3) $25,001 to $50,000, $252 for the first $25,000 plus $6.50 for each additional $1,000 or fraction thereof, to and including $50,000;

(4) $50,001 to $100,000, $414.50 for the first $50,000 plus $4.50 for each additional $1,000 or fraction thereof, to and including $100,000;

(5) $100,001 to $500,000, $639.50 for the first $100,000 plus $3.50 for each additional $1,000 or fraction thereof;

(6) $500,001 to $1,000,000, $2,039.50 for the first $500,000 plus $3 for each additional $1,000 or fraction thereof, to and including $1,000,000; and

(7) $1,000,001 and up, $3,539.50 for the first $1,000,000 plus $2 for each additional $1,000 or fraction thereof.

B. Other inspections and fees are:

(1) inspections outside of normal business hours (minimum charge two hours), $45 per hour[1];

(2) reinspection fees[2], $45 per hour[1];

(3) inspections for which no fee is specifically indicated (minimum charge one-half hour), $45 per hour[1]; and

(4) additional plan review required by changes, additions, or revisions to approved plans (minimum charge one-half hour), $45 per hour[1].

C. Footnotes to item B:

(1) [1]Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost includes supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

(2) [2]A reinspection fee may be assessed for each inspection or reinspection when a portion of work for which inspection is called is not complete or when corrections called for are not made.

This item is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for inspection or reinspection.

Reinspection fees may be assessed when the permit card is not properly posted on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the building official.

To obtain a reinspection, the applicant shall file an application in writing upon a form furnished for that purpose and pay the reinspection fee in accordance with Table No. 3-A or as set forth in the fee schedule adopted by the jurisdiction.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

Subp. 2. **Plan review fee.** The plan review fee is based on 65 percent of the permit fee determined from the fee schedule. The plan review fee is a separate fee and is in addition to the permit fee. If plans are incomplete or changed so as to require additional plan review, an additional plan review fee must be charged according to the fee schedule.

Subp. 3. **Surcharges.** Surcharge fees are required for public buildings as required by *Minnesota Statutes*, section 16B.70 when administration is by a municipality other than the state.

Subp. 4. **Fees for prefabricated buildings.** Fees for prefabricated building plans submitted are those in accordance with part 1360.3600.

1302.0700 REVIEW COMMENTS AND APPROVALS.

The state building inspector or the inspector's agent shall review submittals and prepare written comments defining items not in compliance with the code. The written comments must be mailed to the submitting designer with copies to the municipal building official, when applicable, and the owner, and a copy must be kept on file by the state building inspector. The submitting designer shall respond to the review comments of the state building inspector within 14 days, describing the methods of correcting the errors or omissions in compliance with the comments of the state building inspector or the inspector's agent.

Authorization for construction must be granted when compliance with the requirements of the code is documented.

1302.0800 CODE ADMINISTRATION FOR CERTAIN BUILDINGS.

The state building inspector shall provide for the issuance of permits, inspections, and enforcement for certain buildings in the state where administration and enforcement of the code is required of the commissioner of administration. This process may include contracting with other municipalities, qualified individuals, or state agencies or using other legal process to provide the service.

1302.0900 CONTRACTING FOR SERVICES.

The state building inspector shall contract with a municipality for plan review, code administration, and code enforcement services for public buildings if (1) the building official of the municipality is a Class II certified building official and can provide all or part of the services, and (2) the state building inspector determines that the contracting municipality has adequately trained and qualified personnel to provide services for the construction project. No fees may be paid by the state to a municipality that contracts with the state building inspector to perform the services. The contracting municipality may charge its established plan review, permit, and inspection fees directly to the applicant.

Rules as Proposed

1305.0100 ADOPTION OF THE UNIFORM BUILDING CODE BY REFERENCE.

Chapters 1 to 60 and appendixes of the ~~1985~~ 1988 edition of the Uniform Building Code as promulgated by the International Conference of Building Officials, Whittier, California, are incorporated by reference and ~~hereby~~ made part of the Minnesota State Building Code except as qualified by parts ~~1300.1900~~ 1300.2900 and 1305.0150 and except as amended in parts 1305.0200 to ~~1305.6900~~ 1305.7100.

1305.0150 REQUIRED AND OPTIONAL PROVISIONS.

[For text of subpart 1, see M.R. 1989]

Subp. 2. **Optional provisions.** The following provisions of the Uniform Building Code are not mandatory but must be adopted without change at the discretion of any municipality, except UBC Appendix Chapter 70 may be adopted with a revised fee schedule and bonding requirements.

A. UBC Appendix Chapters 1, ~~7~~ 12, Division 1, 26, 38, 55, and 70.

B. Special Fire Suppression Systems, Optional, UBC Section 3808.

1305.0800 SECTION 304.

UBC Section 304(b), ~~subsections (a) and (b) of the UBC are~~ is amended to read as follows:

~~UBC~~ Section 304. ~~(a) General. Fees must be assessed in accordance with the provisions of this section or must be as set forth in the fee schedule adopted by the jurisdiction.~~

(b) All permit fees must be established by the local authority except in areas outside of the enforcement authority of a city, the fee charged for the issuance of permits and inspections for single family dwellings may not exceed the greater of $100 or .005 times the value of the structure, addition, or alteration. (*Minnesota Statutes*, section 16B.62.)

The determination of value or valuation under any of the provisions of this code must be made by the building official. The value to be used in computing the building permit and building plan review fees is the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems, and any other permanent equipment.

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

1305.1000 SECTION 307.

UBC Section 307(a) ~~of the UBC~~ is amended to read as follows:

Certificate of Occupancy

Section 307(a) Use or Occupancy. No building or structure ~~of Groups A, E, I, H, B, or R, Division 1 occupancy, shall~~ may be used or occupied, and no change in the existing occupancy classification of a building or structure or portion ~~thereof shall~~ of a building or structure may be made until the building official has issued a certificate of occupancy ~~therefor~~ for it as provided ~~herein~~ in this section.

Exception: A municipality may require certificates of occupancy for Group ~~R3, R4~~ R, Division 3, and Group M occupancies.

Issuance of a certificate of occupancy must not be construed as approval of a violation of the provisions of this code or other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel provisions of this code or of other ordinances of the jurisdiction are not valid.

1305.1100 SECTION 405.

UBC Section 405 ~~of the UBC~~, Definition of Dwelling, is amended to read as follows:

"Dwelling" is any building or any portion of a building which contains not more than two "dwelling units," including Class A-1 supervised living facilities as defined in section 420.

1305.1370 SECTION 419.

UBC Section 419 is amended by adding the following definitions:

"Recyclable materials" means materials that are separated from mixed municipal solid waste, for the purpose of recycling, including paper, glass, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

"Recycling" means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

1305.1590 SECTION 509.

UBC Section 509(e) is amended to read as follows:

(e) Maximum Length. The ~~distance between connected buildings measured within~~ length of a pedestrian walkway must not exceed 300 feet.

Exceptions: 1. Pedestrian walkways that are fully sprinklered may be 400 feet in length.

2. Unenclosed walkways at grade.

The length of a pedestrian walkway is the distance between connected buildings measured within the pedestrian walkway.

UBC Section 509 is amended by adding (i) as follows:

(i) Smoke Venting. Enclosed pedestrian ~~ways~~ walkways must be provided with means for venting smoke and hot gases to the outer air.

1305.1775 SECTION 515.

UBC Chapter 5 is amended by adding a new section to read as follows:

Section 515. Recycling Space. Space must be provided for the collection, separation, and temporary storage of recyclable materials within or adjacent to a new or significantly remodeled structure that contains 1,000 square feet or more.

Exception: Residential structures with less than 12 dwelling units are exempt from this requirement.

1305.1795 Table 5-E. REQUIRED SANITATION ~~FIXTURED~~ FIXTURES BASED ON OCCUPANT LOAD (1) (2) (6); TABLE 5-E.

UBC chapter 5 is amended by adding the following Table No. 5-E.

REQUIRED SANITATION FIXTURES BASED ON OCCUPANT LOAD (1) (2) (6)

OCCUPANCY	USE	S.F. per Occ	WATER CLOSETS	URINALS	LAVATORIES	DRINKING FOUNTAINS	BATHTUBS OR SHOWERS	KITCHEN SINKS	SERVICE SINKS
Group A Occupancies	Auditoriums Bowling Alleys Churches Conference Rooms Dance Floors Dining, Drinking Exhibit Rooms Gymnasiums Libraries Lodge Rooms Lounges Rinks Stadiums, Grandstands Theaters Waiting Rooms	30 30 60 80 30 30 80 30 100 80 80 30 80 30 80	Churches 1 for each 300 men 1 for each 300 women Other Occupants / Fixtures 1-100 / 1 101-200 / 2 201-400 / 3 Over 400 / 1 addt'nl each 500	Churches (3) (3)	Churches 1 for each 300 Other Occupants / Fixtures 1-200 / 1 201-400 / 2 401-750 / 3 Over 750 / 1 addt'nl for each 500	1 for each 300	—	—	1
Group E Occupancies (6)	Elementary Secondary	85 130	Boys: 1/ea. 100; Girls: 1/ea. 30 1/ea. 100 / 1/ea. 25	1/ea. 30	1 for each 100 1 for each 100	1 for each 75	—	—	1 per floor
Group I Occupancies	Prisons, Jails	100	1/ea. cell 1/ea. exercise room		1 in each cell 1 ea. exercise room 1 for ea. 10 patients	1 for each 100	1 at each cell block floor	—	1 per floor
	Hospitals, Nursing Homes	100	1/ea. 8 patients 1/ea. waiting room Other 1/ea. 25 men 1/ea. 20 women	1/ea. 50	Other 1 for each 10	1 for each 100	1 for each 20 Other 1 for each 10		1 per floor
Group H Occupancies Group B Occupancies	Aircraft Hangars Factories Municipal Buildings Office Buildings Sales Service Stations Storage Garages Warehouses	500 200 80 200 200 200 500 500	Fact. Occ. / Wrhse. Fixt. 1-10 / 1 11-25 / 2 26-50 / 3 51-75 / 4 76-100 / 5 Over 100 / 1 addt'nl for 30	Fact. Occ. / Wrhse. Fixt. (3)	Fact. Occ. / Wrhse. Fixt. 1-100 / 1-10(4) Over 100 / 1-15(50	Factories Warehouses 1 for each 75 Sales, Offices 1 for each 150			1 per floor
Group B-4 Occupancies	Factories Sales Warehouses	200 200 500	Sales, Office, etc. Occ. / Fixt. 1-15 / 1 16-35 / 2 36-55 / 3 56-80 / 4 81-110 / 5 111-150 / 6 Over 150 / 1 addt'nl for each 50	Sales Office (3)	Sales Occ. / Offices Fixt. 1-15 / 1 16-35 / 2 36-60 / 3 61-90 / 4 91-125 / 5 Over 125 / 1 to 45				
Group R-1 Occupancies	Dwelling Units, Apt. Motel, Hotel Units Rooming Houses Dormitories	— — 200 200	1 1 for each 10 1 for each 10 1 for each 10	—	1 1 for each 10 1 for each 10 1 for each 10	—	1 1 for each 10 1 for each 10 1 for each 10	1	1 laundry tray for each 10 dwelling units or guest rooms
Group R-3 and R-4 Occupancies	1 and 2 Family	—	1	—	1	—	1	1	—
Group M Occupancies	—	—	—	—	—	—	—	—	—
TEMPORARY FACILITIES			1 for ea. 30	1 for each 30		1 for each 100			

Footnotes:
(1) Occupant load is computed using the equation: $\frac{A^*}{S.F.\ per\ Occ.}$ = Occupant Load.
(2) Square feet per occupant is only for computing the occupant load to determine the plumbing fixtures required.
(3) Urinals may be furnished in place of water closets at the rate of one urinal for one water closet, but not to exceed one-third of the required water closets.
(4) 1 fixture for each 10 occupants.
(5) 1 fixture for each 15 occupants.
(6) For waterclosets, and lavatories, these numbers are *minimum* & equal number for each sex is required.

*A—Area of building occupancy classification served.
S.F.—per Occ.—from Column 3 of this table.

1305.2050 SECTION 801.

UBC Section 801, Division 3, is amended to read as follows:

Division 3. Any building used for day-care purposes for more than ten children.

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

1305.2600 SECTION 1002.

UBC Section 1002(b) is amended to read as follows:

Section 1002(b) Special Provisions. Division 3 occupancies must be housed in buildings of Type I or Type II-F.R. construction.

Exception: One-story buildings of Type II one-hour construction may be permitted if the floor area does not exceed 3,900 square feet between separation walls of two-hour fire-resistive construction with openings protected by fire assemblies having one and one-half hour fire-protection rating.

Every story of a Group I occupancy accommodating more than five persons, unless provided with a horizontal exit, must be divided into not less than two compartments accommodating approximately the same number of persons in each compartment by a smoke-stop partition meeting the requirements of one-hour occupancy separation so as to provide an area of refuge within the building. Corridor openings in the smoke-stop partition must be protected with doors as required in section 3305(h). Other openings are limited to ducts which have fire dampers in the plane of the wall activated by detectors of products of combustion other than heat conforming to section 4306(b) 2. A ventilation system capable of smoke evacuation must be provided for each area of refuge. When approved by the building official, openings to the exterior of the building may be used in lieu of a mechanical system.

Rooms occupied by inmates or patients whose personal liberties are restrained must have noncombustible floor surfaces.

1305.3860 SECTION 1215.

UBC chapter 12 is amended by adding a new section to read as follows:

Section 1215. For Group R, Division 1 Occupancies, sound transmission control must be provided to meet the standards defined in UBC Appendix Chapter 35.

1305.3900 NEW SECTION ~~1214~~ 1216.

UBC chapter 12 is amended by adding a new section to read as follows:

Section ~~1214~~ 1216. Deadbolt Locks Required. All doors leading to public or shared areas from all apartment dwelling units and hotel units must be provided with deadbolt locks, at least one of which must be capable of being locked with a key from the exterior of each unit. For the purpose of this section a "deadbolt lock" is a locking bolt, which, when in the locked position, can only be moved positively by turning a knob, key, or sliding bolt, and which must be independent of other latching devices.

A deadbolt lock having a bolt moved by turning a key must be of the five-pin tumbler type or an approved equivalent. The lock throw may not be less than three-quarters of an inch. Locks must meet the requirements of section 3304(c).

Exception: Hotel unit doors may be provided with locks having separate deadbolts and deadlocking latchbolts which are interconnected for antipanic operation, and must be provided with emergency and display keying to outlaw all keys except emergency and display keys when the deadbolt is projected by the turn piece from the room side.

1305.4100 SECTION 1711.

UBC Section 1711 ~~of the UBC~~ is amended to read as follows:

~~UBC~~ Section 1711. All unenclosed floor and roof openings, open and glazed sides of landings and ramps, balconies, decks, or porches which are more than 30 inches above grade or floor below, and roofs used for other than service of the building must be protected by a guardrail. ~~Guardrails may not be less than 42 inches in height. Open guardrail and stair railings must have intermediate rails or an ornamental pattern so that a sphere six inches in diameter cannot pass through. The height of stair railings on open sides may be as specified in Section 3306 (j) in lieu of providing a guardrail. Ramps must, in addition, have handrails when required by Section 3307.~~

~~On all earth-sheltered structures a means must be provided to restrict access to the roof area unless guardrails are provided and the roof is designed for vehicular loads.~~

~~Exceptions:~~

~~1. Guardrails need not be provided on the loading side of loading docks.~~

~~2. Guardrails for Group R, Division 3 and Group M, Division 1 occupancies may be 36 inches in height.~~

~~3. Interior guardrails within individual dwelling units or guest rooms of Group R, Division 1 occupancies may be 36 inches in height.~~

~~4. The open space between the intermediate rails or ornamental pattern of guardrails in areas of commercial and industrial type occupancies which are not accessible to the public may be increased such that a 12-inch-diameter sphere cannot pass through.~~

~~5. Guardrails on a balcony immediately in front of the first row of fixed seats and which are not at the end of an aisle may be 26 inches in height.~~

~~6. Guardrails need not be provided on the auditorium side of a stage or enclosed platform.~~

Exception: Guardrails need not be provided at the following locations:

1. on the loading side of loading docks;

2. on the auditorium side of a stage or enclosed platform.

The top of guardrails must not be less than 42 inches in height.

Exceptions: 1. The top of guardrails for Group R, Division 3, and Group M, Division 1 Occupancies and interior guardrails within individual dwelling units and guest rooms of Group R, Division 1 Occupancies may be 36 inches in height.

2. The top of guardrails on a balcony immediately in front of the first row of fixed seats and which are not at the end of an aisle may be 26 inches in height.

3. The top of guardrails for stairways, exclusive of their landings, may have a height as specified in Section 3306(j) for handrails.

Open guardrails must have intermediate rails or an ornamental pattern so that a sphere six inches in diameter cannot pass through.

Exception: The open space between the intermediate rails or ornamental pattern of guardrails in areas of commercial and industrial-type occupancies which are not accessible to the public may be such that a sphere 12 inches in diameter cannot pass through.

On all earth-sheltered structures a means must be provided to restrict access to the roof area unless guardrails are provided and the roof is designed for vehicular loads.

1305.4850 SECTION 2311.

UBC Section ~~2311(h)~~ 2311(i) is deleted in its entirety.

Rules as Proposed (all new material)

1305.5340 SECTION 2607.

UBC Section 2607(h), item 5 is amended to read as follows:

5. In corrosive environments or other severe exposure conditions, amount of concrete protection must be suitably increased, and denseness and nonporosity of protecting concrete must be considered, or other protection must be provided. In corrosive environments of parking garages and parking ramps, industrial buildings, or similar environments, a minimum concrete cover of reinforcement steel must be one and one-half inches for top surfaces and one inch for bottom surfaces. All bonded reinforcement steel located in the slab must be epoxy coated in conformance with UBC Standard No. 26-4 Part III.

1305.5360 SECTION 2618.

UBC Section 2618(o) is amended to read as follows:

(o) Corrosion Protection for Unbonded Prestressing Tendons. [18.14]

1. Unbonded tendons must be completely coated with suitable material to ensure corrosion protection.

2. Tendon wrapping must be continuous over the entire length to be unbonded, and must prevent intrusion of cement paste or loss of coating materials during concrete placement.

3. Sheathing thickness for tendons used in corrosive environments must be not less than 0.040 inch consisting of medium or high density polyethylene or polypropylene materials. The sheathing must be continuous around the circumference of the strand with no open seams. The sheathing must be connected to all stressing, intermediate, and nonstressing anchorages with a watertight seal to provide complete encapsulation of the prestressing steel. The encapsulating device must overlap the sheathing a minimum of one inch. The interface of the encapsulating device and the sheathing must be protected with polyethylene or polypropylene tape with nonwater-soluble adhesives. Tape alone must not be used as a substitute for the sheath, nor may taped joints occur within three inches of the bearing surface of the anchorages or within three inches of a construction joint.

4. Damage to the tendon sheathing exposing the strand must be repaired with tape. A minimum of double coverage of non-water-soluble adhesive tape is required for the repair. Tears in excess of three inches must be repaired with a piece of split sheathing over the tear and then taped to the strand sheathing. The repair must be approved by the engineer of record or by a special inspector.

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

5. Corrosive-preventive coating material for use in corrosive and noncorrosive environments must have the following properties:

A. provide corrosion protection to the prestressing steel;

B. provide lubrication between the strand and encapsulating sheathing;

C. resist flow of the sheathing within the anticipated temperature range of exposure;

D. provide a continuous nonbrittle film at the lowest anticipated temperature of exposure; and

E. be chemically stable and nonreactive with the prestressing steel, the sheathing material, and the concrete.

6. The film must be an organic coating with appropriate polar, moisture displacing, and corrosion-preventive additives.

7. The weight of coating material on the prestressing strand must be not less than 2.5 pounds of coating material per 100 feet of 0.5 inch diameter strand, and three pounds of coating material per 100 feet of 0.6 inch diameter strand. The amount of coating material used must be sufficient to ensure essentially complete filling of the annular space between the strand and the sheathing. The coating must extend over the entire tendon length.

8. Test results of the corrosion preventive coating material tested in accordance with Table 26-A-8 must be provided to the engineer of record and to the special inspector.

1305.5380 SECTION 2618.

UBC Section 2618(t) is amended by adding item 5 to read as follows:

5. Anchorages must include design features that will permit a watertight connection between the sheathing and the anchorage. The design must also include the application of a watertight closing of the wedge cavity for the stressing and nonstressing anchorages. Intermediate stressing anchorages must be designed to provide watertight encapsulation of the prestressing steel. "Watertight," as used in this item, means the ability of the anchorages and the encapsulation devices, up to the attachment of the sheathing, to hold 1.25 psi water pressure for a period of 24 hours. The concrete cover of anchorages from slab surfaces must be one and one-half inches for the top or edge and one inch for the bottom surface.

1305.5385 TABLE 26-A-8.

UBC Chapter 26 is amended by adding a new Table 26-A-8 to read as follows:

TABLE 26-A-8

PERFORMANCE SPECIFICATION FOR CORROSION PREVENTIVE COATING

TEST	TEST METHOD	ACCEPTANCE CRITERIA
1. Dropping point °F(°C)	ASTM D-566 or ASTM D-2265	Minimum 300 (148.9)
2. Oil separation at 160°F(71.1°C)	FIMS 791B Method 321.2	Maximum 0.5
3. Water, percent maximum	ASTM D-95	0.1
4. Flash point, °F(°C) (Refers to oil component)	ASTM D-92	Minimum 300 (148.9)
5. Corrosion test 5 percent salt fog at 100°F(37.8°C) 5 mils, minimum hours (Q Panel Type S)	ASTM B-117	For normal environments: Rust Grade 7 or better after 720 hours of exposure according to ASTM D-610. For corrosive environments: Rust Grade 7 or better after 1,000 hours of exposure according to ASTM D-610*
6. Water soluble ions +		
a. Chlorides, ppm maximum	ASTM D-512	10
b. Nitrates, ppm maximum	ASTM D-922	10
c. Sulfides, ppm maximum	APHA 427D (15th Edition)	10

7. Soak test 5 percent salt fog at 100°F(37.8°C) 5 mils coating. Q panels, Type S. Immerse panels 50 percent in a 5 percent salt solution and expose to salt fog	ASTM B-117 (Modified)	No emulsification of the coating after 720 hours of exposure
8. Compatibility with sheathing		
a. Hardness and volume change of polymer after exposure to grease, 40 days at 150°F	ASTM D-4289	Permissible change in hardness 15 percent Permissible change in volume 10 percent
b. Tensile strength change of polymer after exposure to grease, 40 days at 150:F		Permissible change in tensile strength 30 percent

*Extension of exposure time to 1,000 hours for greases used in corrosive environments requires use of more or better corrosion inhibiting additives.

+ **Procedure:** The inside (bottom and sides) of a 1L Pyrex beaker (approximate outside diameter 105mm, height 145mm) is thoroughly coated with 100 % 10 g of corrosion preventive coating material. The coated beaker is filled with approximately 900 cc of distilled water and heated in an oven at a controlled temperature of 100°F ± 2°F for 4 hours. The water extraction is tested by the noted test procedures for the appropriate water soluble ions. Results are reported as ppm in the extracted water.

Rules as Proposed

1305.5400 SECTION 2907.

UBC Section 2907(a) ~~of the UBC~~ is amended to read as follows:

~~UBC~~ Section 2907(a) General. Footings and foundation, unless otherwise specifically provided, must be constructed of masonry, concrete or treated wood in conformance with UBC Standard No. 29-3 and in all cases must extend below the frost line. Footings of concrete and masonry must be of solid material. Foundations supporting wood must extend at least six inches above the adjacent finish grade. Footings must have a minimum depth below finished grade for the zone as established below unless another depth is recommended by a foundation investigation.

~~1.~~ A. In the absence of a determination by an engineer competent in soil mechanics, the minimum allowable footing depth in feet due to freezing is five feet in Zone 1 and 3-1/2 feet in Zone II.

Zone I includes the counties of: Aitkin, Becker, Beltrami, Carlton, Cass, Clay, Clearwater, Cook, Crow Wing, Douglas, Grant, Hubbard, Itasca, Kanabec, Kittson, Koochiching, Lake, Lake of the Woods, Mahnomen, Marshall, Mille Lacs, Morrison, Norman, Otter Tail, Pennington, Pine, Polk, Red Lake, Roseau, Saint Louis, Todd, Traverse, Wadena, and Wilkin.

Zone II shall include the counties of: Anoka, Benton, Big Stone, Blue Earth, Brown, Carver, Chippewa, Chisago, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Jackson, Kandiyohi, Lac Qui Parle, Le Sueur, Lincoln, Lyon, McLeod, Martin, Meeker, Mower, Murray, Nicollet, Nobles, Olmsted, Pipestone, Pope, Ramsey, Redwood, Renville, Rice, Rock, Scott, Sibley, Sherburne, Stearns, Steele, Stevens, Swift, Wabasha, Waseca, Washington, Watonwan, Winona, Wright, and Yellow Medicine. Less depths may be permitted when supporting evidence is presented by an engineer competent in soil mechanics.

~~2.~~ B. Soil Under Slab on Grade Construction for Buildings. When soil, natural or fill, is sand or pit run sand and gravel, and of depth in accordance with minimum footings depth requirements for each zone, slab on grade construction which ~~supports roof and wall~~ is structurally designed to support all applied loads ~~shall be~~ is permitted. Footings for interior bearing walls or columns may be constructed to be integral with the slab on grade for any height building. Footings for exterior bearing walls or columns may be

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

similarly constructed for any height building when supporting soil is as described in this item. Footing design must reflect eccentric loading conditions at slab edges, soil bearing capacity, and the requirements of UBC Chapter 26. Slab on grade construction for detached buildings Group M, Division 1 occupancies may be placed on any soil except peat or muck.

1305.5710 TABLE NO. 32-B-1.

UBC Table No. 32-B-1 is amended by adding a footnote following the "Severe Climate" portion of the first column to read as follows:

2. The entire state of Minnesota is subject to wind-driven snow or roof ice buildup.

1305.5720 TABLE NO. 32-B-2.

UBC Table No. 32-B-2 is amended by adding a footnote following the "Severe Climate" portion of the first column to read as follows:

2. The entire state of Minnesota is subject to wind-driven snow or roof ice buildup.

1305.5730 TABLE NO. 32-D-1.

UBC Table No. 32-D-1 is amended by adding a footnote following "UNDERLAYMENT" in the first column to read as follows:

5. The entire state of Minnesota is subject to wind-driven snow or roof ice buildup.

1305.5740 TABLE NO. 32-D-2.

UBC Table No. 32-D-2 is amended by adding a footnote following "UNDERLAYMENT" in the first column to read as follows:

6. The entire state of Minnesota is subject to wind-driven snow or roof ice buildup.

1305.5900 SECTION 3305.

UBC Section 3305(h) 1 is amended by adding an exception 3 to read as follows:

~~Exception:~~

3. In existing Type I and II-F.R. buildings housing Group B-2 occupancies, corridor walls may be of approved wired glass set in metal frames. The glass height must not exceed two-thirds of the width of the corridor. A draft curtain of at least one-hour fire-resistive construction and not less than 24 inches in height must be provided to protect the corridor from the Group B-2 occupancy area (tenant space). The draft curtain must be located above the glass and extend a minimum of 24 inches below any finished ceilings in the tenant space. If the finished ceiling is not a fire-rated assembly, the draft curtain must extend from the wire glass to a rated ceiling or floor assembly. When the B-2 occupancy area (tenant space) is protected by an approved automatic fire extinguishing system for a distance of 12 feet in depth adjoining the corridor, and the corridor is not less than 12 feet in width, glass other than wired glass may be approved. Open grille-type gates and similar enclosing or security devices may be used in corridor walls of corridors not less than 12 feet in width, when the entire story is protected by an approved fire extinguishing system.

In existing buildings of other than Type I or of Type II-F.R. construction, this exception is not permitted, unless the entire building is provided with an approved automatic fire extinguishing system.

UBC Section 3305(h) 1 is amended by adding an exception 4 to read as follows:

4. In hospital and nursing home occupancies (I-1) doors entering sleeping rooms from a corridor need not be constructed or maintained as self-closing or automatic-closing when the building is equipped with an approved complete automatic fire extinguishing ~~sprinkler~~ system in compliance with chapter 38.

1305.6430 TABLE NO. 38-A.

UBC Table No. 38-A is amended as follows:

Item No. 2 under the occupancy column of Table 38-A is amended to read as follows:

Occupancies 3 stories or more but less than 150 feet in height, except Group R Division 3 ~~or~~ 4, Class II standpipes are not required in Group E or Group R-1 occupancies.

Table No. 38-A is amended by adding ~~a footnote~~ footnotes No. 7 and 8 to item No. 2 to read as follows:

7. In municipalities which have adopted the Special Fire Suppression System criteria specified in part 1305.6525 (UBC Section 3808), the number of stories must be ~~4~~ four or more.

8. When an automatic fire-extinguishing system required by Section 3802(h) is installed, the number of stories must be four or more.

1305.6901 APPENDIX CHAPTER 12, SECTION 1222.

UBC Appendix Chapter 12, Section 1222, is amended by adding an exception to read as follows:

Exception:

1. For energy requirements, see *Minnesota Rules*, chapter 4215.

2. For plumbing code requirements, see *Minnesota Rules*, chapter 1355.

3. For electrical requirements, see *Minnesota Rules*, chapter 1315.

4. For mechanical code requirements, see *Minnesota Rules*, chapter 1346.

5. For snow load requirements, see *Minnesota Rules*, part 1305.4700.

6. For frost depth requirements, see *Minnesota Rules*, part 1305.5400.

7. For ice dam roof treatment, see *Minnesota Rules*, part 1305.5720.

1305.6902 APPENDIX CHAPTER 12, DIVISION II.

UBC Appendix Chapter 12, Division II, is deleted in its entirety.

1335.0600 FLOODPROOFING REGULATIONS, SECTION 201.2.

FPR section 201.2 is amended to read as follows:

This section shall apply unless equivalent provisions are incorporated in the city or county flood plain zoning ordinance.

Nonconforming Use: A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance but which is not in conformity with the provisions of these regulations may be continued subject to the following conditions:

1. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

2. No structural alteration, addition, or repair to any conforming structure over the life of the structure shall exceed 50 percent of its market value at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use.

3. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to these regulations. The assessor shall notify the zoning administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.

4. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its ~~assessed~~ market value, it shall not be reconstructed except in conformance with the provisions of these regulations; provided, the Board of Appeals may permit reconstruction if the use or structure is located outside the floodway and is adequately and safely floodproofed, elevated, or otherwise protected in conformance with these regulations.

5. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

6. ~~Any~~ An alteration, addition, or repair to ~~any~~ a nonconforming structure ~~which would result in substantially increasing its flood damage or flood hazard potential shall~~ that exceeds 50 percent of its market value must be protected as required by these regulations.

~~7. The building official shall maintain a list of nonconforming uses including the date of becoming nonconforming, assessed value at the time of its becoming a nonconforming use, and the nature and extent of nonconformity. This list shall be brought up to date annually.~~

~~8. The building official shall prepare a list of those nonconforming uses which have been floodproofed or otherwise protected in conformance with these regulations. He shall present such list to the Board of Appeals which may issue a certificate to the owner stating that such uses, as a result of these corrective measures, are in conformance with these regulations.~~

1335.1000 FLOODPROOFING REGULATIONS, SECTION 205.1.

FPR section 205.1 is amended to read as follows:

Statement of Intention to Improve: The owner or any registered architect or licensed professional engineer authorized to represent the owner shall, before preparing final plans for any improvement in the flood hazard area(s), file with the building official a statement of intention to improve, including a brief description of the type of improvement being considered and giving its precise location, on

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

a form provided by the building official. The building official shall note on two copies the elevation of the RFD at the location of the proposed improvement. One copy of the statement of intention to improve ~~shall~~ must be retained by the building official until a permit copy for improvement on the site is approved or one year has elapsed; a second copy ~~shall~~ must be returned to the owner for ~~his~~ use in final siting and design of ~~his~~ the improvement. Assignments of the RFD elevations at all locations ~~shall~~ must be ~~made from profiles and/or cross sections provided by the Army Corps of Engineers, SCS, USGS~~ consistent with the determination of the regulatory flood protection elevation as defined in the community's flood plain zoning controls, if any. This information ~~shall~~ must be open to public examination at all reasonable times.

1335.1100 FLOODPROOFING REGULATIONS, SECTION 205.2.

FPR section 205.2 is amended to read as follows:

Permits Required: No person, firm, or corporation shall erect, construct, alter, repair, move, remove, convert, or demolish any building or structure or any part thereof, or make any other improvement within the structure or any part thereof, or make any other improvement within the flood hazard area(s), or cause same to be done, without first obtaining a separate flood plain building ~~floodproofing~~ permit for any such improvement from the building official. Ordinary minor repairs may be made with the approval of the building official without a permit, provided that such repairs shall not violate any provisions of these regulations or of the building code.

1335.1950 FLOODPROOFING REGULATIONS, SECTION 612.1.

FPR section 612.1 is amended to read as follows:

Methods: A building must be considered completely floodproofed if the lowest elevation of all space within the building perimeter is above the RFD as achieved by:

(1) building on natural terrain beyond the RFD limit line on natural undisturbed ground;

(2) building on fill; or

(3) building on stilts.

These methods may be used alone or in combination to achieve the required degree of floodproofing. Data and design procedures must be based on organized and acceptable disciplines involved and the following additional requirements.

1335.2150 FLOODPROOFING REGULATIONS, SECTION 612.3.

FPR section 612.3 is amended to read as follows:

Protection by Dikes, Levees, and Floodwalls: Dikes, levees, and floodwalls must not be considered to provide FP1 or FP2 floodproofing or flood protection unless

(1) the dike, levee, or floodwall is built in accordance with recognized and accepted engineering practice and methods, and

(2) the design data has been submitted to the Department of Natural Resources and the Federal Emergency Management Agency for revision of the community's flood insurance study (flood insurance rate map) and official zoning map.

1335.3100 FLOODPROOFING REGULATIONS, SECTION 1405.3.

FPR section 1405.3 is amended to read as follows:

Protection by Dikes, Levees, and Floodwalls: Dikes, levees, and floodwalls must not be considered to provide floodproofing or flood protection unless

(1) the dike, levee, or floodwall is built in accordance with recognized and accepted engineering practice and methods, and

(2) the design data has been submitted to the Department of Natural Resources and the Federal Emergency Management Agency for revision of the community's flood insurance study (flood insurance rate map) and official zoning map.

1360.0900 INSPECTION.

[For text of subps 1 to 3, see M.R. 1989]

Subp. 4. **Damaged prefabricated buildings.** Prior to the installation of a damaged prefabricated building, the dealer, owner, or manufacturer shall notify the state building inspector who shall inspect, or cause to be inspected, certified prefabricated buildings which have been damaged after certification and take action with regard to those buildings which is authorized under part 1360.3100, subpart 3, or which is otherwise necessary to eliminate dangerous conditions.

The state building inspector shall require prefabricated buildings which are so damaged as to no longer ~~to~~ comply with the code to be brought into compliance promptly. If those buildings are not brought into compliance with the code within a reasonable time, or if they are so damaged that they cannot be brought into compliance, the state building inspector shall order that the seals be removed

from the buildings. Irreparably damaged buildings must be disposed of in accordance with applicable law.

[For text of subps 5 and 6, see M.R. 1989]

1360.3600 FEES.

Subpart 1. **Form and amount of payment.** All fees must be in the form of checks or money orders payable to "Minnesota State Treasurer," and addressed to: State of Minnesota Department of Administration, Building Codes and Standards Division, 408 Metro Square Building, Seventh and Robert Streets, Saint Paul, Minnesota 55101.

The seal fee is $30 per seal. The replacement seal fee for damaged or lost seals is $10 per seal. For all other work performed by the Minnesota Building Codes and Standards Division such as, but not limited to, the review of plans, specifications, ~~and~~ independent agency reports, inspection, and quality control evaluation, ~~a fee of $25 per person, per hour~~ fees must be charged based on the fee schedule in part 1302.0600. Travel expense must be charged at the rates established for state employees by the commissioner of administration.

[For text of subp 2, see M.R. 1989]

REPEALER. *Minnesota Rules*, parts 1305.0300; 1305.1750; 1305.1790; 1305.2100; 1305.2400; 1305.3000; 1305.3100; 1305.3200; 1305.3300; 1305.3600; 1305.3700; 1305.4200; 1305.4500; 1305.4900; 1305.5300; 1305.5310; 1305.5500; 1305.5800; 1305.6550; 1305.6600; and 1305.6900, are repealed.

Department of Administration

Proposed Permanent Rules Relating to the Minnesota State Building Code

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Administration, in cooperation with the Minnesota Department of Health, proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rules in *Minnesota Statutes* section 16B.61.

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

Any person may make a written request for a public hearing on the rule within the 30 days comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.13 to 14.20.

PLEASE NOTE: that if 25 or more persons submit written requests for a public hearing within the 30 day comment period, a hearing will be held on Friday, February 2, 1990, unless a sufficient number withdraw their request in accordance with the notice of hearing on these same rules published in the *STATE REGISTER* and mailed to persons registered with the State Department of Administration. To verify whether a hearing will be held, please call the Department of Administration, Building Codes Division on February 1, 1990, between the hours of 8:00 a.m. and 4:30 p.m., at 612-296-4626.

Persons who want to submit comments or written requests for a public hearing must submit such comments or requests to:

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

Comments or requests for a public hearing must be received by the Department of Administration, Building Codes and Standards Division, by 4:30 p.m. on January 31, 1990.

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

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

A free copy of this rule is available on request for your review from Margaret White.

The proposed rule establishes minimum uniform rules for the State of Minnesota by amending the State Plumbing Code in order to be consistent with *Minnesota Statutes* and laws and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the information relied on to support the proposed rule has been prepared and is available for review from Margaret White on request.

It is felt by the Building Codes Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, Section 14.115, division 1, and pursuant to *Minnesota Statutes*, Section 14.115 subdivision 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, Section 14.11.

If no hearing is required on adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Margaret White.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held at Sheraton Airport Hotel, 2525 East 78th Street, Bloomington, Minnesota 55425, on February 2, 1990, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, that the hearing will be canceled if fewer than 25 persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *STATE REGISTER* and mailed to persons registered with the Department of Administration, Building Codes and Standard Division. To verify whether a hearing will be held, please call the Building Codes Division between 8:00 a.m. and 4:30 p.m. at (612) 296-4626.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such person may present their views either orally at the hearing or in writing at any time prior to the close of the hearing. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to Steve M. Mihalchick, Administrative Law Judge, Office of Administrative Hearings, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, (612) 349-2544, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record to be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, Sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed rule establishes minimum uniform rules for the State of Minnesota by amending the State Plumbing Code in order to be consistent with *Minnesota Statutes* and law and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, Section 16B.61.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, Section 14.11.

It is felt by the Building Codes Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, Section 14.115, division 1, and pursuant to *Minnesota Statutes*, Section 14.115 subdivision 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to:

Margaret White
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

Additional copies will be available at the hearing. If you have any questions on the content of the rule you may contact Margaret White, Elroy Berdahl, or Alvin Kleinbeck at (612) 296-4639.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11 as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials;

(b) who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: 14 December 1989

Sandra J. Hale
Commissioner of Administration

Statement of Need and Reasonableness

NOTE: All of the amendments covered by this listing of statements of need and reasonableness have been reviewed by the State Advisory Council on Plumbing Code and Examinations, and the Council has unanimously recommended that all of these amendments be adopted.

4715.0100 DEFINITIONS.

A definition is added for the term "readily accessible" to clarify the intent, since the term is being used in the amendment of *Minnesota Rules*, p. 4715.2120. In general, it would require access without removing access panels, ceiling tiles, etc., but would allow the device to be behind a door if it is not normally locked. The definition is essentially a combination of the definitions given in the *Uniform Mechanical Code and Uniform Plumbing Code.*

4715.0200 BASIC PLUMBING PRINCIPLES.

This section is modified to return it to its original format and intent. From the time the current code was adopted in 1969 until the rules were renumbered and reformatted in 1983, this section provided a point-by-point listing of the 23 basic principles of sanitation

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

which serve as the basis of the code, and are used to define the intent of the code. In 1983, one extraneous paragraph was added to the section, and the 23 principles were reorganized and listed under seven different headings.

This 1983 change broke up the listing of the 23 principles, and in effect caused them to lose their identity as the basis for and intent of the code. These principles are merely being returned to their original format to allow them to be recognized as the 23 principles identified in the opening paragraph of the section.

In making this change, the seven headings added in 1983 are eliminated, and the extraneous paragraph relocated in this section in 1983 is relocated in *Minnesota Rules*, p. 4715.0320 which is a more appropriate location.

4715.0310 USE OF PUBLIC SEWER AND WATER SYSTEMS REQUIRED.

This section is amended by adding a reference of the Minnesota Water Well Construction Code relative to the proper abandonment of private water wells which are taken out of service. Some local building officials have stated that they are not able to get people to properly abandon unused wells since they do not have jurisdiction to enforce the Minnesota Water Well Construction Code; they have therefore requested that the abandonment requirement be referenced in the plumbing code so they have jurisdiction to enforce it. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

4715.0320 CONFORMANCE WITH CODE.

This section is amended to add a new subpart 1. The materials in subpart 1 is merely being relocated from *Minnesota Rules*, p. 4715.0200 because it more appropriately fits within the description of this section.

4715.0420 STANDARDS AND PLUMBING MATERIALS.

This section is amended in three places. One amendment is to allow the use of PVC complying with ASTM D1785 for water service. This is merely to permit the use of another suitable material which is already approved for such use in many other states. PVC complying with ASTM D1785 has high pressure ratings and is more readily available than the standard dimension-ratio rated PVC which was already approved for water service in the code. These amendments are supported by the State Advisory Council on Plumbing Code and Examinations.

4715.0420 and 4715.0620 are being amended to permit the use of corrugated polyethylene pipe as another acceptable material for subsoil drains. The material has already been widely used for this purpose, and has proven to be an acceptable product. Compliance with the ASTM standard for such material is required to assure that the pipe meets generally accepted requirements for structural integrity and design.

4715.0500 WATER SUPPLY SYSTEMS.

This section is amended by adding a new paragraph to require that pipe and fittings used to convey potable water contain no more than 8 percent lead. This amendment is added because the 8 percent maximum is now part of the federal safe drinking water requirements, and the State could lose up to 5% of the federal safe drinking water grant if this provision is not enforced in the state.

4715.0520 WATER DISTRIBUTION PIPE.

Part F is changed to correct an inadvertent error of omission. Copper tube 3H was incorrectly deleted from this section when 3H(a) and 3H(b) were added during recent rule amendments. Copper tube 3H remains a primary material used for water distribution. It was never the intent to delete this material from the Code, nor were any justifications provided for such deletion.

Parts K and L are amended to reference the current editions of the IAPMO installation standards for plastic tubing 6K (polybutylene) and plastic pipe 6L (chlorinated polyvinyl chloride). These changes merely allow for installation using current accepted practices and have been recommended by the State Advisory Council on Plumbing Code and Examinations.

4715.0580 is amended expressly prohibiting the use of soft temper type M copper tubing for waste and vent piping. Soft temper is intended only for use in conveying water under pressure, and must not be used for gravity drainage of sewage or other wastewater where lengths of pipe must be straight and smooth to assure proper drainage without clogging.

4715.0620: see 4715.0420.

4715.0800 MECHANICAL JOINTS.

Subpart 5 is amended to permit the use of a specific type of mechanical pipe coupling for below-ground installations of water distribution pipe. Such couplings have previously been permitted only for above-ground installations. This change merely allows another acceptable use of an already approved type of pipe joint. Exposed grooves in galvanized pipe must be protected by coal tar enamel coating and wrapping since the galvanizing is removed in the grooving process, and the pipe wall thickness below the groove is reduced. The protection is to prevent the grooved area from corroding and being the weak link in the pipe system. This protection is the same as what is required for exposed threads on galvanized pipe used below ground. The cut groove method is specified as a requirement for galvanized pipe because experience has shown that the alternative method of roll grooving causes excessive deterioration

of the galvanizing even beyond the groove. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

Subpart 6 is amended because the existing language was too specific and restrictive as to how the proper insertion depth of a branch tube is achieved in extracted mechanical joint installations. Alternative methods providing acceptable results must also be acceptable. The precise method should not be strictly regulated as long as the desired results can be otherwise achieved.

4715.0805 PUSH-ON JOINTS.

This section is added as a new section to allow use of another acceptable type of joint for cast-iron and ductile-iron water service pipe. This type of joint is used almost exclusively for municipal water main construction, and should also be allowed for water service lines installed in a similar fashion, i.e., underground outside the building. The ANSI standard reference is the standard currently used for water main construction.

4715.0810 PLASTIC JOINTS.

This section is amended by adding new subpart to require that a primer be used for all solvent weld joints in PVC and CPVC pipe. When such joints are used, it is necessary to clean and soften the pipe in the area of the joint before the solvent cement is applied. Without this step, the pipe and fitting will not be properly bonded or welded, and the joint is subject to failure. The primer is required to be a contrasting color so that a plumbing inspector can verify that a primer has been used. A mechanical cleaning method is not acceptable in lieu of using a primer since it does not soften the plastic as necessary for proper bonding or welding of the joint. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

4715.0820 SOLDERED OR BRAZED JOINTS.

This section is amended to permit the approval of new types of plumbing solder which are being developed to replace 50-50 solder which can no longer be used for water distribution systems because of its high lead content. The new solders are completely new alloys of compositions not covered by ASTM Standard B32-76.

Compliance with ASTM B32-76 was previously required for a solder to be acceptable. Under this amendment, the Department can also approve solders which are proven to be suitable through laboratory analysis of composition and pressure testing of joints, even though no ASTM standard currently exists for the composition.

This section is further amended to eliminate reference to ASTM B260-52T for brazing filler metal. This was a tentative standard which was not formalized by ASTM, and no longer exists. The amendment provides a more general requirement that brazing be done using methods and materials which fit the particular application, and in accordance with industry standards. Such standards would include those of the American Welding Society, the Copper Development Association, and/or the manufacturer of specific joint-making equipment, depending on the specific application. The requirement that all brazed joints be fluxed is eliminated since some alloys used with copper are self-fluxing. The requirement that industry standards be followed would cover those alloys where flux is needed. These amendments are supported by the State Advisory Council on Plumbing Code and Examinations.

4715.0860 SPECIAL JOINTS.

Subpart 6 is modified to require that transition couplings of elastomeric materials be provided with an exterior shield on above ground installations.

The shield is needed to prevent outward expansion of the coupling which has been identified as an ongoing problem with unshielded installations. Ballooning of unshielded joints could lead to joint fatigue, misalignment, and failure of the joint. This amendment is recommended by the State Advisory Council on Plumbing Code and Examinations.

4715.1220 INSTALLATION OF FIXTURES.

This section is amended to add a minimum clearance requirement to front of water closets. This section already contains side clearance requirements. Because this plumbing code has been silent with respect to a front clearance, some contractors have constructed toilet rooms with so little front clearance that the facilities are not functional since they do not have foot or even knee space in front of the water closet. The 24-inch front clearance will guarantee that all approved installations will be functional. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

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

4715.1240 BATHTUBS.

This section is amended by adding a new subpart requiring whirlpool bathtubs to comply with the current IAPMO standard for both the design and installation. The code was previously silent regarding such installations and as a result some installations were made without access for equipment, with recirculation pipes that did not drain resulting in stagnant polluted water, and with electrical hazards from non-U.L. listed equipment. The IAPMO standard addresses these concerns, as well as providing tub and piping system construction requirements.

715.1260 is being amended to prohibit the installation of a drinking fountain bubbler directly on or with a cold water faucet intended for uses other than drinking. This prohibition is a basic sanitation provision, and is needed to prevent installations where a drinking fountain bubbler is easily contaminated during use of the cold water faucet for hand washing or other uses. Such combined installations have been implicated in the spread of disease when persons using the faucet for hand washing, especially after using toilet facilities, have contaminated the drinking fountain bubblers.

This section is further amended to require any drinking fountain bubbler at a sink to be separated from any other faucet by at least 18 inches. This separation requirement is needed to assure that a drinking fountain bubbler provided on a sink which is also used for other purposes, such as hand washing, is adequately isolated from the other water uses to prevent direct contamination.

4715.1300 FLOOR DRAINS.

This section is amended by adding a new subpart to require floor drains in enclosed garages to discharge to sanitary sewer. The intent is to prevent undesirable discharge to the surface, to seepage pits, or to the storm sewer of wastes which require treatment by their nature. Enclosed garages do not receive precipitation or run-off water which would normally go to the storm sewer, but instead receive concentrated waste water which needs to be treated. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

4715.1305 ELEVATOR PIT DRAINS.

This is a new section which is needed to clarify the proper method of draining an elevator pit. The pit must be drained to the sanitary sewer since it will contain hydraulic fluid, oil, grease, etc., which should not be discharged to the storm sewer. It must have an indirect connection, since the pit drain would be a low spot on the plumbing drainage system which would permit back-up of sewage into the pit if a direct connection was provided. If a sump is used, it must be located outside the pit so that a plumber or plumbing inspector has direct access for maintenance or inspection without having to enter the elevator shaft below the elevator. This new section is supported by the State Advisory Council on Plumbing Code and Examinations.

4715.1380 SHOWERS.

This section is amended by providing a new subpart to require all showers to be equipped with anti-scald-type control valves. This is required to prevent accidents caused by sudden changes in water temperature. Such accidents include scalding resulting from excessive water temperature, and slips and falls resulting from an attempt to quickly move out of the water stream when there is a suddent change in water temperature, either too hot or too cold. Supply temperatures in plumbing systems can fluctuate quickly and with great variations. For instance if there is a sudden great demand on the cold water system, such as for flushing toilets, then a shower on the same system could have reduced cold water pressure, and have a rapid and shocking increase in temperature. Anti-scald valves may be either pressure balance or thermostatic control type provided they comply with the American Society of Sanitary Engineers Standard for shower control valves. Either type will work to minimize the effects of changes in pressure within the water distribution system. The section also allow multiple showers to use a single anti-scale thermostatic blender, or to use individual controls. The multiple shower type would typically be used for school gang showers or similar. The states of Connecticut, Rhode Island and Massachusetts currently have a similar requirement in their codes to require anti-scald protection for all showers, and in addition North Dakota and Wisconsin require such valves for other than single dwelling units. Statistics indicate that the majority of scalding injuries are sustained by children age 6 or less, and adults over 60. These segments of the population are also the ones that need the most built-in protection since they are unable to act or react in an appropriate way to avoid scalding from sudden temperature changes, and also may be more susceptible to injuries from falls when subjected to the shock of sudden temperature changes. Anti-scald-type shower valves are readily available from several manufacturers, and have been used for years to protect patients in health care facilities. Without such protection, an adult can have a second degree burn in five seconds with 140°F water and in just one second with 158°F water, and the effects on children could be even more severe.

4715.1440 PROTECTION OF PLASTIC PIPE.

This new section is added to require protection for plastic pipe which is run through wood studs or wood plates. The steel plate required at such penetrations would help prevent nails or screws from being driven into plastic pipe which is within a wall after the wall is closed up. Without such protection plates, the pipe could be damaged during completion of construction or at any time in the future. Conscientious plumbing contractors currently install such plates to protect piping, and provision of this requirement in the plumbing code would help to clarify that such work is the responsibility of the plumber. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

4715.1590 RECEPTORS OR SUMPS.

This section is amended to be more permissive by allowing standpipe receptors for automatic clothes washers to be manifolded together, and use a single trap, to serve multiple units located in the same room. Previously, an individual trap and vent was required for each receptor. This change would allow the use manufactured manifold-type receptors. The consensus of the professions consulted in the plumbing field, feel they should be allowed and that they would not have an adverse impact on the functioning of the drainage system.

4715.1911 TOXIC MATERIALS AND USED PIPE.

This section is amended merely to expand the heading to better describe the material included in the section, and to change the reference number to relocate the material to a more appropriate section of the code.

4715.1912 USED WATER RETURN PROHIBITED.

This section is amended only to change the reference number and relocate the material to a more appropriate section of the code.

4715.1940 POTABLE WATER CONNECTIONS TO HEATING OR COOLING SYSTEMS.

This section is amended by deleting a sentence which has been confusing and open to misinterpretation. The intent of the section is adequately, and more precisely, conveyed without the deleted sentence. The section is intended to permit permanent direct connections of make-up lines to heating or cooling systems with chemicals in them, but only when an approved backflow preventer is located in the potable water line. This amendment is supported by the State Advisory Council on Plumbing Code and Examinations.

4715.1941 HEAT EXCHANGERS.

This section is amended by deleting paragraph B of subpart 3 in its entirety. This paragraph had required that single-wall heat exchangers comply with a specific identified standard, or they could be an alternate design if the administrative authority determined that the same degree of protection against contamination of potable water was provided. There are two reasons why this change has been made. First, it is the Department's opinion, supported by the Advisory Council, that the other three remaining paragraphs of subpart 3 do in themselves contain adequate provisions for the protection of the potable water, and that paragraph B is not needed for this purpose. Second, there are no established criteria by which the administrative authority could determine if the same degree of protection would be provided by an alternative design, therefore, the paragraph was troublesome to enforce and placed an undue and unnecessary burden on the administrative authority.

This section is further amended to be more permissive by allowing high or low pressure steam systems to be used in single-wall heat exchangers without a pressure differential monitoring device. Reasons for this include that steam systems will notify the operator of a heat exchanger failure on their own when system temperature is lost and the boiler fills with water, and most steam systems use food grade additives which do not present a health concern. This change is made in response to industry comments that the previous rule unfairly restricted the use of single-wall heat exchangers with steam systems while not providing any greater degree of protection.

4715.2020 DEVICES FOR THE PROTECTION OF THE POTABLE WATER SUPPLY.

This section is amended by merely deleting the existing language, and substituting the language previously used in *Minnesota Rules*, p. 4715.2140. Section 4715.2140 is then subsequently deleted as a separate amendment. This change is to eliminate duplication since both sections had said essentially the same thing.

4715.2100 VACUUM BREAKERS/BACKFLOW PREVENTERS.

The original heading and language are deleted in their entirety because the material is covered as part of the new language substituted for this section.

The new language is added to provide a convenient listing of all types of backflow preventers acceptable under the code, and to specify the conditions under which each type may be used. The conditions of use listed are really a summarized compilation of how manufacturers state that the devices should be used, and are similar to consensus codes such as the National Standard Plumbing Code and the Uniform Plumbing Code. This new language is really a clarification of installation requirements, and this type of clarification has been requested by many municipal inspectors.

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

4715.2110 REDUCED PRESSURE ZONE BACKFLOW PREVENTOR/TYPES OF DEVICES REQUIRED WHERE AN AIR CAP CANNOT BE PROVIDED.

The original heading and language are deleted in their entirety because the material is covered in the new language of *Minnesota Rules*, p. 4715.2100.

The new language is a table which lists several of the most common type of installations where backflow preventers are needed, and also lists the corresponding types of backflow preventers which would be acceptable for each specific situation. As a justification for including the specific installations listed, reference is made to the fact that the U.S. Environmental Protection Agency includes all but six of the installations listed as plumbing hazards in their cross-connection control manual.

The other six are justified as follows:

- Car wash. A backflow preventer is needed because wash water is recycled and contains gas, oil, dirt, etc., as well as soaps and waxes which are injected into the wash systems.

- Glycol or other antifreeze system. A backflow preventer is needed because of the primary and cheapest antifreeze is ethylene glycol which is extremely toxic. Even if a system is initially filled with a less toxic antifreeze, experience has shown that the system is likely to be refilled with ethylene glycol, when fluids are periodically changed, because it is the less expensive fluid.

- Operating, dissection, embalming or mortuary table. A backflow preventer is needed because of various fluids and waste products present which could be backsiphoned into the water supply system.

- Carbonated beverage machine (post-mix). A backflow preventer is needed because the CO_2 being added at the carbonater is a higher pressure than the water distribution system, and many cases of backflow of CO_2 have occurred. When CO_2 comes in contact with copper in the water system, it takes copper into solution and in many cases has caused copper poisoning in people consuming the beverage. The backflow preventer has proven to prevent such occurrences, but a check valve has not.

- RV dump station. A backflow preventer is needed because the hose is used to rinse sewage from RV holding tanks and to wash down the dump station when spills occur. In the process, the hose is often in direct contact wth sewage or within the sewage holding tank. Without a backflow preventer, a loss of pressure in the supply stem could result in siphonage of sewage contaminated water into the water supply.

- Truck fill. The reasoning is similar to that given for RV dump stations. Trucks being filled may contain chemicals such as fertilizers or pesticides. Many instances of backflow of chemicals from trucks into the water supply have occurred, including in Minnesota.

Similar justifications could be given for each situation listed in the table, however, it should be sufficient to provide the six examples above, and note that all of the other situations listed are included in the U.S.E.P.A. cross-connection control manual as plumbing hazards.

415.2120 DEVICES OF ALL TYPES/LOCATION OF BACKFLOW PREVENTERS.

This section is amended by changing the heading to be more descriptive of the material covered. It is also amended to require all devices to be readily accessible rather than just accessible, and a definition of readily accessible has been added in *Minnesota Rules*, p. 4715.0100. Backflow preventers must be readily accessible since they must be frequently observed to detect water flow from the device, and they must be inspected and tested periodically by qualified personnel. Testing includes use of testing equipment and making connections to the device, therefore, it is necessary that all devices be located to facilitate such testing. The section is further amended to prohibit installation in an area subject to flooding, such as a pit, and to require a visible air gap at the device when a conductor pipe is used. The device cannot be in an area subject to flooding since it has opening to the air and if the device was submerged in water it would not only be prevented from functioning to prevent backflow, but the device itself would become a cross connection between the domestic system and the water in the pit. An air gap is needed at the device to provide a visible indication of flow from the device. Such flow could indicate a recurring backflow condition which should be addressed, or it could indicate a fouling of a check valve which must be corrected. If the air gap is only at the end of a conductor pipe instead of at the device, the flow may not be associated with the device and a needed correction may not be made.

4715.2130 TANKS AND VATS BELOW RIM SUPPLY.

This section is deleted because it is confusing and also no longer considered necessary. It is not necessary since use of a backflow preventer is considered to be a preferred and more positive method of backflow prevention than the method previously outlined in this section.

4715.2140 PROTECTIVE DEVICES REQUIRED.

The section is deleted, however, there is no change of substance since the language was moved to *Minnesota Rules*, p. 4715.2020.

4715.2161 INSTALLATION OF REDUCED PRESSURE BACKFLOW PREVENTERS.

This section is amended in three ways: First, the reference number is changed so that the language is included within the section on cross-connection control instead of the later in the code. Second, a provision is added to require notification of the Administrative

Authority when a reduced pressure backflow preventer is installed. This is needed so that the Administrative Authority can be aware of the device's existence and location, and monitor the testing and maintenance pursuant to subpart 2 of this section. Third, a provision is added to require each reduced pressure backflow preventer to have a tag for inspection dates, and to require that written records of testing and maintenance be sent to the Administrative Authority. The tag requirement is similar to that used for fire extinguishers, and is to allow field verification of periodic testing of the device. The written records are needed to allow the Administrative Authority to verify the work required by subpart 2.

The changes in this section were all requested by municipal inspectors who are involved with cross-connection control.

4715.2162 DOUBLE-CHECK DOUBLE-GATE VALVES.

This section is amended only by changing the reference number so that the language is located within the cross connection control section of the code.

4715.2163 CARBONATED BEVERAGE MACHINES.

This is a new section which is added to clarify the requirements necessary to prevent copper poisoning in conjunction with post-mix-type carbonated beverage machines. If carbon dioxide is allowed to backup into copper tubing which brings water to the carbonator, it will react with the copper and allow a high concentration of copper within the system. Copper poisoning can result in serious illness and even death, and many cases have been reported resulting from the use of such machines without appropriate backflow preventers. This section was added at the request of community health services sanitarians who had been having ongoing problems with such installations.

4715.2190 COMBINATION WATER AND SPACE HEATING EQUIPMENT.

This is a new section which was needed to address concerns associated with a type of equipment installation which is new to Minnesota. The installation involves a water heater which heats potable water for consumption and also serves space heating demands by heating water which is circulated through space heating coils. A mixing valve is needed because the extremely cold winter weather may require the user to set the heater for a high water temperature to meet space heating demands, but that temperature might not be safe for domestic hot water. The user needs the capability of controlling the domestic water temperature while still meeting the space heating needs. Without such control, serious burns could result from the high temperature of the domestic water.

A drainage port and isolation valve are needed to drain the stagnant water which has been in the unused space heating coils throughout the nonheating season and prevents it from returning to the heater and being consumed. These provisions allow the user to run the stagnant water to waste.

To assure reliability and warranty of the water heater, it must be of a type which is specifically approved by the manufacturer for such use. Some manufacturers representatives have stated that certain heaters were not intended for such combined use, and should not be used as such.

All materials are required to be of a type approved for potable water distribution. Since, in effect, the space heating loop actually becomes a part of the domestic water distribution system, the water circulated through the space heating coil returns to the water heater and becomes part of the water which is drawn from the heater for domestic consumption. A wall thickness of the space heating coil is listed as an exception since that area would be unenforceable, plus it is consistent with application of the code in general that the piping within a piece of equipment is the responsibility of the manufacturer of the equipment. A water cooler is an example of other such equipment.

4715.2230 TANKLESS AND INSTANTANEOUS TYPE HEATERS.

This section is amended to be more permissive by allowing certain types of water heaters, which meet certain specification, to be used without a pressure relief valve if Underwriters Laboratory approval has been granted for use without a pressure relief valve. For this type of unit, the relief valve is not needed since the unit does not have the capability of producing excessive pressures within the system which might be hazardous or result in explosion.

Dated: 14 December

Sandra J. Hale, Commissioner
Department of Administration

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

Rules as Proposed

4715.0100 DEFINITIONS.

[For text of subps 1 to 84, see M.R. 1989]

Subp. 84a. **Readily accessible.** "Readily accessible" means capable of being reached safely and quickly for operation, repair, or inspection without requiring those to whom ready access is requisite to remove obstacles, panels, or similar obstructions.

[For text of subps 85 to 128, see M.R. 1989]

4715.0200 BASIC PLUMBING PRINCIPLES.

This code is founded upon certain basic principles of environmental sanitation and safety through properly designed, acceptably installed and adequately maintained plumbing systems. Some of the details of plumbing construction may vary but the basic sanitary and safety principles desirable and necessary to protect the health of the people are the same everywhere. As interpretations may be required, and as unforeseen situations arise which are not specifically covered in this code, the twenty three principles which follow shall be used to define the intent.

~~As provided in *Minnesota Statutes,* section 326.37, this code applies to all new plumbing installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building, or any other place of business regardless of location or the population of the city or town in which located.~~

4715.0310 USE OF PUBLIC SEWER AND WATER SYSTEMS REQUIRED.

~~Where~~ If a public sewer is accessible in a street or alley to a building or premises and the connection is feasible, liquid wastes from any plumbing system in ~~said~~ that building ~~shall~~ must be discharged into the public sewer unless otherwise prohibited by this code or a local ordinance.

~~Where~~ If a public water supply system is accessible, the water distribution system ~~shall~~ must be connected to it unless otherwise permitted by the administrative authority. A water well taken out of service because a person is connecting to a public water supply must either be maintained for a use such as irrigation, or sealed and abandoned in accordance with the Minnesota Water Well Construction Code. (*Minnesota Rules,* chapter 4725)

~~Where~~ If either a public sewer or water supply system or both are not available, an individual water supply or sewage disposal system~~,~~, or both, conforming to the published standards of the administrative authority ~~shall~~ must be provided.

Every building must have its own independent connection with a public or private sewer, except that a group of buildings may be connected to one or more manholes which are constructed on the premises, and connected to a public or private sewer. These manholes must conform to the standards set by the local sewer authority.

4715.0320 CONFORMANCE WITH CODE.

Sprinkler Assp

Subpart 1. **Scope.** As provided in *Minnesota* Statutes, section 326.37, the Minnesota Plumbing Code applies to all new plumbing installations, including additions, extensions, alterations, and replacements connected to a water or sewage disposal system owned or operated by or for a municipality, institution, factory, office building, hotel, apartment building, or other place of business regardless of location or the population of the city or town in which it is located.

Subp. 2. **New buildings.** All plumbing materials and plumbing systems or parts thereof ~~shall~~ must be installed to meet the minimum provisions of this code.

Subp. ~~2~~ 3. **Existing buildings.** In existing buildings or premises in which plumbing installations are to be altered, renovated, or replaced, ~~such~~ the new materials and work ~~shall~~ must meet the provisions of this code. ~~Where~~ If the administrative authority ~~shall find~~ finds that the full performance of bringing ~~such~~ the work into compliance with all requirements of this code would result in exceptional or undue hardship by reason of excessive structural or mechanical difficulty, or impracticability, a deviation may be granted by the administrative authority only to the extent ~~such~~ the deviation can be granted without endangering the health and safety of the occupants and the public.

4715.0420 STANDARDS FOR PLUMBING MATERIALS.

[For text of subps 1 and 2, see M.R. 1989]

Subp. 3. **Standards for plumbing materials.**

DESCRIPTION	ANSI	ASTM	FS	OTHER
I. CAST IRON PIPE AND FITTINGS				
	A21.2			
	A21.6	A-74	WW-P-401C	CS188

	DESCRIPTION	ANSI	ASTM	FS	OTHER
1A	Cast Iron Pipe and Fittings Extra Heavy	A21.8			
1B	Cast Iron Pipe Centrifugally Cast Only and Fittings Service Weight	A21.6 A21.8	A-74	WW-P-401C	CS188
1C	Cast Iron Mechanical (Gland Type) Pipe	A21.11 A21.2 A21.6	WW-P-421a		
1D	Cast Iron Mechanical (Gland Type) Pipe Cement Lined	A21.8 A21.4 A21.2 A21.6 A21.8			
1E	Cast Iron Short Body Water Service Fittings (2″-12″)	A21.10			AWWA C100
1F	Cast Iron Threaded Pipe	A40.5			
1G	High Silicon Pipe, Fittings Cast Iron				
1H	Cast Iron Threaded Fittings Black and Galvanized 125#	B16.4		WW-P-501	
1J	Cast Iron Drainage Fittings Black and Galvanized	B16.12		WW-P-491	
1K	Hubless Cast Iron Pipe and Fittings (Amended 8-31-72)				CISPI Standard 301-69T

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

	DESCRIPTION	ANSI	ASTM	FS	OTHER
II. STEEL AND WROUGHT IRON PIPE FITTINGS					
2A	Steel Pipe, Welded and Seamless Galvanized, Schedule 40 and Above	B36.1 B36.20			WW-P-406 6(1)
2B	Wrought Iron Pipe, Galvanized Schedule 40 and Above	B36.2			
2C	Stainless Steel Pipe	B36.19			
2D	Galvanized Malleable Fittings 150 psi and Above	B16.3	A197		
2E	Steel Unions, Galvanized			WW-V-531 C	
III. COPPER AND COPPER BASE PIPE AND FITTINGS					
3A	Red Brass Pipe, Regular and Heavier	H27.1	B42B		
3B	Seamless Brass Tube	H36.1			
3C	Brass or Bronze Threaded Fittings 125 lbs. and Over	B16.15	B62	WW-P-460	
3D	Brass or Bronze Flare Fittings 125 lbs. and Over, Heavy Duty Long Collar Type	B62			
3E	Seamless Copper Tube Type K, Soft Temper	H23.1	B88		
3F	Seamless Copper Tube Type K, Hard Temper	H23.1	B88		
3G	Seamless Copper Tube Type L, Soft Temper	H23.1	B88		
3H	Seamless Copper Tube Type L, Hard Temper	H23.1	B88		

	DESCRIPTION	ANSI	ASTM	FS	OTHER
3H(a)	Welded Copper Alloy 194 Water, Tube, Type "Heavy," Hard Temper		B543-72		OFT194-101A Navfac TS-15400
3H(b)	Stainless Steel Water Tubing, Type SL, Copper Plated Coating (HWT-T439)		A-651		
3J	Seamless Copper Tube, Type M, Hard and Soft Temper	H23.1	B88		
3J(a)	Welded Copper Alloy 194 Water Tube, Type "Standard," Hard Temper		B543-72		OFT194-101A Navfac TS-15400
3J(b)	Stainless Steel Water Tubing, Type SM, Copper Plated Coating (HWT-T439)	A-268	A-651		
3K	Seamless Copper Tube Type DWV	H23.3	B306		
3L	Copper Pipe I.P.S.	H26.1	B42		
3M	Copper Pipe, Threadless Type T P and Fittings	H26.2	B302		
3N	Cast Bronze and Wrought Solder Joint Pressure Fitting	B16.22 H23.1 B16.18			
3O	Cast Bronze and Wrought Solder Joint D W V Fittings	B16.23			

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

	DESCRIPTION	ANSI	ASTM	FS	OTHER
3P	Copper Alloy Water Tube 1/2 Inch and 3/4 Inch		B447 B75		
3Q	Welded Brass Water Tube 1/2 Inch and 3/4 Inch		B587		
IV. LEAD PIPE AND FITTINGS					
4A	Lead Pipe AA			WW-P-325-44	
4B	Lead Pipe AAA			WW-P-325-44	
4C	Lead Bends and Traps			WW-P-325-44	
4D	Sheet Lead			QQ-L201d	
V. SILICA AND EARTH PRODUCTS PIPE AND FITTINGS, NON-METALLIC					
5A	Asbestos-Cement Pressure Pipe and Fitting		C500 C296	SS-P351	
5B	Asbestos-Cement Water Pipe and Fittings		C500	SS-P-351	AWWA C400
5C	Asbestos-Cement Non-Pressure Pipe and Fittings		C428	XX-P-331	
5D	Asbestos-Cement Perforated Underdrain Pipe and Fittings		C508		
5E	Vitrified Clay Pipe, Standard Strength and Stronger Fittings		C13 C200		
5F	Unglazed Clay Pipe, Extra Strength and Fittings		C278		
5G	Perforated Clay Pipe and Fittings		C211		
5H	Borosilicate Glass Pipe and Fittings 60 psi				
5J	Nonreinforced Concrete Draintile		C412		AASHO M178
5K	Nonreinforced Concrete Pipe		C14	SS-P-371	AASHO M86
5L	Perforated Concrete Pipe, Underdrainage		C444		
5M	Reinforced Concrete Pipe		C76	SS-P-375	

	DESCRIPTION	ANSI	ASTM	FS	OTHER
5N	Reinforced and Prestressed Concrete Pipe, Pressure Type and Fittings				
5O	Bituminized Fiber Drain and Sewer Pipe		D1860	SS-P-1540A	(Amended 8-31-72)
5P	Perforated Bituminized Fiber Pipe for General Drainage		D2311	SS-P-1540A	(Amended 8-31-72)
VI. PLASTIC PIPE AND FITTINGS DRAIN, WASTE AND VENT					
6A to 6E [Unchanged.]					
6F	Polyvinyl Chloride (PVC)	B72.2	D2241 D1785	L-P-1036 FHA UM-41	NSF14 CS256
6G	Polybutylene		D2662 D2666	~~NSF14~~	NSF14
SPECIAL WASTES (Amended 12-26-72)					
6H	Polyethylene		D2239	LP 315a	PS10-69 PS11-69 PS12-69
6J	Polypropylene (Type II 24308)		D2146	~~D2146~~	

WATER DISTRIBUTION - Polybutylene (PB) systems (PB tubing together with recommended fittings) and chlorinated polyvinyl chloride (cpvc) pipe together with fittings must be tested by the manufacturer at 150 psi and 210 degrees Fahrenheit for a period of not less than 48 hours by an independent testing laboratory acceptable to the administrative authority.

6K	Polybutylene		D3309	NSF14	
6L	Chlorinated polyvinyl chloride (CPVC)	119.1, 119.2	D2846	FHA Bulletin #76	
GENERAL DRAINAGE ASTM					
6M	Polyethylene (corrugated)		F405		

b/c utilized by the polybutylene industry

4715.0500 WATER SUPPLY SYSTEMS.

When selecting the material and size for water service pipe, tubing, or fittings, due consideration shall be given to the action of the water on the interior of the pipe and of the soil, fill, or other material on the exterior of the pipe.

Pipe and fitting materials for water service and distribution must be of a type specifically permitted by parts 4715.0510 and 4715.0520, and must be verified to contain no more than eight percent lead.

4715.0520 WATER DISTRIBUTION PIPE.

The following materials may be used for water distribution pipe:

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

[For text of items A to E, see M.R. 1989]

F. Copper tube 3H, 194 water tube 3H(a), or stainless water tubing 3H(b) with 3N fittings except that this material may not be buried under or embedded in a concrete slab.

[For text of items G to I, see M.R. 1989]

J. Plastic tubing 6K with fittings. Installation must be in accordance with International Association of Plumbing and Mechanical Officials (IAPMO) Installation Standard ~~22-82~~ 22-84. would like updated version cited 22-90 altho not yet official.

K. Plastic pipe 6L and corresponding fittings. Installation must be in accordance with International Association of Plumbing and Mechanical Officials (IAPMO) Installation Standards ~~20-82~~ 20-84.

4715.0580 SOIL AND WASTE PIPING ABOVE GROUND.

For soil and waste piping, except special wastes, above ground, the following materials may be used:

[For text of items A to C, see M.R. 1989]

D. Copper 3F, 3H, 3J (hard temper only), and 3K with 3O fittings except these materials shall not be used to receive the wastes from urinals nor wastes from water closets in battery. These materials are not recommended for use in buildings served by septic tank sewage disposal systems.

[For text of items E and F, see M.R. 1989]

4715.0620 SUBSOIL DRAINS.

All materials listed in part 4715.0570 plus asbestos cement 5D, clay 5G, cement 5J, and cement 5L, perforated bituminized fiber pipe for general drainage 5P, and plastic 6A, 6B, ~~and~~ 6C, and 6M.

4715.0800 MECHANICAL JOINTS.

[For text of subps 1 to 4, see M.R. 1989]

Subp. 5. **Mechanical pipe couplings and fittings.** Couplings must be made with the housing fabricated in two or more parts of malleable iron castings in accordance with Federal Specification QQ-I-666c, Grand 11, or with ASTM A47 or ASTM A339. The coupling gasket must be molded synthetic rubber, per ASTM D-735-61, Grade No. R615BZ. Coupling bolts must be oval neck track head type with hexagonal heavy nuts, per ASTM-A-183-60, or ASTM A325.

Pipe fittings used with these pipe couplings must be fabricated or malleable iron castings in accordance with Federal Specifications QQ-I-666c, Grade 11, or with ASTM A47; ductile iron ASTM A339; segweld steel ASTM53 or A106.

These couplings and fittings may be used above ground, for storm drains and leaders, and for water distribution pipe ~~provided exposed parts in contact with water~~, and may be used below ground for water distribution if couplings and fittings are galvanized and the exposed grooves are coal tar enamel coated and wrapped.

All grooving of galvanized pipe must be by the cut groove method.

Subp. 6. **Extracted mechanical joint.** An extracted mechanical joint in copper water distribution pipe must be made by drilling through copper pipe and on retraction must extract a cup shaped extruded collar. The height of the collar must be at least three times the thickness of the copper tube wall and the radius of the extruded collar must be the same thickness as the copper tube wall from which it is being extruded. The joining branch tube must be contour-notched and a retaining dimple must be made before insertion into the extracted collar or another acceptable method must be used to provide proper insertion depth. The joint must be brazed with a brazing material meeting the requirements of part 4715.0820. The joint may be used above ground only.

Subp. 6a. **Field formed coupling for copper tubing.** A field formed coupling in copper water distribution pipe must be made by first annealing the area of the tubing where expansion is desired, and then using a hand tube expander to expand the tube end to accept tubing of the same type and size. Joint clearances must be from .001 to .005 inches, and suitable for the brazing filler metal used. The depth of the expanded area must be as recommended by the tube expander manufacturer, but in all cases must be at least four times the wall thickness of the tubing. All joints must be brazed in accordance with the requirements of part 4715.0820. The couplings must be used above ground only.

[For text of subp 7, see M.R. 1989]

4715.0805 PUSH-ON JOINTS.

Push-on joints may be used in cast iron and ductile iron water service pipe located underground outside the building, and must comply with ANSI-A21.11-85.

4715.0810 PLASTIC JOINTS.

Subpart 1. **Joint methods.** Every joint in plastic piping must be made with approved fittings using solvent welded connections, fusion welded connections, insert fittings with metal clamps and screws of corrosion-resistant material or approved crimp rings, threaded joints according to accepted standards, or special IAPMO listed fittings of other types. Large diameter water service pipe may have approved elastomeric-gasket push-on type joints. All solvent materials must meet approved recognized standards. Expansion and contraction joint materials and dimensions must conform to ASTM D 2661 or ASTM D 2665 and shall be of an approved type.

Subp. 2. **Primer.** Solvent weld joints in PVC and CPVC pipe must include use of a primer of contrasting color to the pipe and cement. A mechanical method of preparing PVC or CPVC pipe for solvent cement is not acceptable in lieu of using a primer.

4715.0820 SOLDERED OR BRAZED JOINTS.

Joints with copper tube with solder joint fittings must be soldered or brazed. Copper tubing must be reamed out to the full interior tubing dimension before soldered or brazed joints are made. Surfaces to be soldered or brazed must be thoroughly cleaned. Joints to be soldered must be properly fluxed with noncorrosive paste type flux. Solder and flux used in potable water systems must not contain more than 0.2 percent lead. Solder used for joints must have a nominal composition of 50 percent tin and 50 percent lead, 95 percent tin and five percent antimony, or 96 percent tin and four percent silver, conforming to ASTM Standard Specification for soft solder metal B32-76, except that 50 percent tin and 50 percent lead solder must not be used in potable water systems. ~~Joints to be brazed must be properly fluxed with a flux suitable for the brazing material which is used. Brazing material must conform to ASTM Standard Specification for Brazing Filler Metal B260-52T.~~ Alternative solders may be used only if shown to be suitable by a recognized testing laboratory or listing agency acceptable to the administrative authority, and the material is specifically approved by the administrative authority. Brazing must be done using methods and brazing filler metal suitable for the application and in accordance with industry standards.

4715.0860 SPECIAL JOINTS.

[For text of subps 1 to 5, see M.R. 1989]

Subp. 6. **Transition couplings.** A transition coupling is one which is to be used when pipes made of different materials are to be joined. A transition coupling may be made of elastomeric materials (ASTM C 425 and ASTM C 564) and 300 series stainless steel bands and bolts, except that an exterior corrosion-resistant shield to prevent outward expansion of the coupling must be included on above-ground installations. Any transition coupling joining plastic to plastic, copper to copper, or galvanized to galvanized, must be approved by the administrative authority.

[For text of subp 7, see M.R. 1989]

4715.1220 INSTALLATION OF FIXTURES.

Subpart 1. **Fixtures.** Fixtures ~~shall~~ must be set level and in proper alignment with reference to adjacent walls. No water closet ~~shall~~ may be set closer than 15 inches from its center to any side wall or partition nor closer than 30 inches, center to center, between toilets. At least a 24-inch clearance must be provided in front of water closets.

No urinal ~~shall~~ may be set closer than 15 inches from the center to any side wall or partition, nor closer than 24 inches, center to center, between urinals.

Wall-hung water closet bowls ~~shall~~ must be rigidly supported by a concealed metal hanger which is attached to the building structural members so that no strain is transmitted to the closet connector or any other part of the plumbing system.

Plumbing fixtures ~~shall~~ must be so installed as to afford easy access for cleaning both the fixture and the area about it. Where practical, all pipes from fixtures ~~shall~~ must be run to the nearest wall.

[For text of subps 2 and 3, see M.R. 1989]

4715.1240 BATHTUBS.

Subpart 1. **Outlets.** Bathtubs ~~shall~~ must have waste outlets and overflows at least ~~1 1/2~~ one and one-half inches in diameter. The waste control device ~~shall~~ must be located at the tub outlet.

Subp. 2. **Whirlpool bathtubs.** Whirpool bathtubs and their installation must comply with International Association of Plumbing and Mechanical Officials (IAPMO) standard PS 32-84.

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

4715.1260 DRINKING FOUNTAINS.

Drinking fountains ~~shall~~ must be constructed of impervious nonoxidizing material and ~~shall~~ must be so designed that they may be easily cleaned. The water should be carried to the fixture in an independent pipe, and no part of the fixture ~~shall~~ must be used in conveying water to the jet. The design of the fixture ~~shall~~ must be such that no part of the supply pipe can be submerged in the fixture, or in the waste pipe from the fixture. The jet ~~shall~~ must be slanting and the orifice of the jet ~~shall~~ must be protected in such a manner that it cannot be contaminated by droppings from the mouth or by splashing from the basin. The orifice of the jet ~~shall~~ must be at least one-half inch above the rim of the basin. All fountains should be so designed that their proper use is self-evident.

Installation of a combined cold water faucet and drinking fountain bubbler is prohibited for public use. If a drinking fountain bubbler is provided at a public use sink, it must have at least an 18-inch separation from any other faucet spout.

4715.1300 FLOOR DRAINS.

[For text of subps 1 to 4, see M.R. 1989]

Subp. 5. **Enclosed garages.** A floor drain in an enclosed garage must discharge to the sanitary sewer if a municipal sanitary sewer is available. Oil and flammable liquid separators must be provided if required by part 4715.1120 or the state building code.

4715.1305 ELEVATOR PIT DRAIN.

An elevator pit drain must discharge to the sanitary sewer using an indirect connection that precludes the possibility of sewage backup into the pit. If a sump is used, it must be outside the pit with a dry pan drain flowing to it.

4715.1380 SHOWERS.

[For text of subps 1 to 4, see M.R. 1989]

Subp. 5. **Anti-scald devices.** A shower or combination shower-bath in a new or remodeled installation must be equipped with an anti-scald type shower control valve. The valve must be of the thermostatic or pressure-balancing type in accordance with ANSI/ASSE standard 1016-79.

The temperature of mixed water to multiple showers must be controlled by a master anti-scald type thermostatic blender, or the showers must be individually equipped with approved anti-scald type shower control valves.

4715.1440 PROTECTION OF PLASTIC PIPE.

All plastic and copper pipe and tubing passing through studs or plates that are within one and one-fourth inches of the outside of the stud or plate must be protected by the provision of steel plates, at least 1/16 inch thick, attached to the outside of the stud or plate.

4715.1590 RECEPTORS OR SUMPS.

[For text of subps 1 to 3, see M.R. 1989]

Subp. 4. **Stand pipe receptors.** The stand pipe receptor for an automatic clothes washer shall be individually trapped and vented, except that multiple clothes washers in the same room may be discharged to multiple standpipes that are manifolded together and use a single trap. The stand pipe shall extend not more than 30 inches, nor less than 18 inches above its trap, and the trap shall be installed at least six inches above the floor.

[For text of subp 5, see M.R. 1989]

4715.1930 TOXIC MATERIALS AND USED PIPE.

Piping conveying potable water shall be constructed of nontoxic material.

No material or substances that could produce either toxic conditions, taste, odor, or discoloration in a potable water system shall be introduced into or used in such systems.

The interior surface of a potable water tank shall not be lined, painted, or repaired with any material which will affect either the taste, odor, color, or potability of the water supply when the tank is placed in or returned to service.

Piping which has been used for any other purpose then conveying potable water shall not be used for conveying potable water.

4715.1940 POTABLE WATER CONNECTIONS TO HEATING OR COOLING SYSTEMS.

Potable water connections to boiler feed water systems, cooling systems, or other liquid systems, in which water conditioning chemicals may be introduced shall be made through an air gap or provided with an approved backflow preventer located in the potable water line before the point where such chemicals may be introduced. Where a system is filled with an antifreeze or toxic solution a permanent tag will be placed in plain view stating "Caution, this system contains antifreeze/toxic solution." ~~There shall be no permanent direct connection between this system and the potable water supply to the building.~~

4715.1941 HEAT EXCHANGERS.

[For text of subps 1 and 2, see M.R. 1989]

Subp. 3. **Single-wall heat exchanger.** A single-wall heat exchanger may be used if it satisfies all of the following conditions:

[For text of item A, see M.R. 1989]

B. ~~The heat exchanger complies with Standard No. 11-03 for plate type heat exchangers published by the International Association of Milk, Food, and Environmental Sanitarians, 413 Kellogg Street, Ames, Iowa 50010. Use of other designs must be approved by the administrative authority, who shall grant approval if the alternate design is shown to provide the same degree of protection against potential cross-contamination as that provided by the design prescribed in Standard No. 11-03.~~

~~C.~~ Except where steam is used as the heat transfer medium, the pressure of the heat transfer medium must be less than the normal minimum operating pressure of the potable water system, and the system must be fitted with devices arranged to function automatically to maintain the pressure of the heat transfer medium entering the exchanger at a level below that of the potable water leaving the exchanger.

~~D~~ C. The equipment is permanently labeled to specify all constituents of the heat transfer medium, to indicate that only additives recognized as safe by the United States Food and Drug Administration may be used, and to show the hazards and reasons for not using another type of medium.

4715.2020 DEVICES FOR THE PROTECTION OF THE POTABLE WATER SUPPLY.

Approved devices to protect against backflow ~~preventers or vacuum breakers shall~~ and back-siphonage must be installed ~~with~~ at any plumbing fixture or equipment~~, the potable water supply outlet of which may be submerged and which cannot be protected by~~ where backflow or back-siphonage may occur and where a minimum air gap cannot be provided between the water outlet to the fixture or equipment and its flood level rim.

4715.2100 ~~VACUUM BREAKERS~~ BACKFLOW PREVENTERS.

~~Vacuum breakers shall be installed with the critical level at least six inches above the flood level rim of the fixture they serve and on the discharge side of the last control valve to the fixture. No shutoff valve or faucet shall be installed beyond the vacuum breaker. For closed equipment or vessels such as pressure sterilizers the top of the vessel shall be treated as the flood level rim but a check valve shall be installed on the discharge side of the vacuum breaker.~~

A. Atmospheric vacuum breaker (AVB):

(1) must be installed at least six inches above spill line (see special requirements in part 4715.2150);

(2) no possibility of back pressure permitted;

(3) only permitted on discharge side of last control valve; and

(4) no more than eight hours of continuous line pressure permitted.

B. Pressure vacuum breaker (PVB):

(1) must be installed at least 12 inches above spill line;

(2) no possibility of back pressure permitted; and

(3) continuous line pressure permitted.

C. Hose connection vacuum breaker (Hose VB):

(1) required for threaded hose connections;

(2) back pressure not permitted; and

(3) continuous line pressure not permitted.

D. Double-check valve with intermediate atmospheric vent (DCVIAV):

(1) permitted for low or moderate hazard with small pipe sizes;

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

(2) back pressure permitted; and

(3) continuous line pressure permitted.

E. Reduced pressure zone backflow preventer (RPZ):

(1) any degree of hazard permitted;

(2) back pressure permitted; and

(3) continuous line pressure permitted.

F. Double-check valve assembly (DCVA):

(1) permitted only for nontoxic, low hazard installations with nuisance or aesthetic concern;

(2) back pressure permitted; and

(3) continuous line pressure permitted.

4715.2110 ~~REDUCED PRESSURE ZONE BACKFLOW PREVENTER~~ TYPES OF DEVICES REQUIRED WHERE AN AIR GAP CANNOT BE PROVIDED.

~~A reduced pressure zone type backflow preventer may be installed subject to full static pressure.~~

	RPZ	DCV IAV	DCVA	PVB	AVB	Hose VB (Only allowed where no back pressure is possible)
Boiler, commercial	X					
Boiler, residential (R-3 occupancy)	X	X				
Car wash	X			X	X	
Carbonated beverage machine (post-mix) (see part 4715.2163)		X				
Chemical line	X					
Chemical tank	X			X	X	
Chiller	X					
Cooling tower	X	X		X	X	
Dental units	X	X		X	X	
Dishwasher, commercial				X	X	
Fire sprinkler system	X	X	X			
Flush tank (water closet, urinal, similar) (see part 4715.2150)	X		X	X		
Flush valve (water closet, urinal, similar) (see part 4715.2150)	X			X	X	
Food and beverage equipment or system	X	X	X	X	X	
Garbage can washer	X			X	X	
Glycol or other antifreeze system	X					
Lab equipment	X			X	X	
Lab faucet					X	
Laundry machine, commercial	X	X		X	X	
Lawn, garden or greenhouse sprinkler system	X			X	X	
Operating, dissection, embalming or mortuary table (see part 4715.1950)	X			X	X	
Private potable water supply (where permitted by administrative authority)	X	X	X			
Private nonpotable water supply (w.p.b.a.a.)	X					
Process line	X	X				
Process tank	X			X	X	
RV dump station	X	X		X	X	
Sewage treatment	X			X	X	

	RPZ	DCV IAV	DCVA	PVB	AVB	Hose VB
Soap dispenser	X	X		X	X	
Swimming pool, fountain, pond, baptistry, aquarium or similar	X	X		X	X	
Threaded hose connections, including: hose bibbs, hydrants, service sinks, laundry trays						X
Truck fill	X			X	X	
Vacuum systems or aspirators	X			X	X	

For installations not listed above, review with the Administrative Authority.

4715.2120 ~~DEVICES OF ALL TYPES~~ LOCATION OF BACKFLOW PREVENTERS.

Backflow and back-siphonage preventing devices ~~shall~~ must be ~~accessibly~~ located so as to be readily accessible, preferably in the same room with the fixture they serve. Installation in utility or service spaces, provided they are readily accessible, is also permitted.

The access area must provide enough space for testing and maintenance of the device. A backflow preventer must not be installed in a pit or other confined area subject to recurrent flooding. When a conductor pipe is provided from a backflow preventer drain, a visible air gap must be provided at the device.

4715.2163 CARBONATED BEVERAGE MACHINES.

Postmix type carbonated beverage machines must have an approved double-check valve with an intermediate atmospheric vent type backflow preventer in the water line preceding the carbonator. There must be no copper tubing in the system down line of the backflow preventer.

4715.2190 COMBINATION WATER AND SPACE HEATING EQUIPMENT.

Equipment used for heating domestic or service hot water and for space heating must be installed with a mixing valve to permit the user to control the temperature of the domestic or service hot water regardless of the space heating demand.

The installation must include a drainage port and isolation valve to permit the user to purge the heating coils to waste after the nonheating season, or the system must be designed to automatically prevent stagnation.

The water heater must be specifically approved by the manufacturer for use as a combination hot water and space heater.

All pipes, joints, and appurtenances in the system must be of a type approved for potable water distribution. This provision is not intended to address the wall thickness of heating coils, which must be the responsibility of the manufacturer.

4715.2230 TANKLESS AND INSTANTANEOUS TYPE HEATERS.

Tankless and instantaneous type water heaters require pressure relief valves only. Instantaneous electric water heaters that have Underwriters Laboratory approval for use without a relief valve, and that have space containing the heating element of less than three inches in diameter, may be installed without a pressure relief valve.

4715.2260 INSTALLATION OF REDUCED PRESSURE BACKFLOW PREVENTERS.

Subpart 1. **Notification of installation.** The administrative authority must be notified before installation of a reduced pressure backflow preventer.

Subp. 2. **Testing and maintenance.** The installation of reduced pressure backflow preventers shall be permitted only when a periodic testing and inspection program conducted by qualified personnel will be provided by an agency acceptable to the administrative authority. Inspection intervals shall not exceed one year, and overhaul intervals shall not exceed five years. They shall be inspected frequently after initial installation to assure that they have been properly installed and that debris resulting from the piping installation has not interfered with the functioning of the device.

Subp. 3. **Inspection and records.** A test and inspection tag must be affixed to the device. The tester shall date and sign the tag and include the tester's backflow preventer tester identification number. Written records of testing and maintenance must be maintained and submitted to the administrative authority.

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

4715.2440 DESIGN OF SUMPS.

[For text of subps 1 to 3, see M.R. 1989]

Subp. 4. **Covers.** Sumps and receiving tanks ~~shall~~ must be provided with gastight metal covers, except that float control or switch rods ~~shall~~ must operate without binding. ~~Such~~ The cover ~~shall~~ must be of a bolt and gasket type or equivalent manhole opening to permit access for inspection, repairs, and cleaning. Covers must be metal or other structurally-sound material that is water-resistant and impervious to moisture, and must be adequate to support anticipated loads in the area of use.

[For text of subps 5 to 7, see M.R. 1989]

REVISOR'S INSTRUCTION. In the next and subsequent editions of *Minnesota Rules*, the revisor of statutes shall give the parts listed in Column A the new numbers listed in Column B and correct all cross-references to the renumbered parts.

Column A	Column B
4715.0210, first paragraph	4715.0200, item A
4715.0210, second paragraph	4715.0200, item B
4715.0210, third paragraph	4715.0200, item C
4715.0210, fourth paragraph	4715.0200, item D
4715.0220, first paragraph	4715.0200, item E
4715.0220, second paragraph	4715.0200, item F
4715.0220, third paragraph	4715.0200, item G
4715.0220, fourth paragraph	4715.0200, item H
4715.0220, fifth paragraph	4715.0200, item I
4715.0220, sixth paragraph	4715.0200, item J
4715.0230, first paragraph	4715.0200, item K
4715.0230, second paragraph	4715.0200, item L
4715.0230, third paragraph	4715.0200, item M
4715.0230, fourth paragraph	4715.0200, item N
4715.0240, first paragraph	4715.0200, item O
4715.0240, second paragraph	4715.0200, item P
4715.0240, third paragraph	4715.0200, item Q
4715.0240, fourth paragraph	4715.0200, item R
4715.0240, fifth paragraph	4715.0200, item S
4715.0250, first paragraph	4715.0200, item T
4715.0250, second paragraph	4715.0200, item U
4715.0260	4715.0200, item V
4715.0270	4715.0200, item W
4715.1930	4715.1911
4715.1970	4715.1912
4715.2260	4715.2161
4715.2270	4715.2162

REPEALER. *Minnesota Rules*, parts 4715.2130; 4715.2140; 4715.3900; and 4715.4000, are repealed.

Department of Administration

Proposed Permanent Rules Relating to Minnesota State Building Code

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Administration proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes* section 16B.61.

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

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient

number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.13 to 14.20.

PLEASE NOTE: That if twenty-five or more persons submit written requests for a public hearing within the 30 day comment period, a hearing will be held on February 2, 1990, unless a sufficient number withdraw their request in accordance with the notice of hearing on these same rules published in the *State Register* and mailed to persons registered with the State Department of Administration. To verify whether a hearing will be held, please call the Department of Administration, Building Codes and Standards Division between the hours of 8:00 a.m. to 4:30 p.m., on February 1, 1990, at (612) 296-4626.

Persons who want to submit comments or written requests for a public hearing must submit such comments or requests to:

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

Comments or requests for a public hearing must be received by the Department of Administration, Building Codes and Standards Division, by 4:30 p.m. on January 31, 1990.

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

A free copy of this rule is available on request for your review from Margaret White.

The proposed rule establishes minimum uniform rules for the State of Minnesota by adopting a model code, namely, the SAFETY CODE FOR ELEVATORS AND ESCALATORS ASME/ANSI A17.1-1987 AND ASME/ANSI A17.la-1988 ADDENDA and making amendments to it in order to be consistent with *Minnesota Statutes* and laws and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the information relied on to support the proposed rule has been prepared and is available from Margaret White on request.

It is felt by the Building Codes and Standards Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, section 14.115, division 1, and pursuant to *Minnesota Statutes*, section 14.115 subdivision 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11

If no hearing is required on adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Margaret White.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held on February 2, 1990, at the Sheraton Airport Hotel, 2525 East 78th Street, Bloomington, Minnesota 55425, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

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

PLEASE NOTE, HOWEVER, that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the Department of Administration, Building Codes and Standards Division. To verify whether a hearing will be held, please call the Building Codes and Standards Division between 8:00 a.m. and 4:30 p.m., on February 1, 1990, at (612) 296-4626.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to Steve M. Mihalchick, Administrative Law Judge, Office of Administrative Hearings, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 349-2544, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed rule establishes minimum uniform rules for the State of Minnesota by adopting a model code, namely, the SAFETY CODE FOR ELEVATORS AND ESCALATORS ASME/ANSI A17.1-1987 AND ASME/ANSI A17.1a-1988 and making amendments to it in order to be consistent with *Minnesota Statutes* and laws and rules promulgated by other state agencies, as well as to address building safety concerns specific to the State of Minnesota.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 16B.61.

Adoption of these rules will not result in additional spending by local bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

It is felt by the Building Codes and Standards Division that the proposed rules will not have an impact on small business as defined in *Minnesota Statutes*, section 14.115, division 1, and pursuant to *Minnesota Statutes*, section 14.115 subdivision 2, methods were considered to reduce the potential impact of the proposed rules on small business.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to:

Margaret White
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

Additional copies will be available at the hearing. If you have any questions on the content of the rule you may contact Margaret White, Elroy Berdahl or Alvin Kleinbeck at (612) 296-4639.

NOTICE: A person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00 not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials;

b) who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Statement of Need and Reasonableness

The above-captioned proposed rules are amendments to the state elevator code and the existing *Minnesota State Building Code.*

Pursuant to *Minnesota Statutes* Section 16B.61 the Commissioner of Administration is charged with the responsibility of promulgating the *Minnesota State Building Code* which contains a Chapter 1320 entitled, "Elevator, and Related Devices Section 1320.0100 to 1320.2400." It is the duty of the Commissioner to amend the *Minnesota State Building Code* to maintain the most modern code standards regarding minimum safeguards of life, limb, health, property and public welfare together with regulating and controlling the design construction and quality of materials, use and maintenance of building, structures and appurtenances.

The *Minnesota State Building Code Rules, 1987* printing, effective February 9, 1987, Minnesota Rules 1320.0100 to 1320.2400 adopted by reference the *American National Safety Code* for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI-A17.1-1984 including supplement ANSI-A17.la-1985 as a part the code. The promulgation of the code amended these documents as deemed necessary. The proposed amendments to the 1987 publication of the rules update the *Minnesota State Building Code* to incorporate the adoption of the 1987 Edition of the *American National Standard Safety Code* for Elevators and Escalators A17.1-1987 together with supplement A17.la-1988 and A17.3-1986 as published by the American National Standard Institute and the American Society of Mechanical Engineers (ANSI/ASME), United Engineering Center, 345 East 47th Street, New York, New York 10017. Part XII of the proposed ANSI A17.1, 1987 has been revised to clarify the difference between repairs and replacements versus alterations, which includes modernization. As a minimum, all elevators being modernized must comply with A17.3. We quote Rule 1200.1:

Rule 1200.1—Conformance With Safety Code for Existing Installations

"When any alteration is made regardless of any other requirements of this Part, all installations, as a minimum, shall conform to the requirements of the ANSI/ASME A17.3 Safety Code for Existing Elevators and Escalators."

The history of accidents involving sub-standard equipment related to hoistway and car doors, interlocks, drum machines, electrical protective devices, car safeties, etc., revealed the need for a code covering existing elevators and escalators. Previous to the establishing of A17.3 code, the equipment standard was established only by the code in effect at the time of original installation, rather than the latest A17.1 code. The AI7.1 code has very limited retroactive requirements related only to inspection, maintenance and alterations. The A17.3 Code had been in preparation for 5 years.

The proposed rules will delete in its entirety Chapter 1320 of the *Minnesota State Building Code* and will relocate the proposed rules as amendments to Chapter 51 of the 1988 Edition of the *Uniform Building Code.*

The proposed rules conform as far as practicable to model building codes. They reflect amendments for regional utilization in keeping with the legislative intent of *Minnesota Statutes* Section 16B.61. The amendments provide for a reorganization of certain sections currently found in the rules and the placement of the proposed rules in a dedicated chapter within the *Uniform Building Code*, namely Chapter 51, entitled Elevators, Dumbwaiters, Escalators and Moving Walks.

Any business entity which constructs, expands or remodels a building is required to comply with the *Minnesota State Building Code* when applicable. When adopted, these proposed rules become part of the Minnesota State Building Code and will be applicable to all future construction, when required, and certain conditions when expansion or remodeling is encountered.

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

Compliance requirements of items (a), (b), (c), and (e) are not appropriate because the purpose of these rules is to establish a minimum uniform standard for the construction and installation of elevators and other related devices within all public, private,

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

commercial, industrial or residential structures within the State of Minnesota to protect life, limb, health, property, and public welfare of the residents of the state at the least possible cost consistent with recognized standards. *Minnesota Statutes* section 16B.59 (1988). To exempt small businesses from any or all requirements of the rules would be contrary to the statutory objectives that are the basis of the proposed rulemaking, *Minnesota Statutes* section 16B.59, 16B.61 and 16B.64. The legislature has specifically mandated that the uniformity of building standards is in the public interest. *Minnesota Statutes* section 16B.61 states in part:

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

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

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

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

The following is the evidence and argument which supports the need for and reasonableness of the proposed rule:

General	Present Chapter 1320.0100 to 1320.2400 of the Minnesota State Building Code is repealed in its entirety and any pertinent requirements found in these sections are relocated into the appropriate sections of Chapter 51 of the Uniform Building Code, 1988 Edition. The formulation of these new rules has taken into consideration the substance found in the current state building code, Appendix Chapter 51 of the Uniform Building Code and Chapter 51 of the Uniform Building Code has been used in the formulation of these new proposed rules to develop a workable approach as well as having the requirements a part of the Uniform Building Code which is used by the design professions, construction industry and inspectional services for the enforcement of the state building code. It is intended that the location of the requirements for elevators and related devices will make it easier to apply and enforce when all the requirements are located in one section of the code instead of many. The following is an item by item explanation of the sections of the proposed rules.
1305.5101 Purpose	This part describes the purpose of providing the avenue of safety to humans and property when these types of people moving and materials handling devices are installed and used within various structures and for various applications. Without a purpose there would be no direction for use and application.
1305.5102 Scope	The scope of this section identifies the application of the rules to all new as well as existing units requiring the securing of permits and inspection of these devices when any installation, maintenance or repair is performed on the devices. This section also identifies local government responsibility as well as that of the Department of Labor and Industry and identified where an exception to the rules is provided.
1305.5103 ANSI Code ADOPTED BY Reference	This section identifies which ANSI/ASME standards are adopted by reference and made a part of the code just as though they would be set out verbatim in the code. These standards are recognized national standards and are not subject to change on a whim but undergoes a due process in their change process. When adopted, these referenced standards will be placed on file with the Commissioner of Administration as well as the State Law Library.
1305.5104 Definitions	The definitions found in this section are of terms used in the body of the rule and are intended to amplify the understanding of their use within these rules. It identifies that there are two different authorities having jurisdiction over the permit, inspection and acceptance of these devices in the state. It also helps to clarify what an existing installation is when applying the rules to existing installations as compared to new installations.
1305.5105 Permits	The inclusion of this section will require that permits will be required for the installation of the listed devices. This section outlines the process of application, submission of plans and specifications, issuance of a certificate of operations, a permit fee requirement so that a more appropriate record of

the installation of these devices may be provided for those authorities having jurisdiction. This vehicle of control will assist in the maintenance of these devices so that life safety considerations are maintained.

1305.5106 Inspections, Tests and Approval

This section further amplifies some of the requirements found in 1305.5105 by establishing the process of approval of plans, inspection and tests, issuing of a certificate of operation when appropriate. Item (d) allows for the temporary use of at least one elevator prior to the completion of a new building or structure. This part is needed to allow limited use of the equipment when necessary, provided sufficient tests have been made.

1305.5107 Accidents

This item is needed so that the authority having jurisdiction will be notified when accidents happen either to persons or apparatus and the requirement of an investigation to be made to verify the claim. This section also gives the authority having jurisdiction the power and responsibility to order a unit out of service until it has been made safe to operate again and restricts the removal of damaged parts without such jurisdiction permission.

1305.5108 Design, Special Provisions

This item outlines the specific requirements and design of elevator or related device systems for use in buildings or structures. The specific requirements described in this section should leave no doubt as to what is required, the specific locations of certain identifying devices, size of car platforms, minimum door sizes, required protective devices, inside car dimensions, location and construction of car controls which are suitable for persons with physical disabilities. All the items 1 to 15 with their sub-subjects establish minimum requirements and are needed to indicate to the unit builder, building contractor, elevator installer, authority having jurisdiction, elevator inspector and ultimate owner what is required to provide a safe installation for daily operation. Each of these items must be a part of a complete installation of an elevator.

1305.5109 Elevator and Dumbwaiter Hoistway Enclosures

The items contained in this section are needed to provide a safe enclosure to house these vertical movement devices. It is necessary to provide for construction of a fire safe nature when penetrations of floor and roof-ceiling systems are encountered. This section when properly administered should maintain the fire-resistent characteristic of the buildings in which they are installed.

1305.5110 Hoistway Venting

Venting of hoistway is necessary to provide a route of escape of smoke and hot gases to the exterior of the building to contribute to additional safety of the building if a hazard is encountered. The rule allows for an alternative method of providing resistance against a chimney effect within the building by providing pressurization within the building by providing pressurization of the enclosure.

1305.5111 Elevator Machine Room Floors

This section is necessary because the venting of the shaft through the machine room without such control could cause irrepairable damage to the controls and cable system if exposed to smoke and certain hot gases.

1305.5112 Amendments to ANSI A17.1 1987

The following amendments are made to the referenced American National Standards Institutes A17.1 1987 Edition and is language which is currently in rule 1320. It is felt that these amendments are necessary for continued life safety of the product installation and operation.

Two new amendments are added to this section that addresses a concern: (1) that the moving handrail and the treadway of an escalator travel at approximately the same speed and that if the handrail device should stop for some reason an alarm would sound and the treadway movement would be stopped. (2) If a treadway device fails for some reason a mechanism must be provided to stop the action of the treadway. These measures are necessary to avoid any potential of the treadway from entering the passenger area and cause an accident or injury.

1305.5113 Inclined and Vertical Wheelchair Lifts

The amendments to the referenced ANSI A17.1-1987 found in this section are the same as that found in the current chapter 1320 of the state code. It is necessary to retain these amendments to provide continued provision of safety to life in the installation and use of these wheelchair lift devices.

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

1305.5114 Stage and Orchestra Lifts	This is the same language found in the current Chapter 1320 and is retained as a part of the code because it is not specifically addressed in the ANSI A17.1 standard. Original reference can be found in 9 SR1557.
1305.5115 Endless Best Lifts	This is a new item in the elevator code to address the design, installation and maintenance of these devices. The rules of Department of Labor and Industry, 5205.0550 to 5205.0590 provides the added requirements necessary for safe installation and operation of these system. This section is used for a cross reference to other agency rules when such an installation is encountered in the plan review of a building or during construction or renovation in an existing building.
1305.5116 Temporary Interior and Exterior Hoists	This is a carry over from existing Chapter 1320 and is necessary to provide guidance for the installation and applications of these devices.
1305.5117 Mechanical Parking Garage Equipment	This language is also found in the current chapter 1320 and is retained to provide guidance with this type of equipment and provide reference for the appropriate ANSI standard for its installation and application.
1305.5118 Existing Installations	This section is essentially the same as rule 1320.0300 in the current code. It is retained to provide guidance when working with an existing installation. It remains necessary to retain this section to provide guidance for the correction of a system which has becomes damaged or unsafe.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Rules as Proposed (all new material)

ELEVATORS AND RELATED DEVICES

1305.5101 PURPOSE.

Sec. 5101. The provisions of parts 1305.5101 to 1305.5118 are to safeguard life, limb, property, and public welfare by establishing minimum requirements relating to the design, construction, installation, alteration and repair, and operation and maintenance of passenger elevators, freight elevators, handpowered elevators, dumbwaiters, escalators, moving walks, temporary hoists, stage and orchestra lifts, endless belt lifts, wheelchair platform lifts, and other related devices.

1305.5102 SCOPE.

Sec. 5102. Parts 1305.5101 to 1305.5118 apply to new and existing installations of elevators and related devices, requiring permits therefore and providing for the inspection and maintenance of the conveyances. The requirements for the enforcement of these provisions are established by this chapter.

ANSI/ASME A17.1, Part XXI, is the administrative responsibility of the municipal building official and a legislative statute exempts the Department of Labor and Industry from the enforcement of these regulations in owner-occupied buildings of no more than four dwelling units.

1305.5103 ANSI CODE ADOPTED BY REFERENCE.

Sec. 5103. The American National Standard Safety Code for Elevators and Escalators adopted by the American National Standards Institute and the American Society of Mechanical Engineers (ANSI/ASME) A17.1-1987, together with supplement A 17.la-1988 and ANSI A17.3-1986, as published by the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, New York 10017, is incorporated by reference and made a part of this code except as qualified or amended in this chapter. These standards are not subject to frequent change and are available in the office of the commissioner of administration.

1305.5104 DEFINITIONS.

Sec. 5104. (a) "ANSI Code" means the ANSI/ASME A17.1 Code-1987, with supplement A17.la-1988 and ANSI A17.3-1986, Safety Code for Elevators and Escalators, an American National Standard published by the American Society of Mechanical Engineers.

(b) "Authority Having Jurisdiction" means the building code enforcement agency of local government for areas where the code is enforced or the Department of Labor and Industry in areas outside the enforcement sphere of local government.

(c) "Existing installation" means one for which, before the effective date of this code:

1) all work of installation was completed; or

2) the plans and specifications were filed with the enforcing authority and work was begun not later than 12 months after approval of the plans and specifications.

1305.5105 PERMITS.

Sec. 5105. (a) Permits Required. It is unlawful for any person, firm, or corporation to hereafter install any new passenger elevators, freight elevators, handpowered elevators, moving walks, escalators, dumbwaiters, wheelchair platform lifts, endless belt lifts, or any other related device, or make major alterations to any existing passenger elevators, moving walks, escalators, dumbwaiters, wheelchair platform lifts, endless belt lifts, or any other related device without having first obtained a permit for the work from the authority having jurisdiction. Alterations, modifications, and practical difficulties will be done in keeping with the rules of the Department of Labor and Industry.

Exception: A Certificate of Operation will not be required for a conveyance installed within a dwelling unit for the singular use of the occupant of the dwelling unit.

(b) Application for Permit. Application for a permit to install or repair must be made on forms provided by the authority having jurisdiction.

(c) Plans and Specifications. Plans and specifications describing the extent of the work involved must be submitted with the application for a permit. The authority having jurisdiction may require that such plans and specifications be prepared by an architect or engineer licensed to practice in Minnesota. A permit will be issued to the applicant when the plans and specifications have been approved and the appropriate permit fee specified in this code has been paid by the applicant.

(d) Certificate of Operation Required. It is unlawful to operate an elevator, dumbwaiter, escalator, moving walk, or related device without a current Certificate of Operation issued by the authority having jurisdiction. The certificate will be issued upon payment of prescribed fees and the presentation of a valid inspection report indicating that the conveyance is safe and that the inspections and tests have been performed in accordance with Part X of the ANSI code. A certificate will not be issued when the conveyance is posted as unsafe.

(e) Application for Certificate of Operation. Application for a certificate of operation must be made by the owner, or an authorized representative, for an elevator, dumbwaiter, escalator, moving walk, or other related device. The application must be accompanied by an inspection report. Fees for the Certificate of Operation must be as specified by the administrative authority.

(f) Fees. Fees for the installation, alteration, or repair of devices covered in this section are as set forth in the fee schedule adopted by the jurisdiction or in the cases under permit issuance by the Department of Labor and Industry will be as established by the Department of Labor and Industry. A recommended fee schedule structure is located in UBC Appendix Chapter 51.

1305.5106 INSPECTION, TESTS, AND APPROVALS.

Sec. 5106. (a) Approval of plans. Any person, firm, or corporation desiring to install, relocate, alter materially, or extend any installation covered by this chapter must be required to obtain approval for doing so from the authority having jurisdiction. Two sets of drawings and specifications showing the installation, relocation, alteration, or extension must be submitted for approval.

(b) Inspections and tests. It is unlawful for any person, firm, or corporation to put into service any installation covered by parts 1305.5101 to 1305.5118 whether the installation is newly installed, relocated, or altered materially without the installation being inspected and approved by the authority having jurisdiction. The installer of any equipment included in this chapter must notify in writing the authority having jurisdiction seven days before completion of the installation for inspection. The authority having jurisdiction may require tests as described in ANSI A17.1-1987 Edition and supplement ANSI A17.1a-1988 and ANSI A17.3-1986 to prove the safe operation of the installation.

(c) Approval. A certificate or letter of approval must be issued by the authority having jurisdiction for the installation when the entire installation is completed in conformity with this code. The installation must include all enclosures or shafts, gates, doors, machinery safety and control devices, and all other appurtenances necessary.

(d) Limited use of an elevator. When a building or structure is to be equipped with one or more elevators, at least one of the elevators may be approved for limited use before completion of the building or structure. The use of the elevator may be permitted by the

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

authority having jurisdiction under the authority of a limited permit issued for each class of service. The limited permit must specify the class of service permitted and it must not be issued until the elevator has been tested with a rated load and the car safety and terminal stopping equipment have been tested to determine the safety of the equipment. Permanent enclosures must be in place on the car and around the hoistway and at the landing entrance on each floor.

1305.5107 ACCIDENTS.

Sec. 5107. (a) To be reported. The owner or person in control of an elevator or other installation covered by this code must promptly notify the authority having jurisdiction of any accident to a person or apparatus on, about, or in connection with an elevator or other installation, and must afford the authority having jurisdiction every facility for investigating the accident and the resultant damage. Notification may be given to the authority having jurisdiction by telephone or verbally. The notification must also be confirmed in writing.

(b) Investigation. The authority having jurisdiction must make or cause to be made an investigation of the accident, and the report of the investigation must be placed on file in its office. The report must give in detail the cause or causes, so far as can be determined, and the report must be available for public inspection.

(c) Operation discontinued. When an accident involves the failure or destruction of a part of the installation or the operating mechanism, the elevator or other installation must be taken out of service and must not be used again until it has been made safe and the reuse approved by the authority having jurisdiction. The authority having jurisdiction may, when necessary, order the discontinuance of operation of any such elevator or installation until a new certificate of operation has been issued.

(d) Removal of parts restricted. No part of the damaged installation, construction, or operating mechanism must be removed from the premises until permission is granted by the authority having jurisdiction.

1305.5108 DESIGN; SPECIAL PROVISIONS.

Sec. 5108. For detailed design, construction, and installation requirements, see UBC Chapter 23 and the appropriate requirements of the ANSI Code as well as the special provisions cited in this code.

(a) Number of Cars in Hoistway. When there are three or fewer elevator cars in a building, they may be located within the same hoistway enclosure. When there are four elevator cars, they must be divided in such a manner that at least two separate hoistway enclosures are provided. When there more than four elevators, not more than four elevator cars may be located within a single hoistway enclosure.

(b) Elevator Lobby Enclosures. Elevator lobby enclosures, when required, must comply with UBC Section 1807(h). When an elevator lobby enclosure is not required, an area of the ceiling area of the corridor outside the elevator shaft opening(s) must be provided with a draft curtain of glass set in metal frames or construction complying with the construction type of the building to provide an area for the control of the products of combustion.

(c) Door Operation. Each elevator lobby or entrance must be provided with an approved smoke detector. The operation of such detectors may be set at the maximum sensitivity.

(d) Standby Power. Standby power when required by UBC Section 1807 must be capable of providing power to all elevators necessary to serve all floors of the building. Standby power must be manually transferable to all elevators in each bank.

Standby power must be provided by an approved self-contained generator set to operate automatically whenever there is a loss of electrical power to the building. The generator set must be located in a separate room enclosed by at least a one-hour fire-resistive occupancy separation. The generator must have a fuel supply adequate to operate the equipment connected to it for a minimum of two hours.

Note: A bank of elevators is a group of elevators or a single elevator controlled by a common operating system; that is, all those elevators which respond to a single call button constitute a bank of elevators. There is no limit to the number of cars which may be in a bank or group, but there may be not more than four cars within a common hoistway.

(e) Size of Cab and Control Location. When required by chapter 1340, all floors of buildings served by an elevator or elevators must be of a size that will accommodate a wheelchair, as follows:

1. Operation and leveling. Elevator operation must be automatic. Each car must be equipped with a self-leveling feature that will automatically bring to the floor landings within a tolerance of one-half inch under normal loading and unloading conditions. The self-leveling feature must be entirely automatic and independent of the operating device and must correct the overtravel or undertravel. The car must also be maintained approximately level with the landing, irrespective of load.

2. Door operation. Power-operated horizontally sliding car and hoistway doors opened and closed by automatic means must be provided.

3. Door size. Minimum clear width for elevator doors must be 36 inches.

Exception: When approved by the authority having jurisdiction, the minimum door width may be reduced to 32 inches for cars with dimensions as permitted by the exception to UBC Section 5107(e) 6.

4. Door protective and reopening device. The reopening device must be capable of sensing an object or person in the path of a closing door without requiring contact for activation at a nominal five inches and 29 inches above the floor. Door reopening devices must remain effective for a period of not less than 20 seconds.

5. Door delay (passenger service time).

A. Hall call. The minimum acceptable time from notification that a car is answering a call (lantern and audible signal) until the doors of that car start to close must be as indicated in the following table:

DISTANCE (in feet)	TIME
0 to 5	4 seconds
10	7 seconds
15	10 seconds
20	13 seconds

The distance must be established from a point in the center of the corridor or lobby (maximum five feet) directly opposite the farthest hall button to the center line of the hoistway entrance.

B. Car call. The minimum acceptable time for doors to remain fully open must be not less than three seconds.

6. Car inside. The car inside must allow the turning of a wheelchair. The minimum clear distance between walls or between wall and door, excluding return panels, must be not less than 68 inches by 54 inches. Minimum distance from wall to return panel must be not less than 51 inches.

Exception: When approved by the authority having jurisdiction, existing elevators provided in schools, institutions, or other buildings may have a minimum clear distance between walls or between wall and door, excluding return panels, of not less than 54 inches by 54 inches. Minimum distance from wall to return panel must be not less than 51 inches.

7. Car controls. Controls must be readily accessible from a wheelchair upon entering an elevator. The center line of the alarm button must be at a nominal 35 inches, and the highest floor button no higher than 54 inches from the floor. Floor registration buttons, exclusive of border, must be a minimum three-fourths inch in size, raised, flush, or recessed. Visual indication must be provided to show each call registered and extinguished when call is answered. Depth of flush or recessed buttons when operated must not exceed three-eighths inch. Markings must be adjacent to the controls on a contrasting color background to the left of the controls. Letters or numbers must be a minimum of five-eighths inch high and raised or recessed 0.030 inch. Applied plates permanently attached are acceptable. Emergency controls must be grouped together at the bottom of the control panel. Controls not essential to the automatic operation of the elevator may be located as convenient.

8. Car position indicator and signal. A car position indicator must be provided above the car operating panel or over the opening of each car to show the position of the car in the hoistway by illumination of the indication corresponding to the landing at which the car is stopped or passing. Indications must be on a contrasting color background and a minimum of one-half inch in height. In addition, an audible signal must sound to tell a passenger that the car is stopping or passing a floor served by the elevator. A special button located with emergency controls may be provided. Operation of the button will activate an audible signal only for the desired trip.

9. Telephone or intercommunicating system. A means of two-way communication must be provided between the elevator and a point outside the hoistway connected to an approved emergency service which operates on a 24-hour daily basis. If a telephone or other communicating device is provided, it must be located a maximum of 54 inches from the floor to the dial or key pad on the phone or other operating device, with a minimum receiver cord length of 29 inches. Markings or the international symbol for telephones must be adjacent to the control on a contrasting color background. Letters or numbers must be a minimum of five-eighths inch high and raised or recessed 0.030 inch. Applied plates permanently attached are acceptable.

10. Floor covering. Floor covering must have a nonslip hard surface which permits easy movement of wheelchairs. If carpeting is used, it must be securely attached, heavy duty, with a tight weave and low pile, installed without padding.

11. Handrails. A handrail must be provided on at least one wall of the car, preferably the rear. The handrails must be smooth, a maximum diameter of 1-1/2 inches and the inside edge of the handrail surface located at least 1-1/2 inches clear of the walls mounted at a height of 32 inches from the floor.

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

Note: 32 inches is required to reduce interference with car controls where lowest button is centered at 35 inches above the floor.

12. Minimum illumination. The minimum illumination at the car controls and the landing when the car and landing doors are open must be not less than five footcandles.

13. Hall buttons. The center line of the hall call buttons must be a nominal 42 inches above the floor. Direction buttons, exclusive of border, shall be a minimum of three-fourths inch in size, raised, flush, or recessed. Visual indication must be provided to show each call registered and extinguished when the call is answered. Depth of flush or recessed button when operated must not exceed three-eighths inch.

14. Hall lantern. A visual and audible signal must be provided at each hoistway entrance indicating to the prospective passenger the car answering the call and its direction of travel. The visual signal for each direction must be a minimum of 2-1/2 inches in size and visible from the proximity of the hall call button. The audible signal must sound once for the up direction and twice for the down direction. The center line of the fixture must be located a minimum of six feet from the floor. The use of in-car lanterns conforming to above and located in the jamb are acceptable.

15. Door jamb marking. The floor designation must be provided at each hoistway entrance on both sides of the jamb visible from within the car and the elevator lobby centered at a height of 60 inches above the floor. Designations must be on a contrasting background two inches high and raised 0.030 inch. Applied plates permanently attached are acceptable.

(f) Stretcher requirements. In buildings with elevators requiring Phase I and II operation, at least one elevator must be provided with a minimum clear distance between walls or between walls and door excluding return panels, not less than 80 inches by 54 inches, and a minimum distance from wall to return panel not less than 51 inches with a 42-inch side slide door, unless otherwise designed to accommodate an ambulance-type stretcher 76 inches by 24 inches in the horizontal position. In buildings where one elevator does not serve all floors, two or more elevators may be used.

(g) Emergency signs. Except at the main entrance level, an approved pictorial sign of a standard design must be posted adjacent to each elevator call station which will indicate that, in case of fire, the elevator will not operate and that exits should be used.

(h) Restricted or limited-use elevators. The authority having jurisdiction may waive the requirements of this section for any elevator designed for limited or restricted use serving only specific floors or a specific function.

1305.5109 ELEVATOR AND DUMBWAITER HOISTWAY ENCLOSURES.

Sec. 5109. (a) Walls and partitions enclosing elevator and dumbwaiter shafts and escalator shafts must be constructed with materials not less than the fire-resistive construction required under Type of Construction in Part IV of the Uniform Building Code.

(b) Partitions between fire-resistive hoistways and machine rooms having fire-resistive enclosures and which are located at a side of or beneath the hoistway may be of unperforated noncombustible material at least equal to 0.0598 inch thick sheet steel in strength and stiffness with openings essential for ropes, drums, sheaves, and other elevator equipment.

(c) All hoistway openings must be provided with fire-resistive protective assemblies. The fire resistance rating must not be less than 1-1/2 hours when installed in two hour fire-resistance-rated construction. Protective assemblies installed in fire-resistance-rated construction of less than two hours must have ratings required by the Uniform Building Code. The fire-resistance rating must be determined by the test specified in Part XI, Rule 1102 of ANSI/ASME Al7.1-1987.

1305.5110 HOISTWAY VENTING.

Sec. 5110. (a) Shafts (hoistways) housing elevators extending through more than two floor levels shall be vented to the outside. The area of the vent shall be not less than 3-1/2 percent of the area of the elevator shaft, provided a minimum of three square feet per elevator is provided.

The venting of each individual hoistway must be independent from any other hoistway venting, and the interconnection of separate hoistways for the purpose of venting is prohibited. Vents must be manually openable or remote control automatic vents. Location of operating devices is subject to approval of the authority having jurisdiction. Vents must be located in the side of the hoistway enclosure directly below the floor or floors at the top of the hoistway, and must open either directly to the outer air or through noncombustible ducts to the outer air; or in the wall or roof of the penthouse or overhead machinery space above the roof when the openings have a total area not less than the minimum specified in this section. Vents passing through machine rooms must be in noncombustible ducts. When a vent is installed in the roof of the hoistway, a protective grille must be provided to prevent persons from failing into the hoistway.

(b) If air pressurization of a hoistway is used as a means of smoke and hot gas control, the air must not be introduced into the hoistway in such a manner as to cause erratic operation by impingement of traveling cables, selector tapes, governor ropes, compensating ropes, and other components sensitive to excessive movement or deflection.

1305.5111 ELEVATOR MACHINE ROOM FLOORS.

Sec. 5111. Elevator hoistways must not be vented through an elevator machine room unless such venting is accomplished by an approved duct system installed through the elevator machine room.

1305.5112 AMENDMENTS TO ANSI A17.1-1987.

ANSI A17.1 Rule 112.5 is amended to read as follows:

Where required by Rule 112.3d or Rule 112.4, a power-operated car door or gate must be provided with a reopening device which will function to stop and reopen a car door or gate and the adjacent hoistway door in the event that the car door or gate is obstructed while closing. If the closing kinetic energy is reduced to 2-1/2 foot-pounds or less, the reopening device may be rendered inoperative (see Rule 112.4-a).

For center-opening doors, the reopening device must be so designed and installed that the obstruction of either door panel when closing will cause the reopening device to function.

Doors on all passenger elevators must not be solely dependent upon the door edge reopening device for protection from the doors closing on an obstruction, but must also be provided with an approved light beam or electronic door protection device. Doors closed by automatic means must be provided with a door reopening device which will function to stop and reopen the car door and adjacent hoistway door in case the car is obstructed while closing. For vertically sliding doors or gates, reopening devices must respond to any obstruction within the width of the opening to a point five inches maximum from each side of the opening.

ANSI A17.1 Rule 211.3d is amended to read as follows:

On emergency elevators all keyed switches installed to operate the elevator or emergency service must be keyed alike to a pattern approved by the authority having jurisdiction. In lieu of the above, keys for emergency elevator service may be in a metal box placed in a location approved by the authority having jurisdiction, if the box is locked with a five-pin tumbler core lock or equivalent which is keyed to the same pattern.

ANSI A17.1 Rule 602.1 is amended by adding a fourth paragraph to read as follows:

All handpowered elevators must be equipped with a broken rope safety device.

ANSI A17.1 Rule 703.1 is amended by adding a second paragraph to read as follows:

All dumbwaiters must be equipped with a broken rope safety device.

ANSI A17.la-1988 Rule 902.4a Handrails, is amended as follows:

902.4a Type Required. Each balustrade must be provided with a handrail moving in the same direction and at substantially the same speed as the treadway. A stopped handrail device must be provided that will cause the immediate activation of the alarm required by Rule 805.lb and, after not more than 15 seconds interruption of power to the driving machine motor and brake.

ANSI A17.la-1988 Rule 905.ld Broken Treadway Device is amended as follows:

ANSI A17.la-1988 Rule 905.ld Broken Treadway Device. A device must be provided which will cause interruption of power to the driving machine and brake if the connecting means between pallets or the belt breaks. Pallet type moving walks must be provided with a device which will cause interruption of power to the driving machine when a displaced or lost pallet is detected. Interruption of power must occur prior to the displaced or lost pallet entering the passenger walkway area.

ANSI A17.1 Rule 2000 is amended by adding the following language:

1305.5113 INCLINED AND VERTICAL WHEELCHAIR LIFTS. This part applies to vertical wheelchair lifts (ANSI Section 2000), and inclined wheelchair lifts (ANSI Section 2001), installed in buildings other than in or at a private residence for use by the physically handicapped. Wheelchair lifts do not meet the accessibility requirements contained in chapter 1340. See ANSI A17.1, Part XXI for the requirements for this equipment installed in or at a private residence.

The wheelchair lifts must not be exposed to the outside elements. Testing, tests, and inspections must be made in accordance with the applicable provisions of part 1305.5117.

ANSI A17.1 Rule 2000.6D is amended to read as follows:

Car and platform illumination lighting must comply with rule 204.7.

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

ANSI A17.1 Rule 2001.1a is amended to read as follows:

Rule 2001.1a Means of egress. Lifts must be installed so that the means of egress is maintained as required by the authority having jurisdiction.

When installed at ramps or stairs, the lift must be separated from the ramp or stair by a solid guard rail not less than 42 inches in height. Handrails complying with the requirements of the UBC Section 3306(j) must be provided on the ramp or stairway side of the guardrail.

ANSI A17.1 Rule 2001.6f is amended to read as follows:

Platform illumination lighting must comply with rule 204.7.

ANSI A17.1 Rule 2002 is deleted in its entirety.

1305.5114 STAGE AND ORCHESTRA LIFTS.

Stage and orchestra lifts must be designed, installed, constructed, and maintained so as to be reasonably safe to life, limb, and adjoining property and must be reviewed by the authority having jurisdiction prior to installation or construction.

1305.5115 ENDLESS BELT LIFTS.

Endless belt lifts must be designed, installed, constructed, and maintained so as to be reasonably safe to life, limb, and adjoining property and must conform to the rules of the Department of Labor and Industry, parts 5205.0550 to 5205.0590.

1305.5116 TEMPORARY INTERIOR AND EXTERIOR HOISTS.

Temporary interior and exterior hoists must be designed, constructed, installed, and maintained so as to be reasonably safe to life, limb, and adjoining property and must conform to Safety Requirements for Workman's Hoists, ANSI 10.4-1963, Safety Requirements for Material Hoists, ANSI 10.5-1969, and rules of the Department of Labor and Industry.

1305.5117 MECHANICAL PARKING GARAGE EQUIPMENT.

Mechanized parking garage equipment must be designed, constructed, installed, and maintained so as to be reasonably safe to life, limb, and adjoining property and must conform to the standards specified in the American Standard Safety Code for Mechanized Parking Garage Equipment, ANSI A113.1 (R-1971).

1305.5118 EXISTING INSTALLATIONS.

(a) Conditions for continued operation. All existing installations may be continued in service as long as they are properly maintained and are, in the opinion of the authority having jurisdiction, installed and maintained in a safe condition. The authority having jurisdiction may order the installation of car gates, car tops, and car walls extended to the car top on all existing installations. The authority having jurisdiction must have the authority to shut down any piece of equipment covered by this chapter, which in the opinion of the authority having jurisdiction, is dangerous to life, limb, and adjoining property, and the equipment must not be put back into operation until the unsafe condition has been corrected and approved by the authority having jurisdiction.

(b) Damaged installations. Any installation, whether new or existing, which becomes damaged, defective, or worn, by fire or other causes including ordinary wear to such extent that in the opinion of the authority having jurisdiction it is dangerous to life, limb, and adjoining property, such installations must be repaired or rebuilt in conformity with this code. The equipment must, if in the opinion of the authority having jurisdiction, it is found necessary to protect life, limb, and property, be taken out of service until the unsafe condition has been removed.

(c) Unsafe conditions. When an inspection reveals an unsafe condition, the inspector must immediately file with the owner and the authority having jurisdiction a full and true report of the inspection and the unsafe condition. If the administrative authorities' agent finds that the unsafe condition endangers human life, limb, and property, the inspector shall place a notice, in a conspicuous location, on the elevator, escalator, or moving walk that the conveyance is unsafe. The owner shall see to it that the notice of unsafe condition is legibly maintained where placed by the authority having jurisdiction. The authority having jurisdiction must issue an order in writing to the owner requiring the repairs or alterations to be made to the conveyance which are necessary to render it safe, and may order the operation discontinued until the repairs or alterations are made or the unsafe conditions are removed. A posted notice of unsafe conditions must be removed only by the authority having jurisdiction when satisfied that the unsafe conditions have been corrected.

Compliance must be in accordance with the requirements of ANSI A17.3-1986.

REPEALER. *Minnesota Rules*, parts 1320.0100; 1320.0200; 1320.0300; 1320.0400; 1320.0500; 1320.0600; 1320.0605; 1320.0610; 1320.0615; 1320.0620; 1320.0625; 1320.0630; 1320.0635; 1320.0638; 1320.0640; 1320.0645; 1320.0650; 1320.0655; 1320.0660; 1320.0665; 1320.0670; 1320.0675; 1320.0680; 1320.0785; 1320.2001; 1320.2005; 1320.2010; 1320.2015; 1320.2020; 1320.2025; 1320.2030; 1320.2035; 1320.2100; 1320.2200; 1320.2300; and 1320.2400, are repealed.

Department of Administration

Proposed Permanent Rules Relating to State Building Code

Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Administration, Building Codes and Standards Division in cooperation with the State Board of Electricity intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* section 16B.61 and 326.241 to 326.248.

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

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdrew their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.
If no hearing is requested, the agency will adopt the proposed rule to be effective no sooner than July 1, 1990.

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

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

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

A copy of the proposed rule is available from the Building Codes and Standard Division.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identified the data and information relied upon to support the proposed rule has been prepared and is available from the agency upon request.

Copies of the *1990 National Electrical Code* are in general distribution and may be reviewed at the Minnesota Building Codes and Standard Division and obtained from the State Board of Electricity.

YOU ARE ADVISED, pursuant to *Minnesota Statutes*, Section 14.11 "Special Notice of Rulemaking", the adoption of these rules will not have any impact on agricultural land nor should the expenditure of public money exceed $100,000 in either of the two years following the adoption of these rules. Also, pursuant to *Minnesota Statutes*, Section 14.115, Subd. 2, the Building Codes and Standards Division has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed. The proposed rules do not require businesses to make reports to the requirements for reporting required in items (a), (b) and (c) are not applicable. Compliance requirements of items (a), (b), (c) and (e) are not appropriate because the purpose of rules is to establish a minimum standard for the application and installation of electrical wiring and its associated materials in all public, private, commercial, industrial and residential structures within the State of Minnesota to protect life, limb, health, property, and public welfare of the residents at the least possible cost consistent with recognized standards. *Minnesota Statutes* Section 16B.59 (1984). To exempt small businesses from any or all requirements of the rules would be contrary to statutory obligations that are the basis of the proposed rulemaking, *Minnesota Statutes* Section 16B.59, 16B.61 and 16B.64. The legislature has specifically mandated that the uniformity of construction standards is in the public interest. *Minnesota Statutes* Section 16B.61 states in part: The code must conform insofar as practicable to model codes generally accepted and in use throughout the United States.

Minnesota Statutes Section 14.115 Subd. 2(d) calls for the establishment of performance standards for small businesses as one method of reducing the adverse impact of rules upon them. The *National Electrical Code* is based on the application of scientific

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

principles, approved tests and professional judgement; and to the extent practicable are terms or results rather than requiring specific methods and materials.

Since performance standards apply across the board to all entities subject to the code, the methods of reducing the impact of rules provided by Subd. 2(d) has been utilized. No special changes are necessary for small businesses.

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

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

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislation or administrative action by communicating or urging others to communicate with public officials; or,

b) Who spends more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 N. Robert St., St. Paul, Minnesota 55101, (612) 296-5148.

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

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Statement of Need and Reasonableness

The Minnesota State Building Code Chapter 1300 includes the adoption of current model codes and amendments to these model codes. One of these model codes is the *National Electrical Code* (ANSI/NFPA 70) copyright National Fire Protection Association, One Battery March Park, Post Office Box 9101, Quincy, Massachusetts 02269-9101, that provides for electrical design and construction. The National Electrical Code is updated and printed every three years.

The Minnesota Electrical Act *Minnesota Statutes* 326.243 Safety Standards; requires that the "most recently published edition of the National Electrical Codes as approved by the United States of America Standard Institute and the National Electrical Safety Code as issued by the National Bureau of Standards shall be prima facie evidence of accepted standards of construction for safety to life and property... Minnesota building code shall also constitute compliance with the section...." Therefore the new 1990 edition is the most recent edition of the *National Electrical Code* and must be incorporated in the *Minnesota State Building Code*. Authorization for building code adoption of the *National Electrical Code* is provided in *Minnesota Statutes* Sec. 16B.64.

Adopting the 1990 Edition of the *National Electrical Code* complies with the intent of *Minnesota Statutes* Sec. 16B.64 and Sec. 326.243, for the safety of Minnesota citizens.

Dated: 14 December 1989

Sandra J. Hale, Commissioner
Department of Administration

Rules as Proposed

1315.0200 SCOPE.

Subpart 1. **Electrical code.** All new electrical wiring, apparatus, and equipment for electric light, heat, power, and alarm and communication systems must comply with the regulations contained in the ~~1987~~ 1990 edition of the National Electrical Code (NEC) as approved by the American National Standards Institute (ANSI/NFPA ~~70-1987~~ 70-1990), *Minnesota Statutes*, section 326.243, and the Minnesota State Building Code as promulgated by the commissioner of administration.

Department of Human Services

Proposed Permanent Rules Relating to Community Alternatives for Disabled Individuals Under Age 65

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, section 256B.04, subdivision 2; section 256B.091, subdivision 9, and section 256B.49.

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

Any person may make a written request for public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. **PLEASE NOTE: That if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held on February 9, 1989, unless a sufficient number withdraw their request, in accordance with the notice of public hearing on these same rules published in this *State Register* and mailed to persons registered with the State Department of Human Services.** To verify whether a hearing will be held, please call the Department of Human Services between February 2, 1990 and February 8, 1990 at (612) 296-7454.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Eleanor Weber, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on February 1, 1990.

In preparing these rules, the agency has considered the requirements of *Minnesota Statutes*, section 14.115 in regard to the impact of the proposed rules on small businesses. The agency believes that *Minnesota Statutes*, section 14.115 does not apply to these rules but in the event that section 14.115 does apply, the agency invites the public comment in writing to Eleanor Weber. Furthermore, if any person knows of anyone who may be affected as a small business, the person may address this concern in writing to Eleanor Weber.

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

A free copy of this rule is available upon request for your review from: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, or by calling (612) 296-7454.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

The Community Alternatives for Diabled Individuals Program (CADI), a medical assistance program under a waiver from the Health Care Financing Administration of the United States Department of Health and Human Services, provides medical assistance payment for home and community-based services to medical assistance eligible individuals under the age of 65 who are applicants to or residents of a nursing home. The rule incorporates basic medical assistance service methods and standards except insofar as the waiver authorizes differences. The waiver permits medical assistance payment from CADI funds for certain services such as homemaker services that are not eligible under the State Medicaid plan and removes the State Medical Plan restrictions as to number of visits or hours reimbursed for other services such as extended home health visits. The home and comunity-based services available through CADI funding include adaptations, adult day care, case management, extended home health services, extended personal care services, family support services, homemaker services, independent living skills services, respite care services, and medical supplies and equipment.

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

The proposed rules establish standards for: determining whether an individual is eligible for CADI services; preadmission screening of CADI applicants and the resulting recommendations of the preadmission screening team; the cost limitations applicable to the individual's services under the waiver; the individual's care plan; the documents required to be submitted to the commissioner for the commissioner's review and decision about whether to approve the request for CADI services; reassessment of a recipient to determine continued eligibility as a CADI recipient; the home and community-based services to be provided through CADI funds to CADI recipients; the responsibilities of a local agency including the designation of a lead agency to implement the county's CADI program; the procedure to obtain providers of CADI services and the contract requirements; and the right of an individual to appeal a denial, reduction, termination, or suspension of CADI services.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 at (612) 296-7454 upon request.

The rules implement projected decrease in costs reported in the approved waiver. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7475.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Eleanor Weber, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Ann Wynia
Commissioner

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 400 South, State Office Building, 100 Constitution Avenue, St. Paul, MN 55155 on February 9, 1990 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER: that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the Department of Human Services. To verify whether a hearing will be held, please call the Department of Human Services between February 2, 1990 and February 8, 1990 at (612) 296-7454.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Barbara L. Nielson, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7604, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency, may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The Community Alternatives for Disabled Individuals Program (CADI), a medical assistance program under a waiver from the Health Care Financing Administration of the United States Department of Health and Human Services, provides medical assistance payment for home and community-based services to medical assistance eligible individuals under the age of 65 who are applicants to or residents of a nursing home. The rule incorporates basic medical assistance service methods and standards except insofar as the waiver authorizes differences. The waiver permits medical assistance payment from CADI funds for certain services such as homemaker services that are not eligible under the State Medicaid plan and removes the State Medicaid Plan restrictions as to number of visits or hours reimbursed for other services such as extended home health visits. The home and community-based services available through CADI funding include adaptations, adult day care, case management, extended home health services, family support services,

homemaker services, independent living skills services, respite care services, and medical supplies and equipment.

The proposed rules establish standards for: determining whether an individual is eligible for CADI services; preadmission screening of CADI applicants and the resulting recommendations of the preadmission screening team; the cost limitations applicable to the individual's services under the waiver; the individual's care plan; the documents required to be submitted to the commissioner for the commissioner's review and decision about whether to approve the request for CADI services; reassessment of a recipient to determine continued eligibility as a CADI recipient; the home and community-based services to be provided through CADI funds to CADI recipients; the responsibilities of a local agency including the designation of a lead agency to implement the county's CADI program; the procedure to obtain providers of CADI services and the contract requirements; and the right of an individual to appeal a denial, reduction, termination, or suspension of CADI services.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 256B.04, subdivision 2; section 256B.091, subdivision 9 and section 256B.49.

In preparing these rules, the agency has considered the requirements of *Minnesota Statutes*, section 14.115 in regard to the impact of the proposed rules on small businesses. The agency believes that *Minnesota Statutes*, section 14.115 does not apply to these rules but in the event that section 14.115 does apply, the agency invites public comment at the public hearing. Furthermore, if any person knows of anyone who may be affected as a small business, the person may address this concern at the public hearing.

The rules implement projected decreases in costs reported in the approved waiver. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7454.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Lynda Adams at (612) 296-1551.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11 as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spends more than $250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Ann Wynia
Commissioner

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

Rules as Proposed (all new material)

9505.3010 SCOPE AND EFFECT.

Subpart 1. **Scope.** Parts 9505.3010 to 9505.3140 establish standards and procedures for the community alternatives for disabled individuals program. The community alternatives for disabled individuals program allows Medicaid to pay for approved community-based services provided to eligible persons. The community-based services allow persons who would otherwise reside in a nursing home to remain at home or return to the community. Those persons must meet the requirements of part 9505.3035.

Parts 9505.3010 to 9505.3140 must be read in conjunction with section 1915(c) of the Social Security Act; *Minnesota Statutes*, sections 256B.04, subdivision 2; 256B.05; 256B.091, subdivisions 1 to 8; 256B.49; 256B.491; Code of Federal Regulations, title 42, sections 440.180 and 441.300 to 441.310, amended through October 1, 1987; and parts 9505.2390 to 9505.2500. Parts 9505.3010 to 9505.3140 must be read in conjunction with the requirements of the waiver obtained by the state from the United States Department of Health and Human Services.

Subp. 2. **Effect.** Parts 9505.3010 to 9505.3140 are effective only as long as the waiver from the United States Department of Health and Human Services remains in effect in Minnesota.

9505.3015 DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part apply to parts 9505.3010 to 9505.3140.

Subp. 2. **Adaptations.** "Adaptations" means minor physical modifications to the home, adaptive equipment, and minor modifications to vehicles as specified in part 9505.3075.

Subp. 3. **Adult day care services.** "Adult day care services" means services provided to recipients by adult day care centers licensed under parts 9555.9600 to 9555.9730 and adult day care family homes established under *Minnesota Statutes*, sections 245A.01 to 245A.17.

Subp. 4. **Applicant.** "Applicant" means a person under age 65 or the representative of a person under age 65 who applies to participate in the community alternatives for disabled individuals program rather than enter a nursing home. Applicant also means a person or the representative of a person who has been admitted to a nursing home as a resident, but who has requested an assessment under part 9505.3025 to participate in the CADI program.

Subp. 5. **Assessment form.** "Assessment form" means the form supplied by the commissioner that is used to record the information required under parts 9505.2425, subpart 1 and 9505.3025.

Subp. 6. **Care plan or individual plan of care.** "Care plan" or "individual plan of care" means the written plan of a combination of services designed to meet the health and community-living needs of an applicant according to part 9505.3030.

Subp. 7. **Case management services.** "Case management services" means the services as specified in part 9505.3070 that identify, assist in gaining access to, authorize, and coordinate services for a recipient; monitor the delivery of services to the recipient; adjust services to the needs of the recipient; and advocate for the rights of the recipient to assure the health and safety of the recipient.

Subp. 8. **Case manager.** "Case manager" means a social worker employed by or under contract with the local agency, or a registered nurse who is employed by the local public health department or under contract with the local agency to provide case management. Local agency in this subpart means the local agency in the county of service.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's authorized representative.

Subp. 10. **Community alternatives for disabled individuals or CADI.** "Community alternatives for disabled individuals" or "CADI" means certain community-based services further described in parts 9505.3070 to 9505.3110 provided under a waiver to physically disabled individuals under the age of 65 who require the level of care provided in a nursing home. CADI services allow the persons to remain in their homes.

Subp. 11. **County of financial responsibility.** "County of financial responsibility" has the meaning given it in *Minnesota Statutes*, section 256G.02, subdivision 4.

Subp. 12. **County of service.** "County of service" means the county in which the applicant or recipient resides.

Subp. 13. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 14. **Directory of services.** "Directory of services" means the list of home and community-based services specified in part 9505.2395, subpart 17.

Subp. 15. **Extended home health services.** "Extended home health services" means the home health services specified in part 9505.3085.

Subp. 16. **Extended personal care services.** "Extended personal care services" means the personal care services specified in part 9505.3090.

Subp. 17. **Family.** "Family" means the persons who live with or provide informal care to a disabled individual. Family may include a spouse, children, friends, relatives, foster family, or in-laws.

Subp. 18. **Family support services; counseling and training.** "Family support services; counseling and training" means the services specified in part 9505.3095.

Subp. 19. **Formal caregivers.** "Formal caregivers" means persons or entities providing CADI services who are employed by or under contract with a local agency, or other agency or organization, public or private. Formal caregiver does not include case manager.

Subp. 20. **Home.** "Home" means the recipient's place of residence other than a nursing home. It includes a home owned or rented by the recipient, or a member of the recipient's family or foster family.

Subp. 21. **Home and community-based services.** "Home and community-based services" refers to services that provide adaptations and adult day care, case management, extended home health, extended personal care, family support, homemaker, independent living skills, respite care services, and medical supplies and equipment to a recipient through CADI.

Subp. 22. **Homemaker services.** "Homemaker services" means the services specified in part 9505.3100.

Subp. 23. **Independent living skills services.** "Independent living skills services" means supervision, training, or assistance to a recipient in self care, communication skills, socialization, sensory or motor development, reduction or elimination of inappropriate or maladaptive behavior, community living, and mobility that is provided by individuals or agencies qualified to provide independent living skills services.

Subp. 24. **Informal caregivers.** "Informal caregivers" means family, friends, neighbors, and others who provide services to and assist recipients without reimbursement for the services.

Subp. 25. **Lead agency.** "Lead agency" means the social service or public health agency approved by the county board to administer the CADI program.

Subp. 26. **Local agency.** "Local agency" means the county or multicounty agency authorized under *Minnesota Statutes*, section 256B.05, to administer the medical assistance program.

Subp. 27. **Medical assistance.** "Medical assistance" means the program including the CADI program established under title XIX of the Social Security Act and *Minnesota Statutes*, chapter 256B.

Subp. 28. **Mental illness.** "Mental illness" means, in the case of an adult, an illness as defined in *Minnesota Statutes*, section 245.462, subdivision 20, or, in the case of a child, an emotional disturbance as defined in *Minnesota Statutes*, section 245.4871, subpart 15.

Subp. 29. **Nursing home.** "Nursing home" means a facility, including a boarding care facility, licensed under *Minnesota Statutes*, chapter 144A, that is certified to participate in the medical assistance program.

Subp. 30. **Nursing home resident.** "Nursing home resident" means a person who lives, and expects to continue to live, in a nursing home for more than 30 days. For purposes of parts 9505.3010 to 9505.3140, nursing home resident does not include a person who is in a nursing home for respite care.

Subp. 31. **Person with mental retardation or a related condition.** "Person with mental retardation or a related condition" means a person as defined in part 9525.0015, subpart 20.

Subp. 32. **Personal care assistant.** "Personal care assistant" means a person who provides extended personal care services and meets the standards of part 9505.0335 or 9505.3090.

Subp. 33. **Physician.** "Physician" means a person who is authorized to practice medicine under *Minnesota Statutes*, chapter 147.

Subp. 34. **Preadmission screening or screening.** "Preadmission screening" or "screening" means the activities established under *Minnesota Statutes*, section 256B.091, subdivisions 1 to 4, and specified in part 9505.3025.

Subp. 35. **Preadmission screening team or team.** "Preadmission screening team" or "team" means the team defined in part 9505.2395, subpart 39, that is required under part 9505.3025 to assess the health and social needs of an applicant for CADI services.

Subp. 36. **Primary caregiver.** "Primary caregiver" has the meaning given it in part 9505.2395, subpart 40. The primary caregiver is designated by the recipient as his or her primary caregiver. Primary caregiver additionally means an informal caregiver of a recipient.

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

Subp. 37. **Public health nurse.** "Public health nurse" means a registered nurse certified by the Minnesota Department of Health as a public health nurse under *Minnesota Statutes*, section 145A.02, subdivision 18, and employed by a public health nursing service as defined in subpart 38.

Subp. 38. **Public health nursing service.** "Public health nursing service" means the nursing program provided by a board of health under *Minnesota Statutes*, section 145.10, subdivision 1.

Subp. 39. **Reassessment.** "Reassessment" means the reevaluation of a CADI recipient's health and community-living needs under part 9505.3060.

Subp. 40. **Recipient.** "Recipient" means a person determined to be eligible for CADI services according to part 9505.3035, who chooses to receive the CADI services identified in the person's care plan, and whose services have been initiated.

Subp. 41. **Registered nurse.** "Registered nurse" means a person licensed under *Minnesota Statutes*, section 148.211.

Subp. 42. **Representative.** "Representative" means a person appointed by the court as a guardian or conservator under *Minnesota Statutes*, sections 252A.01 to 252A.21 or 525.539 to 525.6198; a spouse; a parent of a child under age 18 unless the parent's parental rights have been terminated; a person designated by a power of attorney or a durable power of attorney; or a person authorized by the applicant or recipient under part 9505.0015, subpart 8.

Subp. 43. **Resident class.** "Resident class" means the case mix classification assigned to a person as required under parts 9549.0058, subpart 2, and 9549.0059.

Subp. 44. **Respite care services.** "Respite care services" means short-term supervision, assistance, and care provided to a recipient, due to the temporary absence or need for relief of the primary caregiver.

Subp. 45. **Room and board costs.** "Room and board costs" means costs of providing food and shelter to a recipient including the identifiable direct costs of:

A. private and common living space;

B. normal and special diet food preparation and service;

C. linen, bedding, laundering, and laundry supplies;

D. housekeeping including cleaning and lavatory supplies;

E. maintenance and operation of buildings and grounds, including fuel, electricity, water, supplies, and parts and tools to repair and maintain equipment and facilities; and

F. salaries and other costs related to items A to E.

Subp. 46. **Skilled nursing service.** "Skilled nursing service" means the term defined in Code of Federal Regulations, title 42, section 405.1224.

Subp. 47. **Slot.** "Slot" means an opening available for services to the person under the waiver.

Subp. 48. **Social worker.** "Social worker" means a person who has met the minimum qualifications of a social worker under the Minnesota Merit System or a county civil service system in Minnesota.

Subp. 49. **State medical review team.** "State medical review team" means a team consisting of physicians and social workers who are under contract with or employed by the department to review a medical and social history to determine whether a person is disabled under the regulations of the Social Security Administration.

Subp. 50. **Vehicle.** "Vehicle" means a vehicle owned by the recipient or a member of the recipient's family or foster family that is used to transport a recipient with sensory or mobility defects.

Subp. 51. **Waiver.** "Waiver" means the document approved by the United States Department of Health and Human Services which allows the state to pay for home and community-based services authorized under Code of Federal Regulations, title 42, part 441, subpart G. The term includes all amendments to the waiver including any amendments made after the effective date of parts 9505.3010 to 9505.3140, as approved by the United States Department of Health and Human Services.

Subp. 52. **Waiver year.** "Waiver year" means October 1 to the following September 30.

Subp. 53. **Working day.** "Working day" has the meaning given it in part 9505.2395, subpart 56.

9505.3020 PREADMISSION SCREENING OF CADI APPLICANTS.

Preadmission screening is required for all applicants for home and community-based services under CADI. The screening must incorporate the requirements of the 1987 Omnibus Budget Reconciliation Act, Public Law Number 100-203, about appropriate nursing home placement for persons with mental illness and for persons with mental retardation or related conditions.

9505.3025 DUTIES OF PREADMISSION SCREENING TEAM.

Subpart 1. **General procedure for preadmission screening.** The preadmission screening team must conduct the preadmission screening of a CADI applicant as specified in parts 9505.2425, subparts 1; 2; 3, items A, B, C, and D; 4; and 14; and 9505.3020. Additionally, the preadmission screening team must:

A. inform the applicant about eligibility requirements for CADI as specified in part 9505.3035 and the services available through CADI;

B. give the person who is not a medical assistance recipient a medical assistance application and help the person complete the medical assistance application as required under parts 9505.0010 to 9505.0150;

C. in the case of an applicant applying on or after October 1, 1989, who was not a nursing home resident on October 1, 1989, inform the applicant about the right of the applicant and the applicant's spouse to retain assets up to the amount specified in *Minnesota Statutes*, section 256B.059; and

D. in the case of an applicant applying before October 1, 1989, inform the applicant about the right of the applicant and the applicant's spouse to retain assets that were exempt from consideration before October 1, 1989.

Subp. 2. **Local agency data sharing with lead agency.** Upon the lead agency's request, the local agency must provide the lead agency with information the local agency has concerning the medical assistance eligibility or social service needs of an applicant.

Subp. 3. **Team recommendations for CADI applicants.** After completing the assessment form required under part 9505.2425, subpart 1, and the assessment interview required under part 9505.2425, subpart 2, the team must recommend one of the choices in items A to E.

A. The team must recommend admission to a nursing home when:

(1) the assessment indicates that the applicant needs the level of care provided by a nursing home and that the home and community-based services that the applicant would need in lieu of nursing home care are not currently available; or

(2) the assessment indicates that the anticipated cost to medical assistance of providing the needed home and community-based services and medical assistance home care services would exceed the limit specified in part 9505.3040.

B. The team must recommend continued stay in a nursing home when:

(1) the assessment indicates that the resident needs the level of care provided by a nursing home and that the home and community-based services that the resident would need in lieu of nursing home care are not currently available; or

(2) the assessment indicates that the anticipated cost to medical assistance of providing the needed home and community-based services and medical assistance home care services would exceed the limit specified in part 9505.3040.

C. The team must recommend health and social services including CADI services and, if needed, medical assistance home care services when the assessment indicates that the applicant needs the level of care provided by a nursing home; the services needed by the applicant to be at home are available or can be developed; and the anticipated cost of providing the services is within the limit specified in part 9505.3040.

D. The team must recommend health and social services including CADI services and, if needed, medical assistance home care services when the assessment indicates that the applicant who is a nursing home resident needs the level of care provided by a nursing home; the home and community-based services needed by the applicant are available or can be developed; and the anticipated cost of providing the necessary services is within the limit specified in part 9505.3040.

E. The team must recommend that the applicant live in the community without home and community-based services if the assessment indicates that the person is not an applicant to or resident of a nursing home, does not require nursing home care, or does not need home and community-based services.

Subp. 4. **Application for CADI services; request for case manager.** If the team recommends the use of home and community-based services and the applicant chooses to remain in the community with the recommended services, the team must request that the person complete and sign an application for home and community-based services under CADI. To be eligible to receive CADI services, the person must also be eligible for medical assistance. If the person's eligibility for medical assistance has not been determined, a financial worker shall accompany the team to the screening to take an application for medical assistance. If the applicant signs the

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

application for home and community-based services under CADI, the preadmission screening team must notify the lead agency and request the lead agency to assign a case manager.

Subp. 5. **Notice of preadmission screening team recommendation.** The preadmission screening team must give notice of the team recommendation made under subpart 3 as specified in part 9505.2425, subpart 8. Additionally, the team must obtain the consent of the applicant or, if appropriate, the applicant's representative for the purpose of notifying the applicant's physician.

Subp. 6. **Information to county of financial responsibility.** If the county of service is different from the county of financial responsibility, the preadmission screening team of the county of service must submit information about the applicant to the county of financial responsibility within ten working days after the preadmission screening is completed. The information must include:

A. a copy of the preadmission screening document;

B. a copy of the signed application required in subpart 4;

C. a copy of the preadmission screening assessment form;

D. a copy of the care plan as specified in part 9505.3030 that includes services to be provided and the estimated monthly cost of services; and

E. the person's medical assistance eligibility status.

Subp. 7. **County of financial responsibility action.** The county of financial responsibility shall review the information submitted by the preadmission screening team of the county of service and keep a file on the CADI applicant. The county of financial responsibility must sign off on the care plan and approve the application if the applicant meets the eligibility requirements in part 9505.3035 and has been assigned a slot by the department. Disputes about the county of financial responsibility must be resolved according to *Minnesota Statutes*, section 256G.09.

9505.3030 INDIVIDUAL CARE PLAN.

Subpart 1. **Care plan development.** The case manager must develop a care plan on a form provided by the commissioner for an applicant who has chosen to remain in or return to the community and who is eligible for CADI services under parts 9505.3010 to 9505.3140. The case manager must develop the plan in consultation with:

A. the applicant;

B. the applicant's representative, if any, and;

C. with the applicant's consent:

(1) the applicant's family;

(2) the primary caregiver if applicable;

(3) the applicant's physician; and

(4) any other individuals who are currently involved in meeting the applicant's health or community-living needs.

Subp. 2. **Care plan contents.** The care plan must include:

A. care objectives;

B. prescriptions for medications, restorative or rehabilitative services, diet, special procedures, and other health or community-living services recommended for the health or safety of the applicant;

C. a description of the health care and social services necessary to maintain the person in the community;

D. the frequency, scope, and duration of each of the services;

E. the designation of who will deliver each of the services described in the plan including both formal and informal providers;

F. the schedule for review and evaluation of the care plan;

G. an estimate of the total monthly cost of CADI and medical assistance services identified and recommended by the team as specified under part 9505.3025, subpart 3; and

H. the payment source for each service.

Subp. 3. **Directory of services.** In developing the recipient's care plan, the case manager must use the directory of services as specified in part 9505.2425, subpart 7.

Subp. 4. **Signatures on care plan.** The case manager shall request the applicant to sign the care plan specified in subpart 2 as an indication of the applicant's acceptance of the care plan and authorization to send a copy of the care plan to the service providers that the plan specifies. Additionally, the case manager must sign the care plan and, if authorized as in subpart 5, item D, request the recipient's physician to sign the recipient's care plan.

Subp. 5. **Distribution of care plan.** The case manager must give a copy of the applicant's or recipient's care plan to:

A. the county of service;

B. the county of financial responsibility;

C. the applicant or recipient; and

D. with the consent of the applicant or recipient, or the representative of the applicant or recipient, to the applicant's or recipient's physician and the provider or providers of the services specified in the applicant's or recipient's care plan.

9505.3035 ELIGIBILITY FOR CADI SERVICES.

Subpart 1. **Eligibility criteria.** A person is eligible for CADI services if the person meets the criteria in items A to L:

A. the person has been screened according to part 9505.3025;

B. the person is under age 65;

C. the person has been certified as disabled by the Social Security Administration or the state medical review team;

D. the person is a medical assistance recipient or is eligible for medical assistance under subpart 2 or parts 9505.0010 to 9505.0150;

E. the person would need the level of care provided in a nursing home if home and community-based services are not available;

F. the person is a nursing home applicant who chooses to remain in the community and use home and community-based services or is a nursing home resident who chooses to leave the nursing home and use home and community-based services;

G. the health and safety of the person is assured by providing home and community-based services;

H. the service needed by the person is not already provided as a part of a residential placement agreement. A residential services provider shall not provide CADI or medical assistance services without prior authorization from the commissioner. For purposes of this item, "residential placement agreement" means an agreement to provide a supervised living arrangement for the recipient, such as a foster care agreement between the county board and the provider. The recipient's case manager must document in the recipient's care plan all services to be provided to the recipient as part of the residential placement agreement. The term does not apply to residence in a long-term care facility.

I. the person needs community services that cannot be funded by sources other than CADI;

J. the cost of all CADI services and medical assistance funded nursing, home health aide, and personal care services including the supervision of personal care assistants; authorized in the care plan is less than the limitation in part 9505.3040;

K. the applicant or recipient accepts case management services; and

L. the person has a written plan of care approved by the commissioner under part 9505.3055, subpart 1.

Subp. 2. **Determination of CADI applicant's medical assistance eligibility.** A CADI applicant's medical assistance eligibility must be determined under parts 9505.0010 to 9505.0150 except as specified in items A and B. For purposes of this subpart, "spend-down" has the meaning given in part 9505.0015, subpart 44.

A. The local agency shall determine the applicant's eligibility for medical assistance without considering parental or spousal income and assets if the person meets the criteria in subpart 1, items A to L.

B. If an applicant's income exceeds the limits for medical assistance eligibility, the cost of CADI services and other medical services needed by the applicant must be used to meet the spend-down required under part 9505.0065, subpart 11. The cost of a CADI service is considered to be incurred on the first day of the month in which the service is provided. The costs of other health services are applied to the spend-down requirement as of the day on which the service is given. The applicant is responsible for paying bills used to meet the spend-down.

9505.3040 LIMIT ON COSTS OF RECIPIENT'S CADI SERVICES.

Subpart 1. **Costs to be applied toward the cost limit of a recipient's CADI services.** Except as provided in subpart 2, the costs of the following items must be applied toward the cost limit of a recipient's CADI services in subpart 3. The costs must be applied as specified in part 9505.3035, subpart 2:

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

A. costs of all CADI funded services, including case management, medical supplies and equipment, and adaptations; and

B. costs of home care services reimbursed by medical assistance.

Subp. 2. **Service costs to be excluded.** If reimbursed by medical assistance, the costs of the following items must be excluded from the costs included under subpart 1 to the extent that costs of these items are reimbursed by medical assistance:

A. prescription drugs;

B. medical transportation;

C. audiology, speech-language-pathology, respiratory, occupational, and physical therapy; and

D. medical supplies and equipment.

Subp. 3. **Monthly limit on costs of recipient's CADI services.** Except as provided in subpart 4, the monthly cost of CADI services to a recipient shall not exceed the statewide monthly average nursing home rate effective July 1 of the fiscal year in which the cost is incurred less the statewide average monthly income of nursing home residents who are less than age 65 and are medical assistance recipients in the month of March of the previous Minnesota fiscal year. In calculating the monthly limit for a recipient, the statewide monthly average nursing home rate shall be the rate of the resident class to which the recipient would be assigned under parts 9549.0050 to 9549.0059.

Subp. 4. **Exception to monthly limit on costs of recipient's CADI services.** If medical supplies and equipment or adaptations are or will be purchased for the recipient, the costs that are not reimbursable by medical assistance must be prorated on a monthly basis throughout the waiver year in which they are purchased. If the monthly cost of a recipient's other CADI services exceeds the limit in subpart 3, the annual cost of the CADI services shall be determined. In this event, the annual cost of CADI services to a recipient shall not exceed 12 times the monthly limit calculated under subpart 3.

Subp. 5. **Monthly limits on costs of CADI services of applicant who is a nursing home resident.** The monthly cost of CADI services for a person who is a nursing home resident at the time of requesting a determination of eligibility for CADI shall not exceed the monthly payment for the resident class assigned under parts 9549.0050 to 9549.0059 for that resident in the nursing home where the resident currently resides.

9505.3045 REQUEST FOR PROVISIONAL CADI SLOT ASSIGNMENT.

When the case manager has completed a care plan as specified in part 9505.3030 and has determined that the applicant or recipient meets the requirements of part 9505.3035, the case manager must contact the commissioner by phone and request the provisional assignment of a CADI slot pending the commissioner's determination under part 9505.3055. The request must include the following information:

A. the applicant's name;

B. the applicant's birth date;

C. the applicant's medical assistance ID number;

D. the applicant's resident class as specified in part 9505.3040, subpart 3;

E. the approximate date that services will begin; and

F. the estimated average monthly cost of home and community-based services funded by medical assistance and CADI.

9505.3050 WRITTEN REQUEST FOR CADI SLOT ASSIGNMENT.

No later than 15 days after receiving a provisional CADI slot assignment under part 9505.3045, the lead agency must send to the commissioner a copy of the information specified in part 9505.3025, subpart 6, items A and D. If the required information is not submitted within the 15-day period, the department shall withdraw the provisional CADI slot assignment if there are other applicants eligible under part 9505.3035 who are waiting for a slot to be assigned. The department shall notify the lead agency if a provisional CADI slot assignment is ended.

9505.3055 COMMISSIONER'S DETERMINATION.

Subpart 1. **Review and notice of decision.** The commissioner shall review the information and documents submitted by the lead agency under part 9505.3050 to determine whether the applicant is eligible for and approved to receive home and community-based services that are specified in the applicant's care plan and that are available under and paid for through CADI.

Subp. 2. **Criteria for commissioner's approval and assignment of CADI slot.** The commissioner shall approve a request for CADI services and assign a CADI slot in the order in which the application required under subpart 1 is received if the applicant meets the eligibility criteria in part 9505.3035 and a CADI slot is available.

Subp. 3. **Disapproval of request for CADI services.** The commissioner shall disapprove a request for CADI services if the applicant does not meet the eligibility criteria in part 9505.3035, a CADI slot is not available, or the information and documents submitted by the lead agency under part 9505.3050 are incomplete. If the information and documents submitted by the lead agency under part 9505.3050 are incomplete, the commissioner shall notify the lead agency of the action necessary to complete the application.

9505.3060 REASSESSMENT OF CADI RECIPIENT.

Subpart 1. **Reassessment required.** The case manager must conduct a face-to-face reassessment of the health care needs of a CADI recipient at least once every six months after home and community-based services have begun. In addition to the six-month assessments, the case manager must reassess the health care needs of a CADI recipient when:

A. the case manager determines that changes in the health or community-living needs of the CADI recipient or changes in informal support arrangements necessary to remain at home require revisions in the recipient's care plan; or

B. a person who is eligible for CADI services has entered a nursing home for other than respite care or has entered a hospital for a temporary stay and is ready to return to the community.

Subp. 2. **Reassessment procedure.** The case manager must reassess the recipient as required under subpart 1 using the procedures specified for a preadmission screening in part 9505.3025.

Subp. 3. **Record of reassessment.** The case manager must place a record of the recipient's reassessment in the recipient's records at the lead agency. The record shall include the reason or reasons for the reassessment, the names of the persons consulted during the reassessment and their relationship to the recipient, revisions of the care plan and the reason or reasons for each revision or a statement that revisions were not needed. The revised care plan or statement must be signed by the recipient's physician.

Subp. 4. **Distribution of revised care plan.** The case manager must give a copy of the recipient's revised care plan to the entities specified in part 9505.3030, subpart 5.

9505.3065 REIMBURSEMENT FOR CADI SERVICES.

The services in items A to J, as specified in parts 9505.3070 to 9505.3110, shall be reimbursed on a fee-for-service basis under CADI, if the services are provided according to a recipient's care plan, if the services are necessary to avoid the recipient's institutionalization, and if the rates for the services comply with the rates established in part 9505.3135:

A. case management services;

B. homemaker services;

C. respite care services;

D. adult day care services;

E. extended home health services;

F. extended personal care services;

G. adaptations;

H. independent living skills services;

I. family support services; and

J. other services if authorized under the waiver.

9505.3068 COSTS NOT ELIGIBLE FOR REIMBURSEMENT UNDER CADI.

The costs of the following services shall not be reimbursed under the CADI program:

A. community services that can be reimbursed through other funding sources including Medicare and third party payers as defined in part 9505.0015, subpart 46;

B. room and board costs except for respite care provided away from the recipient's residence;

C. services of providers who are not under contract with the county;

D. respite care services that exceed the 720-hour limit in part 9505.3110;

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

E. adaptations that cost more than allowed by the waiver per recipient;

F. services not authorized by the case manager;

G. supplementary or replacement services covered by a Medicare or medical assistance funded hospice program, except services for a condition not related to the terminal illness; or

H. payment for CADI services provided to a nursing home resident before the date of discharge from the nursing home.

9505.3070 CASE MANAGEMENT SERVICES.

Subpart 1. **Case management services required.** Case management services are required under CADI. The lead agency must provide case management services to each recipient.

Subp. 2. **Case manager qualifications.** Case management services must be provided by a registered nurse as defined in part 9505.3015, subpart 41, or a social worker as defined in part 9505.3015, subpart 48.

A person who provides case management services must be employed by or under contract with the lead agency. The lead agency shall monitor and enforce compliance with the terms of the contract.

Subp. 3. **Responsibilities of case manager.** The case manager must:

A. assure that the team uses the criteria of the Preadmission Screening Assessment document in screening applicants;

B. develop the care plan with the screening team, the applicant, and the applicant's family members and other appropriate persons;

C. obtain the necessary documentation of service need, including the attending physician's signature;

D. authorize the provision of services specified in the recipient's approved case plan;

E. monitor service providers and the provision of services to ensure that only the authorized care is being provided and that the recipient's health and safety at least is being maintained;

F. with the consent of the applicant or recipient or the representative of the applicant or recipient, initiate and maintain contact with family members and other informal caregivers to ensure that planned care, both formal and informal, is being provided;

G. assist the recipient in gaining access to needed medical, social, educational, and other services;

H. reassess a CADI recipient as required under part 9505.3060;

I. complete a notice of action form (DHS-2828) if the recommendations of the preadmission screening team following a reassessment under part 9505.3060 are to reduce, suspend, or terminate the recipient's CADI services. The original notice of action must be sent to the recipient no later than ten days before the proposed action;

J. monitor the recipient's health and safety;

K. contact the local agency to verify that the person is eligible for medical assistance; and

L. provide ongoing coordination of the care plan so the cost does not exceed cost limits of part 9505.3040.

Subp. 4. **Reporting suspected abuse or neglect of a vulnerable adult or suspected maltreatment of a child.** A case manager who has reason to believe a recipient who is an adult is or has been subject to abuse or neglect as defined in *Minnesota Statutes*, section 626.557, subdivision 2, must immediately comply with the reporting and other actions required under *Minnesota Statutes*, section 626.557. A case manager who has reason to believe a recipient, who is a child, is or has been subject to maltreatment as defined in *Minnesota Statutes*, section 626.556, must immediately comply with the reporting and other actions required under *Minnesota Statutes*, section 626.556. The case manager must determine how to assure the recipient's health and safety during the investigation, and may take one or more of the actions specified in subpart 5. The case manager must request a report from the protection agency in order to take the action required in subpart 5 unless the recipient's health and safety is imminently threatened.

Subp. 5. **Case manager decisions.** When the case manager receives the findings of the investigation conducted under *Minnesota Statutes*, section 626.556 or 626.557, the case manager shall amend the care plan as needed to assure the recipient's health and safety. Based on the findings, the case manager shall determine whether:

A. to arrange for the services of another CADI provider;

B. to work out alternative housing and services for the recipient; or

C. to suspend the CADI services. Notwithstanding any rule to the contrary, if the case manager decides to suspend the recipient's CADI services, the suspension shall take effect upon the date of the notice of the suspension to the recipient.

9505.3075 ADAPTATIONS.

An adaptation is available to a recipient under CADI only if the adaptation is necessary to enable a recipient with mobility problems, sensory deficits, or behavior problems to be maintained at home. Adaptations include minor physical adaptations to the home, adaptive equipment, and minor adaptations to vehicles provided to enable disabled persons to live in the community. Examples of adaptations to the home are widened doors, handrails, lifting devices, and ramps. Examples of adaptations to a vehicle are lifting devices, wheel chair securing devices, and adapted seats. For purposes of this part, "minor physical adaptation" means an adaptation that costs less than the limit specified in the waiver. Adaptations can be provided under the CADI waiver for a recipient if:

A. the adaptation is not available from any other funding source and has a cost within the limitations specified in parts 9505.3010 to 9505.3140; and

B. the case manager has received prior authorization from the commissioner. To obtain authorization, the case manager must document that the adaptation is necessary for the recipient to avoid nursing home admission and the cost of the adaptation is within the limit specified in the waiver.

9505.3080 ADULT DAY CARE SERVICES.

Adult day care services are available under CADI. Adult day care services are to be offered only when the services are necessary to avoid the recipient's admission to a nursing home. Adult day care services provided through CADI must meet the criteria in items A and B.

A. The services must be furnished on a regularly scheduled basis and cannot exceed 12 hours in a 24-hour period.

B. If the adult day care service provides transportation, then the cost of transportation to and from the site of the adult day care service is eligible for payment under CADI if it is included in the day care rate.

9505.3085 EXTENDED HOME HEALTH SERVICES.

Extended home health services are available under CADI if the services meet the requirements in items A to C.

A. The service is a home health service as specified in part 9505.0295 except that the limits in subpart 3 of part 9505.0295 on the number of visits and hours eligible for medical assistance reimbursement do not apply.

B. The service is provided according to the amount, duration, and scope specified in the recipient's care plan.

C. The service is provided by a provider who meets the requirements of part 9505.0290, subpart 2.

9505.3090 EXTENDED PERSONAL CARE SERVICES.

Subpart 1. **Availability under CADI.** Extended personal care services are available under CADI if the extended personal care services meet the requirements in part 9505.0335 except as provided in subparts 2 and 3 and except that the directions for the recipient's care may be provided by a primary caregiver or family member if the recipient is not able to direct his or her own care.

Subp. 2. **Qualification as personal care assistant.** A person who does not qualify as a personal care assistant under part 9505.0335 can be a personal care assistant for a recipient if the person meets the training requirements under part 9505.0335, subpart 3, and is employed by or under contract with the lead agency.

Subp. 3. **Relative as personal care assistant.** A recipient's relative, other than a responsible relative as defined in part 9505.0015, subpart 43, may be employed as a personal care assistant if the relative meets the requirements in subpart 2, is under contract with the lead agency, and meets one of the financial hardship criteria in items A to D:

A. the relative resigns from a full-time job to care for the recipient;

B. the relative goes from a full-time to a part-time job with less compensation;

C. the relative takes a leave of absence without pay to provide personal care for the recipient; or

D. the relative, because of local labor conditions, is the only person available to provide care for the recipient.

Subp. 4. **Commissioner's approval of extended personal care services.** The lead agency must obtain the department's approval to provide extended personal care services to a recipient.

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

9505.3095 FAMILY SUPPORT SERVICES.

Subpart 1. **Availability as CADI service.** Family support services that are the training and counseling services in items A and B are available under CADI. The services may be provided to the recipient as well as to persons with whom the recipient lives or who routinely are the recipient's informal caregivers.

A. Training must be designed to increase the recipient's or family member's ability to care for the recipient at home and must be necessary to avoid the recipient's admission to a nursing home. Training includes instruction about the use of equipment and treatment regimens that are specified in the recipient's care plan.

B. Counseling includes helping the recipient or members of the recipient's family with crises, coping strategies, and stress reduction as required for family functioning to maintain the recipient in the community.

Subp. 2. **Standards to be a CADI provider of training services.** A provider of training services under CADI must meet the applicable qualification specified in items A to H.

A. A physician must be licensed to practice in Minnesota.

B. A registered nurse must be licensed and have one year of experience as a professional nurse.

C. A physical therapist must have a current Minnesota certificate of registration.

D. An occupational therapist must be currently certified by the American Occupational Therapy Association as an occupational therapist.

E. A respiratory therapist must meet the criteria established for a respiratory therapist in part 9505.0295, subpart 2, item E.

F. A medical equipment supplier must be authorized by the case manager to provide training in use of equipment and must be a provider under part 9505.0195.

G. A speech-language pathologist must be certified by the American Speech-Language-Hearing Association.

H. A nutritionist must have a bachelor's degree and be registered by the Commission on Dietetic Registration.

Subp. 3. **Standards for providers of family support counseling services.** A provider of family support counseling services must be one of the following:

A. a Medicaid enrolled psychiatrist or individual who works under the supervision of a Medicaid enrolled psychiatrist;

B. a Medicaid enrolled psychologist or individual who works under the supervision of a Medicaid enrolled psychologist;

C. a mental health clinic that is an enrolled Medicaid provider;

D. a social worker licensed under *Minnesota Statutes*, sections 148B.18 to 148B.28; and

E. an independent practitioner who provides counseling services and who has been determined by the lead agency to:

(1) have a general knowledge of disabilities and chronic illnesses that may affect individual or family functioning;

(2) have skills in mental health assessment, including client interviewing and screening;

(3) have skills in mental health management including treatment planning, general knowledge of social services, record keeping, reporting requirements, confidentiality rules, and any federal or state regulations which apply to mental health services;

(4) have skills in individual and group counseling, including crisis intervention; and

(5) provide proof that:

(a) The individual possesses at least a bachelor's degree with a major in social work, nursing, sociology, human services, or psychology and has successfully completed 960 hours of experience as a counselor supervised by a licensed psychiatrist or psychologist. The experience can be either as a student, volunteer, or employee.

(b) The individual has successfully completed a minimum of:

i. 40 hours of classroom training in a health related field;

ii. 40 hours of classroom training in mental health assessment including interviewing skills;

iii. 40 hours of classroom training in mental health management including treatment planning, social services, record keeping, reporting requirements, and confidentiality;

iv. 40 hours of classroom training in individual and group counseling techniques; and

v. successful completion of 960 hours of experience as a counselor supervised by a licensed psychiatrist or licensed psychologist as either a student, volunteer, or employee; or

(c) The individual possesses training in unit (b), subunits (i) to (iii), and has successfully completed two years of supervised experience as a counselor or therapist.

9505.3100 HOMEMAKER SERVICES.

Subpart 1. **Availability as CADI service.** Homemaker services are available under CADI. Homemaker services must be designed to enable a recipient to remain at home and avoid admission to a nursing home and must be provided if authorized by the case manager.

Subp. 2. **Tasks of homemaker.** Homemaker services include:

A. house cleaning;

B. laundering and ironing;

C. meal planning and preparation;

D. dishwashing;

E. household management;

F. providing companionship, emotional support, and social stimulation;

G. observing and evaluating home safety practices and improving these practices where appropriate;

H. monitoring the safety and well being of the recipient; and

I. performing essential errands and shopping.

Subp. 3. **Qualified homemakers.** The lead agency shall assure that each recipient receiving homemaker services is served by a homemaker qualified under part 9565.1200, subpart 2.

Subp. 4. **Contracting for homemaker services and supervision.** The lead agency may directly provide or contract for homemaker services for a recipient as indicated in the recipient's care plan. If the lead agency provides homemaker services directly, the lead agency must also provide supervision of the homemaker's activities. If the lead agency contracts with a provider for homemaker services, the provider must meet the requirements of *Minnesota Statutes*, sections 144A.43 to 144A.46.

9505.3105 INDEPENDENT LIVING SKILLS SERVICES.

Subpart 1. **Availability as CADI services.** Independent living skills services are available under CADI. Independent living skills services may be provided in the disabled person's home or at a site approved by the case manager. Independent living skills services must be directed at the development and maintenance of community living skills and community integration.

Subp. 2. **Standards for providers of independent living skills services.** Providers of independent living skills services may include the following:

A. home health agencies enrolled as Medicaid providers;

B. rehabilitation agencies enrolled as Medicaid providers;

C. a person who is employed by an independent living center and who is determined by the lead agency to meet the requirements in subitems (1) to (5):

(1) has general knowledge of disabilities and chronic illnesses which affect an individual's ability to live independently in the community;

(2) has the ability to do a needs assessment of the skills a disabled individual must develop in order to live independently in the community;

(3) has knowledge of independent living skills management including service planning, general knowledge of social services, record keeping, reporting requirements, and confidentiality;

(4) has the ability to provide assistance, supervision, and training in the area of independent living; and

(5) provides proof that the person:

(a) has a bachelor's degree with a major in nursing, physical therapy, occupational therapy, or speech-language pathology,

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

psychology, or sociology, and has successfully completed 480 hours of experience working with disabled or chronically ill individuals as a student, volunteer, or employee, under the supervision or direction of a licensed physician;

(b) has successfully completed an accredited educational program for registered nurses or licensed practical nurses;

(c) has completed a nursing assistant training program or its equivalent for which competency as a nursing assistant is determined by the State Board of Vocational Technical Education;

(d) has completed a homemaker or home health aide preservice training program using a curriculum recommended by the Minnesota Department of Health and the supervising nurse has determined that the individual has the skills required to provide the independent living skills services as stated in the care plan; or

(e) has received a minimum of:

i. five hours of classroom training in recognizing the symptoms and effects of certain disabilities and health conditions;

ii. 20 hours of classroom instruction in providing supervision of, training to, and assistance with independent living skills services; and

iii. a determination by the supervising registered nurse that the individual has the skills required to provide the independent living skills services stated in the care plan. For purposes of this item, "independent living center" means a center that meets the requirements of parts 3300.3100 to 3300.3270.

9505.3107 MEDICAL SUPPLIES AND EQUIPMENT.

Subpart 1. **Availability as a CADI service.** Medical supplies and equipment are available as one of the extended home health services under CADI. The lead agency may buy or rent care-related medical supplies and equipment for a recipient if the medical supplies and equipment are specified in the recipient's approved care plan and are beyond the amount, scope, and duration available as covered services under parts 9505.0170 to 9505.0475; and the case manager has received prior authorization from the commissioner to use CADI funds.

Subp. 2. **Criteria to obtain commissioner's prior authorization.** To obtain prior authorization, the case manager must document that the medical supply or equipment is necessary to enable the recipient to remain in the community and is beyond the amount, scope, and duration available as a covered service under parts 9505.0170 to 9505.0475; and the cost of the medical supply or equipment is within the limitation specified in the waiver. "Prior authorization" means the commissioner's approval given to a lead agency before the lead agency purchases or rents the item.

9505.3110 RESPITE CARE SERVICES.

Subpart 1. **Availability as CADI service.** Respite care services are available under CADI. Respite care is limited to 720 hours per person per waiver year.

Subp. 2. **Provider standards.** Respite care may be provided in either an out-of-home setting or in the recipient's own home.

A. Out-of-home respite care must be provided in a facility approved by the county such as a hospital, nursing home, foster home, or community residential facility. When respite care is provided in a non-Medicaid certified facility, that facility must meet applicable state licensure standards.

B. In-home respite care providers must be individuals who meet the state qualifications required of registered or licensed practical nurses, home health aides, or personal care assistants who have been specifically trained to provide care to the recipient. Respite care workers must have had first-aid training and cardiopulmonary resuscitation training. A respite care worker who is a home health aide or personal care assistant must be under the supervision of a registered nurse. The registered nurse must assure that the respite care worker is able to read and follow instructions, able to write clear messages, and has a level of skill required by the recipient's needs.

9505.3115 STANDARDS FOR PROVIDER REIMBURSEMENT.

Lead agencies must assure that providers of all CADI services are qualified under parts 9505.0170 to 9505.0475 and 9505.3010 to 9505.3140 to provide the necessary service. In addition, a provider shall receive reimbursement for CADI services only if the provider meets the criteria in items A to D.

A. The provider must have current Minnesota certification or licensure for the specific CADI service if *Minnesota Statutes* or *Minnesota Rules* require certification or licensure.

B. The provider must assure that the provider and all employees or subcontractors meet the standards established in the waiver that apply to the services provided or in *Minnesota Statutes*, chapters 144A, 146, and 148; parts 9505.0170 to 9505.0475; and Code of Federal Regulations, title 42, sections 440.180 and 440.300 to 440.310.

C. The provider must be employed by or have contracted with the lead agency to provide CADI services.

D. The provider must be reimbursed only for services authorized by the case manager as part of the recipient's care plan.

9505.3120 LEAD AGENCY SELECTION OF CADI PROVIDERS.

Subpart 1. **Solicitation of providers.** The lead agency must solicit providers for all CADI services. The solicitation may be by written notice, a request for proposal, or as part of the annual public meeting required by *Minnesota Statutes*, section 256B.091, subpart 8, and part 9505.2460, subpart 1. If the lead agency chooses to use a written notice, the lead agency must place the notice in the newspaper that is the official newspaper designated by the county board of commissioners of the local agency under *Minnesota Statutes*, section 279.08. The notice must state the type of services for which a need is anticipated, the criteria in subpart 2 for selection as a CADI provider, the date by which the lead agency will complete its selection of CADI providers, and the name, telephone number, and address of the lead agency's contact person who can provide information about the criteria for selection and contract terms.

Subp. 2. **Selection factors.** The lead agency must contract with all providers that meet the standards to provide CADI services under parts 9505.3010 to 9505.3140. The lead agency must consider items A to G:

A. the need for the particular service offered by the provider;

B. the ability of the provider to meet the service needs of CADI recipients in the county;

C. the geographic area to be served by the provider;

D. the quality assurance methods to be used by the provider including compliance with required licensure, certifications, or standards and supervision of employees as required by parts 9505.3090 to 9505.3120;

E. the provider's agreement to provide the CADI service at a fee that is at or less than the county's maximum reimbursement rate for the service;

F. services previously or currently delivered by the provider; and

G. the provider's previous compliance with contract provisions and the provider's future ability to comply with contract provisions including billing requirements, and terms related to contract cancellation and indemnification.

Subp. 3. **Written record of reason for not selecting a provider.** A lead agency must keep a written record of the reason a provider who requests a contract to provide CADI services was not selected and must notify the provider of the reason.

9505.3125 CONTRACTS FOR CADI SERVICES.

Subpart 1. **Contract required.** To receive reimbursement for CADI services, the provider must be employed by or have a contract with the lead agency.

Subp. 2. **Compliance with applicable laws and regulations required.** The lead agency must have a medical assistance provider agreement according to part 9505.0195. The lead agency and any provider of services under parts 9505.3010 to 9505.3140 that is employed by or under contract to the lead agency must comply with Code of Federal Regulations, title 42; *Minnesota Statutes*, chapter 256B; and all applicable department rules relating to medical assistance providers.

Subp. 3. **Information required in contract.** The contract must contain:

A. the estimated number of CADI recipients to be served by the provider;

B. an agreement to comply with parts 9505.3010 to 9505.3140;

C. an agreement to comply with the Minnesota Government Data Practices Act;

D. the beginning and ending dates for the term of the contract;

E. an agreement to comply with the care plan as set forth by the case manager;

F. the amount that the lead agency shall pay the provider for the services;

G. the conditions under which the lead agency shall terminate the provider's contract;

H. documentation of an individual abuse prevention plan that complies with parts 9555.8000 to 9555.8500;

I. a description of the reports the provider must give the lead agency;

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

J. a description of the records the provider must keep; and

K. other provisions the county board determines are needed to ensure the county's ability to comply with part 9525.1900.

Subp. 4. **Subcontracts.** If the provider subcontracts with another contractor the provider must:

A. have written permission from the lead agency to subcontract;

B. ensure that the subcontractor meets all the requirements of subparts 2 and 3 in the same manner as those requirements apply to all providers; and

C. ensure that the subcontractor performs fully the terms of the subcontract.

Subp. 5. **Noncompliance.** If the provider or subcontractor fails to comply with the contract, the lead agency must notify the local agency and request the county board to take appropriate action. Upon receiving the request, the county board shall seek any available legal remedy. The county board shall notify the commissioner in writing within 30 days of receiving information that provides the county board with reasonable grounds to believe that a contract required under this part has been breached in a material manner or that a provider or subcontractor has taken any action or failed to take any action that constitutes anticipatory breach of the contract. The county board may allow the provider or subcontractor a reasonable amount of time to cure the breach or anticipatory breach. The county board shall notify the commissioner in writing within ten working days if the provider or subcontractor takes any action or fails to take any action in response to the opportunity to cure. In the notice, the county board shall inform the commissioner of the action the county board intends to take.

9505.3130 AGENCY REPORTS AND RECORDS.

Subpart 1. **County plans.** The lead agency must submit an annual county plan for CADI services on forms provided by the commissioner. The lead agency must submit the county plan to the commissioner by August 1 of each year for the lead agency to receive reimbursement for CADI services during the next waiver year. The lead agency must submit revisions of the county plan to the commissioner for approval before implementing the revisions. The submitted plan or a revision of a plan must be signed by the person authorized by the county board. The county plan must include items A to J:

A. name and address of the lead agency;

B. name, address, and telephone number of the administrative contact within the lead agency;

C. a description of how the agency will make sure that the actual cost of services per individual per waiver year will not exceed the limits specified in part 9505.3040;

D. criteria and method used to notify and select providers;

E. proof that all services covered by the waiver will be available in the community;

F. a description of how the agency will make sure that CADI clients are applicants for admission to, or residents of, nursing homes;

G. a description of how the agency will make sure that clients are given a choice of institutional or community care according to part 9505.3025, subpart 3;

H. a description of how the agency will make sure that the safety and health of clients served by the waiver will be protected;

I. a description of how the agency will comply with the Minnesota Government Data Practices Act; and

J. a description of how the local agency will comply with subpart 4 in regard to provider records.

Subp. 2. **Resubmission of conditional approvals or rejections.** If a county plan is conditionally approved or rejected, the revised plan must be submitted within 30 days or reimbursement for CADI services will be suspended until the plan is fully approved. However, the county must continue to pay for CADI services using county funds until a county plan has been approved.

Subp. 3. **Provider agreements.** A county participating in the CADI program must designate a lead agency and must submit an enrollment form and a signed provider agreement that enrolls the lead agency as a CADI provider eligible to receive medical assistance payment for CADI services. The enrollment and signed provider agreements must be on forms provided by the commissioner.

Subp. 4. **CADI provider records.** The lead agency and a CADI provider under contract with the lead agency must maintain complete program and fiscal records and supporting documentation identifying the CADI recipients served, the services provided, and the costs incurred. The records must be identified and maintained separately from other provider records. The lead agency's and the providers' records are subject to the maintenance schedule, audit availability requirements, and other provisions in parts 9505.1750 to 9505.2150.

9505.3135 RATES FOR CADI SERVICES.

Subpart 1. **Notices to lead agencies.** By June 1 of each year, the commissioner shall notify a lead agency of the statewide maximum rate allowed for reimbursement of a CADI service under subpart 2.

Subp. 2. **Maximum CADI service rate.** The commissioner shall annually set the maximum rate available to a county to reimburse a provider for a CADI service other than a case management service. The rates for CADI services other than a case management service shall be adjusted for each waiver year based on medical assistance rates for equivalent services. For services that do not have a medical assistance payment rate under part 9505.0445, for years beginning on July 1 following the effective date of parts 9505.3010 to 9505.3140, the commissioner shall authorize an adjustment in the CADI rate (available to a county as reimbursement to a CADI provider) up to the percentage change forecast in the first quarter of the calendar year by the Home Health Agency Market Basket of Operating Costs, Health Care Costs. The Home Health Agency Market Basket of Operating Costs, Health Care Costs is published by Data Resources, Inc. McGraw-Hill and is subject to quarterly updating. The Home Health Agency Market Basket of Operating Costs, Health Care Costs, is incorporated by reference and is available for inspection at the department, Division of Reports and Statistics, Third Floor, 444 Lafayette Road, St. Paul, Minnesota 55101 and through the Minitex interlibrary loan system.

Subp. 3. **County CADI service rate.** A county may set rates for CADI services not to exceed the rates established in subpart 1. County rates are subject to audit by the commissioner. Administrative costs are part of the case management rate and are to be included in the case management rate and not added to the county rate for other services.

Subp. 4. **Supervision costs.** The cost of supervision for all services except extended personal care must be included in the rate unless payment for the supervision is included in the rate for skilled nursing services. Supervision of personal care services shall be paid according to the rate specified in part 9505.0445, item K, for private duty nursing performed as a supervisory visit by a private duty nurse.

Subp. 5. **Recovery of costs.** The county of service must monitor use and costs of CADI services. According to part 9505.0195, subpart 6, the county of service must pay the commissioner the amount by which the costs exceed the limits specified in part 9505.3040.

9505.3138 CRITERION FOR DELAY IN SENDING REQUIRED NOTICES.

If information that the commissioner needs to prepare and send the notices required under parts 9505.3010 to 9505.3140 is not provided in time for the commissioner to meet the time specified in parts 9505.3010 to 9505.3140, the required notices shall be sent as soon as possible after the commissioner receives the needed information.

9505.3139 BILLING FOR CADI SERVICES.

A provider of CADI services must submit a claim to the lead agency through the CADI recipient's case manager for payment for a CADI service specified in a CADI recipient's care plan. A claim under this part must not exceed the amount specified in the contract between the CADI provider and the lead agency that is required under part 9505.3125. The CADI provider must submit the claim for payment according to the billing procedures in part 9505.0450, however, the claim shall not be submitted directly to the department.

9505.3140 APPEALS.

Subpart 1. **Notice of right to appeal.** A person assessed or reassessed under part 9505.3060 has the right to appeal action described in subpart 2. The case manager must provide the person or the person's representative with written information about the right to appeal. The information must state the grounds for an appealable action and must state that CADI services will not be reduced, suspended, or terminated if the appeal is filed before the date specified in the information unless the person requests in writing not to receive CADI services while the appeal is pending.

Subp. 2. **Appealable actions.** A person being assessed or reassessed under part 9505.3060, may appeal if the following actions are taken by the agency:

A. CADI services are denied;

B. eligibility for CADI services is not determined with reasonable promptness; and

C. CADI services are reduced, suspended, or terminated.

Subp. 3. **Actions that are not appealable.** A denial, reduction, suspension, or termination of CADI services is not an appealable action if the following conditions apply:

A. the person is a nursing home resident but the cost of home care would exceed the cost of nursing home care;

B. the person is an applicant for admission to a nursing home but the costs of the CADI services exceed the limit in part 9505.3040;

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

C. there are no slots available for CADI services; or

D. the waiver is terminated.

Subp. 4. **Submission of appeals.** The person being assessed or reassessed who wants to appeal must submit the appeal in writing to the lead agency of the county of service or to the department within 30 days after receiving written notice of the appealable action, or within 90 days of the written notice if a good cause for delay can be shown.

Subp. 5. **Hearing of appeal.** An appeal of issues meeting the criteria under subparts 1, 2, and 4 shall be heard and decided according to *Minnesota Statutes*, section 256.045.

Department of Labor and Industry

Occupational Safety and Health Division

Proposed Revisions to the Occupational Safety and Health Standard Request for Comments

NOTICE IS HEREBY GIVEN that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) proposes to adopt the following revisions to the Department of Labor and Industry, Occupational Safety and Health Rules, as authorized under *Minnesota Statutes* § 182.655 (1988). This revision proposes the adoption by reference of Occupational Safety and Health Standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration (Federal OSHA).

A complete copy of the federal standard proposed for adoption is available by writing: Occupational Safety and Health Division, Department of Labor and Industry, 443 Lafayette Road, St. Paul, Minnesota 55155-4307; or by calling: (612) 297-3254.

Interested persons are hereby afforded a period of 30 days to submit written data or comments on the described standards. Any interested person may file with the Commissioner written objections to the proposed standard stating the grounds for those objections. Such person may request a public hearing on those objections. Written comments or requests for hearing should be sent to the above address and must include the name and address of the person submitting the comment or request, define the reason for the comment or hearing request, and discuss any proposed changes.

Ken Peterson, Commissioner
Department of Labor and Industry

Standards as Proposed

5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.

Subpart 1. [Unchanged.]

Subp. 2. **Part 1910.** Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the Federal Register on October 24, 1978 and corrected in Volume 43, No. 216, November 7, 1979 which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes prior to ~~August 1, 1989~~ December 6, 1989:

A to K. [Unchanged.]

L. *Federal Register*, Volume 54:

(1) to (6) [Unchanged.]

(7) *Federal Register*, Vol. 54, No. 146, dated August 1, 1989: "Occupational Exposure to Formaldehyde 1910.1048); Correction."

(8) *Federal Register*, Vol. 54, No. 166, dated August 29, 1989: "Occupational Exposure to Formaldehyde (1910.1048); Extension of Administrative Stay."

(9) *Federal Register*, Vol. 54, No. 169, dated September 1, 1989: "Control of Hazardous Energy Sources—Lockout/Tagout (1910.147)."

(10) *Federal Register*, Vol. 54, No. 170, dated September 5, 1989: "Air Contaminants; Final Rule—Grant of Petitions for Reconsideration of Three Exposure Limits and Partial Stays of Effective Dates for Four Substances (1910.1000)."

(11) *Federal Register*, Vol. 54, No. 174, dated September 11, 1989: "Occupational Exposure to Formaldehyde (1910.1048); Correction."

(12) *Federal Register,* Vol. 54, No. 193, dated October 6, 1989: "Air Contaminants (1910.1000); Final Rule Partial Stay of Effective Date for Two Substances."

(13) *Federal Register,* Vol. 54, No. 199, dated October 17, 1989: "Control of Hazardous Energy Sources—Lockout/Tagout (1910.147); Final Rule Approval of Information Collection Requirements."

(14) *Federal Register* Vol. 54, No. 213, dated November 6, 1989: "Control of Hazardous Energy Sources—Lockout/Tagout (1910.147); Final Rule Extension of Effective Date."

(15) *Federal Register,* Vol. 54, No. 219, dated November 15, 1989: "Air Contaminants; Final Rule Corrections."

(16) *Federal Register,* Vol. 54, No. 233, dated December 6, 1989: "Air Contaminants; Final Rule Partial Stay of Effective Date for Two Substances."

Subp. 3 to 5. [Unchanged.]

Subp. 6. **Part 1926.** Part 1926: Construction Safety and Health Regulations as published in Part VII, Volume 44, No. 29, of the *Federal Register* on February 9, 1979 which incorporates changes, additions, deletions and corrections made up to October 17, 1978 and includes General Industry Occupational Safety and Health Standards (29 CFR Part 1910) which have been identified as applicable to construction work; and subsequent changes made prior to ~~August 1, 1989~~ December 6, 1989:

A. to D. [Unchanged.]

E. *Federal Register*, Volume 54

(1) and (2) [Unchanged.]

(3) *Federal Register,* Vol. 54, No. 192, dated October 5, 1989: "Concrete and Masonry Construction Safety Standards (Subpart 0 of 29 CFR Part 1926); Final Rule Technical Amendment."

(4) *Federal Register,* Vol. 54, No. 209, dated October 31, 1989: "Excavations (Subpart P of 29 CFR Part 1926)."

REPEALER. *Minnesota Rule,* part 5205.0680 is repealed.

Summary of Standards: The following is a summary of each standard proposed for adoption; persons interested in reviewing any of these standards in their entirety, along with the preamble discussion published by Federal OSHA, may obtain a copy as noted above.

A) "Control of Hazardous Energy Source (Lockout/Tagout)–1910.147." On September 1, 1989, Federal OSHA issued a standard detailing safety requirements for the control of hazardous energy as a new section 1910.147. The standard addresses practices and procedures that are necessary to disable machinery or equipment and to prevent the release of potentially hazardous energy while maintenance and servicing activities are being performed. The standard requires that lockouts be utilized for equipment which is designed with a lockout capability except when the employer can demonstrate that utilization of tagout provides full employee protection. For equipment which was not designed to be locked out, the employer may use tagout. In addition, the standard also supplements and supports the existing lockout related provisions contained elsewhere in the general industry standards by providing that comprehensive and uniform procedures be used for complying with those provisions. Under the standard employers must:

–Develop an energy control program.

–Use locks when equipment can be locked out.

–Ensure that new equipment or overhauled equipment can accommodate locks.

–Employ additional means to ensure safety when tags rather than locks are used by using an effective tagout program.

–Identify and implement specific procedures (generally in writing) for the control of hazarous energy including preparation for shutdown, shutdown, equipment isolation, lockout/tagout application, release of stored energy, and verification of isolation.

–Obtain standardized locks and tags which indicate the identity of the employee using them and which are of sufficient quality and durability to ensure their effectiveness.

–Conduct inspections of energy control procedures at least annually.

–Train employees in the specific energy control procedures with training reminders as part of the annual inspections of the control procedures.

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

–Adopt procedures to ensure safety when equipment must be tested during servicing, when outside contractors are working at the site, when a multiple lockout is needed for a crew servicing equipment and when shifts or personnel change.

The standard applies to general industry employment but does not cover maritime, agriculture or construction employment. The standard also does not cover oil and gas well drilling; the generation, transmission and distribution of electric power by utilities; and electrical work on electric conductors and equipment. These will be the subjects of separate rulemaking efforts. Also excluded from coverage are normal production operations including repetitive, routine minor adjustments and maintenance which would be covered under OSHA's machine guarding standards; work on cord and plug connected electric equipment when it is unplugged, and the employee working on the equipment has complete control over the plug; and hot tap operations involving gas, steam, water or petroleum products when the employer shows that continuity of service is essential, shutdown is impractical and documented procedures are followed to provide proven effective protection for employees.

The standard was originally scheduled to go into effect on October 31, 1989. However, at the request of several groups and companies, Federal OSHA has extended the effective date for compliance with the standard to January 2, 1990.

Minnesota OSHA has lockout/tagout standards currently in effect for general industry (*Minnesota Rule* 5205.0680) and for construction (*Minnesota Rule* 5207.0600). These rules require employers to protect employees from unexpected energization or start-up of machines and equipment during servicing and maintenance operations. Because the federal standard is more comprehensive, Minnesota OSHA proposes to adopt 1910.147 as published in the September 1, 1989, *Federal Register* by reference. *Minnesota Rule* 5205.0680 will be repealed upon adoption of 1910.147. This adoption includes the information collection requirements as approved by the Office of Management and Budget and published in the October 17, 1989 *Federal Register.*

[Note: Since 1910.147 applies only to general industry, *Minnesota Rule* 5207.0600, which describes lockout/tagout requirements for construction, is not affected by this action and will remain in effect.]

B) "Occupational Exposure to Formaldehyde (1910.1048)." On December 4, 1987, Federal OSHA published a final rule on occupational exposure to formaldehyde (1910.1048); Minnesota OSHA adopted this standard on May 30, 1988. In response to numerous comments indicating confusion about the hazard warning provisions of the new standard, Federal OSHA announced an administrative stay of paragraphs (m)(l)(i) through (m)(4)(ii) for a nine-month period beginning December 18, 1988. At the same time, Federal OSHA invited comments concerning replacing these provisions with the Hazard Communication Standard (29 CFR 1910.1200) or another equally protective alternative which would be less confusing. Minnesota OSHA adopted the administrative stay on February 6, 1989.

Federal OSHA has not yet completed work on the proposed amendments and has extended the stay until June 13, 1990 to allow time to consider what regulatory action is necessary. While the stay is in effect, affected employers must continue to comply with the provisions of the Hazard Communication Standard.

By this notice, Minnesota OSHA proposes to adopt the extension of the administrative stay until June 13, 1990. While the stay remains in effect Minnesota employers must comply with the appropriate provisions of the Employee Right-to-Know Standard. Corrections to the Occupational Exposure to Formaldehyde Standard published in the *Federal Register* on August 1, 1989, and September 11, 1989, are also included in this proposal.

C) "Air Contaminants (1910.1000)." Federal OSHA reduced exposure limits for 375 toxic and hazardous substances on January 19, 1989; Minnesota OSHA adopted the revised limits on May 1, 1989. On September 5, 1989, Federal OSHA granted petitions for reconsideration of three exposure limits and partial stays of effective dates for four substances as follows:

ACETONE–After consideration, Federal OSHA concluded that health protection of workers in the cellulose acetate fiber industry can best be affected through a settlement agreement negotiated with the industry. The Amalgamated Clothing and Textile Workers Union, which represents workers in the industry, supports the settlement agreement which provides that Tennessee East and Hoechst Celanese, the only two companies in the industry, will install an extensive series of engineering controls over the next three years to reduce employee exposure levels to below the STEL of 1000 parts per million parts of air. These companies will also install airline respirators where needed, maintain a medical program, and transfer workers who show sensitivity to acetone to lower exposure levels. When the programs are complete, OSHA will review the results and issue a new final rule for acetone following public notice and comment; the programs must be completed by no later than June 30, 1993. Although the STEL will not be in effect for the cellulose acetate fiber industry, the company commitments will provide protection to employees in these industries. The STEL will remain in effect for all other industries.

CALCIUM OXIDE AND CALCIUM HYDROXIDE–Federal OSHA has concluded that a major additional study on the health effects of these two substances would be of considerable benefit in determining exposure limits. The National Lime Association has agreed to perform a study in conformance with a protocol approved by OSHA; the study is scheduled for completion by December 31, 1990. Following that study, but no later than June 30, 1991, Federal OSHA will reconsider the exposure limits for the two substances. While the study is taking place, workers will continue to be protected at the 5 mg/m^3 level for calcium oxide and at the "particulates not otherwise regulated" (nuisance dust) level of 5 mg/m^3 respirable dust and 15 mg/m^3 total dust for calcium hydroxide.

CARBON MONOXIDE–Pending the outcome of litigation in the U.S. Court of Appeals, OSHA has stayed the September 1, 1989, start-up date of the ceiling limit for carbon monoxide in three steel industry operations–blast furnaces, vessel blowing at basic oxygen furnaces, and sinter plants.

NITROGLYCERIN AND ETHYLENE GLYCOL DINITRATE—Federal OSHA originally stayed the exposure limit start-up date to October 1, 1989 for these substances in the explosives industry pending the outcome of settlement negotiations currently underway. On October 6, that partial stay was extended to December 1, 1989; on December 6, 1989, the partial stay was extended to February 1, 1990.

By this notice, Minnesota OSHA proposes to adopt the extended partial stay of the start-up date for the new exposure limits for nitroglycerin and ethylene glycol dinitrate for the explosives industry.

PERCHLOROETHYLENE—In order to effect a more orderly notification of segments of the drycleaning industry that air-purifying respirators may be used in certain circumstances, Federal OSHA stayed the effective date from September 1 to October 1, 1989 for this substance in the drycleaning industry. A letter was sent to the International Fabricare Institute indicating the conditions under which air-purifying respirators may be used. No extensions of this partial stay have been issued; therefore, the new 25 ppm TWA exposure limit for perchloroethylene for the drycleaning industry became effective October 1, 1989.

By this notice, Minnesota OSHA proposes to adopt the above partial stays as published in the *Federal Register* on September 5, 1989. In addition, Minnesota OSHA proposes to adopt the corrections to the air contaminants standards as published in the *Federal Register* on November 15, 1989, which noted corrections to the preamble as well as the regulatory text of 1910.1000.

D) "Concrete and Masonry Construction (1926.704)." Federal OSHA published the final rule for concrete and masonry construction on June 16, 1988; Minnesota OSHA adopted the standard on September 12, 1988. The *Federal Register* publication of the standard, however, included an error in 1926.704(b). The word "shall" was incorrectly changed to "should" in the final standard; the proposed standard read "shall" and, as noted in the preamble to the final standard, the requirement was intended to be mandatory. The October 5, 1989 *Federal Register* notice corrects that error. Section 1926.704(b) correctly reads: "Lifting inserts which are embedded or otherwise attached to tilt-up precast concrete members *shall* be capable of supporting at least two times the maximum intended load applied or transmitted to them."

E) "Excavations (Subpart P of 29 CFR Part 1926)." On October 31, 1989, Federal OSHA revised Subpart P of Part 1926, combining the requirements for excavations and trenching into one standard. The revised standard becomes effective January 2, 1990.

The existing standards regulate the use of support systems, sloping and benching systems and other protective systems as means of protection against excavation cave-ins; means of access to and egress from excavations; and employee exposure to vehicular traffic, falling loads, hazardous atmospheres, water accumulation, and unstable structures in and adjacent to excavations. The revised standard uses performance criteria where possible, rather than specification requirements; consolidates and simplifies many of the existing provisions; adds and clarifies definitions; reformats the standard to eliminate duplicate provisions and ambiguous language; provides a consistent method of soil classifications; and gives employers added flexibility in providing protection for employees.

The primary purpose of the revisions is to clarify the requirements so that companies can tailor their protective measures to their particular situations while still providing adequate employee protection.

The revised standard allows construction projects more flexibility since it provides four options for sloping and four options for shoring (including using shields). The standard uses diagrams to explain that soil classification is required in shoring or shielding operations, however operators can select a choice of four methods:

(1) Use of timber shoring as detailed in Appendices A (Soil Classification) and C (Timber Shoring for Trenches);

(2) Using hydraulic shoring, trench jacks, air shores, and shields in accordance with manufacturers' tabulated data;

(3) Using shoring or shielding methods that are based on tabulated data—tables and charts—that have been approved by a registered professional engineer;

(4) Use of any design of protective method so long as it is approved by a registered professional engineer.

If sloping is chosen as a means of protection, companies also have four options. If the employer decides not to do any soil classification, the slope of the excavation's sides can be no steeper than 34 degrees. If soil classification is done in accordance with the system chosen, operators have three other options: the first choice requires that Appendices A (Soil Classification) and B (Sloping

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

and Benching) be followed; the second requires that companies use tabulated data approved by a registered professional engineer; and the third option allows that excavations can be designed by a registered professional engineer.

Appendices in the standard provide pictorial examples of shoring/shielding devices, hydraulic shoring tables and selection charts which provide a graphic summary of the requirements contained in the standard, and shoring tables in both nominal and actual size timber for timber shoring.

The standard also includes requirements for the protection of employees against cave-ins including daily inspections; protective systems; removal or neutralization of surface encumbrances which may create a hazard; pinpointing locations of underground installations such as sewer, electrical, fuel, and telephone lines; provision of adequate means of access and egress; warning systems for mobile equipment; and testing and controls for hazardous atmospheres.

The standard allows an employer to use a trench box or shield that is either designed or approved by a registered professional engineer (RPE) or is based on tabulated data prepared or approved by an RPE. Construction workers may remain inside trench shields that are being repositioned, provided that the shields are moved horizontally only and the shields are not lifted. The new standard also requires that information necessary for the safe installation, placement, use, and removal of any trench support system must be available at the worksite at all times; however, a written log or record of inspections is not required.

By this notice, Minnesota OSHA proposes to adopt revised Subpart P of 29 CFR Part 1926 as published in the *Federal Register* on October 31, 1989.

Minnesota State Lottery

Proposed Permanent Rules Relating to Lottery Retailers

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing With Respect to Proposed Rules, and Notice of Intent to Cancel Hearing on the Proposed Rules if Fewer Than 25 Persons Request a Hearing With Respect to the Proposed Rules

I. Explanation of Alternative Notices

The Minnesota State Lottery (hereinafter "Lottery") hereby gives notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* Sections 14.22 to 14.28 (1988). However, in the event 25 or more persons request a hearing with respect to the proposed amendments to the rule, thereby necessitating that one be held pursuant to *Minnesota Statutes* Section 14.25 (1988), and in order to expedite the rulemaking process should that occur, the Lottery is at the same time giving notice of a hearing on the proposed rule amendments pursuant to *Minnesota Statutes* Sections 14.131 to 14.20 (1988). The hearing on the proposed rules will, of course, be cancelled if 25 or more people do not request that a hearing be held with respect to the proposed rules. With the comment period closing on February 1, 1990, there will be seven days before the scheduled hearing date. This seven day period will give interested persons time to contact the Lottery to find out whether the hearing will be held or cancelled.

II. Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota State Lottery (hereinafter "Lottery") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing with respect to the proposed rules. The Lottery has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* Section 14.22 to 14.28 (1988).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on February 1, 1990. Comment is encouraged. Each comment should identify the portion of the rules being addressed, the reason for the comment, and any change proposed to the rules by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Lottery and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Lottery be informed of the specific portion of the rules on which a hearing is being requested at the time that the hearing request is made. This will enable the Lottery to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only

if 25 or more persons submit ***in writing*** requests for a hearing on the proposed rules or a portion thereof by February 1, 1990. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* Sections 14.131 to 14.20 (1988) and the hearing notice provided below.

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

Dale L. McDonnell
Legal Counsel
Minnesota State Lottery
Second Floor Centennial Building
658 Cedar Street
St. Paul, MN 55155

The statutory authority of the Lottery to adopt the proposed rules is contained in *Minnesota Statutes* Section 349A.05 (1989 Supplement).

The proposed rules will be published in the *State Register* issue of January 2, 1990, and a copy of the rules may be obtained from the Lottery by writing Dale L. McDonnell at the address listed 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 rules has been prepared and may be reviewed at the Lottery by contacting Dale L. McDonnell at the address listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* Section 14.11 (1988).

The Lottery is subject to *Minnesota Statutes* Section 14.115 (1988) regarding small business considerations in rulemaking. The Lottery's evaluation of the applicability of the methods contained in *Minnesota Statutes* Section 14.115, subd. 2 (1988), for reducing the impact of the proposed rules on small business are addressed in the statement of need and reasonableness.

Upon completion of proposed rules without a public hearing, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 rules as adopted should submit a written request to Dale L. McDonnell at the address listed above.

III. Notice of Intent to Adopt Rules with a Public Hearing on the Proposed Rules if 25 or More Persons Request a Hearing with Respect to the Proposed Rules

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes* Sections 14.131 to 14.20 (1988) on February 9, 1990 commencing at 9:00 a.m. in Room 300 North, State Office Building, St. Paul, Minnesota.

The hearing will continue, if necessary, at additional times and places as determined during the hearing by the administrative law judge.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to George Beck, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7601.

Unless a longer period, not to exceed 20 calendar days, is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Lottery and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three day period. This rule hearing procedure is governed by *Minnesota Statutes* Sections 14.131 to 14.20 (1988) and by *Minnesota Rules*, Pts. 1400.0200 to 1400.1200 (1986). Questions about procedure may be directed to the administrative law judge.

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

The proposed rules will be published in the *State Register* issue of January 2, 1990, and a copy of the rules may be obtained from the Lottery by writing Dale L. McDonnell at the address listed above in Part II of this notice.

The statutory authority of the Lottery to adopt the proposed rules is contained in *Minnesota Statutes* Section 349A.05 (1989, Supplement).

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore encouraged to participate in the process.

Minnesota Statutes, ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, Section 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

NOTICE IS HEREBY GIVEN that a statement of need and reasonableness is now available for a review at the Lottery and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Lottery anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules amendments. The statement of need and reasonableness may be reviewed at the Lottery by contacting Dale L. McDonnell at the address listed above in Part II of this Notice or it may be reviewed at the Office of Administrative Hearings, and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

PLEASE NOTE: That any person may request notification of the date on which the administrative law judge's report will be available, after which date the Lottery may not take any final action on the rule amendments for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may require notification of the date on which any rule amendments were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Lottery at any time prior to the filing of the rules with the Secretary of State.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* Section 14.11 (1988).

The Lottery is subject to *Minnesota Statutes* Section 14.115 (1988) regarding small business considerations in rulemaking. The Lottery's evaluation of the applicability of the methods contained in *Minnesota Statutes* Section 14.115, subd. 2 (1988) for reducing the impact of the proposed rule amendments on small business are addressed in the statement of need and reasonableness.

IV. Notice of Intent to Cancel the Hearing with Respect to the Rules if Fewer than 25 Persons Request a Hearing with Respect to the Proposed Rules

PLEASE NOTE that the Hearing, Notice of which is Given in Part III Above, Will Be Cancelled With Respect to the Proposed Rules if Fewer than 25 Persons Request a Hearing with Respect to the Proposed Rules in Response to the Notice Given in Part II Above.

To be informed whether a hearing noticed in Part III above will be held, please contact Dale L. McDonnell at the address listed above in Part III of the Notice before February 1, 1990 and provide your name, address, and telephone number. You will be notified after February 1, 1990 if the hearing has been cancelled. You may also call Mr. McDonnell at (612) 297-7100 after February 1, 1990 for oral confirmation regarding the scheduled hearing.

Dated: 19 December 1989

George R. Andersen
Director
Minnesota State Lottery

Rules as Proposed (all new material)

7856.1000 DEFINITIONS.

Subpart 1. **Terms.** For purposes of this chapter the terms defined in this part have the meanings given them.

Subp. 2. **Bank.** "Bank" means a bank, banking association, savings and loan association, trust company, or credit union, organized under the authority of this state or the United States with a place of business within this state.

Subp. 3. **Board.** "Board" means the Minnesota State Lottery Board.

Subp. 4. **Director.** "Director" means the director of the Minnesota State Lottery.

Subp. 5. **Division.** "Division" means the Division of Lottery of the Minnesota Department of Gaming created to administer and operate the lottery.

Subp. 6. **Law or state lottery law.** "Law" or "state lottery law" means *Minnesota Statutes*, chapter 349A.

Subp. 7. **Lottery.** "Lottery" means the Minnesota state lottery operated pursuant to the law.

Subp. 8. **Lottery retailer or retailer.** "Lottery retailer" or "retailer" means a person who has entered into a contract with the director authorizing the retailer to sell lottery tickets.

Subp. 9. **Lottery retailer contract.** "Lottery retailer contract" means the contract entered into between a retailer and the director that authorizes the retailer to sell lottery tickets.

Subp. 10. **Lottery ticket or ticket.** "Lottery ticket" or "ticket" means a lottery ticket issued by the Minnesota State Lottery for sale to the general public.

Subp. 11. **Person.** "Person" means an individual, association, corporation, club, trust, estate, society, company, owner or operator of a business, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary capacity, whether appointed by a court or otherwise, and any other combination of individuals. The term includes agencies and instrumentalities of the state, including counties and municipalities and agencies and instrumentalities of these entities.

Subp. 12. **Settlement date.** "Settlement date" means the date, designated by the director, by which the retailer is to return unsold instant tickets for a particular game.

Subp. 13. **State.** "State" means the state of Minnesota.

7856.1010 SCOPE.

This chapter is adopted by the director for the operation of the lottery and other matters pertinent to its administration.

7856.1020 DIRECTOR; POWERS AND DUTIES.

The director shall have the power and duty to operate and administer the lottery and to have the overall supervisory authority and responsibility of the lottery, including the adoption of rules and game procedures governing its establishment and operation, subject to review and comment by the board as provided by law. Those powers and duties include, but are not limited to, the administration of the following:

A. the types of lottery games to be conducted;

B. the price, or prices of tickets;

C. the number and sizes of prizes on the winning tickets;

D. the manner of selecting winning tickets;

E. the manner of payment of prizes to holders of winning tickets;

F. the frequency of drawings on selections of winning tickets;

G. the types and numbers of locations at which tickets may be sold;

H. the manner and amount of compensation to be paid to retailers necessary to provide for adequate availability of tickets to prospective buyers and for the convenience of the public;

I. the methods to be used in selling tickets;

J. the contracting with retailers to sell tickets pursuant to the law;

K. the apportionment of total revenues accruing from the sale of tickets and from other sources as provided by law;

L. reporting annually to the governor and legislature as required by law;

M. maintaining full and complete records of the lottery; and

N. other matters necessary or desirable for the efficient operation and administration of the lottery, for the convenience of the purchasers of tickets and holders of winning tickets, and to ensure the integrity and public confidence in the lottery.

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

7856.2010 RETAILER APPLICATION.

Subpart 1. **Application.** A person interested in obtaining a contract as a retailer for the sale of lottery tickets shall file an application to become a lottery retailer with the lottery in the form and manner prescribed by the lottery. A separate application must be submitted for each location at which the retailer desires to sell tickets.

Subp. 2. **Fee.** Each retailer application for an initial contract and renewal of the contract must be accompanied by a nonrefundable fee of $100.

7856.2020 SELECTION OF RETAILERS.

Subpart 1. **Eligibility.** An applicant for a lottery retailer contract must:

A. be at least 18 years of age;

B. not propose to be in business solely as a seller of lottery tickets;

C. not own $500 or more in delinquent taxes as defined in *Minnesota Statutes*, section 270.72;

D. not be convicted within the previous five years of a felony, gross misdemeanor, a crime involving fraud or misrepresentation, or a gambling related offense;

E. not have an officer, director, or person who owns more than five percent of the business of the applicant who has within the previous five years been convicted of a felony, gross misdemeanor, or crime involving fraud or misrepresentation, or a related offense except as provided under *Minnesota Statutes*, section 349A.06, subdivision 2, clause (c); and

F. not a member of the immediate family residing in the same household as the director, board member, or employee of the division.

Subp. 2. **Factors to be considered.** Before selecting a lottery retailer, the director shall consider:

A. the financial responsibility of the retailer;

B. the honesty and integrity of the retailer;

C. the accessibility of the place of business of the retailer;

D. the sufficiency of existing lottery retailers to serve the public convenience;

E. the volume of expected retailer sales;

F. the veracity of the information supplied in the application;

G. the length of time the retailer has been in business; and

H. the nature and type of business engaged in by the retailer.

Subp. 3. **Residency requirements.** Contracts shall be issued only to any of the following:

A. residents of the state;

B. corporations incorporated in this state, or authorized to do business in this state;

C. partnerships authorized to do business in this state; and

D. unincorporated businesses or other entities which are authorized to do business in this state.

7856.3010 ISSUANCE OF CONTRACT.

Subpart 1. **General.** Retailer contracts may be entered into by the director without limitation, except that the director may, at the director's discretion, determine that a sufficient number of retailers exists within a given marketing area to adequately serve the public convenience and necessity or that the addition of lottery retailers would not result in a sales increase sufficient to warrant contracting with that retailer.

Subp. 2. **Issuance.** The director will, according to the law and rules of this chapter, contract with retailers to sell lottery tickets to persons who in the director's opinion will best serve the public convenience and promote the sale of tickets consistent with the experience, character, and general fitness of the applicant.

Subp. 3. **Contract.** A retailer's contract will remain in full force and effect until the termination date as provided by law, unless the contract is previously canceled or suspended by the director according to the provisions of the law and the rules of this chapter. The director may renew any contract at the end of a term for an additional term.

Subp. 4. **Types of contracts.** Contracts entered into between the lottery and a retailer under this part may be distinguished by game type, as determined by the director. The contract may be altered, amended, suspended, or canceled, in whole or in part, pursuant to the law, this chapter, game procedures, and the terms of the contract.

7856.3020 CERTIFICATE.

Subpart 1. **Issuance.** Upon issuance of a contract authorizing a retailer to sell lottery tickets, the director shall issue a certificate to the retailer.

Subp. 2. **Display.** A lottery retailer shall prominently display the certificate issued under this part in an area visible to the general public. The lottery retailer shall also mount a decal provided by the lottery in a prominent place on the window or entrance to the business.

Subp. 3. **Surrender.** The certificate issued under this part must be surrendered by the retailer upon cancellation, suspension, or nonrenewal of the retailer's contract.

7856.3030 TEMPORARY LICENSES.

Pending final determination of any criteria under this chapter, the director may enter into a temporary contract for a period not to exceed 90 days.

7856.4010 CONDITIONS OF RETAILER CONTRACT.

Subpart 1. **Terms.** A lottery retailer contract must include, but is not limited to, the conditions specified in this part.

Subp. 2. **Rules and law.** The lottery retailer shall agree to be bound by and comply with the provisions of the law, and any rules, instructions, and orders issued by the director.

Subp. 3. **Sale of lottery tickets.** The lottery retailer shall agree to make available for sale to the public valid lottery tickets during normal business hours.

Subp. 4. **Displays.** The lottery retailer shall agree to maintain displays, notices, and materials supplied by the lottery according to instructions issued by the lottery.

Subp. 5. **Acceptance of tickets.** The lottery retailer shall agree that all lottery tickets accepted from the lottery or its distributor are considered to have been purchased by the lottery retailer at the price established by the lottery, less appropriate retailer commission, unless unsold tickets are returned to the lottery on or before the final settlement date.

Subp. 6. **Lost or missing tickets.** The lottery retailer shall agree to be responsible for lost, stolen, missing, or loose tickets not returned in sequential order.

Subp. 7. **Records.** The lottery retailer shall agree to maintain current and accurate records of all lottery operations in conformance with the law and as further directed by the lottery.

Subp. 8. **Access to records.** The lottery retailer shall agree to make available to employees of the lottery, and to employees of the Department of Public Safety, Gambling Enforcement Division upon their request, for inspection and audit, the records the retailer maintains relating to lottery operations.

Subp. 9. **Payment of prizes.** The lottery retailer agrees to validate and pay winning tickets consistent with normal business hours or as agreed to between the lottery and the retailer.

Subp. 10. **Liability for proceeds.** The lottery retailer shall agree to be personally liable for all proceeds from the sale of lottery tickets and that the proceeds constitute a trust fund in favor of the lottery until paid to the lottery.

Subp. 11. **Hold harmless.** The lottery retailer shall agree to hold the lottery and the state of Minnesota harmless from any liability arising in connection with conducting the sale of lottery tickets.

Subp. 12. **Status.** The lottery retailer shall agree that, in its capacity as a contractor to sell lottery tickets, the retailer is not acting on behalf of the lottery or the state as an agent, officer, or employee, but is acting in the capacity of an independent contractor.

Subp. 13. **Liability.** The lottery retailer shall agree that any contractual or tortious liability incurred by the retailer in connection with the sale of lottery tickets shall be the retailer's sole responsibility.

Subp. 14. **Renewal.** The lottery retailer shall not conduct any business or hold itself out as a lottery retailer unless a renewal contract is timely granted.

Subp. 15. **Place tickets are sold.** The lottery retailer agrees to sell lottery tickets only on the premises described in the contract.

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

Subp. 16. **Cash.** The lottery retailer shall agree to sell lottery tickets only for cash. For the purposes of this subpart, "cash" means coin, currency, money orders, and checks.

Subp. 17. **Restrictions on sale of tickets.** The lottery retailer shall agree not to condition the sale of lottery tickets upon the purchase of any other item or service, or impose any similar restriction upon the sale of a lottery ticket.

7856.4020 BONDING OF RETAILERS.

The lottery shall require a bond from each lottery retailer in an amount the lottery determines, consistent with its conclusion of the financial stability of the retailer, to avoid monetary loss to the state because of the activities of a retailer in the sale of lottery tickets. The bond must be through a company authorized to do business in this state and approved by the director, to take effect within 90 days of the initial contract and subsequent renewals.

7856.4030 COMPENSATION.

Subpart 1. **Commission.** Retailers shall receive a commission of five percent of the price of each ticket sold by that retailer.

Subp. 2. **Incentive program.** The director may establish lottery retailer incentive programs for retailers and their employees.

Subp. 3. **Acceptance of other money prohibited.** A lottery retailer, or employee of a retailer may not request, demand, or accept gratuities or similar renumeration in exchange for the performance of duties authorized under the lottery retailer's contract with the lottery other than as specifically authorized by the director.

7856.4050 NONTRANSFERABILITY AND NONASSIGNABILITY OF CONTRACT.

A retailer contract issued under this chapter may not be transferred or assigned. If the nature of the business or location to which a contract is issued or the ownership substantially changes, the director reserves the right to approve or cancel the contract. The retailer must notify the director in writing at least 30 days before any proposed business or location change or change in ownership. A substantial change in ownership under this part means a transfer of 50 percent or more of the equity of the retailer. If the business to which a contract is issued changes its business location, the contract must terminate as of the date of the change and a new application for contract must be filed and acted upon by the director.

7856.5010 LOCATION OF SALES AND PURCHASE.

The sale of lottery tickets may be made only pursuant to a contract of a lottery retailer and only at the specific location named in the contract or at other locations as the director may determine under the law.

7856.5020 INSPECTION OF PREMISES.

Retailers shall allow inspection of their premises at any time upon request of the lottery to determined whether the retailer is complying with the provisions of the law, rules, game procedures of the lottery, and terms of the contract. Inspection may be made with or without notice to the retailer during normal business hours.

7856.6010 CANCELLATION, SUSPENSION, AND NONRENEWAL OF CONTRACT.

Subpart 1. **Mandatory.** A contract must be canceled if the retailer has been determined by the director to have:

A. been convicted of a felony or gross misdemeanor or a gambling related offense;

B. committed fraud, misrepresentation, or deceit;

C. provided false or misleading information to the lottery; or

D. acted in a manner prejudicial to the public confidence in the integrity of the lottery.

Subp. 2. **Discretionary.** A contract may be canceled, suspended, or not renewed if it is determined by the director that the retailer:

A. changed business location;

B. failed to account for lottery tickets received;

C. failed to account for proceeds from the sale of lottery tickets;

D. violated a provision of the law, rule, game procedures, or any order issued by the director;

E. failed to comply with any term or condition of the lottery retailer's contract;

F. failed to comply with the bond requirements of part 7856.4020;

G. failed to maintain assigned minimum levels of sales;

H. committed an act which impairs the retailer's reputation for honesty and integrity;

I. failed to properly display lottery point-of-sale material;

J. did not have the financial stability or responsibility to act as a lottery retailer;

K. acted in a manner that the director finds that the retailer's participation as a lottery retailer is inconsistent with the public interest, convenience, and necessity;

L. sold lottery tickets to a person who the retailer knows or has reason to know will resell the tickets to other persons;

M. had an employee who has been involved in the sales of lottery tickets who has been convicted of a gambling-related offense or crime of moral turpitude, if contracting with that retailer would endanger the security or integrity of the lottery; or

N. sold, bartered, furnished, or given alcoholic beverages to a person under 21 years of age in violation of *Minnesota Statutes*, section 349A.06, subdivision 2, clause (1), two or more times within a two-year period.

Subp. 3. **Material change.** A retailer may be canceled, suspended, or not renewed if it is determined by the director that there has been a material change in any of the qualifications for a retailer's contract or factors to be considered under part 7856.2020.

7856.7010 DEPOSIT OF FUNDS.

Lottery retailers shall deposit in a separate account in a designated bank, to the credit of the lottery, all money received by the retailer from the sale of lottery tickets, less the amount retained as compensation for the sale of tickets, credit for direct payment of prizes, and money authorized to be retained for payment of prizes.

7856.7020 INTEREST.

If a retailer fails to pay any amount due to the lottery within the time required, the retailer shall owe interest on the unpaid amount due during each fiscal year at the rate of five percent in excess of the discount rate on 90-day commercial paper in effect on the previous July 1 at the Federal Reserve Bank in the Federal Reserve District encompassing Minnesota.

7856.7030 FILING REPORTS.

Lottery retailers shall file with the lottery, or its designated representatives, reports of the retailer's receipts and transactions in the sale of lottery tickets on a form or in a manner as the lottery may require.

7856.7040 AGENTS RESPONSIBLE FOR TICKETS.

Tickets accepted by the retailer from the lottery, or its authorized representatives, are considered to have been purchased by the retailer, unless returned within the time specified. The retailer is responsible for lost, stolen, missing, or loose tickets not returned in sequential order.

7856.7050 TICKETS UNACCOUNTED FOR.

Tickets that are not accounted for by the retailer on the final settlement date, regardless of reason, shall be deemed to have been sold to the retailer.

7856.7060 CONSIGNMENT OF TICKETS.

Lottery tickets delivered by the lottery on consignment to the retailer must be returned to the lottery upon cancellation, suspension, or nonrenewal of the contract, or upon demand by the director.

7856.7070 PRICE RESTRICTIONS.

A retailer may not sell a lottery ticket at a price other than the price set by the director under the game procedures for the game.

Minnesota State Lottery

Proposed Permanent Rules Relating to Prize Payments

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules with a Public Hearing if 25 or More Persons Request a Hearing with Respect to Proposed Rules, and Notice of Intent to Cancel Hearing on the Proposed Rules if Fewer Than 25 Persons Request a Hearing With Respect to the Proposed Rules

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

I. Explanation of Alternative Notices

The Minnesota State Lottery (hereinafter "Lottery") hereby gives notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* Section 14.22 to 14.28 (1988). However, in the event 25 or more persons request a hearing with respect to the proposed amendments to the rule, thereby necessitating that one be held pursuant to *Minnesota Statutes* Section 14.25 (1988), and in order to expedite the rulemaking process should that occur, the Lottery is at the same time giving notice of a hearing on the proposed rule amendments pursuant to *Minnesota Statutes* Sections 14.131 to 14.20 (1988). The hearing on the proposed rules will, of course, be cancelled if 25 or more people do not request that a hearing be held with respect to the proposed rules. With the comment period closing on February 1, 1990, there will be seven days before the scheduled hearing date. This seven day period will give interested persons time to contact the Lottery to find out whether the hearing will be held or cancelled.

II. Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota State Lottery (hereinafter "Lottery") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing with respect to the proposed rules. The Lottery has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* Section 14.22 to 14.28 (1988).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on February 1, 1990. Comment is encouraged. Each comment should identify the portion of the rules being addressed, the reason for the comment, and any change proposed to the rules by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Lottery and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Lottery be informed of the specific portion of the rules on which a hearing is being requested at the time that the hearing request is made. This will enable the Lottery to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit ***in writing*** requests for a hearing on the proposed rules or a portion thereof by February 1, 1990. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* Sections 14.131 to 14.20 (1988) and the hearing notice provided below.

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

Dale L. McDonnell
Legal Counsel
Minnesota State Lottery
Second Floor Centennial Building
658 Cedar Street
St. Paul, MN 55155

The statutory authority of the Lottery to adopt the proposed rules is contained in *Minnesota Statutes* Section 349A.05 (1989 Supplement).

The proposed rules will be published in the *State Register* issue of January 2, 1990, and a copy of the rules may be obtained from the Lottery by writing Dale L. McDonnell at the address listed 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 rules has been prepared and may be reviewed at the Lottery by contacting Dale L. McDonnell at the address listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* Section 14.11 (1988).

The Lottery is subject to *Minnesota Statutes* Section 14.115 (1988) regarding small business considerations in rulemaking. The Lottery's evaluation of the applicability of the methods contained in *Minnesota Statutes* Section 14.115, subd. 2 (1988), for reducing the impact of the proposed rules on small business are addressed in the statement of need and reasonableness.

Upon completion of proposed rules without a public hearing, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 rules as adopted should submit a written request to Dale L. McDonnell at the address listed above.

III. Notice of Intent to Adopt Rules with a Public Hearing on the Proposed Rules if 25 or More Persons Request a Hearing with Respect to the Proposed Rules

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes* Sections 14.131 to 14.20 (1988) on February 9, 1990 commencing at 2:00 p.m. in Room 300 North, State Office Building, St. Paul, Minnesota.

The hearing will continue, if necessary, at additional times and places as determined during the hearing by the administrative law judge.

All interested or affected persons, including representatives or associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to George Beck, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7601.

Unless a longer period, not to exceed 20 calendar days, is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Lottery and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three day period. This rule hearing procedure is governed by *Minnesota Statutes* Sections 14.131 to 14.20 (1988) and by *Minnesota Rules*, Pts. 1400.0200 to 1400.1200 (1986). Questions about procedure may be directed to the administrative law judge.

The proposed rules will be published in the *State Register* issue of January 2, 1990, and a copy of the rules may be obtained from the Lottery by writing Dale L. McDonnell at the address listed above in Part II of this notice.

The statutory authority of the Lottery to adopt the proposed rules is contained in *Minnesota Statutes* Section 349A.05 (1989, Supplement).

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore encouraged to participate in the process.

Minnesota Statutes, ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* Section 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statutes provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

NOTICE IS HEREBY GIVEN that a statement of need and reasonableness is now available for a review at the Lottery and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Lottery anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules amendments. The statement of need and reasonableness may be reviewed at the Lottery by contacting Dale L. McDonnell at the address listed above in Part II of this Notice or it may be reviewed at the Office of Administrative Hearings, and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

PLEASE NOTE that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Lottery may not take any final action on the rule amendments for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may require notification of the date on which any rule amendments were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Lottery at any time prior to the filing of the rules with the Secretary of State.

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

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* Section 14.11 (1988).

The Lottery is subject to *Minnesota Statutes* Section 14.115 (1988) regarding small business considerations in rulemaking. The Lottery's evaluation of the applicability of the methods contained in *Minnesota Statutes* Section 14.115, subd. 2 (1988) for reducing the impact of the proposed rule amendments on small business are addressed in the statement of need and reasonableness.

IV. Notice of Intent to Cancel the Hearing with Respect to the Rules if Fewer than 25 Persons Request a Hearing with Respect to the Proposed Rules

PLEASE NOTE that the hearing, notice of which is given in Part III above, will be cancelled with respect to the proposed rules if fewer than 25 persons request a hearing with respect to the proposed rules in response to the notice given in Part II above

To be informed whether a hearing noticed in Part III above will be held, please contact Dale L. McDonnell at the address listed above in Part II of the Notice before February 1, 1990 and provide your name, address, and telephone number. You will be notified after February 1, 1990 if the hearing has been cancelled. You may also call Mr. McDonnell at (612) 297-7100 after February 1, 1990 for oral confirmation regarding the scheduled hearing.

Dated: 19 December 1989

George R. Andersen
Director
Minnesota State Lottery

Rules as Proposed (all new material)

7857.2000 DISCLOSURE OF PURCHASE.

The lottery reserves the right to request a claimant of a winning ticket to disclose the location or person from whom the claimant purchased the ticket.

7857.2010 TICKETS LOST OR STOLEN.

The lottery reserves the right to withhold prize money pending the findings of an investigation, when the claimed ticket for that prize has been reported stolen or lost by a retailer.

7857.3000 PURCHASE RESTRICTIONS.

Subpart 1. **Lottery employee.** A lottery ticket may not be purchased by, nor a prize awarded to the director, board member, employee of the lottery, or any spouse, child, brother, sister, or parent residing in the same household as the director, board member, or employee of the lottery.

Subp. 2. **Vendor.** A lottery ticket may not be purchased, or prize awarded, to an officer or employee of a vendor which at the time the game or drawing was being conducted was involved in supplying goods or services to the lottery under a lottery procurement contract as determined by law.

Subp. 3. **Minors.** A lottery ticket may not be sold to a person under the age of 18 years, although a person 18 years old or older may purchase a ticket for the purpose of making a gift to a person under 18 years of age.

7857.3010 SALES ARE FINAL.

All ticket sales are final and no ticket returns may be accepted by a retailer, except as provided for in game procedures.

7857.4000 CLAIM VERIFICATION.

The retailer shall verify the information on the claim form and give a copy of the claim form to the claimant. The retailer shall forward the winning ticket and the claim form to the lottery for validation. Upon validation by the lottery, a check will be forwarded to the claimant in payment of the amount due subject to the restrictions of payment provided by law. In the event that the claim is not validated, the claim must be denied and the claimant will be notified.

7857.4010 CLAIMING A PRIZE.

Subpart 1. **Payment by retailers.** Retailers are authorized and required to pay instant game prizes as determined by the game procedures adopted by the director, consistent with the retailer's security requirements, as approved by the director.

Subp. 2. **Claim form.** Prizes over $1,000 must be paid by filing a claim form provided by the lottery. The claimant shall prepare and submit a claim form and the apparent winning ticket to the retailer or a lottery office for processing.

7857.4020 INFORMATION TO BE FURNISHED BY CLAIMANT.

A potential claimant must complete a claim form, supplying the required information, and surrender the apparent winning ticket. The director may require that additional information be supplied by the claimant.

7857.4030 TIME OF PAYMENT.

Payment of prizes will be awarded only after a claim has been filed, verified, fully validated and checks made as required by law. The claimant must further provide identification to the satisfaction of the director.

7857.4040 MANNER OF PAYMENT.

Payment of prizes may be by check, draft, or a free ticket.

7857.4050 DISCHARGE OF LIABILITY.

The state and its agents, officers, and employees, the lottery and its agents and employees shall be discharged of any and all liability upon payment of a prize to the holder of a winning ticket.

7857.5000 OWNERSHIP OF LOTTERY TICKETS.

A lottery ticket is considered to be owned by the person who has physical possession of the ticket until a name is imprinted or placed on the rear portion of the lottery ticket in the area designated. When a name is placed in the designated area, the person whose name appears in that area is the owner of the ticket and is entitled to any prize attributable to that ticket. The lottery will only make payment of a prize to the name on the back of the ticket, notwithstanding any name submitted on the claim form. If one or more names appear on the rear of the ticket, one of those persons will be designated to receive payment by indicating on the claim form and by signature on the claim form of all other persons whose names appear on the rear of the ticket. The person or persons appearing for payment shall be the same as that which appears on the lottery ticket in the designated area.

7857.5010 UNCLAIMED PRIZES.

Unclaimed prize money on a winning ticket will be retained by the lottery for payment to the person entitled to the prize for one year after the drawing in which the prize was won or for one year after the announced end of the game. If no claim is made within that time, the prize money will be used pursuant to law and the holder of the winning ticket shall have no further claim to the prize.

7857.6000 PRIZES PAYABLE AFTER DEATH OF PRIZE WINNER.

Subpart 1. **General.** All prizes or portions of prizes due will remain payable at the time of death of the prize winner. Upon payment as provided under this chapter, the lottery will be absolved of any further liability. The payment of a prize may not be accelerated before the normal date of tender or payment because of the death of the prize winner or for any reason.

Subp. 2. **Prizes not payable over time.** Prizes or a portion of a prize not payable over time will be payable to any designated beneficiary which the deceased prize winner may appoint by will. If the deceased prize winner fails to designate any party specifically or by residuary clause, or fails to exercise any power of appointment in a will, the payment then will be made directly to those parties who would succeed to the assets of the deceased prize winner under *Minnesota Statutes,* chapter 524.

Subp. 3. **Prizes paid over time.** All prizes or portions of prizes payable over time will be payable to the party designated as a beneficiary on the latest valid beneficiary statement filed with the lottery. If a winner of a prize or portion of a prize dies before completing a valid beneficiary statement or does not have a valid beneficiary statement on file with the lottery at the time of death, then the prize or portion of the prize will be payable according to subpart 2.

7857.6010 PAYMENT OF PRIZES TO PERSONS UNDER 18 YEARS OF AGE.

If a prize is under $5,000, the director may make payment prizes to a person under the age of 18, or to the person's parent, guardian, or adult member of the person's family. If the prize is $5,000 or over, the director shall deposit the prize with the district court as required by *Minnesota Statutes,* section 349A.08, subdivision 3, clause (2).

7857.6020 ASSIGNABILITY OF PRIZES.

Prizes in the lottery are not assignable except:

A. if the prize winner dies before the prize is paid the director shall pay the prize as required under law; or

B. pursuant to an appropriate court order, which order shall not include an order issued to enforce or approve an agreement between a prize winner and any third party where the prize winner has agreed to transfer future prize payments to a third party in exchange for consideration.

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

7857.7000 PROMOTIONAL PRIZES.

Independently of, or concurrently with, the operation of the lottery, the director may establish special drawings, bonuses, or additional prizes. The nature and number of prizes will be determined by the director. The drawing for promotional prizes may be held independently of the regular prize drawings or may be incorporated with those drawings. The director will make a public announcement to inform the public of the promotions.

Pollution Control Agency

Water Quality Division

Proposed Permanent Rules Relating to Water Quality Program Development

Notice of Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) will hold public hearings on the above-entitled matter. The hearings will be held on the dates and in the locations indicated below:

Date	Location	Time
February 1, 1990	MPCA Board Room 520 Lafayette Road St. Paul, Minnesota	9:30 a.m.
February 5, 1990	Southwest State University Building IL, Room 214 Marshall, Minnesota	7:00 p.m.
February 6, 1990	Detroit Lakes Public Library 1000 Washington Avenue Detroit Lakes, Minnesota	7:00 p.m.
February 7, 1990	County Services Building Room 1 Laurel Street Brainerd, Minnesota	7:00 p.m.
February 12, 1990	St. Louis County Courthouse County Board Room Duluth, Minnesota	7:00 p.m.
February 14, 1990	Friedel Building 1220 South Broadway Rooms 120 A & B Rochester, Minnesota	7:00 p.m.

Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

The matter will be heard before Administrative Law Judge Richard Luis whose address and phone number are: Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, (612) 349-2542. The rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1988) and by the rules of the Office of Administrative Hearings, *Minnesota Rules* parts 1400.0200 to 1400.1200 (1989). Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above.

The subject of the hearing will be the proposed amendments to *Minnesota Rules* ch. 7050. These rules classify all surface waters of the State and establish both numerical water quality standards for those waters and detailed procedures for the development of additional standards. The standards specified in or developed under these rules provide the bases for MPCA surface water discharge permits which are issued to point source discharges such as industrial plants, animal feedlots, and municipal wastewater treatment facilities. The major amendments proposed at this time are:

1. Add a detailed set of procedures to determine numerical standards applicable to surface waters. The standards will protect from the harmful effects of toxic substances 1) fish and other aquatic organisms, 2) the human consumers of fish and other edible aquatic life; and 3), the wildlife consumers of aquatic life.

2. Propose new numerical standards for 54 toxics in part 7050.0220, subp. 3.

3. Update five of the six existing numerical standards in part 7050.0220 for toxics. The five toxics being changed are chromium, copper, total cyanide, oil and total phenols. The sixth toxic, un-ionized ammonia, is not being changed.

4. Add three calcareous fens to the list of Outstanding Resource Value Waters, part 7050.0180. These calcareous fens are:

a) Adrian fen, Nobles County, Westside Township, T.102, R.43, S.11.

b) Burke State Wildlife Management Area fen, Pipestone County, Burke Township, T.106, R.44, S.28;

c) Altona State Wildlife Management Area fen, Pipestone and Lincoln Counties, Altona and Verdi Townships, T.108, R.46, S.1 and T.109, R.45, S.31.

5. Reclassify two Class 2C stream reaches as Class 7 Limited Resource Value Waters. These proposed Class 7 waters are:

a) Bogus Brook at Bock, Minnesota, Mille Lacs County, Borgholm Township, T.38, R.26, S.13, 14;

b) Chetomba Creek, at and near Prinsburg, Minnesota, Renville and Kandiyohi Counties, Crooks, Ericson, and Holland Townships, T.116, R.36, S.6, 7, 18, 19; T.116, R.37, S.8, 9, 14, 15, 16, 23, 24; T.117, R.36, S. 8, 9, 16, 17, 21, 28, 29, 30, 31, 32.

6. Indicate when the nondegradation provisions became effective for designated Outstanding Resource Value Waters, part 7050.0180.

7. Delete the word "unspecified" as used with toxic substances and make the definition of acute toxicity in parts 7050.0210, subp. 5, item D., 7050.0211, subp. 1, 7050.0212, subp. 6, and 7050.0214, subp. 1 more explicit and consistent throughout the rule.

8. Retain a portion of the last paragraph in part 7050.0220, subp. 3 and move it to part 7050.0210, subp. 13.

9. Remove part 7050.0210, subp. 14 because it will be replaced by the methods in part 7050.0218.

10. Incorporate by reference the new Department of Natural Resources Commissioner's Order 2294 for trout streams dated March 18, 1988, in part 7050.0420.

11. Additional miscellaneous and nonsubstantive changes to chapter 7050.

The proposed rules are authorized by *Minnesota Statutes* §§ 115.03 and 115.44 (1988). One free copy of the rules is available on request by contacting:

David Maschwitz
Division of Water Quality
Program Development Section
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7255

NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS is now available for review at the Agency offices and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Agency offices or at the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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

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

The Agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment period also submit a copy of the written data to David Maschwitz at the address stated above. Comments are most helpful if the comments identify the particular provision of the proposed amendments that is supported or objected to and if the comments suggest specific alternative language to that proposed. Comments should provide the reasons and data that support the proposed alternative language.

Please be advised that the proposed amendments are subject to modification as a result of the rule hearings process. The Agency urges those who are interested to any extent in the proposed amendments, including those who support the amendments as proposed and do not want to see changes made, to participate in the hearing and make their views known.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Agency may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Agency at any time prior to the filing of the rules with the Secretary of State.

The Agency has examined the potential impact of the proposed amendments on local public bodies, small businesses, and agricultural land. These impacts are discussed in Part V of the Statement of Need and Reasonableness. The Agency has determined that some public bodies will likely incur slightly higher monitoring costs as a result of these amendments but that most will experience no financial impact from adoption of the proposed amendments; that small businesses will not be adversely affected; and that agricultural land will not be adversely affected and indeed will be protected. The impact of the listing of new outstanding resource value waters is not able to be quantified because these amendments could affect new or expanded discharges that are not known today.

Please be advised that *Minnesota Statutes* ch. 10A (1988) requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 (1988) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5615.

Dated: 19 December 1989

Gerald L. Willet
Commissioner

Rules as Proposed

7050.0150 DETERMINATION OF COMPLIANCE.

In making tests or analyses of the waters of the state, sewage, industrial wastes, or other wastes to determine compliance with the standards, samples shall be collected in ~~such~~ a manner and place, and of such type, number, and frequency as may be considered necessary by the agency from the viewpoint of adequately reflecting the condition of the waters, the composition of the effluents, and the effects of the pollutants upon the specified uses. Reasonable allowance will be made for dilution of the effluents, which are in compliance with part 7050.0211, subpart 1, following discharge into waters of the state. The agency by allowing dilution may consider the effect on all uses of the waters of the state into which the effluents are discharged. The extent of dilution allowed regarding any specific discharge shall not violate the applicable water quality standards. The samples shall be preserved and analyzed ~~in accordance with~~ according to procedures ~~given in the 1971 edition of Standard Methods for the Examination of Water and Wastewater, by the American Public Health Association, American Water Works Association, and the Water Pollution Control Federation, and any revisions or amendments thereto~~ in Code of Federal Regulations, title 40, part 136. The agency may accept or may develop other methods, procedures, guidelines, or criteria for measuring, analyzing, and collecting samples.

7050.0180 NONDEGRADATION FOR OUTSTANDING RESOURCE VALUE WATERS.

[For text of subpart 1, see M.R.]

Subp. 2. **Definitions.** For the purpose of this part, the following terms have the meanings given them:

[For text of item A, see M.R.]

B. "New discharge" means a discharge that was not in existence on ~~November 5, 1984~~ the effective date the outstanding resource value water was designated as described in parts 7050.0460 and 7050.0470.

C. "Expanded discharge" means a discharge that changes in volume, quality, location, or any other manner after ~~November 5, 1984~~ the effective date the outstanding resource value water was designated as described in parts 7050.0460 and 7050.0470, such that an increased loading of one or more pollutants results. In determining whether an increased loading of one or more pollutants would result from the proposed change in the discharge, the agency shall compare the loading that would result from the proposed discharge with the loading allowed by the agency ~~at the time these parts take effect~~ as of the effective date of outstanding resource value water designation.

[For text of subps 3 to 6a, see M.R.]

Subp. 6b. **Calcareous fens.** The following calcareous fens are ~~hereby~~ designated outstanding resource value waters:

A. Spring Creek fen, Becker County;

B. B-B Ranch fen, Clay County;

C. Barnesville WMA fen, Clay County;

D. Felton fen, Clay County;

E. Spring Prairie fen, Clay County;

F. Clearbrook fen, Clearwater County;

G. Fort Snelling State Park fen, Dakota County;

H. Minnesota Valley fen, Dakota County;

I. Nicols Meadow, Dakota County;

J. Perched Valley WMA fen, Goodhue County;

K. Heron Lake fen, Jackson County;

L. Thompson fen, Jackson County;

M. Fish Hatchery fen, Le Sueur County;

N. St. Peter fen, Le Sueur County;

O. Altona State Wildlife Management Area fen, Lincoln and Pipestone Counties;

P. Waubun fen, Mahnomen County;

~~P.~~ Q. Truman fen, Martin County;

~~Q.~~ R. Fort Ridgely fen, Nicollet County;

~~R.~~ S. Le Sueur fen, Nicollet County;

T. Adrian fen, Nobles County;

~~S.~~ U. Primula Meadow (Faith fen), Norman County;

~~T.~~ V. Rock Dell fen, Olmsted County;

W. Burke State Wildlife Management Area fen, Pipestone County;

~~U.~~ X. Chicog WMA fen, Polk County;

~~V.~~ Y. Kertsonville WMA fen, Polk County;

~~W.~~ Z. Pankratz fen (Svedarsky's fen), Polk County;

~~X.~~ AA. Ordway fen, Pope County;

~~Y.~~ BB. Cannon River fen, Rice County;

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

~~Z.~~ CC. Savage fen, Scott County;

~~AA.~~ DD. Kennedy fen, Winona County; and

~~BB.~~ EE. Sioux Nation fen, Yellow Medicine County.

[For text of subps 7 to 9, see M.R.]

Subp. 10. **Thermal discharges.** If a thermal discharge causes potential water quality impairment, the agency shall implement the nondegradation policy consistent with section 316 of the Clean Water Act, United States Code, title 33, section 1326.

7050.0185 NONDEGRADATION FOR ALL WATERS.

[For text of subpart 1, see M.R.]

Subp. 2. **Definitions.** For the purpose of this part, the following terms have the meanings given them:

[For text of items A to E, see M.R.]

F. "Toxic pollutant" ~~has the meaning given in part 7001.1020, subpart 30~~ means a pollutant listed as toxic under section 307(a)(1) of the Clean Water Act, United States Code, title 33, section 1317(b)(1), or as defined by *Minnesota Statutes*, section 115.01, subdivision 14.

[For text of item G, see M.R.]

[For text of subps 3 to 8, see M.R.]

7050.0210 GENERAL STANDARDS FOR DISCHARGERS TO WATERS OF THE STATE.

[For text of subpart 1, see M.R.]

Subp. 2. **Nuisance conditions prohibited.** No sewage, industrial waste, or other wastes shall be discharged from either point or nonpoint sources into any waters of the state so as to cause any nuisance conditions, such as the presence of significant amounts of floating solids, scum, visible oil ~~slicks~~ film, excessive suspended solids, material discoloration, obnoxious odors, gas ebullition, deleterious sludge deposits, undesirable slimes or fungus growths, aquatic habitat degradation, excessive growths of aquatic plants, or other offensive or harmful effects.

[For text of subps 3 and 4, see M.R.]

Subp. 5. **Mixing zones.** Means for expediting mixing and dispersion of sewage, industrial waste, or other waste effluents in the receiving waters are to be provided so far as practicable when deemed necessary by the agency to maintain the quality of the receiving waters in accordance with applicable standards. Mixing zones must be established by the agency on an individual basis, with primary consideration being given to the following guidelines:

A. mixing zones in rivers shall permit an acceptable passageway for the movement of fish;

B. the total mixing zone or zones at any transect of the stream should contain no more than 25 percent of the cross sectional area and/or volume of flow of the stream, and should not extend over more than 50 percent of the width;

C. mixing zone characteristics shall not be lethal to aquatic organisms;

D. for contaminants other than heat, the ~~96-hour median tolerance limit for indigenous fish and fish food organisms should not be exceeded~~ FAV, as defined in part 7050.0218, subpart 5, item M, for toxic substances should not be exceeded as a one-day mean concentration at any point in the mixing zone;

E. mixing zones should be as small as possible, and not intersect spawning or nursery areas, migratory routes, water intakes, nor mouths of rivers; and

F. overlapping of mixing zones should be minimized and measures taken to prevent adverse synergistic effects.

This subpart applies in cases where a Class 7 water is tributary to a Class 2 water.

[For text of subps 6c to 12, see M.R.]

Subp. 13. **Pollution prohibited.** No sewage, industrial waste, or other wastes shall be discharged from either a point or a nonpoint source into the waters of the state in such quantity or in such manner alone or in combination with other substances as to cause pollution ~~thereof~~ as defined by law. No sewage, industrial waste, or other wastes shall be discharged from either point or nonpoint sources into any waters of the state so as to cause any material change in any substances or characteristics that may impair the beneficial uses, defined in part 7050.0200, for which the waters of the state are protected. In any case where the waters of the state into which sewage, industrial waste, or other waste effluents discharge are assigned different standards than the waters of the state into which ~~such~~ the receiving waters flow, the standards applicable to the waters into which ~~such~~ the sewage, industrial waste, or other wastes discharged shall be supplemented by the following:

The quality of any waters of the state receiving sewage, industrial waste, or other waste effluents shall be such that no violation of the standards of any waters of the state in any other class shall occur by reason of the discharge of ~~such~~ the sewage, industrial waste, or other waste effluents.

Subp. 14. [See Repealer.]

[For text of subps 15 to 18, see M.R.]

7050.0211 FACILITY STANDARDS.

Subpart 1. **Minimum secondary treatment for municipal point source and other point source dischargers of sewage.** It is ~~herein~~ established that the agency shall require secondary treatment as a minimum for all municipal point source dischargers and other point source dischargers of sewage. For purposes of this part, municipal has the adjective meaning of municipality as defined in part 7001.1020, subpart 18. Secondary treatment facilities are defined as works which will provide effective sedimentation, biochemical oxidation, and disinfection, or the equivalent, including effluents conforming to the following:

Substance or Characteristic	Limiting Concentration or Range*
5-Day carbonaceous biochemical oxygen demand*	25 milligrams per liter
Fecal coliform group organisms***	200 organisms per 100 milliliters
Total suspended solids*	30 milligrams per liter
Oil	Essentially free of visible oil
Phosphorus**	1 milligram per liter
pH range	6.0 - 9.0
~~Unspecified~~ Toxic or corrosive substances	None at levels that exceed the FAV as defined in part 7050.0218, subpart 5, item M, or are acutely toxic to humans or other animals or plant life, or directly damaging to real property.

*The arithmetic mean for concentrations of five-day carbonaceous biochemical oxygen demand and total suspended solids shall not exceed the stated values in any calendar month. In any calendar week, the arithmetic mean for concentrations of five-day carbonaceous biochemical oxygen demand shall not exceed 40 milligrams per liter and total suspended solids shall not exceed 45 milligrams per liter.

**Where the discharge of effluent is directly to or affects a lake or reservoir, phosphorus removal to one milligram per liter shall be required. In addition, removal of nutrients from all wastes shall be provided to the fullest practicable extent wherever sources of nutrients are considered to be actually or potentially detrimental to preservation or enhancement of the designated water uses. Dischargers required to control nutrients by this subpart are subject to the variance provisions of part 7050.0190.

***Disinfection of wastewater effluents to reduce the levels of fecal coliform organisms to the stated value is required from March 1 through October 31 (Class 2 waters) and May 1 through October 31 (Class 7 waters) except that where the effluent is discharged 25 miles or less upstream of a water intake supplying a potable water system, the reduction to the stated value is required year around. The stated value is not to be exceeded in any calendar month as determined by the geometric mean of all the samples collected in a given calendar month. The application of the fecal coliform group organism standards shall be limited to sewage or other effluents containing admixtures of sewage and shall not apply to industrial wastes except where the presence of sewage, fecal coliform organisms, or viable pathogenic organisms in such wastes is known or reasonably certain. Analysis of samples for fecal coliform group organisms by either the multiple tube fermentation or the membrane filter techniques is acceptable.

[For text of subps 2 and 3, see M.R.]

7050.0212 REQUIREMENTS FOR POINT SOURCE DISCHARGERS OF INDUSTRIAL OR OTHER WASTES.

[For text of subps 1 to 5, see M.R.]

Subp. 6. ~~Unspecified~~ **Toxic or corrosive substances.** In addition to the requirements of subpart 1, a person discharging industrial

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

or other wastes from a point source shall comply with the control requirements of part 7050.0211, subpart 1, for ~~unspecified~~ toxic or corrosive substances.

7050.0214 REQUIREMENTS FOR POINT SOURCE DISCHARGERS TO LIMITED RESOURCE VALUE WATERS.

Subpart 1. **Effluent limitations.** For point source discharges of sewage, industrial, or other wastes to surface waters classified as limited resource value waters pursuant to parts 7050.0200, number 7 and 7050.0400 to 7050.0470, the agency shall require treatment facilities which will provide effluents conforming to the following limitations:*

Substance or Characteristic	Limiting Concentration
5-Day carbonaceous biochemical oxygen demand	15 milligrams per liter (arithmetic mean of all samples taken during any calendar month)

*All effluent limitations specified in part 7050.0211, subpart 1, shall also be applicable to dischargers of sewage to Class 7 waters, provided that ~~unspecified~~ toxic or corrosive substances shall be limited to the extent necessary to protect the designated uses of the receiving water or affected downstream waters.

[For text of subps 2 to 4, see M.R.]

7050.0218 METHODS FOR DETERMINING SURFACE WATER STANDARDS FOR TOXIC SUBSTANCES.

Subpart 1. **Purpose and applicability.** The purpose of this part is to establish methods for developing water quality standards for toxic substances. The standards established by these methods protect Class 1 surface waters for public and private domestic consumption; and Class 2 waters for the propagation and maintenance of fish and aquatic life, the consumption of fish and edible aquatic life by humans, and the consumption of aquatic organisms by wildlife. The standards also protect the uses assigned to Class 7, limited resource value, waters described in part 7050.0200.

Subp. 2. **Policy.** The standards established under this part, together with other provisions in this chapter, shall prevent the discharge of sewage, industrial waste, or other wastes from point or nonpoint sources into the waters of the state in amounts that impair the quality of the waters of the state or the aquatic community, or in any manner render the aquatic community unsuitable or objectionable for fishing, fish culture, or recreational uses.

Protection of the aquatic community from the toxic effects of substances means the protection of no less than 95 percent of all the species in any aquatic community. Greater protection may be applied to a community if economically, recreationally, or ecologically important species are very sensitive.

Protection of human consumers of fish, other edible aquatic organisms, and water for drinking from surface waters means that exposure from noncarcinogenic chemicals shall be below levels expected to produce known adverse effects; and the incremental cancer risk from exposure to carcinogenic chemicals, singly or in mixtures, shall not exceed one in 100,000. The combined risk from mixtures of carcinogens shall be determined as described in subpart 12, item E.

Protection of wildlife that eat aquatic organisms means the protection of the most sensitive wildlife species or populations. Greater protection may be applied if the exposed animals include endangered or threatened wildlife species listed in chapter 6134, or in Code of Federal Regulations, title 50, part 17, under the Endangered Species Act of 1973, United States Code, title 16, sections 1531 to 1543.

Subp. 3. **Adoption of new standards.** The agency may adopt new standards according to *Minnesota Statutes*, chapter 14, to replace those listed in part 7050.0220 that are more stringent or less stringent if new scientific evidence shows that a change in the standard is justified.

Subp. 4. **Standards for substances not listed in part 7050.0220.** Standards for toxic substances not listed in part 7050.0220 shall be derived by the commissioner using the procedures in this part. Numerical standards so derived have the same authority as standards listed in part 7050.0220. Any effluent limitation determined to be necessary based on standards derived under this subpart shall only be required after the discharger has been given notice of the specific effluent limitations and an opportunity for public hearing. The requirements in chapter 7001 regarding notice of National Pollutant Discharge Elimination System and State Disposal System permits can satisfy the notice and opportunity for hearing requirements in this subpart.

Subp. 5. **Definitions.** For the purposes of parts 7050.0218 to 7050.0220, the following terms have the meanings given them.

A. "Acute-chronic ratio" or "ACR" means the ratio of the acute toxicity, expressed as a LC50 or EC50 of a toxicant to its chronic toxicity expressed as the chronic value. The ACR is used as a factor for estimating chronic toxicity on the basis of acute toxicity.

B. "Acute toxicity" means a stimulus severe enough to rapidly induce a response. In toxicity tests, a response is normally observed in 96 hours or less. Acute effects are often measured in terms of mortality or other debilitating effects.

C. "Bioaccumulation factor" or "BAF" means the concentration of a substance in one or more tissues of an aquatic organism, exposed from any source of the substance but primarily from the diet and bottom sediments in addition to the water column, divided by the average concentration in the solution in which the organism had been living.

D. "Bioconcentration factor" or "BCF" means the concentration of a substance in one or more tissues of an aquatic organism, exposed only to the water as the source of the substance, divided by the average concentration in the solution in which the organism had been living.

E. "Cancer potency factor" or "ql*" means a factor indicative of a chemical's human cancer causing potential. The ql* is the upper 95 percent confidence limit (one-sided) of the slope from a linear nonthreshold dose-response model used by the USEPA to provide an upper bound estimate of incremental cancer risk. The ql* assumes a lifetime exposure and is expressed in days times milligram toxicant per kilogram body weight (d x kg/mg).

F. "Chronic toxicity" means a stimulus that lingers or continues for a long period of time, often one-tenth the life span or more. A chronic effect can be mortality, reduced growth, reproduction impairment, harmful changes in behavior, and other nonlethal effects.

G. "Chronic criterion" or "CC" means the highest water concentration of a toxicant to which organisms can be exposed indefinitely without causing chronic toxicity.

H. Chronic value" means the geometric mean of the highest tested concentration that did not cause an unacceptable adverse effect and the lowest tested concentration that did cause an unacceptable adverse effect, and in which all higher test values cause an effect, in an approved chronic test.

I. "Cold water fisheries" means a community of fish including species of trout and salmon from the Salmonidae family that inhabit trout waters as defined in part 7050.0420.

J. "Criterion" means a number or numbers established for a substance derived under this part, or issued by the USEPA, to protect aquatic life, humans, or wildlife.

K. "Duration" means the time over which the instream concentration of a substance is averaged for comparison with the standard.

L. "Effect concentration" or "EC50" means the toxicant concentration that causes equilibrium loss, immobilization, mortality, or other debilitating effects in 50 percent of the exposed organisms during a specific time of observation.

M. "Final acute value" or "FAV" means an estimate of the concentration of a material corresponding to the cumulative probability of 0.05 in the distribution of all the acute toxicity values for the genera or species from the acceptable acute toxicity tests conducted on a substance. The FAV is the acute toxicity limitation applied to mixing zones in part 7050.0210, subpart 5; and to dischargers in parts 7050.0211, subpart 1; 7050.0212, subpart 6; and 7050.0214, subpart 1.

N. "Genus mean acute value" or "GMAV" means the geometric mean of the SMAVs available for the genus.

O. "K value" means the fraction of the total allowable daily dose of a toxic substance that is attributed to drinking water and fish consumption relative to other sources of the substance to humans, such as air or food, in the calculation of criteria. In the absence of sufficient data to establish a chemical-specific K value, the K value will be 0.2.

P. "Lethal concentration" or "LC50" means the toxicant concentration killing 50 percent of the exposed organisms in a specific time of observation.

Q. "Lowest observable adverse effect level" or "LOAEL" means the lowest tested concentration that caused a statistically significant occurrence of an adverse effect in comparison with a control when all higher test concentrations caused adverse effects.

R. "Maximum criterion" or "MC" means the highest concentration of a toxicant in water to which aquatic organisms can be exposed for a brief time with zero to slight mortality. The MC equals the FAV divided by two.

S. "National methods" means the methods the USEPA uses to develop aquatic life criteria as described in Stephan, C.E., D.J. Mount, D.J. Hansen, J.H. Gentile, G.A. Chapman, and W.A. Brungs, 1985, "Guidelines for deriving numerical national water quality criteria for the protection of aquatic organisms and their uses," USEPA, Office of Research and Development, Environmental

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

Research Laboratories, Duluth MN; Narragansett, RI, Corvallis, OR. 98 p; available through the National Technical Information Service, Springfield, VA.

T. "No observable adverse effect level" or "NOAEL" means the highest tested concentration that did not cause a statistically significant occurrence of an adverse effect in comparison with a control when no lower test concentration caused an injurious or adverse effect.

U. "Octanol to water partition coefficient" or "K_{ow}" means the ratio of the concentration of a substance in the octanol phase to its concentration in the aqueous phase of a two-phase octanol to water system after equilibrium of the substance between the two phases has been achieved. The $\log_{10} K_{ow}$ has been shown to be proportional to the bioconcentration potential of lipophilic organic chemicals.

V. "Parachor" means the surface tension adjusted molar volume, and specifically is the molecular weight of a liquid times the fourth root of its surface tension, divided by the difference between the density of the liquid and the density of the vapor in equilibrium with it; essentially constant over wide ranges of temperature. Parachor relates to the physical properties of a molecule that affect its potential to bioaccumulate in aquatic organisms.

W. "Reference dose" or "RfD" means an estimate of a daily exposure to the human population, including sensitive subpopulations, that is likely to be without appreciable risk or deleterious effects over a lifetime. The RfD dose is expressed in units of daily dose and was formerly known as the acceptable daily intake.

X. "Species mean acute value" or "SMAV" means the geometric mean of all the available and acceptable acute values for a species.

Y. "Standard" means a number or numbers established for a substance to protect a specified beneficial use. The standard for a toxic substance includes the lowest of the chronic criteria, established to protect aquatic life, humans, or wildlife; the MC; and the FAV. Some substances do not have an MC or an FAV due to insufficient data. For these substances, the CC alone is the standard.

Z. "Toxic pollutant" has the meaning given it in part 7050.0185, subpart 2, item F.

AA. "USEPA" means the United States Environmental Protection Agency.

BB. "Water quality characteristic" means a characteristic of natural waters, such as total hardness or pH, that can affect the toxicity of a substance to aquatic organisms.

Subp. 6. **Adoption of USEPA national criteria.** The USEPA establishes aquatic life criteria under section 304(a)(1) of the Clean Water Act, United States Code, title 33, section 1314. The USEPA criteria, subject to modification as described in this subpart, are applicable to Class 2 waters of the state. The USEPA has described the national methods for developing aquatic life criteria in "Guidelines for deriving national numerical water quality criteria for the protection of aquatic organisms and their uses," available through the National Technical Information Service, Springfield, VA.

USEPA criteria that vary with an ambient water quality characteristic such as total hardness or pH will be established for specific waters or reaches using data available to the commissioner. Central values such as the means or medians for the characteristic will be used unless there is sufficient evidence to support using different values. Values for water quality characteristics can be estimated for specific waters or reaches that have no data by using data from a nearby watershed with similar chemical properties.

A. The USEPA criteria are adopted unchanged by the agency, unless modified under item C, as the criteria applicable to designated trout waters. Trout (Class 2A) waters are listed in parts 7050.0420 and 7050.0470.

B. The USEPA criteria are adopted, subject to modification as described in this item, for application to the cool and warm water fisheries habitats. Cool and warm water fisheries (Class 2Bd, 2B, and 2C) waters are defined in part 7050.0430 or listed in part 7050.0470.

(1) Acute data, in the form of the ranked genus mean acute values used by the USEPA to determine the national criteria, are the data used to determine the Class 2Bd, 2B, and 2C criteria.

(2) GMAVs for fish in the family Salmonidae are deleted from the lowest of the ranked GMAVs so that all of the lowest four GMAVs in the USEPA data set are for nonsalmonid species. Following these deletions, no other salmonid GMAVs are deleted. If none of the lowest four GMAVs in the USEPA data set are for salmonid species, no GMAVs are deleted. The minimum of eight GMAVs specified in the national methods must be met, except that nonsalmonid fish can take the place of the salmonid requirement if the prescribed deletions eliminate all salmonids from the national data set.

(3) The number of GMAVs in the USEPA criteria data set is reduced by the number of salmonid GMAVs deleted.

(4) The FAV is determined according to the national methods as follows:

(a) for each species for which one or more acute value is available, a SMAV is calculated as the geometric mean of all the acceptable acute values;

(b) for each genus for which one or more SMAV is available, a GMAV is calculated as the geometric mean of all the SMAVs;

(c) the GMAVs are ranked from the lowest to the highest;

(d) a rank is assigned to the GMAVs from "1" for the lowest to "N" for the highest, and if two or more GMAVs are identical, successive ranks are arbitrarily assigned;

(e) the cumulative probability (P) for each GMAV is calculated as rank/(N + 1);

(f) the four GMAVs that have cumulative probabilities closest to 0.05 are selected, and if there are less than 59 GMAVs, these will always be the lowest four GMAVs; and

(g) using the selected GMAVs and their respective cumulative probabilities, calculate:

$$S^2 = \frac{\Sigma((\ln GMAV)^2) - ((\Sigma(\ln GMAV))^2/4)}{\Sigma(P) - ((\Sigma(\sqrt{P})^2/4)}$$

$$L = (\Sigma(\ln GMAV) - S(\Sigma(\sqrt{P})))/4$$

$$A = S(\sqrt{0.05}) + L$$

$$FAV = e^{\wedge}$$

where: FAV = final acute value.
N = number of GMAVs
P = rank/N + 1
ln = natural logarithm
S,L, and A are intermediate steps

(5) If, as a result of the recalculation of the USEPA criterion for application to Class 2Bd, 2B, and 2C waters, the FAV for the Class 2Bd, 2B, and 2C water is lower than the FAV for Class 2A waters, the Class 2Bd, 2B, and 2C FAV will be changed to equal the Class 2A FAV , unless the lower Class 2Bd, 2B, and 2C FAV is justified based on the available toxicological data.

(6) The MC is the FAV divided by two.

(7) The CC is determined using the national methods. If sufficient chronic data is available to determine the CC directly from chronic values, salmonid chronic values will be deleted from the national data set following the same procedures used for acute data in this item. If sufficient chronic data is not available, the USEPA ACR, subject to modification under item C, is divided into the FAV to determine the CC.

C. If the commissioner finds that the information that supports a USEPA criterion is no longer current or complete for reasons including, but not limited to, changes to the relationship between a water quality characteristic and toxicity; the ACR; the weight given to toxicity data for a commercially or recreationally important species; the RfD; the ql*; or the BAF; then the commissioner shall evaluate all available information and modify the criterion according to the information and with the objectives in subpart 2. Any effluent limitation determined to be necessary based on criteria derived under this item shall only be required after the discharger has been given notice to the specific effluent limitations and an opportunity for public hearing. The requirements in chapter 7001 regarding notice of National Pollutant Discharge Elimination System and State Disposal System permits can satisfy the notice and opportunity for hearing requirements in this item.

Subp. 7. **Toxicity-based criteria.** Toxicity-based aquatic life criteria shall be determined using the methods in this subpart when no USEPA criterion is available.

A. Criteria shall be determined using the USEPA method if the minimum data required in this item and item B are met. Data for saltwater organisms can be used for nonionizable organic chemicals. Data for saltwater organisms cannot be used for ionizable organic or inorganic chemicals. Data for all North American species can be used. A minimum of eight GMAVs representing the following groups must be available:

(1) species in three families in the phylum Chordata, one of which must be a salmonid;

(2) a freshwater or saltwater crustacean;

(3) a freshwater cladoceran;

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

(4) a family in a phylum other than Chordata or Arthropoda; and

(5) two other families not in the phylum Chordata.

B. The additional acute data requirements in subitems (1) and (2) apply when developing criteria for pesticides.

(1) If the chemical is an insecticide, one of the eight GMAVs required in item A, subitem (5), must be for an insect.

(2) If the chemical is a herbicide, the eight GMAVs required in item A must be supplemented with acute data for two plant species, one of which is an algal species.

C. The FAV is calculated as described in subpart 6, item B, subitem (4). No more than two of the lowest four GMAVs may be for a saltwater species.

D. The MC is the FAV divided by two.

E. The CC is the FAV divided by an ACR. Available chronic data are used to determine ACRs as described in item F and measured chronic values are compared to the CC. If an approved chronic value for a commercially, recreationally, or ecologically important freshwater species is lower than the CC, the CC will be set to equal that chronic value.

F. The ACR is determined according to subitems (1) to (3).

(1) A measured ACR is determined by dividing the acute value by the chronic value for the same species from tests that meet the requirements for determining ACRs in the national method. If more than one ACR is available for a species, a species mean ACR is calculated as the geometric mean of the available ACRs.

(2) A minimum of three measured ACRs, each for a different species, must be available to determine a final measured ACR. The final measured ACR is the geometric mean of all the available species mean ACRs.

(3) If no measured ACRs are available, the following default ACRs shall be used:

(a) an ACR of 20 is used with nonpesticide, nonbioaccumulative organic chemicals with log K_{ow} values of three or less; and

(b) an ACR of 55 is used with pesticides, inorganic chemicals, or bioaccumulative organic chemicals with log K_{ow} values greater than three.

(4) If two or fewer measured ACRs are available, the default ACRs in subitem (3) are incorporated into the calculation of the final ACR as follows:

(a) if two measured ACRs are available, the final ACR is the geometric mean of the two measured ACRs and the appropriate default ACR; and

(b) if one measured ACR is available, the final ACR is the geometric mean of the measured ACR and two appropriate default ACRs.

G. If the acute data available do not meet the requirements in items A and B, toxicity-based criteria can be determined by the method in this item. This method is not applicable to ionizable organic chemicals, or to bioaccumulative organic chemicals and pesticides with BCFs greater than 5,000 or log K_{ow} values greater than 5.19.

(1) Acute data are assembled. A minimum of three acute values in the following groups must be available:

(a) a member of the class Osteichthyes (fish);

(b) a member of the class Crustacea, such as a water flea, amphipod, or crayfish; and

(c) a third animal species.

(2) For insecticides, a fourth acute value must be available for an insect species in addition to the acute values required in subitem (1).

(3) For herbicides, two acute values for plant species, one of which is an algal species, must be available in addition to the acute values required in subitem (1).

(4) Data for saltwater species can be used for nonionizable organic chemicals, except that the lowest acute value must be for a North American freshwater species.

(5) SMAVs are calculated as the geometric mean of all the acute values for one species.

(6) GMAVs are calculated as the geometric mean of the SMAVs.

(7) The lowest GMAV from among the available GMAVs is selected.

(8) The FAV is calculated by dividing the lowest GMAV by the appropriate factor listed below, depending on the number of GMAVs available.

Number of GMAVs	Factor	Number of GMAVs	Factor
3	11	12	3.6
4	10	13	3.4
5	9	14	3.2
6	8	15	3.0
7	7	16	2.8
8	6	17	2.6
9	5	18	2.4
10	4	19	2.2
11	3.8	20 or more	2.0

(9) The MC is calculated by dividing the FAV by two.

(10) A final ACR is determined as described in item F.

(11) The CC is calculated by dividing the FAV by the appropriate ACR.

(12) If chronic data are available, they are used to determine measured ACRs as described in item F, and chronic data is compared to the CC.

Subp. 8. **Human health-based criteria.** Human health-based aquatic life criteria protect humans from potential adverse effects of eating fish and edible aquatic organisms from Class 2 waters and from the consumption of drinking water from Class 1 surface waters.

The RfDs used to calculate criteria for noncarcinogenic chemicals and the ql*s used to calculate criteria for carcinogenic chemicals are obtained from the Integrated Risk Information System (IRIS), online, maintained and made available by the USEPA, Office of Health and Environmental Assessment, Environmental Criteria and Assessment Office, Cincinnati, OH.

A. Criteria for noncarcinogenic chemicals applicable to surface waters designated Class 2A or 2Bd are calculated as follows:

$$\text{dfCC mg/l} = \frac{\text{RfD mg/kg/day} \times 70\text{ kg} \times \text{K}}{2\text{ l/day} + [0.030\text{ kg/day (BAF)}]}$$

where dfCC = drinking water plus fish consumption criterion in mg/l

RfD = reference dose in mg/kg/day

70 kg = standard weight of an adult K = exposure attributed to drinking water and fish consumption (see item E)

2 l/day = two liters of water consumed per day

0.030 kg/day = amount of fish assumed to be consumed per day

BAF = final BAF in liters per kg.

B. Criteria for noncarcinogenic chemicals applicable to Class 2 surface waters are calculated as follows:

$$\text{fCC mg/l} = \frac{\text{RfD mg/kg/day} \times 70\text{ kg} \times \text{K}}{0.01\text{ l/day} + [0.030\text{ kg/day (BAF)}]}$$

where fCC = fish consumption criterion in mg/l

0.01 l/day = assumed incidental ingestion of water.

C. Criteria for carcinogenic chemicals applicable to surface waters designated both Class 1 and 2 are calculated as follows:

$$\text{dfCC mg/l} = \frac{70\text{ kg} \times 10^{-5}}{\text{q1*}\,[2\text{ l/day} + 0.030\text{ kg/day (BAF)}]}$$

where 10^{-5} = a risk level of one chance in 100,000

q1* = the cancer potency factor in days x kg/mg.

D. Criteria for carcinogenic chemicals applicable to Class 2 surface waters are calculated as follows:

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

$$\text{fCC mg/l} = \frac{70 \text{ kg} \times 10^{-5}}{q1^{*} [0.01 \text{ 1/day} + 0.030 \text{ kg/day (BAF)}]}$$

E. A default exposure value (K) of 0.2 will be used unless the Minnesota Department of Health uses a different exposure value in the calculation of a drinking water criterion, or sufficient exposure data is available to support an alternative value.

Subp. 9. **Bioaccumulation.** A final BAF can be determined either from bioaccumulation measurements in the field or from laboratory bioconcentration experiments. Laboratory tests should have a duration of at least 28 days, or the bioconcentration should have achieved steady state. Bioconcentration tests should meet the requirements in the national methods.

If measured BAFs and BCFs are not available for lipophilic substances, a final BAF can be estimated using the relationship between bioconcentration and the log of the octanol to water partition coefficient (log K_{ow}) as described in item D.

A. A final BAF for inorganic substances is equal to the geometric mean of the available BCFs and BAFs. The BCFs and BAFs can be for either whole body or edible tissue, or both.

B. A final BAF for lipophilic substances is determined when measured BAFs or BCFs and percent lipid data are available according to subitems (1) to (10).

(1) Measured BAFs and BCFs are assembled from the scientific literature, USEPA documents, and other credible sources. BAFs and BCFs may be for edible portions of aquatic organisms or for the whole body.

(2) Normalized BAFs and BCFs are obtained by dividing the BAFs and BCFs by the arithmetic average percent lipid for the test organisms.

(3) Species mean BAFs are calculated as the geometric mean of all the normalized BAFs for a species. Species mean BCFs are calculated as the geometric mean of all the normalized BCFs for a species.

(4) A chemical-specific mean BAF or BCF is calculated as the geometric mean of the species mean BAFs or BCFs. The species mean normalized BAFs and BCFs for chemicals with log K_{ow} values less than three are averaged together. The species mean normalized BAFs and BCFs for chemicals with log K_{ow} values of three or more are averaged separately.

(5) A final BAF for a chemical with a log K_{ow} value of less than three is determined as follows:

(a) for cold water fish, the normalized mean of the combined BAFs and BCFs is multiplied by six percent lipid; and

(b) for cool and warm water fish, the normalized mean of the combined BAFs and BCFs is multiplied by 1.5 percent lipid.

(6) A final BAF for a chemical with a log K_{ow} value of three or more, for which measured BAFs and percent lipid data are available, is determined by multiplying the normalized mean BAF by six percent lipid for Class 2A waters or 1.5 percent lipid for Class 2Bd, 2B, and 2C waters.

(7) The final BAF for chemicals with a log K_{ow} value of three or more, for which BCF and percent lipid data are available, is the value determined in =subitem (6), multiplied by the appropriate factor from subitem (8).

(8) The BCF to BAF adjustment factor is applicable to lipophilic chemicals with log K_{ow} values greater than three, unless credible chemical-specific data indicates the application of the factor is not appropriate. A value of six is used to calculate the factor for chemicals with log K_{ow} values greater than six. The BCF to BAF adjustment factor is calculated using the following equation; the results shall not be less than one nor greater than 15: Log_{10} (BCF to BAF factor) = 0.441 $\log_{10} K_{ow}$ - 0.0017 Parachor - 0.686.

(9) The following are representative factors from the equation in subitem (8):

K_{ow}	Factor (at Parachor = 500)
3.0	0.6 (1.0 is used)
3.5	1.0
4.0	1.7
4.5	2.8
5.0	4.7
5.5	7.8
6.0 and greater	12.9

(10) When both measured BAFs and BCFs are available for chemicals with log K_{ow} values greater than three, the commissioner will evaluate both BCFs and BAFs and other credible scientific evidence to select the appropriate values to use.

C. A final BAF is determined for lipophilic substances having measured BAF or BCF data, but no percent lipid data, as follows:

(1) the geometric mean of the species mean BAFs is the final BAF;

(2) the geometric mean of the species mean BCFs and BAFs is the final BAF for chemicals having log K_{ow} values less than three; and

(3) the final BAF for chemicals having log K_{ow} values of three or more is the geometric mean of the species mean BCFs multiplied by the appropriate factor from the equation in item B, subitem (8). Chemicals may have both BAF and BCF data. The geometric mean BCF will be adjusted by the factor from the equation in item B, subitem (8), and the results compared to the measured BAFs. The commissioner will evaluate both BCFs and BAFs and other credible scientific evidence to select a final BAF. BAF data are usually preferred over BCF data.

D. A final BAF for lipophilic organic chemicals is determined according to subitems (1) to (4) when no measured BAFs or BCFs are available.

(1) A BCF can be estimated based on the relationship between BCFs and the log K_{ow}. A value of six is used to calculate the BCF for chemicals with log K_{ow} values greater than six. The equation is: Log_{10} BCF = 0.79 Log_{10} K_{ow} value - 0.40. Where $\log_{10}$ K_{ow} = the log of the octanol to water partition coefficient.

If measured log K_{ow} values are not available in the literature, they may be estimated using quantitative structure activity relationships. The average percent lipid of the organisms used to establish this relationship is 7.6.

(2) BCFs estimated from the equation in subitem (1) are adjusted for the percent lipid of edible portions.

(a) The BCF for cold water fish equals the estimated BCF from the equation in subitem (1) times 6/7.6.

(b) The BCF for cool and warm water fish equals the estimated BCF from the equation in subitem (1) times 1.5/7.6.

(3) The final BAF for chemicals with log K_{ow} values less than three equals the estimated BCF from subitem (2).

(4) The final BAF for chemicals with log K_{ow} values of three or more equals the estimated BCF from subitem (2), multiplied by the factor from the equation in item A, subitem (8).

Subp. 10. **Taste and odor criteria.** The agency shall limit the addition of pollutants to surface waters to the extent necessary to protect fish and other edible freshwater organisms from acquiring objectionable tastes and odors. The agency will use the USEPA organoleptic criteria, established under section 304(a)(1) of the Clean Water Act, United States Code, title 33, section 1314, when establishing concentrations above which unacceptable tastes and odors could be imparted to aquatic organisms.

Subp. 11. **Wildlife-based criteria.** The agency shall use the procedures in this subpart to establish wildlife-based criteria. Wildlife criteria shall protect wildlife consumers of freshwater aquatic organisms from adverse effects of toxic substances. Wildlife criteria are applicable to all waters of the state, subject to the exceptions in subpart 12, item B, subitem (2).

A. Wildlife-based criteria shall be determined using toxicological information from scientifically acceptable studies of wildlife or domestic animal species, exposed to toxic chemicals through ingestion including gavage.

B. Wildlife-based criteria are calculated using the following formula:

$$\text{WCC mg/l} = \frac{\text{NOAEL} \times \text{BWt} \times \text{SSF}}{\text{DW} + (\text{F} \times \text{BAF})}$$

where: WCC = wildlife CC mg/l

NOAEL = no observable adverse effect level in mg of substance per kg of body weight per day (mg/kg BWt/day) as derived from mammalian or avian toxicity studies.

If the NOAEL is in mg/l, the NOAEL will be multiplied by the average daily volume of water consumed by the test animals in liters per day and divided by the average weight of the test animals in kg.

If the NOAEL is in mg/kg of food consumed, the NOAEL will be multiplied by the average amount of food consumed daily by the test animals and divided by the average weight of the test animals in kg.

BWt = average body weight of test organisms in kg.

SSF = species sensitivity factor to account for difference in the sensitivity in test species. This factor will vary between 1 and 0.1. The appropriate factor will be determined by the commissioner based on credible scientific evidence on the relative sensitivity of the test organism compared to other wildlife species.

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

DW = average volume of water consumed per day by the test animals in liters.
F = average amount of food consumed per day by test animals in kg.
BAF = BAF in liters per kg.

C. Drinking (DW) and feeding (F) rates for test organisms can be estimated using the following equations if these rates are not available from the original study:

(1) for mammalian species:

(a) $DW = 0.099 \times (BWt)^{0.90}$; and

(b) $F = 0.0687 \times (BWt)^{0.82}$; and

(2) for avian species:

(a) $DW = 0.059 \times (BWt)^{0.67}$; and

(b) $F = 0.058 \times (BWt)^{0.65}$.

D. A final BAF for calculating a wildlife chronic criterion (WCC) is determined as in subpart 9, except that the BCFs and BAFs are adjusted to represent whole body BCFs and BAFs.

(1) Normalized BCFs and BAFs are multiplied by 12 percent lipid for WCC applicable to Class 2A waters.

(2) Normalized BCFs and BAFs are multiplied by five percent lipid for WCC applicable to Class 2Bd, 2B, and 2C waters.

(3) If percent lipid data is not available, whole body BCFs and BAFs are used as reported.

(4) BCFs estimated using the relationship between BCFs and the log K_{ow} are normalized by dividing the estimated BCF by 7.6 and then multiplying by 12 for cold water fisheries or by five for cool and warm water fisheries.

(5) Measured or estimated BCFs for lipophilic organic chemicals with log K_{ow} values in the range of three or more are multiplied by the factor from subpart 9, item B, subitem (8).

Subp. 12. **Applicable standards.** The standard for a substance consists of three numbers: the CC, the MC, and the FAV. The standards for toxic substances for the waters of the state are the lowest of the applicable criteria derived under this part. Specific standards for toxic substances are listed in part 7050.0220, or may be derived as required by the commissioner under subpart 4.

A. Applicable standards for Class 1 and 2 surface waters are the lowest of the following criteria:

(1) a CC and MC based on toxicity to aquatic organisms from subpart 6 or 7;

(2) a CC based on plant toxicity from subpart 6 or 7;

(3) a dfCC or fCC from subparts 8 and 9;

(4) a concentration that will prevent unacceptable taste or odor in water, fish, or other edible aquatic organisms from subpart 10; or

(5) a WCC from subpart 11.

B. Applicable standards for Class 7 waters are the lowest of the following criteria:

(1) a WCC from subpart 11, if aquatic organisms can be sustained in the Class 7 water so that they are subject to predation by wildlife; or

(2) other drinking water or aquatic life standards for toxic substances, consistent with the uses Class 7 waters are protected for under part 7050.0200.

C. To prevent acutely toxic conditions, concentrations of toxic substances from point or nonpoint sources, singly or in mixtures, must not exceed the FAV as a one-day average at the point of discharge or in the waters of the state consistent with parts 7050.0210, subpart 5; 7050.0211, subpart 1; 7050.0212, subpart 6; and 7050.0214, subpart 1.

Mixtures of substances will be considered additive in their acutely toxic effects according to the following formula unless an alternative model is supported by credible evidence:

$$\frac{C1}{FAV1} + \frac{C2}{FAV2} + \ldots + \frac{Ci}{FAVi}$$

equals a value of one or more, an acutely toxic condition is indicated

where: C1 .... Ci is the concentration of the first to the ith toxicant.
FAV1 .... FAVi is the FAV for the first to the ith toxicant.

D. To prevent chronically toxic conditions, concentrations of toxic substances must not exceed the applicable CC or MC in the waters of the state, as specified in items A and B, averaged over the following durations: the MC will be a one-day average; the CC, based on toxicity to aquatic life, will be a four-day average; and the CC, based on human health or wildlife toxicity, will be a 30-day average.

E. Concentrations of carcinogenic chemicals from point or nonpoint sources, singly or in mixtures, should not exceed a risk level of one chance in 100,000 in the waters of the state. Carcinogenic chemicals will be considered additive in their effect according to the following formula unless an alternative model is supported by credible evidence. The additive formula applies to chemicals that have a human health-based standard calculated with a cancer potency factor.

$$\frac{C1}{CC1} + \frac{C2}{CC2} + \ldots + \frac{Ci}{CCi}$$

equals a value of one or more, a risk level greater than 10^{-5} is indicated

where: C1 .... Ci is the concentration of the first to the ith carcinogen.
CC1 .... CCi is the drinking water plus fish consumption criterion (dfCC) or fish consumption criterion (fCC) for the first to the ith carcinogenic chemical.

F. For carcinogenic or highly bioaccumulative chemicals with BCFs greater than 5,000 or log K_{ow} values greater than 5.19, the human health-based CC may be two or more orders of magnitude smaller than the acute toxicity-based MC. If the commissioner finds that a very large MC and FAV, relative to the CC for such substances, is not protective of the public health, the MC and the FAV shall be reduced according to the following guidelines:

If the ratio of the MC to the CC is greater than 100, the CC times 100 should be substituted for the applicable MC, and the CC times 200 should be substituted for the applicable FAV. The agency shall provide an opportunity for a public hearing as required in subpart 4 when the FAV and MC, reduced according to the procedures in this item, are used as the basis for an effluent limitation in a permit.

Subp. 13. **Site-specific standards.** The standards derived under this part, or the standards in part 7050.0220, are subject to review and modification as a result of information pertaining to a specific surface water reach or segment. If substantial site-specific information is available that shows that a site-specific standard is more appropriate than the statewide standard for a particular water or reach in question, the site-specific information will be the basis for the modification.

The information supporting a site-specific standard can be provided by the commissioner, or by any person outside the agency. The commissioner shall evaluate all data in support of a modified standard and determine whether a change in the standard for a specific water or reach is justified.

The agency shall provide an opportunity for a public hearing as required in subpart 4 when a modified standard is used as the basis for an effluent limitation in a permit.

7050.0220 SPECIFIC STANDARDS OF QUALITY AND PURITY FOR DESIGNATED CLASSES OF WATERS OF THE STATE.

Subpart 1. **General.** The numerical water quality standards in subparts 2 to 8 ~~shall~~ prescribe the qualities or properties of the waters of the state that are necessary for the designated public ~~use or benefit and which,~~ uses and benefits. If the ~~limiting conditions given~~ standards in this part are exceeded, ~~shall be~~ it is considered indicative of a polluted condition which is actually or potentially deleterious, harmful, detrimental, or injurious with respect to designated uses or established classes of the waters of the state.

Subp. 2. **Class 1. Domestic consumption.**

A. Class ~~A~~ 1A. The quality of this class of the waters of the state shall be such that without treatment of any kind the raw waters will meet in all respects both the mandatory and recommended requirements of the Public Health Service Drinking Water Standards-1962 for drinking water as specified in Publication No. 956 published by the Public Health Service of the United States Department of Health, Education and Welfare, and any revisions, amendments, or supplements to it. This standard will ordinarily be restricted to underground waters with a high degree of natural protection. The basic requirements are given below:

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

Substance or Characteristic	Limit or Range
Total coliform organisms	1 most probable number per 100 milliliters
Turbidity value	5 NTUs
Color value	15 Pt.-Co. units
Threshold odor number	3
Methylene blue active substance (MBAS)	0.5 milligram per liter
Arsenic (As)	0.01 milligram per liter
Chlorides (Cl)	250 milligrams per liter
Copper (Cu)	1 milligram per liter
Carbon chloroform extract	0.2 milligram per liter
Cyanides (CN)	0.01 milligram per liter
Fluorides (F)	1.5 milligrams per liter
Iron (Fe)	0.3 milligram per liter
Manganese (Mn)	0.05 milligram per liter
Nitrates as N	10 milligrams per liter
Phenol as phenol	0.001 milligram per liter
Sulfates (SO_4)	250 milligrams per liter
Total dissolved solids	500 milligrams per liter
Zinc (Zn)	5 milligrams per liter
Barium (Ba)	1 milligram per liter
Cadmium (Cd)	0.01 milligram per liter
Chromium (Hexavalent, Cr)	0.05 milligram per liter
Lead (Pb)	0.05 milligram per liter
Selenium (Se)	0.01 milligram per liter
Silver (Ag)	0.05 milligram per liter
Radioactive material	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

B. Class ~~B~~ 1B. The quality of this class of the waters of the state shall be such that with approved disinfection, such as simple chlorination or its equivalent, the treated water will meet in all respects both the mandatory and recommended requirements of the Public Health Service Drinking Water Standards-1962 for drinking water as specified in Publication No. 956 published by the Public Health Service of the United States Department of Health, Education and Welfare, and any revisions, amendments, or supplements ~~thereto~~. This standard will ordinarily be restricted to surface and underground waters with a moderately high degree of natural protection. The physical and chemical standards quoted above for Class ~~A~~ 1A waters shall also apply to these waters in the untreated state.

C. Class ~~C~~ 1C. The quality of this class of the waters of the state shall be such that with treatment consisting of coagulation, sedimentation, filtration, storage, and chlorination, or other equivalent treatment processes, the treated water will meet in all respects both the mandatory and recommended requirements of the Public Health Service Drinking Water Standards-1962 for drinking water ~~as~~ specified in Publication No. 956 published by the Public Health Service of the United States Department of Health, Education and Welfare, and any revisions, amendments, or supplements ~~thereto~~. This standard will ordinarily be restricted to surface waters, and groundwaters in aquifers not considered to afford adequate protection against contamination from surface or other sources of pollution. Such aquifers normally would include fractured and channeled limestone, unprotected impervious hard rock where water is obtained from mechanical fractures~~,~~ or joints~~, etc.,~~ with surface connections, and coarse gravels subjected to surface water infiltration. The physical and chemical standards quoted above for Class ~~A~~ 1A waters shall also apply to these waters in the untreated state, except as listed below:

Substance or Characteristic	Limit or Range
Turbidity value	25 NTUs

D. Class ~~D~~ 1D. The quality of this class of the waters of the state shall be such that after treatment consisting of coagulation, sedimentation, filtration, storage, and chlorination, plus additional pre, post, or intermediate stages of treatment, or other equivalent treatment processes, the treated water will meet in all respects the recommended requirements of the Public Health Service Drinking

Water Standards-1962 for drinking water as specified in Publication No. 956 published by the Public Health Service of the United States Department of Health, Education and Welfare, and any revisions, amendments, or supplements ~~thereto~~. This standard will ordinarily be restricted to surface waters, and groundwaters in aquifers not considered to afford adequate protection against contamination from surface or other sources of pollution. Such aquifers normally would include fractured and channeled limestone, unprotected impervious hard rock where water is obtained from mechanical fractures~~,~~ or joints~~, etc.,~~ with surface connections, and coarse gravels subjected to surface water infiltration. The concentrations or ranges given below shall not be exceeded in the raw waters before treatment:

Substance or Characteristic	Limit or Range
Arsenic (As)	0.05 milligram per liter
Barium (Ba)	1 milligram per liter
Cadmium (Cd)	0.01 milligram per liter
Chromium (Hexavalent, Cr)	0.05 milligram per liter
Cyanide (CN)	0.2 milligram per liter
Fluoride (F)	1.5 milligrams per liter
Lead (Pb)	0.05 milligram per liter
Selenium (Se)	0.01 milligram per liter
Silver (Ag)	0.05 milligram per liter
Radioactive material	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

In addition to the above listed standards, no sewage, industrial waste, or other wastes from point or nonpoint sources, treated or untreated, shall be discharged into or permitted by any person to gain access to any waters of the state classified for domestic consumption so as to cause any material undesirable increase in the taste, hardness, temperature, chronic toxicity, corrosiveness, or nutrient content, or in any other manner to impair the natural quality or value of the waters for use as a source of drinking water.

Subp. 3. **Class 2. Fisheries and recreation.**

A. Class ~~A~~ 2A. The quality of this class of the waters of the state shall be such as to permit the propagation and maintenance of warm or cold water sport or commercial fishes and their habitats and be suitable for aquatic recreation of all kinds, including bathing, for which the waters may be usable. ~~Limiting concentrations or ranges of substances or characteristics which should not be exceeded in the waters~~ This class of surface waters is also protected as a source of drinking water. The applicable standards are given below, with substances considered carcinogenic and having human health-based standards followed by a (c). Part 7050.0218, subpart 12, item F, should be referenced for FAVs and MC values noted with an asterisk (*):

~~Substance or Characteristic~~	~~Limit or Range~~
~~Dissolved oxygen~~	~~Not less than 7 milligrams per liter at all times (instantaneous minimum concentration)***~~
~~Temperature~~	~~No material increase~~
~~Ammonia (N)*~~	~~0.016 milligram per liter (un-ionized as N)~~
~~Chlorides (Cl)~~	~~50 milligrams per liter~~
~~Chromium (Cr)~~	~~0.02 milligram per liter~~
~~Copper (Cu)~~	~~0.01 milligram per liter or not greater than 1/10 the 96 hour TLM value~~

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

~~Cyanides (CN)~~	~~0.02 milligram per liter~~
~~Oil~~	~~0.5 milligram per liter~~
~~pH value~~	~~6.5 - 8.5~~
~~Phenols as phenol~~	~~0.01 milligram per liter and none that could impart odor or taste to fish flesh or other freshwater edible products such as crayfish, clams, prawns and like creatures. Where it seems probable that a discharge may result in tainting of edible aquatic products, bioassays and taste panels will be required to determine whether tainting is likely or present.~~
~~Turbidity value~~	~~10 NTUs~~
~~Color value~~	~~30 Pt. Co. units~~
~~Fecal coliform organisms~~	~~200 organisms per 100 milliliters as a geometric mean measured in not less than five samples in any calendar month, nor shall more than 10% of all samples taken during any calendar month individually exceed 400 organisms per 100 milliliters. (Applies only between March 1 and October 31.)~~
~~Radioactive materials~~	~~Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.~~
~~Total residual chlorine**~~	~~0.005 milligram per liter~~

Substance or Characteristic		Standards	
(c) = carcinogen	CC	MC	FAV
Acenapthene ug/l	12	41	81
Acrylonitrile (c) ug/l	0.38	1140*	2281*
Aluminum, total ug/l	87	748	1496
Ammonia un-ionized as N ug/l	16	none	none

*The percent un-ionized ammonia can be calculated for any temperature and pH by using the following formula taken from ~~Thurston, R. V., R. C. Russo, and K. Emerson, 1974. Aqueous ammonia equilibrium calculations. Technical Report Number 74-1, Fisheries Bioassay Laboratory, Montana State University, Bozeman, MT. 18 p~~ Emerson, K., R.C. Russo, R.E. Lund, and R.V. Thurston, 1975. Aqueous ammonia equilibrium calculations; effect of pH and temperature. Journal of the Fisheries Board of Canada 32: 2379-2383.

$$f = \frac{1}{10^{(pk_a - pH)} + 1} \times 100$$

where:

f = the percent of total ammonia in the un-ionized state

~~$pk_a = 0.0901821 + \frac{2729.92}{T}$, dissociation constant for ammonia~~

$pk_a = 0.09 + \frac{2730}{T}$, dissociation constant for ammonia

T = temperature in degrees Kelvin (273.16° Kelvin = 0° Celsius)

Anthracene ug/l	0.029	0.78	1.6
Arsenic, total ug/l	50	360	720
Benzene (c) ug/l	5.9	4400*	8800*
Bromoform ug/l	103	2900	5800

Cadmium, total ug/l

The CC shall not exceed: exp.(0.7852[ln(total hardness mg/l)]-3.49).

The MC shall not exceed: exp.(1.128[ln(total hardness mg/l)]-3.828).

The FAV shall not exceed: exp.(1.128[ln(total hardness mg/l)]-3.1349).

Cadmium standards in ug/l at various hardness values

Hardness mg/l			
50	0.66	1.8	3.6
100	1.1	3.9	7.8
200	2.0	8.6	17.1

Carbon tetra-chloride (c) ug/l	1.9	1750*	3500*
Chlordane (c) ug/l	0.000073	1.2*	2.4*
Chloride mg/l	230	860	1720
Chlorine, total residual ug/l	6	19	38

**Applies to conditions of continuous exposure, where continuous exposure refers to chlorinated effluents ~~which~~ that are discharged for more than a total of two hours in any 24-hour period.

Chlorobenzene ug/l (Monochlorobenzene)	10	423	846
Chloroform (C) ug/l	49	2235	4471
Chlorpyrifos ug/l	0.041	0.083	0.17

Chromium +3, total ug/l

The CC shall not exceed: exp.(0.819 [ln(total hardness mg/l)] + 1.561).

The MC shall not exceed: exp.(0.819[ln(total hardness mg/l)] + 3.688).

The FAV shall not exceed: exp.(0.819[ln(total hardness mg/l)] + 4.380).

Chromium +3 standards in ug/l at various hardness values

Hardness mg/l			
50	117	984	1966
100	207	1737	3469
200	365	3064	6120
Chromium +6, total ug/l	11	16	32

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

Color value			
Pt.-Co. units	30	none	none
Copper, total ug/l			

The CC shall not exceed: exp.(0.62[ln(total hardness mg/l)]-0.57).

The MC shall not exceed: exp.(0.9422[ln(total hardness mg/l)]-1.464).

The FAV shall not exceed: exp.(0.9422[ln(total hardness mg/l)]-0.7703).

Copper standards in ug/l at various hardness values

Hardness mg/l			
50	6.4	9.2	18
100	9.8	18	35
200	15	34	68
Cyanide, free ug/l	5.2	22	45
Dissolved oxygen mg/l	7 as a daily minimum	none	none

***This dissolved oxygen standard ~~shall be construed to require~~ requires compliance with the standard 50 percent of the days at which the flow of the receiving water is equal to the lowest weekly flow with a once in ten-year recurrence interval (7Q10).

DDT (c) ug/l	0.00011	0.55*	1.1*
1,2-Dichloroethane (c) ug/l	3.5	45050*	90100*
Dieldrin (c) ug/l	0.0000065	1.25*	2.5*
Di-2-Ethylhexyl phthalate (c) ug/l	1.94	none	none
Di-n-Octyl phthalate ug/l	30	825	1650
Endosulfan ug/l	0.056	0.11	0.22
Endrin ug/l	0.0033	0.090	0.18
Ethylbenzene ug/l	68	1859	3717
Fecal coliform organisms			

Not to exceed 200 organisms per 100 milliliters as a geometric mean of not less than five samples in any calendar month, nor shall more than ten percent of all samples taken during any calendar month individually exceed 400 organisms per 100 milliliters. The standard applies only between March 1 and October 31.

Fluoranthene ug/l	1.1	199	398
Heptachlor (c) ug/l	0.000088	0.26*	0.52*
Heptachlor epoxide (c) ug/l	0.00012	0.27*	0.53*
Hexachlorobenzene (c) ug/l	0.000056	none	none
Lead, total ug/l			

The CC shall not exceed: exp.(1.273[ln(total hardness mg/l)]-4.705).

The MC shall not exceed: exp.(1.273[ln(total hardness mg/l)]-1.460).

The FAV shall not exceed: exp.(1.273[ln(total hardness mg/l)]-0.7643).

Lead standard in ug/l at various hardness values

Hardness mg/l			
50	1.3	34	68
100	3.2	82	164
200	7.7	197	396
Lindane (c) ug/l (Hexachlorocyclohexane, gamma-)	0.0030	1.0*	2.0*
Mercury, total ug/l	0.0069	2.4*	4.9*

Methylene chloride (c) ug/l (Dichloro-methane)	44.7	9600*	19200*

Nickel, total ug/l

The CC shall not exceed the human health-based criterion of 88 ug/l. For waters with total hardness values less than 50 mg/l, the CC shall not exceed: exp.(0.846[ln(total hardness mg/l)] + 1.1645.

The MC shall not exceed: exp.(0.846[ln(total hardness mg/l)] + 3.3612).

The FAV shall not exceed: exp.(0.846[ln(total hardness mg/l)] + 4.0543).

Nickel standards in ug/l at various hardness values

Hardness mg/l			
50	88	789	1578
100	88	1418	2836
200	88	2549	5098
Oil ug/l	500	5000	10000
Parathion ug/l	0.013	0.07	0.13

Pentachlorophenol ug/l

The CC shall not exceed: exp.(1.005[pH]-5.290).

The MC shall not exceed: exp.(1.005[pH]-4.830).

The FAV shall not exceed: exp.(1.005[pH]-4.1373).

Pentachlorophenol standards in ug/l at various pH values

pH			
7.0	5.7	9.1	18
7.5	9.5	15	30
8.0	16	25	50
pH value not less than 6.5 nor greater than 8.5			
Phenanthrene ug/l	2.1	29	58
Phenol ug/l	123	2214	4428
Polychlorinated biphenyls total (c) ug/l	0.000014	1.0*	2.0*

Radioactive materials

Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

Selenium, total ug/l	5.0	20	40

Silver, total ug/l

The CC shall not exceed: 0.12.

The MC shall not exceed: exp.(1.72[ln(total hardness mg/l)]-7.2156) and the FAV shall not exceed: exp.(1.72[ln(total hardness mg/l)]-6.52) provided that the MC and FAV shall be no less than 0.12 ug/l.

Silver standards in ug/l at various hardness values

Hardness mg/l			
50	n/a	0.61	1.2
100	n/a	2.0	4.1
200	n/a	6.7	13

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

Temperature No material increase			
2,3,7,8-Tetrachlorodibenzo -p-dioxin (c) picograms/l	0.0003	none	none
1,1,2,2-Tetrachlorethane (c) ug/l	1.1	1127*	2253*
Tetrachloroethylene (c) ug/l	2.9	428*	857*
Toluene ug/l	253	1352	2703
Toxaphene (c) ug/l	0.00039	0.73*	1.5*
1,1,1-Trichloroethane ug/l	263	2628	5256
1,1,2-Trichloroethylene (c) ug/l	25	6988*	13976*
2,4,6-Trichlorophenol ug/l	2.0	102	203
Turbidity value NTUs	10	none	none
Vinyl chloride (c) ug/l	0.14	none	none
Xylene, total m, p, and o ug/l	166	1407	2814

Zinc, total ug/l

The CC shall not exceed: exp.(0.8473[ln(total hardness mg/l]+0.7615).

The MC shall not exceed: exp.(0.8473[ln(total hardness mg/l)]+0.8604).

The FAV shall not exceed: exp.(0.8473[ln(total hardness mg/l)]+1.5536).

Zinc standards in ug/l at various hardness values

Hardness mg/l			
50	59	65	130
100	106	117	234
200	191	211	421

B. Class 2Bd. The quality of this class of the waters of the state shall be such as to permit the propagation and maintenance of cool or warm water sport or commercial fishes and their habitats and be suitable for aquatic recreation of all kinds, including bathing, for which the waters may be usable. This class of surface waters are also protected as a source of drinking water. The standards for waters listed in item A shall apply to these waters except as listed below, with substances considered carcinogenic and having human health-based standards followed by a (c). Part 7050.0218, subpart 12, item F, should be referenced for FAVs and MC values noted with an asterisk (*):

Substance or Characteristic		Standard	
(c) = carcinogen	CC	MC	FAV
Aluminum total ug/l	125	1072	2145
Ammonia un-ionized as N ug/l	40	none	none

The percent of un-ionized ammonia can be calculated for any temperature and pH as described in item A.

Benzene (c) ug/l	6.9	4400*	8800*
Bromoform ug/l	128	2900	5800

Cadmium, total ug/l

The CC shall not exceed: exp.(0.7852[ln(total hardness mg/l)]-3.49).

The MC shall not exceed: exp.(1.128[ln(total hardness mg/l)]-1.685).

The FAV shall not exceed: exp.(1.128[ln(total hardness mg/l)]-0.9919).

Cadmium standards in ug/l at various hardness values

Hardness mg/l			
50	0.66	15	31
100	1.1	33	67
200	2.0	73	146

Chlordane (c) ug/l	0.00029	1.2*	2.4*
Chloroform (c) ug/l	55	2235	4471
Dissolved oxygen mg/l	5 as a daily minimum	none	none

This dissolved oxygen standard requires compliance with the standard 50 percent of the days at which the flow of the receiving water is equal to the lowest weekly flow with a once in ten year recurrence interval (7Q10).

DDT (c) ug/l	0.0017	0.55*	1.1*
1,2-Dichloroethane (c) ug/l	3.8	45050*	90100*
Dieldrin (c) ug/l	0.000026	1.25*	2.5*
Endosulfan ug/l	0.15	0.28	0.56
Endrin ug/l	0.013	0.090	0.18

Fecal coliform organisms

Not to exceed 200 organisms per 100 milliliters as a geometric mean of not less than five samples in any calendar month, nor shall more than ten percent of all samples taken during any calendar month individually exceed 2,000 organisms per 100 milliliters. The standard applies only between March 1 and October 31.

Fluoranthene ug/l	4.1	199	398
Heptachlor (c) ug/l	0.00035	0.26*	0.52*
Heptachlor epoxide (c) ug/l	0.00048	0.27*	0.53*
Hexachlorobenzene (c) ug/l	0.00022	none	none
Lindane (c) ug/l (Hexachlorocyclohexane gamma-)	0.012	1.0	2.0
Methylene chloride (c) ug/l (Dichloromethane)	46	9600*	19200*
pH value	Not less than 6.5 nor greater than 9.0		
Polychlorinated biphenyls, total (c) ug/l	0.000029	1.0*	2.0*

Silver, total ug/l

The CC shall not exceed: 1.0.

The MC shall not exceed: exp.(1.72[ln(total hardness mg/l)]-7.2156) and the FAV shall not exceed: exp.(1.72[ln(total hardness mg/l)]-6.52) provided that the MC and FAV shall be no less than 1.0 ug/l.

Silver standards in ug/l at various hardness values

Hardness mg/l			
50	n/a	1.0	1.2
100	n/a	2.0	4.1
200	n/a	6.7	13

Temperature

5° F above natural in streams and 3° F above natural in lakes, based on monthly average of the maximum daily temperature, except in no case shall it exceed the daily average temperature of 86° F.

2,3,7,8-Tetrachlorodibenzo-p-dioxin (c) picograms/l	0.0012	none	none

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

1,1,2,2-Tetrachloro-ethane (c) ug/l	1.54	1127*	2253*
Toxaphene (c) ug/l	0.0016	0.73*	1.5*
Turbidity value NTUs	25	none	none
Vinyl chloride (c) ug/l	0.15	none	none

C. Class ~~B~~ 2B. The quality of this class of the waters of the state shall be such as to permit the propagation and maintenance of cool or warm water sport or commercial fishes and their habitats and be suitable for aquatic recreation of all kinds, including bathing, for which the waters may be usable. ~~Limiting concentrations or ranges of substances or characteristics which should not be exceeded in the waters~~ This class of surface water is not protected as a source of drinking water. The applicable standards are given below, with substances considered carcinogenic and having human health-based standards followed by a (c). Part 7050.0218, subpart 12, item F, should be referenced for FAVs and MC values noted with an asterisk (*):

~~Substance or Characteristic~~	~~Limit or Range~~
~~Dissolved oxygen*~~	~~Not less than 5 milligrams per liter at all times (instantaneous minimum concentration)****~~
~~Temperature~~	~~5°F above natural in streams and 3°F above natural in lakes, based on monthly average of the maximum daily temperature, except in no case shall it exceed the daily average temperature of 86°F.~~
~~Ammonia (N)**~~	~~0.04 milligram per liter (un-ionized as N)~~
~~Chromium (Cr)~~	~~0.05 milligram per liter~~
~~Copper (Cu)~~	~~0.01 milligram per liter or not greater than 1/10 the 96 hour TLM value.~~
~~Cyanides (CN)~~	~~0.02 milligram per liter~~
~~Oil~~	~~0.5 milligram per liter~~
~~pH value~~	~~6.5 - 9.0~~
~~Phenols as phenol~~	~~0.01 milligram per liter and none that could impart odor or taste to fish flesh or other freshwater edible products such as crayfish, clams, prawns and like creatures. Where it seems probable that a discharge may result in tainting of edible aquatic products, bioassays and taste panels will be required to determine whether tainting is likely or present.~~
~~Turbidity value~~	~~25 NTUs~~
~~Fecal coliform organisms~~	~~200 organisms per 100 milliliters as a geometric mean measured in not less than five samples in any calendar month, nor shall more than 10% of all samples~~

~~taken during any calendar month individually exceed 2000 organisms per 100 milliliters. (Applies only between March 1 and October 31.)~~

~~Radioactive materials~~ ~~Not to exceed the lowest concentration permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.~~

~~Total Residual Chlorine***~~ ~~0.005 milligram per liter~~

Substance or Characteristic (c) = carcinogen	CC	Standard MC	FAV
Acenapthene ug/l	12	41	81
Acrylonitrile (c) ug/l	0.89	1140*	2281*
Aluminum, total ug/l	125	1072	2145
Ammonia un-ionized as N ug/l	40	none	none

The percent un-ionized ammonia can be calculated for any temperature and pH as described in item A.

Anthracene ug/l	0.029	0.78	1.6
Arsenic, total ug/l	70	360	720
Benzene (c) ug/l	111	4400	8800
Bromoform ug/l	558	2900	5800
Cadmium, total ug/l			

The CC shall not exceed: exp.(0.7852[ln(total hardness mg/l)]-3.49).

The MC shall not exceed: exp.(1.128[ln(total hardness mg/l)]-1.685).

The FAV shall not exceed: exp.(1.128[ln(total hardness mg/l)]-0.9919).

Cadmium standards in ug/l at various hardness values

Hardness mg/l			
50	0.66	15	31
100	1.1	33	67
200	2.0	73	146
Carbon tetra-chloride (c) ug/l	5.9	1750*	3500*
Chlordane (c) ug/l	0.00029	1.2*	2.4*
Chloride mg/l	230	860	1720
Chlorine, total residual ug/l	6	19	38

Applies to conditions of continuous exposure, where continuous exposure refers to chlorinated effluents that are discharged for more than a total of two hours in any 24-hour period.

Chlorobenzene ug/l (Monochlorobenzene)	10	423	846
Chloroform (c) ug/l	224	2235	4471
Chlorpyrifos ug/l	0.041	0.083	0.17
Chromium +3, total ug/l			

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

The CC shall not exceed: exp.(0.819[ln(total hardness mg/l)] + 1.561).

The MC shall not exceed: exp.(0.819[ln(total hardness mg/l)] + 3.688).

The FAV shall not exceed: exp.(0.819[ln(total hardness mg/l)] + 4.38).

Chromium +3 standards in ug/l at various hardness values

Hardness mg/l			
50	117	984	1966
100	207	1737	3469
200	365	3064	6120
Chromium +6, total ug/l	11	16	32

Copper, total ug/l

The CC shall not exceed: exp.(0.62[ln(total hardness mg/l)]-0.57).

The MC shall not exceed: exp.(0.9422[ln(total hardness mg/l)]-1.464).

The FAV shall not exceed: exp.(0.9422[ln(total hardness mg/l)]-0.7703).

Copper standards in ug/l at various hardness values

Hardness mg/l			
50	6.4	9.2	18
100	9.8	18	35
200	15	34	68
Cyanide, free ug/l	5.2	22	45
Dissolved oxygen mg/l	5 as a daily minimum	none	none

*This standard applies to all Class 2 waters ~~of the state~~ except for the reach of the Mississippi River from the outlet of the metro wastewater treatment works in Saint Paul (River Mile 835) to Lock and Dam No. 2 at Hastings (River Mile 815). For this reach of the Mississippi River the standard is not less than five milligrams per liter as a daily average from April 1 through November 30, and not less than four milligrams per liter at other times.

~~**See ammonia footnote for Class 2A waters.~~

~~***See chlorine footnote for Class 2A waters.~~

~~****See dissolved oxygen footnote for Class 2A waters.~~

This dissolved oxygen standard requires compliance with the standard 50 percent of the days at which the flow of the receiving water is equal to the lowest weekly flow with a once in ten year recurrence interval (7Q10).

DDT (c) ug/l	0.0017	0.55*	1.1*
1,2-Dichloroethane (c) ug/l	190	45050*	90100*
Dieldrin (c) ug/l	0.000026	1.25*	2.5*
Di-2-Ethylhexyl phthalate (c) ug/l	2.1	none	none
Di-n-Octyl phthalate ug/l	30	825	1650
Endosulfan ug/l	0.15	0.28	0.56
Endrin ug/l	0.013	0.090	0.18
Ethylbenzene ug/l	68	1859	3717

Fecal coliform organisms

Not to exceed 200 organisms per 100 milliliters as a geometric mean of not less than five samples in any calendar month, nor shall more than ten percent of all samples taken during any calendar month individually exceed 2,000 organisms per 100 milliliters. The standard applies only between March 1 and October 31.

Fluoranthene ug/l	4.6	199	398
Heptachlor (c) ug/l	0.00035	0.26*	0.52*
Heptachlor epoxide (c) ug/l	0.00048	0.27*	0.53*

Hexachlorobenzene (c) ug/l	0.00022	none	none

Lead, total ug/l

The CC shall not exceed: exp.(1.273[ln(total hardness mg/l)]-4.705).

The MC shall not exceed: exp.(1.273[ln(total hardness mg/l)]-1.460).

The FAV shall not exceed: exp.(1.273[ln(total hardness mg/l)]-0.7643).

Lead standards in ug/l at various hardness values

Hardness mg/l			
50	1.3	34	68
100	3.2	82	164
200	7.7	197	396

Lindane (c) ug/l (Hexachlorocyclohexane gamma-)	0.012	1.0	2.0
Mercury, total ug/l	0.0069	2.4*	4.9*
Methylene chloride (c) ug/l (Dichloromethane)	1561	9600	19200

Nickel, total ug/l

For waters with total hardness values greater than 143 mg/l, the CC shall not exceed the human health-based criterion of 213 ug/l. For waters with total hardness values less than 144 mg/l, the CC shall not exceed: exp.(0.846[ln(total hardness mg/l)] + 1.1645).

The MC shall not exceed: exp.(0.846[ln(total hardness mg/l)] + 3.3612).

The FAV shall not exceed: exp.(0.846[ln(total hardness mg/l)] + 4.0543).

Nickel standards in ug/l at various hardness values

Hardness mg/l			
50	88	789	1578
100	158	1418	2836
200	213	2549	5098

Oil ug/l	50	5000	10000
Parathion ug/l	0.013	0.07	0.13

Pentachlorophenol ug/l

The CC shall not exceed: exp.(1.005[pH]-5.290).

The MC shall not exceed: exp.(1.005[pH]-4.830).

The FAV shall not exceed: exp.(1.005[pH]-4.1373).

Pentachlorophenol standards in ug/l at various pH values

pH			
7.0	5.7	9.1	18
7.5	9.5	15	30
8.0	16	25	50

pH value not less than 6.5 nor greater than 9.0			
Phenanthrene ug/l	2.1	29	58
Phenol ug/l	123	2214	4428
Polychlorinated biphenyls (c) ug/l	0.000029	1.0*	2.0*

Radioactive materials

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

Not to exceed the lowest concentration permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

Selenium, total ug/l	5.0	20	40
Silver, total ug/l			

The CC shall not exceed: 1.0.

The MC shall not exceed: exp.(1.72[ln(total hardness mg/l)]-7.2156) and the FAV shall not exceed: exp.(1.72[ln(total hardness mg/l)]-6.52) provided that the MC and FAV shall be no less than 1.0 ug/l.

Silver standards in ug/l at various hardness values

Hardness mg/l			
50	n/a	1.0	1.2
100	n/a	2.0	4.1
200	n/a	6.7	13

Temperature

5°F above natural in streams and 3°F above natural in lakes, based on monthly average of the maximum daily temperature, except in no case shall it exceed the daily average temperature of 86°F.

2,3,7,8-Tetrachlorodibenzo -p-dioxin (c) picograms/l	0.0012	none	none
1,1,2,2-Tetrachlorethane (c) ug/l	13	1127	2253
Tetrachloroethylene (c) ug/l	5.3	428	857
Toluene ug/l	253	1352	2703
Toxaphene ug/l	0.0016	0.73*	1.5*
1,1,1-Trichloroethane ug/l	263	2628	5256
1,1,2-Trichloroethylene (c) ug/l	120	6988	13976
2,4,6-Trichlorophenol ug/l	2.0	102	203
Turbidity value NTUs	25	none	none
Vinyl chloride (c) ug/l	7.6	none	none
Xylene, total m, p, and o ug/l	166	1407	2814
Zinc, total ug/l			

The CC shall not exceed: exp.(0.8473[ln(total hardness mg/l)] + 0.7615).

The MC shall not exceed: exp.(0.8473[ln(total hardness mg/l)] + 0.8604).

The FAV shall not exceed: exp.(0.8473[ln(total hardness mg/l)] + 1.5536).

Zinc standards in ug/l at various hardness values

Hardness mg/l			
50	59	65	130
100	106	117	234
200	191	211	421

~~C.~~ D. Class ~~C~~ 2C. The quality of this class of the waters of the state shall be such as to permit the propagation and maintenance of rough fish or species commonly inhabiting waters of the vicinity under natural conditions, maintain the habitat for such fisheries, and be suitable for boating and other forms of aquatic recreation for which the waters may be usable. ~~Limiting concentrations or ranges of substances or characteristics which should not be exceeded in the waters are given~~ The standards for Class 2B waters listed in item C shall apply to these waters except as listed below:

~~Substance or Characteristic~~	~~Limit or Range~~
~~Dissolved oxygen*~~	~~Not less than 5 milligrams per liter at all times (instantaneous minimum concentration.)****~~

~~Temperature~~	~~5°F above natural in streams and 3°F above natural in lakes, based on monthly average of the maximum daily temperature except in no case shall it exceed the daily average temperature of 90°F.~~
~~Ammonia (N)**~~	~~0.04 milligram per liter (un-ionized as N)~~
~~Chromium (Cr)~~	~~0.05 milligram per liter~~
~~Copper (Cu)~~	~~0.01 milligram per liter or not greater than 1/10 the 96 hour TLM value.~~
~~Cyanides (CN)~~	~~0.02 milligram per liter~~
~~Oil~~	~~10 milligrams per liter, and none in such quantities as to (1) produce a visible color film on the surface, (2) impart an oil odor to water or an oil taste to fish and edible invertebrates, (3) coat the banks and bottom of the watercourse or taint any of the associated biota, or (4) become effective toxicants according to the criteria recommended.~~
~~pH value~~	~~6.5 - 9.0~~
~~Phenols as phenol~~	~~0.1 milligram per liter and none that could impart odor or taste to fish flesh or other freshwater edible products such as crayfish, clams, prawns and like creatures. Where it seems probable that a discharge may result in tainting of edible aquatic products, bioassays and taste panels will be required to determine whether tainting is likely or present.~~
~~Turbidity value~~	~~25 NTUs~~
~~Fecal coliform organisms~~	~~200 organisms per 100 milliliters as a geometric mean measured in not less than five samples in any calendar month, nor shall more than 10% of all samples taken during any calendar month individually exceed 2000~~

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

~~organisms per 100 milliliters. (Applies only between March 1 and October 31.)~~

~~Radioactive materials~~ ~~Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.~~

~~Total residual chlorine***~~ ~~0.005 milligram per liter~~

Substance or Characteristic	CC	Standard MC	FAV
Dissolved oxygen mg/l	5 as a daily minimum	none	none

~~*~~This standard applies to all Class 2 waters ~~of the state~~ except for the reach of the Mississippi River from the outlet of the metro wastewater treatment works in Saint Paul (River Mile 835) to Lock and Dam No. 2 at Hastings (River Mile 815) and except for the reach of the Minnesota River from the outlet of the Blue Lake wastewater treatment works (River Mile 21) to the mouth at Fort Snelling. For this reach of the Mississippi River the standard is not less than five milligrams per liter as a daily average from April 1 through November 30, and not less than four milligrams per liter at other times. For the specified reach of the Minnesota River the standard shall be not less than five milligrams per liter as a daily average year-round.

~~**See ammonia footnote for Class 2A waters.~~

~~***See chlorine footnote for Class 2A waters.~~

~~****See dissolved oxygen footnote for Class 2A waters.~~

This dissolved oxygen standard requires compliance with the standard 50 percent of the days at which the flow of the receiving water is equal to the lowest weekly flow with a once in ten year recurrence interval (7Q10).

Temperature

5°F above natural in streams and 3°F above natural in lakes, based on monthly average of the maximum daily temperature, except in no case shall it exceed the daily average temperature of 90°F.

For all classes of fisheries and recreation waters, the aquatic habitat, which includes the waters of the state and stream bed, shall not be degraded in any material manner, there shall be no material increase in undesirable slime growths or aquatic plants, including algae, nor shall there be any significant increase in harmful pesticide or other residues in the waters, sediments, and aquatic flora and fauna; the normal fishery and lower aquatic biota upon which it is dependent and the use thereof shall not be seriously impaired or endangered, the species composition shall not be altered materially, and the propagation or migration of the fish and other biota normally present shall not be prevented or hindered by the discharge of any sewage, industrial waste, or other wastes to the waters ~~of the state~~.

~~No sewage, industrial waste, or other wastes from point or nonpoint sources shall be discharged into any of the waters of this category so as to cause any material change in any other substances or characteristics which may impair the quality of the waters of the state or the aquatic biota of any of the above listed classes or in any manner render them unsuitable or objectionable for fishing, fish culture, or recreational uses. Additional selective limits or changes in the discharge bases may be imposed on the basis of local needs.~~

Subp. 4. **Class 3. Industrial consumption.**

A. Class ~~A~~ 3A. The quality of this class of the waters of the state shall be such as to permit their use without chemical treatment, except softening for groundwater, for most industrial purposes, except food processing and related uses, for which a high quality of water is required. The quality shall be generally comparable to Class ~~B~~ 1B waters for domestic consumption, except for the following:

Substance or Characteristic	Limit or Range
Chlorides (Cl)	50 milligrams per liter
Hardness, Ca + Mg as $CaCO_3$	50 milligrams per liter
pH value	6.5 - 8.5

B. Class ~~B~~ 3B. The quality of this class of the waters of the state shall be such as to permit their use for general industrial purposes, except for food processing, with only a moderate degree of treatment. The quality shall be generally comparable to Class ~~D~~ 1D waters of the state used for domestic consumption, except the following:

Substance or Characteristic	Limit or Range
Chlorides (Cl)	100 milligrams per liter
Hardness, Ca + Mg as $CaCO_3$	250 milligrams per liter
pH value	6.0 - 9.0

C. Class ~~C~~ 3C. The quality of this class of the waters of the state shall be such as to permit their use for industrial cooling and materials transport without a high degree of treatment being necessary to avoid severe fouling, corrosion, scaling, or other unsatisfactory conditions. The following shall not be exceeded in the waters of the state:

Substance or Characteristic	Limit or Range
Chlorides (Cl)	250 milligrams per liter
Hardness, Ca + Mg as $CaCO_3$	500 milligrams per liter
pH value	6.0 - 9.0

Additional selective limits may be imposed for any specific waters of the state as needed.

In addition to the above listed standards, no sewage, industrial waste, or other wastes from point or nonpoint sources, treated or untreated, shall be discharged into or permitted by any person to gain access to any waters of the state classified for industrial purposes so as to cause any material impairment of their use as a source of industrial water supply.

Subp. 5. **Class 4. Agriculture and wildlife.**

A. Class ~~A~~ 4A. The quality of this class of the waters of the state shall be such as to permit their use for irrigation without significant damage or adverse effects upon any crops or vegetation usually grown in the waters or area, including truck garden crops. The following concentrations or limits shall be used as a guide in determining the suitability of the waters for such uses, together with the recommendations contained in Handbook 60 published by the Salinity Laboratory of the United States Department of Agriculture, and any revisions, amendments, or supplements to it:

Substance or Characteristic	Limit or Range
Bicarbonates (HCO_3)	5 milliequivalents per liter
Boron (B)	0.5 milligram per liter
pH value	6.0 - 8.5
Specific conductance	1,000 micromhos per centimeter
Total dissolved salts	700 milligrams per liter
Sodium (Na)	60% of total cations as milliequivalents per liter
Sulfates (SO_4)	10 milligrams per liter, applicable to water used for production of wild rice during periods when the rice may be susceptible to damage by high sulfate levels.
Radioactive materials	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

B. Class ~~B~~ 4B. The quality of this class of the waters of the state shall be such as to permit their use by livestock and wildlife without inhibition or injurious effects. The limits or concentrations of substances or characteristics given below shall not be exceeded in the waters of the state:

Substance or Characteristic	Limit or Range
pH value	6.0 - 9.0
Total salinity	1,000 milligrams per liter

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

Radioactive materials	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.
~~Unspecified~~ Toxic substances	None at levels harmful either directly or indirectly.

Additional selective limits may be imposed for any specific waters of the state as needed.

Subp. 6. **Class 5. Aesthetic enjoyment and navigation.** The quality of this class of the waters of the state shall be such as to be suitable for aesthetic enjoyment of scenery and to avoid any interference with navigation or damaging effects on property. The following limits or concentrations shall not be exceeded in the waters of the state:

Substance or Characteristic	Limit or Range
pH value	6.0 - 9.0
Hydrogen sulfide as S	0.02 milligram per liter

Additional selective limits may be imposed for any specific waters of the state as needed.

Subp. 7. **Class 6. Other uses.** The uses to be protected in this class may be under other jurisdictions and in other areas to which the waters of the state are tributary, and may include any or all of the uses listed in the foregoing categories, plus any other possible beneficial uses. The agency therefore reserves the right to impose any standards necessary for the protection of this class, consistent with legal limitations.

Subp. 8. **Class 7. Limited resource value waters.** The quality of this class of waters of the state shall be such as to protect aesthetic qualities, secondary body contact use, and groundwater for use as a potable water supply. ~~The~~ Limits or concentrations of substances or characteristics given below shall not be exceeded in the waters:

Substance or Characteristic	~~Limit or Range~~ Standard
Fecal coliform organisms	~~1,000 organisms per 100 milliliters* (Applies only between May 1 and October 31.)~~

Not to exceed 1,000 organisms per 100 milliliters in any calendar month as determined by the logarithmic mean of a minimum of five samples, nor shall more than ten percent of all samples taken during any calendar month individually exceed 2,000 organisms per 100 milliliters. The standard applies only between May 1 and October 31.

pH value Not less than 6.0 nor greater than 9.0	~~6.0 - 9.0~~
Dissolved oxygen At concentrations which will avoid odors or putrid conditions in the receiving water or at concentrations at not less than 1 mg/l (daily average) provided that measurable concentrations are present at all times.	
~~Unspecified Substances~~	~~Unspecified substances shall not be allowed in such quantities or concentrations that will impair the specified uses.~~

~~*The stated value is not to be exceeded in any calendar month as determined by the logarithmic mean of a minimum of five samples, nor shall more than ten percent of all samples taken during any calendar month individually exceed 2,000 organisms per 100 milliliters.~~

Toxic Substances	Toxic substances shall not be allowed in such quantities or concentrations that will impair the specified uses.

7050.0420 TROUT WATERS.

Trout streams and trout lakes described in Department of Natural Resources Commissioner's orders ~~2089 (dated June 26, 1981)~~ 2294 (dated March 18, 1988) and 2230 (dated December 24, 1985) respectively are ~~hereby~~ classified as trout waters. Other lakes that are classified as trout waters are listed in part 7050.0470. All trout waters are classified 1B, 2A, 3B, 3C, 4A, 4B, 5, and 6.

7050.0460 WATERS SPECIFICALLY CLASSIFIED.

The waters of the state listed in part 7050.0470 are ~~hereby~~ classified as specified. The specific stretch of watercourse or the location of a waterbody is described by township, range, and section, abbreviated as T., R., S., respectively. Any community listed in part 7050.0470 is the community nearest the water classified, and is included solely to assist in identifying the water. ~~An asterisk (*) indicates the water is designated as an outstanding resource value water.~~

Outstanding resource value waters are listed in part 7050.0470 and are denoted by an asterisk (*) preceding the name of the water resource. Following the name is the effective date the water resource was designated as an outstanding resource value water and a letter code that corresponds to the applicable discharge restrictions in part 7050.0180, subpart 3 or 6. The letter code P corresponds to the prohibited discharges provision in part 7050.0180, subpart 3. The letter code R corresponds to the restricted discharges provision in part 7050.0180, subpart 6.

Waters listed in part 7050.0470 that are classified as Class 2Bd are Class 2B waters also classified for domestic consumption purposes. Applicable standards for Class 2Bd waters are listed in part 7050.0220, subpart 3, item B.

7050.0470 CLASSIFICATIONS FOR WATERS IN MAJOR SURFACE WATER DRAINAGE BASINS.

Subpart 1. **Lake Superior Basin.** The water use classifications for the listed waters in the Lake Superior Basin are as identified in items A and B:

A. Streams:

(1) Amenda Creek, (T.59, R.5W): 2C;

(2) Barber Creek (East Swan River) (Chisholm Creek) Chisholm, (T.58, R.20, S.21, 22, 26, 27, 34, 35): 7;

(3) Boulder Creek, (T.53, 54, R.14): 2C;

(4) Brule River (excluding trout waters), (T.62, 63, 64, R.1W, 1E, 2E, 3E): 1B, ~~2B~~ 2Bd, 3B;

(5) Buhl Creek, Buhl, (T.58, R.19, S.20, 29): 7;

(6) Cranberry Creek, (T.58, R.13): 2C;

(7) Elbow Creek, Eveleth, (T.57, R.17, S.6; T.57, R.18, S.1): 7;

(8) Horn Creek, (T.62, R.4W): 1B, ~~2B~~ 2Bd, 3B;

(9) Manganika Creek, Virginia, (T.58, R.17, S.19; T.58, R.18, S.24): 7;

(10) Pigeon River (South of Fowl Lake to Pigeon Bay of Lake Superior): 1B, ~~2B~~ 2Bd, 3A;

(11) Swan River, West, (T.55, R.20, 21): 2C;

(12) Temperance River (excluding trout waters), (T.59, 60, 61, 62, R.4W): 1B, ~~2B~~ 2Bd, 3B;

(13) Trappers Creek, (T.56, R.11): 2C;

(14) Unnamed Creek, Meadowlands, (T.53, R.19, S.22, 23): 7;

(15) Unnamed Ditch, Eveleth, (T.57, R.17, S.6): 7;

(16) Unnamed Ditch, Gilbert, (T.58, R.17, S.23, 24, 25, 36): 7; and

(17) *All other streams in the Boundary Waters Canoe Area Wilderness [11/5/84P]: 1B, ~~2B~~ 2Bd, 3B.

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

B. Lakes:

(1) *Alder Lake, [11/5/84P] (T.64, R.1E): 1B, 2A, 3B;

(2) *Alton Lake, [11/5/84P] (T.62, 63, R.4, 5): 1B, 2A, 3B;

(3) Bearskin Lake, East, (T.64, R.1E, 1W): 1B, 2A, 3B;

(4) *Bearskin Lake, West, [3/7/88R] (T.64, 65, R.1): 1B, 2A, 3B;

(5) *Birch Lake, [3/7/88R] (T.65, R.1, 2): 1B, 2A, 3B;

(6) Black Lake, (T.45, R.15): 1B, ~~2B~~ 2Bd, 3B;

(7) *Brule Lake, [11/5/84P] (T.63, R.2, 3): 1B, 2A, 3B;

(8) Chester Lake, (T.64, R.3E): 1B, 2A, 3B;

(9) *Clearwater Lake (Emby Lake), [11/5/84P] (T.65, R.1E): 1B, 2A, 3B;

(10) Colby Lake, (T.58, R.14): 1B, ~~2B~~ 2Bd, 3B;

(11) *Cone Lake, North, [11/5/84P] (T.63, 64, R.3): 1B, 2A, 3B;

(12) *Crystal Lake, [11/5/84P] (T.64, R.1E, 2E): 1B, 2A, 3B;

(13) *Daniels Lake, [11/5/84P] (T.65, R.1E, 1W): 1B, 2A, 3B;

(14) *Davis Lake, [11/5/84P] (T.64, R.3): 1B, 2A, 3B;

(15) *Devilfish Lake, [3/7/88R] (T.64, R.3E): 1B, 2A, 3B;

(16) *Duncan Lake, [11/5/84P] (T.65, R.1): 1B, 2A, 3B;

(17) *Dunn Lake, [11/5/84P] (T.65, R.1, 2): 1B, 2A, 3B;

(18) *Echo Lake, [3/7/88R] (T.59, R.6): 1B, 2A, 3B;

(19) *Esther Lake, [3/7/88R] (T.63, 64, R.3E): 1B, 2A, 3B;

(20) *Fan Lake, [11/5/84P] (T.65, R.2E): 1B, ~~2B~~ 2Bd, 3A;

(21) Flour Lake, (T.64, R.1E, 1W): 1B, 2A, 3B;

(22) Fowl Lake, North, (T.64, 65, R.3E): 1B, ~~2B~~ 2Bd, 3A;

(23) Fowl Lake, South, (T.64, 65, R.3E): 1B, ~~2B~~ 2Bd, 3A;

(24) *Gaskin Lake, [11/5/84P] (T.64, R.2): 1B, 2A, 3B;

(25) *Greenwood Lake, [3/7/88R] (T.64, R.2E): 1B, 2A, 3B;

(26) *Hungry Jack Lake, [3/7/88R] (T.64, 65, R.1): 1B, 2A, 3B;

(27) *Jim Lake (Jerry Lake), [3/7/88R] (T.64, R.1E): 1B, 2A, 3B;

(28) *Kemo Lake, [3/7/88R] (T.63, R.1): 1B, 2A, 3B;

(29) *Lily Lakes, [11/5/84P] (T.65, R.2E): 1B, ~~2B~~ 2Bd, 3A;

(30) McFarland Lake, (T.64, R.3E): 1B, 2A, 3B;

(31) *Misquah Lake, [11/5/84P] (T.64, R.1): 1B, 2A, 3B;

(32) *Moose Lake, [11/5/84P] (T.65, R.2E, 3E): 1B, 2A, 3A;

(33) *Morgan Lake, [11/5/84P] (T.64, R.1): 1B, 2A, 3B;

(34) *Moss Lake, [3/7/88R] (T.65, R.1): 1B, 2A, 3B;

(35) *Mountain Lake, [11/5/84P] (T.65, R.1E, 2E): 1B, 2A, 3B;

(36) *Musquash Lake, [3/7/88R] (T.63, R.1E): 1B, 2A, 3B;

(37) *Onega Lake (Omega Lake), [11/5/84P] (T.64, R.2, 3): 1B, 2A, 3B;

(38) *Otto Lake, Lower, [11/5/84P] (T.64, R.2): 1B, 2A, 3B;

(39) *Partridge Lake, [11/5/84P] (T.65, R.1): 1B, 2A, 3B;

(40) *Pike Lake, West, [11/5/84P] (T.65, R.2E): 1B, 2A, 3B;

(41) *Pine Lake, [11/5/84P] (T.64, 65, R.1E, 2E, 3E): 1B, 2A, 3B;

(42) *Ram Lake, [11/5/84P] (T.63, R.1): 1B, 2A, 3B;

(43) *Rose Lake, [11/5/84P] (T.65, R.1): 1B, 2A, 3B;

(44) Saint Mary's Lake, (T.57, R.17, S.9, 16, 17): 1C, ~~2B~~ 2Bd, 3B;

(45) *Sawbill Lake, [11/5/84P] (T.62, 63, R.4): 1B, ~~2B~~ 2Bd, 3B;

(46) Seven Beaver Lake, (T.58, R.11, 12): 2B, 3A;

(47) *South Lake, [11/5/84P] (T.65, R.1, 2): 1B, 2A, 3B;

(48) *State Lake, [11/5/84P] (T.63, 64, R.2): 1B, 2A, 3B;

(49) *Superior, Lake, [11/5/84R] (T.49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, R.14W-7E): 1B, 2A, 3A;

(50) *Swan Lake, [11/5/84P] (T.63, R.2): 1B, 2A, 3B;

(51) *Trout Lake, [3/7/88R] (T.62, R.2E): 1B, 2A, 3B;

(52) *Trout Lake, Little, [11/5/84P] (T.63, R.1): 1B, 2A, 3B;

(53) *Twin Lake, Upper (Bear Lake), [3/7/88R] (T.56, R.8): 1B, 2A, 3B;

(54) *Vista Lake, [11/5/84P] (T.64, R.1): 1B, 2A, 3B;

(55) *Wanihigan Lake (Trap Lake), [11/5/84P] (T.63, 64, R.2, 3): 1B, 2A, 3B;

(56) *Winchell Lake, [11/5/84P] (T.64, R.2, 3): 1B, 2A, 3B;

(57) *Black Lake Bog [3/7/88P] (Waters within the Black Lake Bog Scientific and Natural Area, Pine County, T.45, R.15, S.18, 19, 30; T.45, R.16, S.13, 24, 25): 2B, 3B; and

(58) *All other lakes in the Boundary Waters Canoe Area Wilderness [11/5/84P]: 1B, ~~2B~~ 2Bd, 3B.

Subp. 2. **Lake of the Woods Basin.** The water use classifications for the listed waters in Lake of the Woods Basin are as identified in items A and B:

A. Streams:

(1) Beaver Creek, (T.62, 63, R.20): 2C;

(2) Gardner Brook, (T.63, 64, R.23): 2C;

(3) Indian Sioux River, Little, (T.64, 65, R.15): 1B, ~~2B~~ 2Bd, 3B;

(4) Island River, (T.61, R.7, 8): 1B, ~~2B~~ 2Bd, 3B;

(5) Kawishiwi River, (Source to Fall Lake): 1B, ~~2B~~ 2Bd, 3B;

(6) ~~Lone Creek, (T.66, R.5): 1B, 2C;~~

~~(7)~~ Moose River, (T.68, R.18, 19): 1B, ~~2B~~ 2Bd, 3B;

~~(8)~~ (7) Moose River, (T.64, 65, 66, R.14): 1B, ~~2B~~ 2Bd, 3B;

~~(9)~~ (8) Portage Creek, (T.65, R.21): 2C;

~~(10)~~ (9) Portage River, (T.65, 66, R.14): 1B, ~~2B~~ 2Bd, 3B;

~~(11)~~ (10) Rainy River, (Outlet of Rainy Lake to Dam in International Falls): 1B, ~~2B~~ 2Bd, 3A;

~~(12)~~ (11) Rainy River, (Dam in International Falls to Railroad Bridge in Baudette): 1C, ~~2B~~ 2Bd, 3A;

~~(13)~~ (12) Rainy River, (Railroad Bridge in Baudette to Lake of the Woods): 2B, 3A;

~~(14)~~ (13) Snake River, (T.61, R.9): 1B, ~~2B~~ 2Bd, 3B;

~~(15) Stuart River, (T.65, 66, R.13): 1B, 2C;~~

~~(16)~~ (14) Zippel Creek, West Branch, (T.162, R.33, 34): 2C;

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

~~(17)~~ (15) *All other streams in the Boundary Waters Canoe Area Wilderness [11/5/84P]: 1B, ~~2B~~ 2Bd, 3B;

~~(18)~~ (16) *Purvis Lake-Ober, [11/5/84P] (Waters within the Purvis Lake-Ober Foundation Scientific and Natural Area, Saint Louis County, ~~T.61~~ T.62, R.13): 2B, 3B; and

~~(19)~~ (17) *All other streams in the Voyageurs National Park [11/5/84P]: 2B, 3B.

B. Lakes:

(1) *Adams Lake, [11/5/84P] (T.64, R.6): 1B, 2A, 3B;

(2) *Agamok Lake, [11/5/84P] (T.65, R.5, 6): 1B, 2A, 3B;

(3) *Ahmakose Lake, [11/5/84P] (T.64, R.7): 1B, 2A, 3B;

(4) *Alpine Lake, [11/5/84P] (T.65, R.5): 1B, 2A, 3B;

(5) *Amoeber Lake, [11/5/84P] (T.65, R.6, 7): 1B, 2A, 3B;

(6) *Arkose Lake, [11/5/84P] (T.64, 65, R.7): 1B, 2A, 3B;

(7) *Ashdick Lake (Caribou Lake), [11/5/84P] (T.66, R.6): 1B, 2A, 3B;

(8) *Basswood Lake, [11/5/84P] (T.64, 65, R.9, 10): 1B, 2A, 3B;

(9) *Bat Lake, [11/5/84P] (T.64, 65, R.5): 1B, 2A, 3B;

(10) *Beartrack Lake, [11/5/84P] (T.67, R.15): 1B, 2A, 3B;

(11) *Beaver Lake (Elbow Lake), [11/5/84P] (T.63, 64, R.6, 7): 1B, 2A, 3B;

(12) *Bingshick Lake, [11/5/84P] (T.65, R.4, 5): 1B, 2A, 3B;

(13) *Brandt Lake, [11/5/84P] (T.65, R.4): 1B, 2A, 3B;

(14) *Burntside Lake, [3/7/88R] (T.63, 64, R.12, 13, 14): 1B, 2A, 3B;

(15) *Camp Lake, [11/5/84P] (T.64, R.11): 1B, ~~2B~~ 2Bd, 3B;

(16) *Caribou Lake, [3/7/88R] (T.58, R.26): 1B, 2A, 3B;

(17) *Cash Lake, [11/5/84P] (T.64, R.3): 1B, 2A, 3B;

(18) *Cherokee Lake, [11/5/84P] (T.63, 64, R.4): 1B, 2A, 3B;

(19) *Cherry Lake, [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(20) *Crab Lake, [11/5/84P] (T.63, R.13, 14): 1B, 2A, 3B;

(21) Crab Lake, (T.65, R.2, 3): 1B, 2A, 3B;

(22) Crane Lake, (T.67, 68, R.16, 17): 1B, 2A, 3A;

(23) *Crooked Lake, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(24) *Crooked Lake, [11/5/84P] (T.66, R.11, 12): 1B, 2A, 3B;

(25) *Cruiser Lake (Trout Lake), [11/5/84P] (T.69, 70, R.19): 1B, 2A, 3B;

(26) *Eddy Lake, [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(27) *Ester Lake (Gnig Lake), [11/5/84P] (T.65, 66, R.6): 1B, 2A, 3B;

(28) *Eugene Lake, [11/5/84P] (T.67, R.15): 1B, 2A, 3B;

(29) *Explorer Lake (South Three Lake), [11/5/84P] (T.64, R.7, 8): 1B, 2A, 3B;

(30) Fall Lake, (T.63, 64, R.11, 12): 1B, ~~2B~~ 2Bd, 3B;

(31) *Fat Lake, [11/5/84P] (T.67, R.15): 1B, 2A, 3B;

(32) *Fay Lake, [11/5/84P] (T.65, R.5): 1B, 2A, 3B;

(33) *Fern Lake, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(34) *Fern Lake, West, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(35) *Finger Lake, [11/5/84P] (T.67, R.14): 1B, 2A, 3B;

(36) *Fishdance Lake, [11/5/84P] (T.63, R.7): 1B, 2A, 3B;

(37) *Fraser Lake, [11/5/84P] (T.64, R.7): 1B, 2A, 3B;

(38) *French Lake, [11/5/84P] (T.64, 65, R.5): 1B, 2A, 3B;

(39) *Frost Lake, [11/5/84P] (T.64, R.4): 1B, 2A, 3B;

(40) *Gabimichigami Lake, [11/5/84P] (T.64, 65, R.5, 6): 1B, 2A, 3B;

(41) *Ge-Be-On-Equat Lake, [11/5/84P] (T.67, R.14): 1B, 2A, 3B;

(42) *Gijikiki Lake (Cedar Lake), [11/5/84P] (T.65, 66, R.6): 1B, 2A, 3B;

(43) *Gillis Lake, [11/5/84P] (T.64, 65, R.5): 1B, 2A, 3B;

(44) *Gordon Lake, [11/5/84P] (T.64, R.4): 1B, 2A, 3B;

(45) *Gun Lake, [11/5/84P] (T.67, 68, R.15): 1B, 2A, 3B;

(46) *Gunflint Lake, [3/7/88R] (T.65, R.2, 3, 4): 1B, 2A, 3B;

(47) Gunflint Lake, Little, (T.65, R.2): 1B, ~~2B~~ 2Bd, 3B;

(48) *Hanson Lake, [11/5/84P] (T.65, 66, R.6): 1B, 2A, 3B;

(49) *Holt Lake, [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(50) *Howard Lake, [11/5/84P] (T.65, R.5): 1B, 2A, 3B;

(51) *Hustler Lake, [11/5/84P] (T.66, 67, R.14): 1B, 2A, 3B;

(52) *Ima Lake (Slate Lake), [11/5/84P] (T.64, R.7, 8): 1B, 2A, 3B;

(53) *Jasper Lake, [11/5/84P] (T.65, R.5): 1B, 2A, 3B;

(54) *Johnson Lake, [3/7/88R] (T.67, 68, R.17, 18): 1B, 2A, 3B;

(55) *Kabetogama Lake, [11/5/84P] (T.69, 70, R.20, 21, 22): 1B, ~~2B~~ 2Bd, 3A;

(56) *Karl Lake, [11/5/84P] (T.64, R.3, 4): 1B, 2A, 3B;

(57) *Kek Lake, Little, [11/5/84P] (T.65, R.6, 7): 1B, 2A, 3B;

(58) *Kekekabic Lake, [11/5/84P] (T.64, 65, R.6, 7): 1B, 2A, 3B;

(59) *Knife Lake, [11/5/84P] (T.65, R.7, 8): 1B, 2A, 3B;

(60) *Lake of the Clouds Lake (Dutton Lake), [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(61) *Larson Lake, [3/7/88R] (T.61, R.24): 1B, 2A, 3B;

(62) *Long Island Lake, [11/5/84P] (T.64, R.3, 4): 1B, 2A, 3B;

(63) *Loon Lake, [3/7/88R] (T.65, R.3): 1B, 2A, 3B;

(64) *Loon Lake, [11/5/84P] (T.66, 67, R.15): 1B, 2A, 3B;

(65) *Lunar Lake (Moon Lake), [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(66) *Lynx Lake, [11/5/84P] (T.66, R.14, 15): 1B, 2A, 3B;

(67) *Magnetic Lake, [3/7/88R] (T.65, R.3, 4): 1B, 2A, 3B;

(68) *Makwa Lake (Bear Lake), [11/5/84P] (T.64, R.6): 1B, 2A, 3B;

(69) *Marble Lake, [11/5/84P] (T.64, R.6): 1B, 2A, 3B;

(70) *Mayhew Lake, [3/7/88R] (T.65, R.2): 1B, 2A, 3B;

(71) *Mesaba Lake, [11/5/84P] (T.63, R.5): 1B, 2A, 3B;

(72) *Missionary Lake (East Three Lake), [11/5/84P] (T.64, R.7, 8): 1B, 2A, 3B;

(73) *Moose Lake, [11/5/84P] (T.64, R.9, 10): 1B, ~~2B~~ 2Bd, 3B;

(74) *Mora Lake, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(75) *Mukooda Lake, [11/5/84P] (T.68, R.17): 1B, 2A, 3B;

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

(76) *Namakan Lake, [11/5/84P] (T.69, R.17, 18, 19): 1B, ~~2B~~ 2Bd, 3A;

(77) *North Lake, [3/7/88R] (T.65, R.2): 1B, 2A, 3B;

(78) North Lake, Little, (T.65, R.2): 1B, ~~2B~~ 2Bd, 3B;

(79) *Ogishkemuncie Lake, [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(80) *Ojibway Lake (Upper Twin), [3/7/88R] (T.63, R.9, 10): 1B, 2A, 3B;

(81) *Owl Lake, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(82) *Oyster Lake, [11/5/84P] (T.66, R.14): 1B, 2A, 3B;

(83) *Peter Lake, [11/5/84P] (T.64, 65, R.5): 1B, 2A, 3B;

(84) *Portage Lake, [11/5/84P] (T.65, R.8): 1B, 2A, 3B;

(85) *Powell Lake, [11/5/84P] (T.64, 65, R.5): 1B, 2A, 3B;

(86) *Rabbit Lake, [11/5/84P] (T.66, R.6): 1B, 2A, 3B;

(87) *Rainy Lake, [11/5/84P] (T.70, 71, R.18, 19, 20, 21, 22, 23): 1B, ~~2B~~ 2Bd, 3A;

(88) *Raven Lake (Lynx Lake), [11/5/84P] (T.64, R.6): 1B, 2A, 3B;

(89) *Red Rock Lake, [11/5/84P] (T.65, 66, R.5): 1B, 2A, 3B;

(90) *Ruby Lake, Big, [11/5/84P] (T.66, R.14): 1B, 2A, 3B;

(91) *Saganaga Lake, [11/5/84P] (T.66, 67, R.4, 5): 1B, 2A, 3B;

(92) *Saganaga Lake, Little, [11/5/84P] (T.64, R.5, 6): 1B, 2A, 3B;

(93) *Sand Point Lake, [11/5/84P] (T.68, 69, R.16, 17): 1B, 2A, 3A;

(94) *Sea Gull Lake, [11/5/84P] (T.65, 66, R.4, 5): 1B, 2A, 3B;

(95) *Sema Lake (Coon Lake), [11/5/84P] (T.65, R.7): 1B, 2A, 3B;

(96) *Snowbank Lake, [11/5/84P] (T.63, 64, R.8, 9): 1B, 2A, 3B;

(97) *Spoon Lake (Fames Lake), [11/5/84P] (T.65, R.7): 1B, 2A, 3B;

(98) *Spring Lake, [3/7/88R] (T.68, R.18): 1B, 2A, 3B;

(99) *Strup Lake, [11/5/84P] (T.64, R.7): 1B, 2A, 3B;

(100) *Sumpet Lake, [11/5/84P] (T.61, R.7): 1B, ~~2B~~ 2Bd, 3B;

(101) *Takucmich Lake, [11/5/84P] (T.67, 68, R.14): 1B, 2A, 3B;

(102) *Tarry Lake, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(103) *Thomas Lake, [11/5/84P] (T.63, 64, R.7): 1B, 2A, 3B;

(104) *Thumb Lake, [11/5/84P] (T.67, R.14): 1B, 2A, 3B;

(105) *Topaz Lake (Star Lake), [11/5/84P] (T.65, R.6): 1B, 2A, 3B;

(106) *Town Lake, [11/5/84P] (T.63, 64, R.3, 4): 1B, 2A, 3B;

(107) *Trout Lake, Big, [11/5/84P] (T.63, 64, R.15, 16): 1B, 2A, 3B;

(108) *Trout Lake, Little (Pocket Lake), [11/5/84P] (T.68, R.17): 1B, 2A, 3B;

(109) *Tucker Lake, [11/5/84P] (T.64, R.3): 1B, ~~2B~~ 2Bd, 3B;

(110) *Tuscarora Lake, [11/5/84P] (T.64, R.4, 5): 1B, 2A, 3B;

(111) *Vera Lake, [11/5/84P] (T.64, R.8): 1B, 2A, 3B;

(112) *Virgin Lake, [11/5/84P] (T.64, R.5): 1B, 2A, 3B;

(113) *Wine Lake, [11/5/84P] (T.63, R.5): 1B, 2A, 3B;

(114) *Wisini Lake, [11/5/84P] (T.64, R.7): 1B, 2A, 3B;

(115) Lake of the Woods, (T.161, 162, 163, 164, 165, 166, 167, 168, R.30, 31, 32, 33, 34, 35): 1B, ~~2B~~ 2Bd, 3A;

(116) Unnamed Swamp, Winton, (T.63, R.11, S.19; T.63, R.12, S.24): 7;

(117) *All other lakes in the Boundary Waters Canoe Area Wilderness [11/5/84P]: 1B, ~~2B~~ 2Bd, 3B; and

(118) *All other lakes in the Voyageurs National Park [11/5/84P]: 2B, 3B.

Subp. 3. **Red River of the North Basin.** The water use classifications for the listed waters in the Red River of the North Basin are as identified in items A, B, and C:

A. Streams:

(1) Badger Creek, (T.149, 150, 151, R.42, 43, 44): 2C;

(2) Barnums Creek (Burnham Creek), (T.148, 149, 150, R.44, 45, 46, 47, 48): 2C;

(3) Bois de Sioux River, (Mud Lake outlet to Breckenridge): 2C;

(4) County Ditch No. 6A-2, Rothsay, (T.135, R.45, S.21, 28, 33): 7;

(5) County Ditch No. 32, Sabin, (T.138, R.48, S.13, 14, 15, 16, 17, 18): 7;

(6) County Ditch No. 65, New York Mills, (T.135, R.37, S.18; T.135, R.38, S.13): 7;

(7) Deerhorn Creek, (T.136, R.44, 45, 46): 2C;

(8) Doran Slough, (T.131, 132, R.46, 47): 2C;

(9) Eighteen Mile Creek, (T.127, R.46, 47): 2C;

(10) Five Mile Creek, (T.127, 128, R.45): 2C;

(11) Gentilly River, (T.149, 150, R.45): 2C;

(12) Hay Creek, (T.137, 138, R.44, 45, 46): 2C;

(13) Hay Creek, (T.161, 162, 163, R.37, 38, 39): 2C;

(14) Hill River, (T.148, 149, 150, R.39, 40, 41, 42): 2C;

(15) Hoover Creek (excluding trout waters), (T.152, 153, 154, R.29, 30): 2C;

(16) Joe River, (T.162, 163, 164, R.49, 50): 2C;

(17) Joe River, Little, (T.163, R.47, 48): 2C;

(18) Judicial Ditch No. 13, Goodridge, (T.154, R.40, S.16, 17, 18): 7;

(19) Judicial Ditch No. 18, Goodridge, (T.154, R.40, S.18, 19, 27, 28, 29, 30; T.154, R.41, S.13, 14, 15, 16, 17, 18; T.154, R.42, S.7, 8, 13, 14, 15, 16; T.154, R.43, S.9, 10, 11, 12, 16): 7;

(20) Maple Creek, (T.147, 148, R.44, 45, 46): 2C;

(21) Marsh Creek, (T.144, 145, 146, R.41, 42, 43): 2C;

(22) Mustinka River, (T.127, 128, R.45, 46, 47): 2C;

(23) Mustinka River, West Branch, (T.125, 126, 127, 128, R.45, 46, 47): 2C;

(24) Otter Tail River, (Height of Land Lake to mouth): 1C, ~~2B~~ 2Bd, 3B;

(25) Rabbit River, (T.130, 131, R.45, 46, 47): 2C;

(26) Rabbit River, South Fork, (T.130, R.45, 46): 2C;

(27) Red Lake River, (Outlet of Lower Red Lake to mouth): 1C, ~~2B~~ 2Bd, 3B;

(28) Red River of the North, (Breckenridge to Canadian border): 1C, ~~2B~~ 2Bd, 3B;

(29) Roy Creek (Roy Lake Creek), (T.144, 145, R.39): 2C;

(30) Spring Creek, (T.145, 146, R.45, 46, 47): 2C;

(31) Spring Creek, (T.142, R.41, 42): 2C;

(32) Stony Creek, (T.137, R.45, 46): 2C;

(33) Sucker Creek, (T.160, 161, R.39): 2C;

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

(34) Tamarack River (Source to Stephen), (T.157, 158, R.45, 46, 47, 48): 1C, ~~2B~~ 2Bd, 3B;

(35) Twelve Mile Creek (excluding Class 7 segment), (T.126, 127, R.45): 2C;

(36) Twelve Mile Creek (County Ditch No. 1), Donnelly, (T.126, R.43, S.16, 17, 18, 19, 21, 22, 25, 26, 27; T.126, R.44, S.23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33; T.126, R.45, S.25, 26, 27, 28, 36): 7;

(37) Twelve Mile Creek, East Fork, (T.125, 126, R.44, 45): 2C;

(38) Twelve Mile Creek, West Fork, (T.125, 126, R.44, 45): 2C;

(39) Twin Lake Creek, (T.144, 145, R.40): 2C;

(40) Two Rivers, Middle Branch, (Source to Hallock): 1C, ~~2B~~ 2Bd, 3B;

(41) Two Rivers, South Branch, (T.161, R.41-49): 1C, ~~2B~~ 2Bd, 3B;

(42) Unnamed Creek, Rothsay, (T.135, R.45, S.21, 22, 23, 25, 26): 7;

(43) Unnamed Creek, Shevlin, (T.147, R.36, S.17, 18; T.147, R.37, S.11, 12, 13, 14): 7;

(44) Unnamed Ditch, Audubon, (T.139, R.42, S.4, 9): 7;

(45) Unnamed Ditch, Lake Park, (T.139, R.43, S.4; T.140, R.43, S.33): 7;

(46) Unnamed Ditch, Glyndon, (T.139, R.47, S.1, 2, 12; T.140, R.47, S.35): 7;

(47) Unnamed Ditch, Callaway, (T.140, R.41, S.6; T.140, R.42, S.1, 2, 10, 11): 7;

(48) Unnamed Ditch, Gary, (T.145, R.44, S.22, 27, 34): 7;

(49) Unnamed Ditch, Erskine, (T.149, R.42, S.34, 35): 7;

(50) Unnamed Ditch, Thief River Falls, (T.154, R.43, S.31, 32, 33): 7;

(51) Unnamed Ditch, Warroad, (T.163, R.37, S.19, 20, 21, 22, 23; T.163, R.38, S.19, 20, 21, 22, 23, 24, 30; T.163, R.39, S.25, 31, 32, 33, 34, 35, 36): 7;

(52) Whiskey Creek, (T.137, R.44, 45, 46): 2C;

(53) Whiskey Creek, (T.133, 134, R.47, 48): 2C;

(54) White Earth River, (T.143, 144, R.40, 41, 42): 2C;

(55) Willow Creek, New York Mills, (T.135, R.38, S.13, 14, 15, 16, 17, 18): 7; and

(56) Wolverton Creek, (T.135, 136, 137, R.48): 2C.

B. Lakes:

(1) Lake Bronson, (T.160, 161, R.46): 1C, ~~2B~~ 2Bd, 3B;

(2) Twin Lake, East, (T.138, R.41): 1B, 2A, 3B;

(3) Unnamed Slough, Vergas, (T.137, R.40, S.18; T.137, R.41, S.13, 24): 7; and

(4) *Green Water Lake, [11/5/84P] (Waters within the Green Water Lake Scientific and Natural Area, Becker County, T.141, R.38, S.28, 33, 34): 2B, 3B.

C. Fens:

(1) *B-B Ranch fen, [3/7/88R] (T.141, R.46, S.13): 2B, 3B;

(2) *Barnesville WMA fen, [3/7/88R] (T.137, R.45, S.1): 2B, 3B;

(3) *Chicog WMA fen, [3/7/88R] (T.148, R.45, S.20, 29, 33): 2B, 3B;

(4) *Clearbrook fen, [3/7/88R] (T.149, R.37, S.17): 2B, 3B;

(5) *Felton fen, [3/7/88R] (T.142, R.46, S.36): 2B, 3B;

(6) *Kertsonville WMA fen, [3/7/88R] (T.149, R.45, S.16): 2B, 3B;

(7) *Pankratz fen (Svedarsky's fen), [3/7/88R] (T.149, R.45, S.17): 2B, 3B;

(8) *Pembina Trail Preserve, [3/7/88P] (Waters within the Pembina Trail Preserve Scientific and Natural Area, Polk County, S.1, 2, T.148, R.45; S.18, 19, 30, 31, T.149, R.44; S.13, 24, 25, 36, T.149, R.45): 2B, 3B;

(9) *Primula Meadow (Faith fen), [3/7/88R] (T.144, R.43, S.25): 2B, 3B;

(10) *Spring Creek fen, [3/7/88R] (T.142, R.42, S.13): 2B, 3B;

(11) *Spring Prairie fen, [3/7/88R] (T.140, R.46, S.11): 2B, 3B; and

(12) *Waubun fen, [3/7/88R] (T.143, R.42, S.25): 2B, 3B.

Subp. 4. **Upper Mississippi River Basin.** The water use classifications for the listed waters in the Upper Mississippi River Basin are as identified in items A and B:

A. Streams:

(1) Alcohol Creek, (T.143, 144, R.34): 2C;

(2) Arramba Creek, (T.40, R.30): 2C;

(3) Basswood Creek, (T.141, 142, R.36): 2C;

(4) Battle Brook, (T.35, R.26, 27): 2C;

(5) Battle Creek, (T.120, R.30, 31): 2C;

(6) Bear Brook, (T.144, R.27): 2C;

(7) Bear Creek, (T.145, R.36): 2C;

(8) Beautiful Creek, (T.127, R.31): 2C;

(9) Beaver Creek, (T.136, 137, R.32, 33): 2C;

(10) Belle Creek, (T.117, 118, R.32): 2C;

(11) Birch Brook, (T.141, R.25): 2C;

(12) Black Brook, (T.41, 42, R.26): 2C;

(13) Black Brook, (T.42, 43, R.30): 2C;

(14) Blackwater Creek, (T.55, R.26): 2C;

(15) Blueberry River, (T.138, 139, R.35, 36): 2C;

(16) Bluff Creek, (T.135, 136, R.36, 37): 2C;

(17) Bogus Brook (excluding Class 7 segment), (T.37, 38, R.26): 2C;

(18) Bogus Brook, Bock, (T.38, R.26, S.13, 14): 7;

(19) Buckman Creek (excluding Class 7 segment), (T.39, 40, R.30, 31): 2C;

~~(19)~~ (20) Buckman Creek, Buckman, Buckman Coop Cry., (T.39, R.30, S.4, 5, 6, 9; T.39, R.31, S.1, 2, 10, 11; T.40, R.30, S.31; T.40, R.31, S.36): 7;

~~(20)~~ (21) Cat River (excluding trout waters), (T.136, 137, R.33, 34, 35): 2C;

~~(21)~~ (22) Chase Brook, (T.38, 39, R.27): 2C;

~~(22)~~ (23) Clearwater Creek, (T.56, 57, R.24, 25): 2C;

~~(23)~~ (24) Coon Creek, (T.43, R.29, 30): 2C;

~~(24)~~ (25) County Ditch No. 15 (Bear Creek), Bertha, (T.132, R.35, S.2; T.133, R.34, S.7; T.133, R.35, S.12, 13, 24, 25, 26, 35): 7;

~~(25)~~ (26) County Ditch No. 23, Garfield, (T.129, R.38, S.26, 27): 7;

~~(26)~~ (27) County Ditch No. 23A, Willmar, (T.119, R.34, S.29, 30; T.119, R.35, S.23, 25, 26): 7;

~~(27)~~ (28) County Ditch No. 42, McGregor, (T.48, R.23, S.29, 32): 7;

~~(28)~~ (29) County Ditch No. 63, Near Hutchinson, West Lynn Coop Cry., (T.116, R.30, S.19, 20, 21, 28, 33): 7;

~~(29)~~ (30) County Ditch No. 132, Lakeside, Lakeside Coop Cry., (T.116, R.31, S.16, 21): 7;

~~(30)~~ (31) Crane Creek (excluding Class 7 segment), (T.116, 117, R.26, 27): 2C;

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

~~(31)~~ (32) Crane Creek, Winsted, (T.117, R.27, S.14, 20, 21, 22, 23, 24, 25): 7;

~~(32)~~ (33) *Crow River, North Fork, [11/5/84R] (From the Lake Koronis outlet to the Meeker - Wright County line): 2B, 3B;

~~(33)~~ (34) Dagget Brook, (T.43, R.29, 30): 2C;

~~(34)~~ (35) Eagle Creek, (T.120, R.29): 2C;

~~(35)~~ (36) Elk River, Little, (T.130, 131, R.30, 31): 2C;

~~(36)~~ (37) Elk River, South Branch, Little, (T.130, R.30, 31, 32): 2C;

~~(37)~~ (38) Estes Brook, (T.36, 37, 38, R.27, 28): 2C;

~~(38)~~ (39) Everton Creek, (T.149, R.30): 2C;

~~(39)~~ (40) Farley Creek, (T.147, R.28): 2C;

~~(40)~~ (41) Fish Creek, (T.28, R.22): 2C;

~~(41)~~ (42) Fletcher Creek, (T.42, R.31): 2C;

~~(42)~~ (43) Foley Brook, (T.141, R.25): 2C;

~~(43)~~ (44) Frederick Creek, (T.119, R.25): 2C;

~~(44)~~ (45) Frontenac Creek, (T.145, R.34): 2C;

~~(45)~~ (46) Hanson Brook, (T.40, R.27): 2C;

~~(46)~~ (47) Hay Creek, (T.43, 44, R.30, 31): 2C;

~~(47)~~ (48) Hazel Creek, (T.127, R.29, 30): 2C;

~~(48)~~ (49) Hennepin Creek (excluding trout waters), (T.144, 145, 146, R.34, 35): 2C;

~~(49)~~ (50) Indian Creek, (T.141, 142, R.36, 37): 2C;

~~(50)~~ (51) Irish Creek, (T.129, R.31): 2C;

~~(51)~~ (52) Iron Creek, (T.135, R.32): 2C;

~~(52)~~ (53) Jewett Creek, (T.119, 120, R.30, 31): 2C;

~~(53)~~ (54) Johnson Creek, (T.137, R.28): 2C;

~~(54)~~ (55) Judicial Ditch No. 1, Lakeside, Lakeside Coop Cry., (T.116, R.31, S.28, 33): 7;

~~(55)~~ (56) Judicial Ditch No. 15, Buffalo Lake, Iowa Pork Industries, Hector, (T.115, R.31, S.15, 16, 20, 21, 29, 30; T.115, R.32, S.22, 25, 26, 27, 28, 32, 33): 7;

~~(56)~~ (57) Kettle Creek, (T.138, R.35, 36, 37): 2C;

~~(57)~~ (58) Kitchi Creek, (T.146, 147, R.29, 30): 2C;

~~(58)~~ (59) Kitten Creek, (T.137, R.34, 35): 2C;

~~(59)~~ (60) LaSalle Creek (excluding trout waters), (T.143, 144, R.35): 2C;

~~(60)~~ (61) LaSalle River, (T.144, 145, R.35): 2C;

~~(61)~~ (62) Laura Brook, (T.141, R.26): 2C;

~~(62)~~ (63) Meadow Creek, (T.128, R.30): 2C;

~~(63)~~ (64) Mike Drew Brook, (T.38, 39, R.26, 27): 2C;

~~(64)~~ (65) Mink Creek, Big, (T.41, 42, R.30, 31): 2C;

~~(65)~~ (66) Mink Creek, Little, (T.41, 42, R.29, 30, 31): 2C;

~~(66)~~ (67) *Mississippi River, [11/5/84R] (From Lake Itasca to Fort Ripley): 2B, 3B;

~~(67)~~ (68) *Mississippi River, [11/5/84R] (From Fort Ripley to the southerly border of Morrison County): 1C, ~~2B~~ 2Bd, 3B;

~~(68)~~ (69) Mississippi River, (From the southerly boundary of Morrison County to County State Aid Highway 7 bridge in Saint Cloud): 1C, ~~2B~~ 2Bd, 3B;

~~(69)~~ (70) *Mississippi River, [11/5/84R] (County State Aid Highway 7 bridge in Saint Cloud to the northwestern city limits of Anoka): 1C, ~~2B~~ 2Bd, 3B;

~~(70)~~ (71) Mississippi River, (From the northwestern city limits of Anoka to the Upper Lock and Dam at Saint Anthony Falls in Minneapolis): 1C, ~~2B~~ 2Bd, 3B;

~~(71)~~ (72) Mississippi River, (Outlet of Metro Wastewater Treatment Works in Saint Paul to river mile 830, Rock Island RR Bridge): 2C, 3B;

~~(72)~~ (73) Northby Creek, (T.140, R.27): 2C;

~~(73)~~ (74) Norway Brook, (T.139, R.30): 2C;

~~(74)~~ (75) O'Brien Creek, (T.56, 57, R.22): 2C;

~~(75)~~ (76) O'Neill Brook, (T.38, R.26): 2C;

~~(76)~~ (77) Oak Ridge Creek (Oak Creek), (T.133, 134, R.36): 2C;

~~(77)~~ (78) Pigeon River, (T.147, R.27): 2C;

~~(78)~~ (79) Pike Creek (except Class 7 segment), (T.129, R.30): 2C;

~~(79)~~ (80) Pike Creek, Flensburg, (T.129, R.30, S.17, 18, 19, 20): 7;

~~(80)~~ (81) Pillager Creek, (T.133, R.30): 2C;

~~(81)~~ (82) Pioneer Creek, (T.118, R.24): 2C;

~~(82)~~ (83) Prairie Brook, (T.36, R.27): 2C;

~~(83)~~ (84) Rat Creek, (T.144, 145, R.34): 2C;

~~(84)~~ (85) Rice Creek, (T.30, 31, 32, R.22, 23, 24): 1C, ~~2B~~ 2Bd, 3B;

~~(85)~~ (86) Rice Creek, (T.35, R.29): 2C;

~~(86)~~ (87) *Rum River, [11/5/84P] (From the Ogechie Lake spillway to the northernmost confluence with Lake Onamia): 2B, 3B;

~~(87)~~ (88) *Rum River, [11/5/84R] (From the State Highway 27 bridge in Onamia to Madison and Rice Streets in Anoka): 2B, 3B;

~~(88)~~ (89) Seven Mile Creek, (T.133, 134, R.30, 31): 2C;

~~(89)~~ (90) Six Mile Brook, (T.143, 144, R.26, 27): 2C;

~~(90)~~ (91) Skimmerhorn Creek, (T.149, R.30): 2C;

~~(91)~~ (92) Skunk Creek, (T.144, R.34): 2C;

~~(92)~~ (93) Skunk River (Co. Dt. No. 37) (Co. Dt. No. 29), Brooten, (T.123, R.35, S.4, 5, 9; T.123, R.35, S.9, 10, 11, 12; T.123, R.34, S.3, 4, 5, 6, 7, 8): 7;

~~(93)~~ (94) Snowball Creek, (T.56, R.23): 2C;

~~(94)~~ (95) Split Hand Creek, (T.53, R.24): 2C;

~~(95)~~ (96) Stag Brook, (T.121, 122, R.30, 31): 2C;

~~(96)~~ (97) Stanchfield Brook, Lower Braham, (T.37, R.23, S.3, 10, 15, 22): 7;

~~(97)~~ (98) Stocking Creek, (T.138, R.35): 2C;

~~(98)~~ (99) Stony Brook (Stoney Brook), Foley, (T.36, R.29, S.2, 9, 10, 11, 16; T.37, R.29, S.35, 36): 7;

~~(99)~~ (100) Stony Creek, (T.140, R.28): 2C;

~~(100)~~ (101) Stony Point Brook, (T.147, R.28): 2C;

~~(101)~~ (102) Sucker Creek (Gould Creek) (excluding trout waters), (T.143, 144, R.36): 2C;

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

~~(102)~~ (103) Swamp Creek, Big, (T.137, 138, 139, R.32, 33): 2C;

~~(103)~~ (104) Swamp Creek, Little, (T.136, 137, R.33): 2C;

~~(104)~~ (105) Swan Creek, (T.134, 135, R.32): 2C;

~~(105)~~ (106) Swan Creek, Little, (T.135, R.32): 2C;

~~(106)~~ (107) Swift River, (T.142, R.27): 2C;

~~(107)~~ (108) Taylor Creek, (T.128, R.31): 2C;

~~(108)~~ (109) Ted Brook Creek, (T.130, R.31): 2C;

~~(109)~~ (110) Tibbits Brook, (T.33, 34, R.26, 27): 2C;

~~(110)~~ (111) Tibbetts Creek (Tibbetts Brook), (T.39, 40, R.27, 28): 2C;

~~(111)~~ (112) Tower Creek, (T.135, R.32, 33): 2C;

~~(112)~~ (113) Two Rivers, South Branch, Albany, (T.125, R.31, S.21, 22, 23): 7;

~~(113)~~ (114) Unnamed Creek, Calumet, (T.56, R.23, S.21): 7;

~~(114)~~ (115) Unnamed Creek, Hiller Mobile Home Court, (T.119, R.26, S.22, 26, 27, 35): 7;

~~(115)~~ (116) Unnamed Creek, Grove City, (T.120, R.32, S.34, 35, 36): 7;

~~(116)~~ (117) Unnamed Creek, Albertville, (T.121, R.23, S.30; T.121, R.24, S.25, 36): 7;

~~(117)~~ (118) Unnamed Creek, Eden Valley, Ruhland Feeds, (T.121, R.31, S.2; T.122, R.31, S.35): 7;

~~(118)~~ (119) Unnamed Creek, Lake Henry, (T.123, R.33, S.11, 14): 7;

~~(119)~~ (120) Unnamed Creek, Miltona, (T.129, R.36, S.6; T.130, R.36, S.30, 31): 7;

~~(120)~~ (121) Unnamed Ditch, Braham, (T.37, R.23, S.2, 3): 7;

~~(121)~~ (122) Unnamed Ditch, Ramey, Ramey Farmers Coop Cry., (T.38, R.28, S.4, 5; T.39, R.28, S.29, 30, 32; T.39, R.29, S.25, 26, 27, 28): 7;

~~(122)~~ (123) Unnamed Ditch, McGregor, (T.48, R.23, S.31, 32): 7;

~~(123)~~ (124) Unnamed Ditch, Nashwauk, (T.56, R.22, S.4, 5; T.57, R.22, S.32): 7;

~~(124)~~ (125) Unnamed Ditch, Taconite, (T.56, R.24, S.22): 7;

~~(125)~~ (126) Unnamed Ditch, Glencoe, Green Giant, (T.115, R.28, S.21, 22, 27, 28): 7;

~~(126)~~ (127) Unnamed Ditch, Glencoe, Green Giant, (T.115, R.28, S.14, 23): 7;

~~(127)~~ (128) Unnamed Ditch, Winsted, Green Giant, (T.117, R.27, S.10, 11): 7;

~~(128)~~ (129) Unnamed Ditch, Hiller Mobile Home Court, (T.119, R.26, S.34, 35): 7;

~~(129)~~ (130) Unnamed Ditch, Kandiyohi, (T.119, R.34, S.10, 15, 21, 22, 28, 29, 32): 7;

~~(130)~~ (131) Unnamed Ditch, Belgrade, (T.123, R.34, S.19, 30): 7;

~~(131)~~ (132) Unnamed Ditch, Flensburg, (T.129, R.30, S.30; T.129, R.31, S.25): 7;

~~(132)~~ (133) Unnamed Ditch, Miltona, (T.130, R.36, S.30; T.130, R.37, S.25, 36): 7;

~~(133)~~ (134) Unnamed Stream, Winsted, (T.117, R.27, S.11, 12): 7;

~~(134)~~ (135) Unnamed Stream, Flensburg, (T.129, R.30, S.19, 30): 7;

~~(135)~~ (136) Vandell Brook, (T.37, 38, R.26): 2C;

~~(136)~~ (137) Welcome Creek, (T.56, 57, R.22): 2C;

~~(137)~~ (138) Whitney Brook, (T.39, R.26, 27): 2C;

~~(138)~~ (139) Willow River, North Fork, (T.142, R.25): 2C;

~~(139)~~ (140) Willow River, South Fork, (T.142, R.25): 2C;

~~(140)~~ (141) Wilson Creek, (T.137, R.30): 2C;

~~(141)~~ (142) Wolf Creek, (T.42, R.30): 2C;

~~(142)~~ (143) *Itasca Wilderness Sanctuary, [11/5/84P] (Waters within the Itasca Wilderness Sanctuary, Clearwater County, T.143, R.36): 2B, 3B;

~~(143)~~ (144) *Iron Springs Bog, [11/5/84P] (Waters within the Iron Springs Bog Scientific and Natural Area, Clearwater County, T.144, R.36): 2B, 3B;

~~(144)~~ (145) *Pennington Bog, [11/5/84P] (Waters within the Pennington Bog Scientific and Natural Area, Beltrami County, T.146, R.30): 2B, 3B; and

~~(145)~~ (146) *Wolsfeld Woods, [11/5/84P] (Waters within the Wolsfeld Woods Scientific and Natural Area, Hennepin County, T.118, R.23): 2B, 3B.

B. Lakes:

(1) Bald Eagle Lake, (T.30, 31, R.21, 22): 1C, ~~2B~~ 2Bd, 3B;

(2) Benedict Lake, (T.142, R.32): 1B, 2A, 3B;

(3) *Blue Lake, [3/7/88R] (T.46, 47, R.27): 1B, 2A, 3B;

(4) *Blue Lake, [3/7/88R] (T.141, R.34): 1B, 2A, 3B;

(5) *Bluewater Lake, [3/7/88R] (T.57, R.25): 1B, 2A, 3B;

(6) Centerville Lake, (T.31, R.22): 1C, ~~2B~~ 2Bd, 3B;

(7) Charley Lake, (T.30, R.23): 1C, ~~2B~~ 2Bd, 3B;

(8) Deep Lake, (T.30, R.22): 1C, ~~2B~~ 2Bd, 3B;

(9) Hay Lake, Lower, (T.137, R.28, 29): 1B, 2A, 3B;

(10) *Kabekona Lake, [3/7/88R] (T.142, 143, R.32, 33): 1B, 2A, 3B;

(11) Kennedy Lake, (T.58, R.23): 1B, 2A, 3B;

(12) LaSalle Lake, Lower, (T.145, R.35): 1B, 2A, 3B;

(13) Otter Lake, (T.30, 31, R.22): 1C, ~~2B~~ 2Bd, 3B;

(14) Pleasant Lake, (T.30, R.22, 23): 1C, ~~2B~~ 2Bd, 3B;

(15) *Pokegama Lake, [3/7/88R] (T.54, 55, R.25, 26): 1B, 2A, 3B;

(16) *Roosevelt Lake, [3/7/88R] (T.138, 139, R.26): 1B, 2A, 3B;

(17) Sucker Lake, (T.30, R.22): 1C, ~~2B~~ 2Bd, 3B;

(18) *Trout Lake, [3/7/88R] (T.55, 56, R.24): 1B, 2A, 3B;

(19) *Trout Lake, Big, [3/7/88R] (T.57, 58, R.25): 1B, 2A, 3B;

(20) *Trout Lake, Big, [3/7/88R] (T.137, 138, R.27, 28): 1B, 2A, 3B;

(21) *Trout Lake, Little, [3/7/88R] (T.57, R.25): 1B, 2A, 3B;

(22) Unnamed Swamp, Flensburg, (T.129, R.31, S.25): 7;

(23) Unnamed Slough, Miltona, (T.130, R.37, S.26, 35, 36): 7;

(24) Unnamed Swamp, Staples, (T.133, R.33, S.1): 7;

(25) Unnamed Swamp, Taconite, (T.56, R.24, S.22): 7;

(26) Vadnais Lake, (T.30, R.22): 1C, ~~2B~~ 2Bd, 3B;

(27) Wabana Lake, (T.57, R.25): 1B, 2A, 3B;

(28) Watab Lake, Big, (T.124, R.30): 1B, 2A, 3B; and

(29) Wilkinson Lake, (T.30, R.22): 1C, ~~2B~~ 2Bd, 3B.

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

Subp. 5. **Minnesota River Basin.** The water use classifications for the listed waters in the Minnesota River Basin are as identified in items A, B, and C:

A. Streams:

(1) Altermatts Creek (County Ditch No. 39), Comfrey, (T.108, R.33, S.17, 19, 20, 30; T.108, R.34, S.24, 25, 35, 36): 7;

(2) Badger Creek, (T.101, 102, R.28): 2C;

(3) Beaver Creek, East Fork (County Ditch No. 63), Olivia, Olivia Canning Company, (T.115, R.34, S.1, 2, 3, 4, 5, 6; T.115, R.35, S.1, 12, 13, 14, 23, 24, 25, 26; T.116, R.34, S.16, 20, 21, 28, 29, 30, 32, 33, 34, 35): 7;

(4) Blue Earth River, East Fork, (Brush Creek to mouth): 2C, 3B;

(5) Blue Earth River, West Fork, (Iowa border to mouth): 2C, 3B;

(6) Boiling Spring Creek (excluding Class 7 segment), (T.113, 114, R.37, 38): 2C;

(7) Boiling Springs Creek (County Ditch No. 1B), Echo, (T.113, R.38, S.5, 8; T.114, R.37, S.19, 30; T.114, R.38, S.25, 26, 27, 32, 33, 34): 7;

(8) Boot Creek (excluding Class 7 segment), (T.105, 106, R.22, 23): 2C;

(9) Boot Creek, New Richland, (T.105, R.22, S.6, 7; T.105, R.23, S.12, 13, 24): 7;

(10) Brafees Creek, (T.116, 117, R.40): 2C;

(11) Brush Creek, (Iowa border to mouth): 2C, 3B;

(12) Bull Run Creek, Little, (T.106, R.24, 25): 2C;

(13) Butterfield Creek, (T.106, 107, R.31, 32, 33): 2C;

(14) Canby Creek (excluding trout waters), (South Dakota border to mouth): 2C, 3B;

(15) Cedar Run Creek, (T.103, 104, R.32, 33): 2C;

(16) Cherry Creek, Cleveland, (T.110, R.25, S.7, 8, 16, 17; T.110, R.26, S.12): 7;

(17) Chetomba Creek (exluding Class 7 segment), (T.116, 117, R.36, 37, 38): 2C;

(18) Chetomba Creek, Prinsburg, (T.116, R.36, S.6, 7, 18, 19; T.116, R.37, S.8, 9, 14, 15, 16, 23, 24; T.117, R.36, S.8, 9, 16, 17, 21, 28, 29, 30, 31, 32): 7;

(19) Cobb Creek, Freeborn, (T.104, R.23, S.7, 8, 17; T.104, R.24, S.11, 12): 7;

~~(19)~~ (20) Cobb Creek Ditch, Freeborn, (T.103, R.23, S.2; T.104, R.23, S.14, 15, 16, 23, 26, 35): 7;

~~(20)~~ (21) Cobb River, Big, (T.104, 105, 106, 107, R.23, 24, 25, 26): 2C;

~~(21)~~ (22) Cobb River, Little, (T.105, 106, R.23, 24, 25, 26): 2C;

~~(22)~~ (23) Cottonwood Creek (excluding trout waters), (T.119, 120, 121, R.41, 42): 2C;

~~(23)~~ (24) County Ditch No. 1, Echo, (T.113, R.38, S.8, 9): 7;

~~(24)~~ (25) County Ditch No. 4, Arco, (T.110, R.44, S.5; T.111, R.44, S.32, 33): 7;

~~(25)~~ (26) County Ditch No. 4, Norwood, (T.115, R.25, S.30; T.115, R.26, S.13, 14, 24, 25): 7;

~~(26)~~ (27) County Ditch No. 5, Marietta, (T.117, R.45, S.6, 7, 18; T.117, R.46, S.1; T.118, R.46, S.23, 25, 26, 36): 7;

~~(27)~~ (28) County Ditch No. 6, Janesville, (T.107, R.24, S.4, 8, 9, 17, 18; T.107, R.25, S.13): 7;

~~(28)~~ (29) County Ditch No. 7, Lowry, (T.126, R.39, S.25, 26): 7;

~~(29)~~ (30) County Ditch No. 12, Waseca, (T.107, R.23, S.22, 23): 7;

~~(30)~~ (31) County Ditch No. 12 (Rice Creek), Belview, (T.113, R.36, S.7, 8, 18, 19; T.113, R.37, S.15, 21, 22, 23, 24): 7;

~~(31)~~ (32) County Ditch No. 14, Tyler, (T.109, R.43, S.18; T.109, R.44, S.2, 3, 11, 13, 14; T.110, R.44, S.33, 34): 7;

~~(32)~~ (33) County Ditch No. 22, Montgomery, Green Giant Company, (T.111, R.23, S.4, 9, 10; T.112, R.23, S.33): 7;

~~(33)~~ (34) County Ditch No. 27, Madison, (T.117, R.43, S.3, 4, 5, 6; T.117, R.44, S.1; T.118, R.43, S.34; T.118, R.44, S.35, 36): 7;

~~(34)~~ (35) County Ditch No. 28, Marietta, (T.118, R.46, S.22, 23, 26): 7;

~~(35)~~ (36) County Ditch No. 38, Storden, (T.107, R.37, S.28, 29): 7;

~~(36)~~ (37) County Ditch No. 40A, Lafayette, (T.111, R.29, S.8, 14, 15, 16, 17, 23, 24): 7;

~~(37)~~ (38) County Ditch No. 42, Winthrop, (T.112, R.29, S.6, 7): 7;

~~(38)~~ (39) County Ditch No. 44, Bricelyn, Owatonna Canning Company, (T.101, R.25, S.7, 8, 16, 17; T.101, R.26, S.1, 12; T.102, R.26, S.36): 7;

~~(39)~~ (40) County Ditch No. 45, Renville, (T.114, R.36, S.5, 6, 7, 18; T.114, R.37, S.13; T.115, R.36, S.7, 18, 19, 29, 30, 32): 7;

~~(40)~~ (41) County Ditch No. 46, Willmar, (T.119, R.35, S.19, 20, 29): 7;

~~(41)~~ (42) County Ditch No. 51, Le Center, (T.110, R.24, S.5, 6; T.111, R.24, S.31, 32; T.111, R.25, S.26, 35, 36): 7;

~~(42)~~ (43) County Ditch No. 54, Montgomery, (T.112, R.23, S.26, 33, 34, 35): 7;

~~(43)~~ (44) County Ditch No. 60 (Chippewa River), Millerville, Millerville Coop Cry., (T.130, R.39, S.14, 22, 23, 27, 28, 32, 33): 7;

~~(44)~~ (45) County Ditch No. 61, Kerhoven, (T.120, R.37, S.21, 22): 7;

~~(45)~~ (46) County Ditch No. 63, Hanska, (T.108, R.30, S.11, 12, 14, 17, 18, 19, 20, 21, 22, 23, 27, 28): 7;

~~(46)~~ (47) County Ditch No. 66, Bird Island, (T.115, R.34, S.15, 16, 17, 18, 22, 23): 7;

~~(47)~~ (48) County Ditch No. 87, Wells, (T.103, R.24, S.6; T.104, R.24, S.31; T.104, R.25, S.36): 7;

~~(48)~~ (49) County Ditch No. 104, Sacred Heart, (T.114, R.38, S.1, 2; T.115, R.37, S.7, 18; T.115, R.38, S.13, 24, 25, 35, 36): 7;

~~(49)~~ (50) County Ditch No. 109, Morgan, (T.111, R.34, S.4, 5, 8, 17; T.112, R.34, S.22, 23, 27, 28, 33): 7;

~~(50)~~ (51) Crow Creek, (T.112, R.35): 2C;

~~(51)~~ (52) Dry Creek, (T.108, 109, R.36): 2C;

~~(52)~~ (53) Dry Weather Creek, (T.117, 118, R.39, 40, 41): 2C;

~~(53)~~ (54) Dry Wood Creek, (T.122, R.42, 43): 2C;

~~(54)~~ (55) Echo Creek, (T.114, R.37): 2C;

~~(55)~~ (56) Eight Mile Creek, (T.111, 112, 113, R.31): 2C;

~~(56)~~ (57) Elm Creek, North Fork, (T.104, R.34): 2C;

~~(57)~~ (58) Elm Creek, South Fork, (T.103, R.34): 2C;

~~(58)~~ (59) Emily Creek, (T.118, 119, R.43): 2C;

~~(59)~~ (60) Fish Creek, (T.123, 124, R.47, 48): 2C;

~~(60)~~ (61) Five Mile Creek, (T.120, R.44): 2C;

~~(61)~~ (62) Florida Creek, (South Dakota border to mouth): 2C, 3B;

~~(62)~~ (63) Foster Creek (excluding Class 7 segment), (T.102, 103, R.24): 2C;

~~(63)~~ (64) Foster Creek, Alden, (T.103, R.23, S.31; T.103, R.24, S.25, 36): 7;

~~(64)~~ (65) Hassel Creek, (T.122, 123, R.38, 39): 2C;

~~(65)~~ (66) Hawk Creek (County Ditch No. 10), Willmar/Pennock, (T.118, R.36, S.2, 3, 8, 10, 15, 16, 17, 18, 19; T.118, R.37, S.5, 6, 7, 8, 9, 14, 15, 16, 18, 19, 23, 24, 30, 31; T.119, R.35, S.19; T.119, R.36, S.24, 25, 26, 35): 7;

~~(66)~~ (67) Hazel Run, (T.115, R.39, 40, 41, 42): 2C;

~~(67)~~ (68) Iosco Creek, (T.108, R.23): 2C;

~~(68)~~ (69) Judicial Ditch No. 1, Delavan, (T.104, R.27, S.23, 25, 26, 36): 7;

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

~~(69)~~ (70) Judicial Ditch No. 1A, Lafayette, (T.111, R.27, S.5, 6, 7; T.111, R.28, S.10, 11, 12, 15, 16, 17, 18, 19; T.111, R.29, S.24): 7;

~~(70)~~ (71) Judicial Ditch No. 5, Murdock, (T.120, R.38, S.4, 5, 6, 9, 10, 11; T.120, R.39, S.1, 4, 9, 10, 11, 12): 7;

~~(71)~~ (72) Judicial Ditch No. 6, Hanska, (T.107, R.30, S.4; T.108, R.30, S.28, 33): 7;

~~(72)~~ (73) Judicial Ditch No. 10, Hanska, (T.108, R.30, S.1; T.109, R.30, S.35, 36): 7;

~~(73)~~ (74) Judicial Ditch No. 12, Tyler, (T.109, R.43, S.9, 15, 16, 17, 18): 7;

~~(74)~~ (75) Judicial Ditch No. 29, Arco, (T.111, R.44, S.21, 28, 33): 7;

~~(75)~~ (76) Judicial Ditch No. 30, Sleepy Eye, Del Monte Corporation, (T.109, R.32, S.4, 5, 6; T.110, R.32, S.31): 7;

~~(76)~~ (77) Judicial Ditch No. 49 (Providence Creek), Amboy, (T.105, R.27, S.18, 19; T.105, R.28, S.13): 7;

~~(77)~~ (78) Lac qui Parle River, (Lake Hendricks outlet to Minnesota River): 2C, 3B;

~~(78)~~ (79) Lac qui Parle River, West Fork, (South Dakota border to mouth): 2C, 3B;

~~(79)~~ (80) Lazarus Creek, (South Dakota border to Canby Creek): 2C, 3B;

~~(80)~~ (81) Le Sueur River, Little, (T.106, R.22): 2C;

~~(81)~~ (82) Lone Tree Creek, Tracy, (T.109, R.39, S.2, 3, 4, 7, 8, 9; T.110, R.38, S.19, 20, 30; T.110, R.39, S.25, 34, 35, 36): 7;

~~(82)~~ (83) Middle Creek, (T.113, 114, R.36): 2C;

~~(83)~~ (84) Mink Creek, (T.104, R.30, 31): 2C;

~~(84)~~ (85) Minneopa Creek, Lake Crystal, (T.108, R.28, S.26, 27, 32, 33, 34): 7;

~~(85)~~ (86) Minnesota River, (Big Stone Lake outlet to the Lac qui Parle dam): 1C, ~~2B~~ 2Bd, 3B;

~~(86)~~ (87) *Minnesota River, [11/5/84R] (Lac qui Parle dam to Granite Falls): 1C, ~~2B~~ 2Bd, 3B;

~~(87)~~ (88) *Minnesota River, [11/5/84R] (Granite Falls to Redwood County State Aid Highway 11 bridge): 2B, 3B;

~~(88)~~ (89) Minnesota River, (River Mile 22 to mouth): 2C, 3B;

~~(89)~~ (90) Minnesota River, Little, (South Dakota border crossing to Big Stone Lake): 2C, 3B;

~~(90)~~ (91) Morgan Creek, (T.109, R.29, 30): 2C;

~~(91)~~ (92) Mud Creek, (T.114, R.43, 44, 45): 2C;

~~(92)~~ (93) Mud Creek, DeGraff/Murdock, (T.121, R.37, S.31; T.121, R.38, S.18, 19, 20, 28, 29, 33, 34, 35, 36; T.121, R.39, S.11, 12, 13): 7;

~~(93)~~ (94) Muddy Creek (Mud Creek) (County Ditch No. 2) (County Ditch No. 4), Chokio, (T.124, R.42, S.6, 7, 15, 16, 17, 18, 21, 22, 23; T.124, R.43, S.1, 4, 5, 6, 7, 8; T.124, R.44, S.1, 2, 3, 12; T.125, R.43, S.34, 35, 36): 7;

~~(94)~~ (95) Palmer Creek, (T.116, 117, 118, R.39): 2C;

~~(95)~~ (96) Pelican Creek, (T.130, R.41, 42): 2C;

~~(96)~~ (97) Pell Creek, Walnut Grove, (T.109, R.38, S.25, 26, 27, 28): 7;

~~(97)~~ (98) Perch Creek, (T.104, 105, 106, R.29, 30): 2C;

~~(98)~~ (99) Rice Creek, See County Ditch No. 12;

~~(99)~~ (100) Rush River, Middle Branch, Winthrop, (T.112, R.27, S.16, 19, 20, 21, 30; T.112, R.28, S.18, 19, 20, 21, 22, 25, 26, 27; T.112, R.29, S.7, 8, 9, 13, 14, 15, 16, 17, 18): 7;

~~(100)~~ (101) Saint James Creek (excluding Class 7 segment), (T.105, 106, R.31, 32, 33): 2C;

~~(101)~~ (102) Saint James Creek, Saint James, (T.106, R.31, S.5, 7, 8, 18; T.107, R.31, S.21, 22, 28, 32, 33): 7;

~~(102)~~ (103) Shakopee Creek, (T.119, 120, R.36, 37, 38, 39, 40): 2C;

~~(103)~~ (104) Silver Creek, (T.108, R.23, 24): 2C;

~~(104)~~ (105) Smith Creek, (T.113, R.35, 36): 2C;

~~(105)~~ (106) South Creek, (T.102, 103, R.28, 29, 30): 2C, 3B;

~~(106)~~ (107) Spring Branch Creek, (T.106, R.29, 30): 2C;

~~(107)~~ (108) Spring Creek, (T.110, 111, R.32, 33, 34): 2C;

~~(108)~~ (109) Spring Creek, (T.117, R.40): 2C;

~~(109)~~ (110) Stony Run, (T.121, 122, R.45, 46): 2C;

~~(110)~~ (111) Stony Run Creek, (T.116, R.40): 2C;

~~(111)~~ (112) Three Mile Creek, (T.112, R.33): 2C;

~~(112)~~ (113) Timms Creek, (T.114, 115, R.36): 2C;

~~(113)~~ (114) Unnamed Creek, Green Isle, (T.114, R.26, S.2, 3, 4, 8, 9, 17): 7;

~~(114)~~ (115) Unnamed Creek, Pennock, (T.118, R.37, S.2, 3, 4, 5; T.119, R.36, S.4, 5, 6, 7, 18, 19; T.119, R.37, S.24, 25, 26, 35): 7;

~~(115)~~ (116) Unnamed Creek, Murdock, (T.120, R.38, S.1, 2; T.121, R.38, S.35): 7;

~~(116)~~ (117) Unnamed Ditch, Burnsville Freeway Sanitary Landfill, (T.27, R.24, S.28, 33): 7;

~~(117)~~ (118) Unnamed Ditch, Bricelyn, Owatonna Canning Company, (T.101, R.25, S.10): 7;

~~(118)~~ (119) Unnamed Ditch, Alden, (T.102, R.23, S.4, 5; T.103, R.23, S.31, 32): 7;

~~(119)~~ (120) Unnamed Ditch, Truman, (T.104, R.30, S.2, 11; T.105, R.30, S.25, 26, 35): 7;

~~(120)~~ (121) Unnamed Ditch, New Richland, (T.105, R.22, S.17, 18, 19; T.105, R.23, S.24): 7;

~~(121)~~ (122) Unnamed Ditch, Lewisville, (T.105, R.30, S.3; T.106, R.30, S.14, 23, 26, 34, 35): 7;

~~(122)~~ (123) Unnamed Ditch, Waldorf, (T.106, R.24, S.34): 7;

~~(123)~~ (124) Unnamed Ditch, Waseca, (T.107, R.23, S.14, 23): 7;

~~(124)~~ (125) Unnamed Ditch, Jeffers, (T.107, R.36, S.21): 7;

~~(125)~~ (126) Unnamed Ditch, Storden, (T.107, R.37, S.19, 30): 7;

~~(126)~~ (127) Unnamed Ditch, Eagle Lake, (T.108, R.25, S.18, 19; T.108, R.26, S.13): 7;

~~(127)~~ (128) Unnamed Ditch, Walnut Grove, (T.109, R.38, S.28): 7;

~~(128)~~ (129) Unnamed Ditch, Tracy, (T.109, R.39, S.18; T.109, R.40, S.13): 7;

~~(129)~~ (130) Unnamed Ditch, Wabasso, (T.110, R.36, S.3; T.111, R.36, S.18, 19, 20, 28, 29, 33, 34; T.111, R.37, S.13): 7;

~~(130)~~ (131) Unnamed Ditch, Lafayette, (T.111, R.29, S.6, 7, 8; T.111, R.30, S.12): 7;

~~(131)~~ (132) Unnamed Ditch, Wabasso, (T.111, R.37, S.13, 24): 7;

~~(132)~~ (133) Unnamed Ditch, Montgomery, (T.112, R.23, S.33): 7;

~~(133)~~ (134) Unnamed Ditch, Near Fernando, Round Grove Coop Cry., (T.113, R.30, S.5; T.114, R.29, S.19, 20, 30; T.114, R.30, S.25, 26, 27, 28, 29, 32): 7;

~~(134)~~ (135) Unnamed Ditch, Green Isle, (T.114, R.26, S.19; T.114, R.27, S.11, 12, 13, 14, 24): 7;

~~(135)~~ (136) Unnamed Ditch, Porter, (T.114, R.44, S.21, 28): 7;

~~(136)~~ (137) Unnamed Ditch, Bongards, Bongards Creameries, (T.115, R.25, S.9, 16): 7;

~~(137)~~ (138) Unnamed Ditch, Clarkfield, (T.115, R.41, S.16): 7;

~~(138)~~ (139) Unnamed Ditch, Clarkfield, (T.115, R.41, S.16, 21): 7;

~~(139)~~ (140) Unnamed Ditch, Madison, (T.118, R.44, S.27, 28, 34, 35): 7;

~~(140)~~ (141) Unnamed Ditch, Pennock, (T.119, R.36, S.2, 3, 4, 9, 10): 7;

~~(141)~~ (142) Unnamed Ditch, DeGraff, (T.121, R.38, S.19, 29, 30): 7;

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

~~(142)~~ (143) Unnamed Ditch, Hancock, (T.122, R.40, S.6; T.122, R.41, S.1, 12; T.123, R.40, S.18, 19, 30, 31; T.123, R.41, S.11, 12): 7;

~~(143)~~ (144) Unnamed Ditch, Alberta, (T.124, R.43, S.3, 4): 7;

~~(144)~~ (145) Unnamed Ditch, Farwell, Farwell Coop Cry. Assn., (T.126, R.39, S.6): 7;

~~(145)~~ (146) Unnamed Ditch, Lowry, (T.126, R.39, S.26, 35): 7;

~~(146)~~ (147) Unnamed Ditch, Brandon, (T.129, R.39, S.21, 22): 7;

~~(147)~~ (148) Unnamed Ditch, Evansville, (T.129, R.40, S.10, 11): 7;

~~(148)~~ (149) Unnamed Dry Run, Near Minneopa, Blue Earth - Nicollet Electric, (T.108, R.27, S.16): 7;

~~(149)~~ (150) Unnamed Dry Run, Mankato, Southview Heights Coop Association, (T.108, R.26, S.19, 30; T.108, R.27, S.24): 7;

~~(150)~~ (151) Unnamed Stream, Mankato, Midwest Electric Products, (T.109, R.26, S.20, 21, 28): 7;

~~(151)~~ (152) Unnamed Stream, Savage, (T.115, R.21, S.8, 9): 7;

~~(152)~~ (153) Unnamed Stream, Dawson, Dawson Mills Soy Isolate, (T.117, R.43, S.22): 7;

~~(153)~~ (154) Wabasha Creek, (T.112, R.34): 2C;

~~(154)~~ (155) Whetstone River, (South Dakota border to mouth): 2C, 3B;

~~(155)~~ (156) Old Whetstone River Channel, Ortonville, Big Stone Canning Company, (T.121, R.46, S.16, 21): 7;

~~(156)~~ (157) Willow Creek, (T.104, 105, R.31, 32): 2C;

~~(157)~~ (158) Wood Lake Creek, (T.113, 114, R.38, 39): 2C;

~~(158)~~ (159) Yellow Bank River, North Fork, (South Dakota border to mouth): 2C, 3B;

~~(159)~~ (160) Yellow Bank River, South Fork, (South Dakota border to mouth): 2C, 3B; and

~~(160)~~ (161) Yellow Medicine River, North Fork, (South Dakota border to mouth): 2C, 3B.

B. Lakes:

(1) Amber Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(2) Bardwell Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(3) Budd Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(4) George Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(5) Hall Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(6) Mud Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(7) One Hundred Acre Slough, Saint James, (T.106, R.31, S.7): 7;

(8) Silver Lake, North, (T.101, R.30): 1C, ~~2B~~ 2Bd, 3B;

(9) Sisseton Lake, (T.102, R.30): 1C, ~~2B~~ 2Bd, 3B;

(10) Unnamed Marsh, Barry, (T.124, R.47, S.8): 7;

(11) Unnamed Slough, Kensington, (T.127, R.40, S.34): 7;

(12) Unnamed Slough, Brandon, (T.129, R.39, S.21, 22): 7;

(13) Unnamed Swamp, Minnesota Lake, (T.104, R.25, S.3, 4): 7;

(14) Unnamed Swamp, Storden, (T.107, R.37, S.30): 7;

(15) Unnamed Swamp, Sunburg, Sunburg Coop Cry., (T.122, R.36, S.30): 7;

(16) Unnamed Swamp, Lowry, (T.126, R.39, S.35, 36): 7; and

(17) Wilmert Lake, (T.101, R.30): 1C, ~~2B~~ 2Bd, 3B.

C. Fens:

(1) *Blackdog Preserve, [3/7/88P] (Waters within the Blackdog Preserve Scientific and Natural Area, Dakota County, T.27, R.24, S.27, 34): 2B, 3B;

(2) *Fish Hatchery fen, [3/7/88R] (T.110, R.26, S.14): 2B, 3B;

(3) *Fort Ridgely fen, [3/7/88R] (T.111, R.32, S.6): 2B, 3B;

(4) *Fort Snelling State Park fen, [3/7/88R] (T.27, R.23, S.4): 2B, 3B;

(5) *Le Sueur fen, [3/7/88R] (T.111, R.26, S.16): 2B, 3B;

(6) *Minnesota Valley fen, [3/7/88R] (T.27, R.24, S.27, 34): 2B, 3B;

(7) *Nicols Meadow fen, [3/7/88R] (T.27, R.23, S.18): 2B, 3B;

(8) *Ordway fen, [3/7/88R] (T.123, R.36, S.30): 2B, 3B;

(9) *St. Peter fen, [3/7/88R] (T.110, R.26, S.11): 2B, 3B;

(10) *Savage fen, [3/7/88R] (T.115, R.21, S.16, 17): 2B, 3B;

(11) *Sioux Nation fen, [3/7/88R] (T.114, R.46, S.17): 2B, 3B; and

(12) *Truman fen, [3/7/88R] (T.104, R.30, S.7): 2B, 3B.

Subp. 6. **Saint Croix River Basin.** The water use classifications for the listed waters in the Saint Croix River Basin are as identified in items A and B:

A. Streams:

(1) Bear Creek, (T.43, R.23, 24): 2C;

(2) Bergman Brook, (T.42, 43, R.23, 24): 2C;

(3) Groundhouse River, West Fork, (T.39, 40, R.26): 2C;

(4) Hay Creek, (T.42, 43, 44, R.15, 16): 1B, ~~2B~~ 2Bd, 3B;

(5) *Kettle River, [11/5/84R] (From the north Pine County line to the dam at Sandstone): 2B, 3B;

(6) *Kettle River, [11/5/84P] (From the dam at Sandstone to its confluence with the Saint Croix River): 2B, 3B;

(7) King Creek, (T.47, R.19): 2C;

(8) Mission Creek (excluding trout waters), (T.39, 40, 41, R.20, 21): 1B, ~~2B~~ 2Bd, 3B;

(9) Rock Creek, (T.37, 38, R.20, 21): 1B, ~~2B~~ 2Bd, 3B;

(10) Rush Creek, (T.37, R.20, 21): 1B, ~~2B~~ 2Bd, 3B;

(11) *Saint Croix River, [11/5/84R] (Wisconsin border crossing to Taylors Falls): 1B, ~~2B~~ 2Bd, 3B;

(12) *Saint Croix River, [11/5/84R] (Taylors Falls to mouth): 1C, ~~2B~~ 2Bd, 3B;

(13) Sunrise River, West Branch, (T.34, R.21, 22): 1B, ~~2B~~ 2Bd, 3B;

(14) Tamarack River, Lower, (Hay Creek to mouth): 1B, ~~2B~~ 2Bd, 3B;

(15) Tamarack River, Upper (Spruce River), (T.42, R.15, 16): 1B, ~~2B~~ 2Bd, 3B;

(16) Unnamed Ditch, Chisago City, (T.34, R.20, S.19, 29, 30, 31, 32): 7;

(17) Unnamed Ditch, Almelund, Almelund Coop Cry., (T.35, R.20, S.25): 7;

(18) Unnamed Ditch, Moose Lake, (T.46, R.19, S.30): 7;

(19) Unnamed Dry Run, Wahkon, (T.41, R.25, S.3; T.42, R.25, S.29, 32, 33, 34): 7;

(20) Unnamed Stream, Shafer, (T.34, R.19, S.32, 33, 34): 7; and

(21) *Kettle River, [11/5/84P] (Waters within the Kettle River Scientific and Natural Area, Pine County, T.41, R.20): 2B, 3B.

B. Lakes:

(1) *Grindstone Lake, [3/7/88R] (T.42, R.21): 1B, 2A, 3B;

(2) Unnamed Swamp, Shafer, (T.34, R.19, S.31, 32): 7; and

(3) *Boot Lake, [11/5/84P] (Waters within the Boot Lake Scientific and Natural Area, Anoka County, T.33, R.22): 2B, 3B.

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

Subp. 7. **Lower Mississippi River Basin.** The water use classifications for the listed waters in the Lower Mississippi River Basin are as identified in items A, B, and C:

A. Streams:

(1) Albany Creek, West, (T.110, 111, R.12, 13): 2C;

(2) Bear Creek (excluding trout waters), (T.107, R.9): 2C;

(3) Brush Valley Creek, (T.104, R.5): 2C;

(4) *Cannon River, [11/5/84R] (From the northern city limits of Faribault to its confluence with the Mississippi River): 2B, 3B;

(5) Carters Creek, Wykoff, (T.103, R.12, S.4, 9, 15, 16, 22): 7;

(6) Chub Creek, North Branch, (T.112, 113, R.19): 2C;

(7) Cold Creek, (T.110, 111, R.14): 2C;

(8) County Ditch No. 15, Kilkenny, (T.110, R.23, S.22, 23): 7;

(9) Crane Creek, (T.107, 108, R.20, 21, 22): 2C;

(10) Dakota Creek, (T.105, R.5): 2C;

(11) Dry Creek, (T.108, R.12, 13): 2C;

(12) Dutch Creek, (T.112, R.20, 21): 2C;

(13) Gilmore Creek (excluding trout waters), (T.107, R.7): 2C;

(14) Harkcom Creek, (T.108, R.16): 2C;

(15) Homer Creek, (T.106, R.6): 2C;

(16) Indian Spring Creek, (T.103, R.5): 2C;

(17) Judicial Ditch No. 1, Hayfield, (T.105, R.17, S.4, 5; T.106, R.17, S.31, 32; T.106, R.18, S.25, 26, 27, 36): 7;

(18) King Creek, (T.111, R.11, 12): 2C;

(19) Long Creek, (T.108, 109, R.12): 2C;

(20) MacKenzie Creek, (T.108, 109, R.21): 2C;

(21) Mahoney Creek, (T.103, R.10): 2C;

(22) Mound Prairie Creek, (T.104, R.5): 2C;

(23) Mud Creek, (T.108, 109, R.20, 21): 2C;

(24) Pine Creek, (T.112, 113, R.17, 18): 2C;

(25) Pleasant Valley Creek, (T.106, 107, R.6, 7): 2C;

(26) Plum Creek, (T.108, R.15): 2C;

(27) Prairie Creek, (T.110, 111, 112, R.18, 19, 20): 2C;

(28) Riceford Creek, Mabel, (T.101, R.8, S.24, 25, 26): 7;

(29) Salem Creek, (T.106, R.15, 16): 2C;

(30) Shingle Creek, (T.109, 110, R.17): 2C;

(31) Silver Creek (excluding trout waters), (T.104, 105, R.6): 2C;

(32) Silver Spring Creek, (T.108, 109, R.13): 2C;

(33) Snake Creek, (T.109, R.10): 2C;

(34) Sugar Creek (Sugarloaf Creek), (T.111, 112, R.12, 13): 2C;

(35) Sullivan Creek, (T.103, R.5): 2C;

(36) Trout Brook (Mazeppa Creek), Goodhue, (T.110, R.15, S.3, 4; T.111, R.15, S.28, 33, 34): 7;

(37) Trout Creek, Little, (T.106, R.5, 6): 2C;

(38) Trout Run Creek (Trout Creek) (excluding trout waters), (T.104, 105, R.10): 2C;

(39) Unnamed Creek, Canton, (T.101, R.9, S.20): 7;

(40) Unnamed Creek, Byron, (T.107, R.15, S.17, 20, 29): 7;

(41) Unnamed Creek, Plainview, (T.108, R.11, S.16, 17, 20, 21, 22, 27, 34): 7;

(42) Unnamed Creek, West Concord, (T.108, R.17, S.17, 20, 21): 7;

(43) Unnamed Creek, Hayfield, (T.105, R.17, S.3, 4): 7;

(44) Unnamed Ditch, Claremont, (T.107, R.18, S.27, 34): 7;

(45) Unnamed Ditch, Lonsdale, (T.112, R.22, S.25, 35, 36): 7;

(46) Unnamed Ditch, Hampton, (T.113, R.18, S.5, 6; T.114, R.18, S.31): 7;

(47) Unnamed Dry Run, Altura, (T.107, R.9, S.7, 18): 7;

(48) Unnamed Dry Run, Owatonna, Owatonna Canning Company, (T.107, R.20, S.6; T.107, R.21, S.1): 7;

(49) Unnamed Dry Run, Owatonna, Owatonna Canning Company, (T.107, R.20, S.6; T.107, R.21, S.1): 7;

(50) Unnamed Stream, Dodge Center, Owatonna Canning Company, (T.107, R.17, S.27, 34): 7; and

(51) Whitewater River, North Fork, Elgin, (T.108, R.12, S.25, 26, 27): 7.

[For text of item B, see M.R.]

C. Fens:

(1) *Cannon River fen, [3/7/88R] (T.111, R.20, S.34): 2B, 3B;

(2) *Kennedy fen, [3/7/88R] (T.105, R.7, S.15): 2B, 3B;

(3) *Rock Dell fen, [3/7/88R] (T.105, R.15, S.16): 2B, 3B; and

(4) *Perched Valley WMA fen, [3/7/88R] (T.112, R.13, S.8): 2B, 3B.

Subp. 8. **Cedar-Des Moines Rivers Basin.** The water use classifications for the listed waters in the Cedar-Des Moines Rivers Basin are as identified in items A and B:

A. Streams:

(1) Bancroft Creek, (T.103, 104, R.21): 2C;

(2) Bear Creek (excluding Class 7 segment), (Source to Iowa border): 2C, 3B;

(3) Bear Creek, North Spring Grove, (T.101, R.7, S.26, 27, 35): 7;

(4) Beaver Creek, (T.101, 102, R.13, 14): 2C, 3B;

(5) Cedar River, Little, (Source to Iowa border): 2C, 3B;

(6) Clear Creek, (T.102, R.4): 2C;

(7) County Ditch No. 11, Sherburne, (T.101, R.32, S.4, 9, 10; T.102, R.32, S.7, 8, 16, 17, 21, 27, 28, 33, 34): 7;

(8) County Ditch No. 48, Conger, (T.102, R.22, S.19, 20; T.102, R.23, S.24, 25, 26, 35): 7;

(9) Deer Creek, (T.101, R.19, 20): 2C, 3B;

(10) Dobbins Creek, (T.103, R.16, 17): 2C;

(11) Goose Creek, Twin Lakes, (T.101, R.20, S.31; T.101, R.21, S.16, 17, 18, 21, 22, 26, 27, 35, 36; T.101, R.22, S.12, 13): 7;

(12) Heron Lake Outlet, (T.104, 105, R.37): 2C;

(13) Iowa River, Little, (T.101, 102, R.14): 2C;

(14) Jack Creek, Wilmont, (T.104, R.41, S.25, 26, 30, 31, 32, 33, 34, 35, 36): 7;

(15) Lime Creek, (T.101, R.22, 23): 2C, 3B;

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

(16) Murphy Creek, (T.103, R.18): 2C;

(17) Okabena Creek (excluding Class 7 segment), (T.102, 103, R.37, 38, 40): 2C;

(18) Okabena Creek, Worthington, Worthington Lagoons and Allied Mills, (T.102, R.38, S.6, 7; T.102, R.39, S.7, 8, 9, 10, 11, 12, 14, 15, 16, 18; T.102, R.40, S.13): 7;

(19) Orchard Creek, (T.102, R.18, 19): 2C;

(20) Pine Creek (excluding Class 7 segment), (T.101, R.10): 2C, 3B;

(21) Pine Creek, Harmony, (T.101, R.9, S.31; T.101, R.10, S.24, 25, 36): 7;

(22) Roberts Creek, (T.103, 104, R.16, 17, 18): 2C;

(23) Rose Creek, (T.102, 103, R.16, 17, 18): 2C;

(24) Soldier Creek, (T.101, R.32, 33): 2C, 3B;

(25) Turtle Creek, (T.103, R.18, 19, 20): 2C;

(26) Unnamed Creek, Spring Grove, (T.101, R.7, S.14, 22, 23, 27): 7;

(27) Unnamed Creek, Emmons, (T.101, R.22, S.31): 7;

(28) Unnamed Creek, Brownsdale, (T.103, R.17, S.4, 9): 7;

(29) Unnamed Creek, Blooming Prairie, (T.104, R.18, S.5, 8, 9, 16; T.105, R.18, S.31): 7;

(30) Unnamed Creek, Iona, (T.105, R.41, S.3, 4, 9; T.106, R.40, S.19, 29, 30, 32; T.106, R.41, S.24, 25, 26, 34, 35): 7;

(31) Wapsipinicon River, (T.101, R.15): 2C, 3B;

(32) Waterloo Creek, (T.101, R.6, 7): 1B, ~~2B~~ 2Bd, 3B;

(33) Wildcat Creek (excluding trout waters), (T.103, R.4): 2C;

(34) Wolf Creek, (T.103, R.16, 17, 18): 2C; and

(35) Woodbury Creek, (T.101, 102, R.18, 19): 2C.

B. Fens:

(1) *Heron Lake fen, [3/7/88R] (T.103, R.36, S.29): 2B, 3B;

(2) *Prairie Bush Clover, [3/7/88P] (Waters within the Prairie Bush Clover Scientific and Natural Area, Jackson County, T.103, R.35, S.17): 2B, 3B; and

(3) *Thompson fen, [3/7/88R] (T.103, R.35, S.7): 2B, 3B.

Subp. 9. **Missouri River Basin.** The water use classifications for the listed waters in the Missouri River Basin are as identified in ~~item~~ items A and B:

A. Streams:

(1) Ash Creek, (T.101, R.45): 2C;

(2) Beaver Creek, (T.102, 103, 104, R.45, 46, 47): 2C, 3B;

(3) Flandreau Creek (excluding Class 7 segment), (T.107, 108, R.46, 47): 2C, 3B;

(4) Flandreau Creek, Lake Benton, (T.108, R.46, S.1, 2, 11; T.109, R.45, S.30, 31; T.109, R.46, S.36): 7;

(5) Kanaranzi Creek, (Source to Iowa border): 2C, 3B;

(6) Medary Creek, (Source to South Dakota border): 2C, 3B;

(7) Mound Creek, (T.103, 104, R.45): 2C;

(8) Mud Creek, (T.101, 102, R.45, 46): 2C, 3B;

(9) Pipestone Creek, (Source to South Dakota border): 2C, 3B;

(10) Rock River (excluding Class 7 segment), (Source to Iowa border): 2C, 3B;

(11) Rock River, Holland, (T.107, R.44, S.18, 19, 20, 29; T.107, R.45, S.12, 13): 7;

(12) Rock River, Little, (Source to Iowa border): 2C, 3B;

(13) Sioux River, Little, (Source to Iowa border): 2C, 3B;

(14) Sioux River, West Fork Little, (Source to Iowa border): 2C, 3B;

(15) Skunk Creek, (T.101, 102, R.37, 38, 39): 2C;

(16) Split Rock Creek, (Split Rock Lake outlet to South Dakota border): 2C, 3B;

(17) Unnamed Creek, Jasper, (T.104, R.46, S.6): 7;

(18) Unnamed Creek, Hatfield, (T.105, R.44, S.6, 7, 8; T.105, R.45, S.1; T.106, R.45, S.36): 7;

(19) Unnamed Creek, Hatfield, (T.106, R.45, S.34, 35, 36): 7;

(20) Unnamed Ditch, Steen, (T.101, R.45, S.31, 32): 7;

(21) Unnamed Ditch, Hills, (T.101, R.46, S.28, 33): 7; and

(22) Unnamed Ditch, Lake Benton, (T.109, R.45, S.17, 19, 20): 7.

B. Fens:

(1) Adrian fen, (T.102, R.43, S.11): 2B, 3B;

(2) Burke State Wildlife Management Area fen, (T.106, R.44, S.28): 2B, 3B; and

(3) Altona State Wildlife Management Area fen, (T.108, R.46, S.1; T.109, R.45, S.31): 2B, 3B.

REPEALER. *Minnesota Rules*, part 7050.0210, subpart 14, is repealed.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Department of Commerce

Adopted Permanent Rules Relating to Credit Unions

The rule proposed and published at *State Register*, Volume 13, Number 42, pages 2480-2482, April 17, 1989 (13 S.R. 2480) and Volume 14, Number 4, pages 149-151, July 24, 1989 (14 S.R. 149) is adopted with the following modifications:

Rules as Adopted

2675.6400 SELECT GROUP IDENTIFICATION.

Subp. 6. **Subsequent action by an existing credit union.** For an existing credit union to qualify for approval of a bylaw amendment to include an eligible select group in its field of membership, in addition to the requirements in *Minnesota Statutes*, section 52.02, the existing credit union must be capable of serving the eligible select group, and the commissioner ~~may~~ shall require:

B. a statement that ~~solicitations will not be directed at~~ the existing credit union will not solicit individuals to join the select group ~~as a condition for membership in the credit union~~.

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

Department of Natural Resources

Adopted Permanent Rules Relating to Lake Superior Shoreland Management

The rule proposed and published at *State Register*, Volume 14, Number 4, pages 158-159, July 24, 1989 (14 S.R. 158) is adopted as proposed.

Pollution Control Agency

Adopted Permanent Rules Relating to Hazardous Waste; Burning of Hazardous Waste and Used Oil

The rules proposed and published at *State Register*, Volume 14, Number 11, pages 583-595, September 11, 1989 (14 S.R. 583) are adopted with the following modifications:

Rules as Adopted

7045.0020 DEFINITIONS.

Subp. 9b. **Combustible liquid.** "Combustible liquid" ~~means a liquid that has a flash point below 200 degrees Fahrenheit and equal to or greater than 100 degrees Fahrenheit, as defined~~ has the meaning given in Code of Federal Regulations, title 49, section 173.115.

Subp. 21b. **EPA identification number.** "EPA identification number" means the number assigned by the Environmental Protection Agency to each generator, transporter, and treatment, storage and disposal facility.

Subp. 24b. **Flammable liquid.** "Flammable liquid" ~~means a liquid exhibiting a flash point below 100 degrees Fahrenheit, as defined~~ has the meaning given in Code of Federal Regulations, title 49, section 173.115.

7045.0102 MIXTURES OF WASTES.

Subpart 1. **Scope.** Except as provided in part 7045.0665, subpart ~~5~~ 1, mixtures of wastes are listed in subparts 2 and 3.

7045.0665 USE CONSTITUTING DISPOSAL.

Subp. 1a. **Land application prohibition.**

B. A person may not otherwise place used or waste oil in or on the land, unless approved by the commissioner. The application of used or waste oil in or on the land shall only be approved in the case of an accidental ~~oil~~ spill.

7045.0695 USED OIL BURNED FOR ENERGY RECOVERY.

Subpart 1. **Scope.** The requirements of this part apply to used oil that is burned for energy recovery in a boiler or industrial furnace that is not regulated under part 7045.0542 or 7045.0640. Burning used oil as a fuel is prohibited except as provided in this part. Used oil burned for energy recovery is subject to regulation under this part rather than as hazardous waste fuel under part 7045.0692, even if it exhibits a characteristic of hazardous waste identified in part 7045.0131, provided that it has not been intentionally mixed with a characteristic hazardous waste. Used oil intentionally mixed with a characteristic hazardous waste as identified in part 7045.0131 is regulated as specified in part 7045.0102, subpart 3.

Pollution Control Agency

Hazardous Waste Division

Adopted Permanent Rules Relating to Underground Storage Tank Training and Certification

The rules proposed and published at *State Register*, Volume 14, Number 11, pages 595-609, September 11, 1989 (14 S.R. 595) are adopted with the following modifications:

Rules as Adopted

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 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

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)~~ (9):

~~(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;

(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;

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; 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;

K. tank closure and removal:

(1) regulatory discussion:

(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

7105.0130 INCORPORATION BY REFERENCE.

Subp. 3. **NFPA ~~documents~~ document.** The following ~~documents are~~ document is 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~~ 1987); ~~and~~

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

Department of Transportation

Adopted Permanent Rules Relating to State Highway Market Artery System

The rules proposed and published at *State Register*, Volume 14, Number 9, pages 466-471, August 28, 1989 (14 S.R. 466) are adopted as proposed.

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

Official Notices

Pursuant to the provisions of Minnesota Statutes §14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Minnesota State Agricultural Society Minnesota State Fair

Annual Meeting Notice

The 131st annual meeting of the Minnesota State Agricultural Society, governing body of the State Fair, will be held Jan. 13, 14 and 15 at the St. Paul Radisson Hotel. For complete program information, call (612) 642-2251.

Gaming Department

Minnesota Racing Commission

Notice of Solicitation of Outside Information of Opinions Regarding the Proposed Rule Governing Class D License Applications

NOTICE IS HEREBY GIVEN that the Minnesota Racing Commission is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing Class D license applications. The adoption of the rule is authorized by *Minnesota Statutes*, sections 240.09, 240.23 and 240.13 (1988) which permits the agency to issue Class D racing licenses and promulgate rules governing the conduct of horse races held at licensed racetracks in Minnesota and any other licensed racetracks in Minnesota and any other aspect of horse racing of pari-mutuel betting which, in the opinion of the Racing Commission, affects the integrity of racing or the public health, welfare, or safety.

The Minnesota Racing Commission requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Richard Krueger
Acting Director
11000 W. 78th Street
Eden Prairie, Minnesota 55344

Oral statements will be received during regular business hours over the telephone at (612) 341-7555 and in person at the above-listed address.

All statements of information and opinions shall be accepted until January 31, 1990. Any written material received by the Racing Commission shall become part of the rulemaking record to be submitted to the Attorney General or administrative law judge in the event that the rule is adopted.

Dated: 13 December 1989

Richard Krueger
Acting Director
Minnesota Racing Commission

Executive Council State Board of Investment Land Exchange Board

Notice of Meetings of the Executive Council, State Board of Investment, Land Exchange Board, and the Investment Advisory Council

The Executive Council, State Board of Investment and Land Exchange Boards will meet on Wednesday, January 10, 1990 at 8:30 a.m. in Room 15, State Capitol, Saint Paul, MN.

The Investment Advisory Council will meet on Tuesday, January 9, 1990 at 2:00 p.m. in Conference Rooms "B" and "C", MEA Building, 41 Sherburne Avenue, Saint Paul, MN.

Board of Pharmacy

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Pharmacy Practice

NOTICE IS HEREBY GIVEN that the Board of Pharmacy is seeking information or opinions from sources outside the agency in preparing to propose the adoption or amendment of rules governing licensure of pharmacies, patient counseling, practice standards for specialty areas, inactive status licensure, unprofessional conduct, use of FAX machines, prescription refills, use of computers, controlled substances, pharmacist preceptors and dispensing by practitioners. The adoption of these rules is authorized by *Minnesota Statutes*, section 151.06, subdivision 1c, which permits the agency to adopt rules to regulate the practice of pharmacy.

The Board of Pharmacy requests information and opinions concerning the subject matter of these rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

David E. Holmstrom, Executive Director
Minnesota Board of Pharmacy
2700 University Ave. W. #107
St. Paul, MN 55114

Oral statements will be received during regular business hours over the telephone at (612) 642-0541 and in person at the above address.

All statements of information and opinions shall be accepted until March 1, 1990. Any written material received by the Board of Pharmacy shall become part of the rulemaking record to be submitted to the Attorney General or Administrative Law Judge in the event that the rule is adopted.

Dated: 22 December 1989

David E. Holmstrom
Executive Director

Minnesota Pollution Control Agency

Division of Hazardous Waste

Notice of Intent to Solicit Outside Information Regarding Proposed Rules Governing the Management of Household Hazardous Waste and the Submittal of Management Plans for Separation of Household Hazardous Waste From Solid Waste Prior to Disposal or Processing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is seeking information or opinions from outside sources in preparing to propose rules governing the management of household hazardous waste and the submittal of management plans for separation of household waste from solid waste prior to disposal or processing. Specifically, the rules being developed will include: (1) management requirements for household hazardous waste that is collected as a result of a household hazardous waste management program; and (2) requirements for owners and operators of solid waste disposal facilities or resource recovery facilities to submit management plans for separation of household hazardous waste from solid waste prior to disposal or processing. The development of the rules is authorized by *Minnesota Statutes* §§ 116.07, subd. 4 (1988) and 116.07, subd. 4 (*Minnesota Laws, 1989 First Special Session*, Chapter 1, Article 20, Section 19).

The MPCA requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing or orally. Written or oral statements should be directed to:

Patrick Carey
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
Telephone: 612/643-3478

Oral statements will be received during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday.

All statements of information and opinion will be accepted until February 2, 1990. Any written materials received by the MPCA shall become part of the rulemaking record in the event that the rule is amended.

Gerald L. Willet
Commissioner

Department of Public Safety

Emergency Response Commission

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Hazardous Chemical Reporting Fees

NOTICE IS HEREBY GIVEN that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing setting fees to be paid by a facility when the owner or operator submits its emergency and hazardous chemical inventory form required under section 11022 of the federal Emergency Planning and Community Right to Know Act, *United States Code,* title 42. The adoption of the rule is authorized by *Minnesota Statutes*, section 229 K.09, which requires the agency to adopt rules to establish a fee to cover the costs for all data management, including administration of fees, by the commission and regional review committees.

The State Department of Public Safety requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Minnesota Emergency Response Commission
290 Bigelow Building
450 North Syndicate Street
St. Paul, Minnesota 55104

Oral statements will be received during regular business hours over the telephone at (612) 643-3000 and in person at the above address.

Any written material received by the State Department of Public Safety shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Paul J. Tschida, Commissioner
Department of Public Safety

Department of Public Service

Energy Division

Notice of Extension of Deadline

The deadline of January 2, 1990 established by publication on October 9, 1989, by the Department of Public Service to seek opinions and information on proposed amendment to *Minnesota Rules* Chapter 7640 governing Residential Thermal Insulation Standards, is hereby extended to January 30, 1990.

Office of the Secretary of State

Notice of Vacancies in Multi-Member Agencies

NOTICE IS HEREBY GIVEN to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* 15.0597, subdivision 4. Application forms may be obtained from the Office of the Secretary of State, Open Appointments, 180 State Office Building, St. Paul, MN 55155-1299; (612) 297-5845, or in person at Room 174 of the State Office Building. More specific information about these vacancies may be obtained from the agencies listed below. The application deadline is January 24, 1990.

Council on Black Minnesotans
2233 University Ave., Suite 426, St. Paul 55114. 612-642-0811
Minnesota Statutes 3.9225

APPOINTING AUTHORITY: Governor. COMPENSATION: Per diem for public members.
VACANCY: One public member.

The council makes recommendations to the governor and legislature on improving the economic and social conditions of Black Minnesotans. The governor appoints seven public members who will represent the Black community and must include at least three males and three females. The legislature appoints two senators and two representatives who serve as ex-officio, non-voting members.

Medical Services Review Board
Dept. of Labor and Industry, Office of Public Affairs, 443 Lafayette Rd., St. Paul 55101. 612-296-8946
Minnesota Statutes 176.103

APPOINTING AUTHORITY: Commissioner of Labor and Industry. COMPENSATION: $35 per diem plus expenses.
VACANCY: One alternate member: physician familiar with Workers' Compensation.

The board advises on medical matters relating to workers' compensation and hears appeals under chapter 14. Members include two chiropractice members, one hospital administration member, six physician members, one employee member, one employer member, and one public member plus eight alternates. The commissioner or his designee serves as an ex-officio member. Members must file with the Ethical Practices Board.

Advisory Council on Wells and Borings
717 Delaware St. S.E., Mpls 55440. 612-623-5338
Laws of 1989, Chapter 326, Section 5

APPOINTING AUTHORITY: Commissioner of Health. COMPENSATION: $35 per diem plus expenses.
VACANCY: Two members: **One registered monitoring well contractor** (registered as a monitoring well engineer with MN Commissioner of Health to be a professional engineer registered with the Board of Architecture, Engineering, Land Surveying and Landscape Architecture, or a geologist certified by the American Institute of Professional Geologists, or a hydrologist or hydrogeologist certified by the American Institute of Hydrologists.) **One licensed exploratory borer** (to be licensed, individual must take and pass examination related to construction, location, and sealing of exploratory borings, or be a professional engineer registered under Sections 326.02-326.13 or a certified professional geologist.

The council advises the Dept. of Health on licensing water well contractors and explorers, registering, monitoring well engineers, and monitoring wells. Fifteen voting members include six water well contractors (state residents for at least three years, with at least five years experience in well drilling, no more than two from the seven county metro area); one member a licensed exploratory borer for minerals; two public members not connected with exploratory boring or water well contracting; one member a licensed elevator shaft contractor, one member must be a monitoring contractor; representatives of the Departments of Health, Natural Resources, and the Pollution Control Agency; and a representative of the Minnesota Geological Survey. Quarterly meetings.

Human Services Occupations Advisory Council
717 Delaware St. S.E., Mpls 55440. 612-623-5612
Minnesota Statutes 214.44

APPOINTING AUTHORITY: Commissioner of Health. COMPENSATION: $35 per diem plus expenses.
VACANCY: One member: to represent a third party payor to health care costs. Applicants must have expertise on health care reimbursement issues.

The council assists the commissioner in formulating policies and rules regarding the credentialing of human services occupations by the state. Thirteen members include four who represent currently licensed or registered human services occupations, two who represent human services occupations which are not currently regulated, two who represent licensed health care facilities, which can include a health maintenance organization as defined in section 62D.02, one who represents the Higher Education Coordinating Board, one who represents the State Planning Agency, one who represents a third party to health care costs, and two public members (*Minnesota Statutes* 214.01). Monthly meetings.

Occupational Safety and Health Advisory Council
Dept. of Labor and Industry, Regulations & Enforcement Asst. Comm., 443 Lafayette Rd., St. Paul 55155-4308. 612-296-5433
Minnesota Statutes 182.656

APPOINTING AUTHORITY: Commissioner of Labor and Industry. COMPENSATION: $48 per diem plus expenses.
VACANCY: One management representative.

The council advises the Dept. of Labor and Industry on administration of the state Occupational Safety and Health Act. Twelve members include three management representatives; three labor representatives; three representatives of occupational safety and health professions, and three public members. Meetings at the call of the chair.

Market Development Coordinating Council
MN Office of Waste Management, 1350 Energy Lane, St. Paul 55108. 612-649-5750
Minnesota Statutes 115A.12(1)

APPOINTING AUTHORITY: Office of Waste Management. COMPENSATION: Expenses.
VACANCY: No more than eighteen members: See the description of this new agency.

The council develops and coordinates statewide strategy for developing markets for recyclable materials and advises the Office of Waste Management on expenditure of Market Development funds. Not less than 9 nor more than 18 members: one representative each from Dept. of Trade and Economic Development, Dept. of Administration, Pollution Control Agency, Greater Minnesota Corporation, Metropolitan Council, Legislative Commission on Waste Management; also representation from local government, private recycling markets and collectors. Monthly meetings in St. Paul.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. §14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of $15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information.

Department of Administration: Materials Management Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

Commodity: Supplemental heating
Contact: Joyce Dehn 297-3830
Bid due date at 2:30pm: January 3
Agency: Inver Hills Community College
Deliver to: Inver Grove Heights
Requisition #: 27000 51620

Commodity: Editing equipment
Contact: Pam Anderson 296-1053
Bid due date at 2pm: January 4
Agency: State University
Deliver to: Mankato
Requisition #: 26071 19419

Commodity: Used Wang equipment
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: January 5
Agency: Agriculture Department
Deliver to: St. Paul
Requisition #: 04641 03237

Commodity: Detector systems (traffic lights) 4 channel
Contact: Pam Anderson 296-1053
Bid due date at 2pm: January 5
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 79050 24999

Commodity: Detector systems (traffic lights) 2 channel
Contact: Pam Anderson 296-1053
Bid due date at 2pm: January 5
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 79050 25000

Commodity: Kitchen shelving and carts
Contact: Joan Breisler 296-9071
Bid due date at 2pm: January 8
Agency: Correctional Facility
Deliver to: St. Cloud
Requisition #: 78830 10150

Commodity: Delineators
Contact: Jack Bauer 296-2621
Bid due date at 2pm: January 9
Agency: Transportation Department
Deliver to: Oakdale
Requisition #: 79900 03990

Commodity: Bituminous
Contact: Joan Breisler 296-9071
Bid due date at 2pm: January 9
Agency: Transportation Department
Deliver to: Duluth
Requisition #: Price Contract

Commodity: Winter sand
Contact: Joan Breisler 296-9071
Bid due date at 2pm: January 9
Agency: Transportation Department
Deliver to: Duluth
Requisition #: Price Contract

Commodity: Aggregates
Contact: Joan Breisler 296-9071
Bid due date at 2pm: January 9
Agency: Transportation Department
Deliver to: Duluth
Requisition #: Price Contract

Commodity: Breath alcohol screening devices
Contact: Joseph Gibbs 296-3750
Bid due date at 2pm: January 9

Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 07500 61281

Commodity: Delivery carts—kitchen
Contact: Joan Breisler 296-9071
Bid due date at 2pm: January 9
Agency: Vets Home
Deliver to: Minneapolis
Requisition #: 75200 70326

Commodity: Judicial lamps/planters—rebid
Contact: John Bauer 296-2621
Bid due date at 2pm: January 9
Agency: Judicial Center
Deliver to: St. Paul
Requisition #: 02310 17533

Commodity: Judicial chairs—Schafer—rebid
Contact: John Bauer 296-2621
Bid due date at 2pm: January 9
Agency: Judicial Center
Deliver to: St. Paul
Requisition #: 02310 17501

Commodity: Multiport Transceiver
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: January 5
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 79000 03708

Commodity: IBM AS/400 memory
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: January 9
Agency: State University
Deliver to: Winona
Requisition #: 26074 13231

Commodity: Judicial furniture—rebid
Contact: John Bauer 296-2621
Bid due date at 2pm: January 10
Agency: Judicial Center
Deliver to: St. Paul
Requisition #: 02310 17504 1

Commodity: Judicial tables/bookcases—rebid
Contact: John Bauer 296-2621
Bid due date at 2pm: January 10
Agency: Judicial Center
Deliver to: St. Paul
Requisition #: 02310 17532 1

Commodity: Judicial chairs—Taylor—rebid
Contact: John Bauer 296-2621
Bid due date at 2pm: January 10
Agency: Judicial Center
Deliver to: St. Paul
Requisition #: 02310 17499 1

Commodity: Remote display unit
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: January 9
Agency: Intertech—Administration Department
Deliver to: St. Paul
Requisition #: 02410 02151

Commodity: Used IBM PC 8088's—rebid
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: January 10
Agency: Regional Treatment Center
Deliver to: St. Peter
Requisition #: 55105 08559 1

Commodity: Spectrophotometer UV-VIS
Contact: Joseph Gibbs 296-3750
Bid due date at 2pm: January 12
Agency: State University
Deliver to: Mankato
Requisition #: 26071 19389

Commodity: Geochemical Analytical Services
Contact: Don Olson 296-3771
Bid due date at 2pm: January 16
Agency: Natural Resources Department—Minerals
Deliver to: Various
Requisition #: Price Contract

Commodity: Nursery stock
Contact: Douglas Thompson 296-3775
Bid due date at 2pm: January 16
Agency: Transportation Department
Deliver to: New Brighton
Requisition #: 79000 03554

Commodity: Fish net and twine
Contact: Douglas Thompson 296-3775
Bid due date at 2pm: January 22
Agency: Natural Resources Department
Deliver to: Hutchinson
Requisition #: 29004 13206

Department of Administration: Print Communications Division

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Printing vendors NOTE: Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.

Commodity: Bacteriological report, 7M 4-part sets, 6¾"x4", negs available, 2-sided
Contact: Printing Buyer's Office
Bids are due: January 4
Agency: Minnesota Health Department
Deliver to: Minneapolis
Requisition #: 3934

Commodity: Audio visual library 1990 catalog, 2.5M books, 130 pages, camera ready, 2-sided, 8½"x11", 3-hold punch
Contact: Printing Buyer's Office
Bids are due: January 4
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 3916

Commodity: Job Service introduction card, 30M 2-part sets, 6"x7¾" overall type to set, 1- and 2-sided
Contact: Printing Buyer's Office
Bids are due: January 4
Agency: Jobs & Training Department
Deliver to: St. Paul
Requisition #: 3941

Commodity: 1990-1991, 10M 192-page book + cover, 6″x9″, type to set from floppy disc, perfect bind
Contact: Printing Buyer's Office
Bids are due: January 5
Agency: Anoka-Ramsey Community College
Deliver to: Coon Rapids
Requisition #: 3993

Commodity: Minneapolis Sales Tax 3-forms (File Copy—110M 7⅜″x3⅝″, negs available, 2-sided); Tax Return—70M—15¾″x3⅔″ continuous, fanfold 3-up, negs available, 2-sided; Notice for Delinquency—15M 15¾″x3⅔″ continuous fanfold 3-up, negs available, 2-sided
Contact: Printing Buyer's Office
Bids are due: January 8
Agency: Revenue Department
Deliver to: St. Paul
Requisition #: 3900 3901 3902

Commodity: Continuous form, 30M 8½″x11″, negs available, 1-sided, must have union bug
Contact: Printing Buyer's Office
Bids are due: January 8
Agency: Secretary of State
Deliver to: St. Paul
Requisition #: 3981

Professional, Technical & Consulting Contracts

Capitol Area Architectural & Planning Board

Notice of National Open Design Competition for a Memorial to Minnesotans Who Died in Vietnam

The Minnesota Vietnam Veterans Memorial, Inc. and the Capitol Area Architectural and Planning Board are sponsoring a national open design competition for a memorial to those Minnesotans who died in the Vietnam conflict. It will include the names of those killed and missing in action. The memorial will be built on the grounds of the Minnesota State Capitol in St. Paul. The goal of the competition is to achieve a memorial that will be reflective in mood rather than make a political statement about the war itself. Substantial completion of the memorial is scheduled for late 1991. The total budget is approximately $700,000, with construction budget of $500,000. The design competition poster, available in early January 1990, will be mailed to all interested parties. Registration opens in January 1990, design submittals are due in late April 1990. Registration by interdisciplinary teams is encouraged.

Contact:

FORECAST Public Artworks
Competition Advisor
Capital Area Architectural and
Planning Board (CAAPB)
Room B-46, State Capitol
St. Paul, MN 55155
612/296-7138

Council on Disability

Notice of Request for Proposals to conduct search for executive director

The Minnesota State Council on Disability is seeking proposals for assistance to conduct a search that will result in hiring a new executive director.

The State Council on Disability is authorized to employ a person in the unclassified service of the state as Executive Director. This position is currently vacant and the Council is interested in filling the position with a qualified person. The Council is seeking a contractor who would conduct a search for an executive director and in other ways assist the Council to recruit and hire an executive director. The contractor must have experience seeking applicants for positions in government and the human services area.

Proposals are due in the office on the Council before 4:30 p.m. on January 22, 1990.

For additional information contact:

Kurt Strom, Acting Executive Director
145 Metro Square Building
7th Place and Jackson
St. Paul, MN 55101
Phone: 296-1742
296-6785 TDD

Minnesota Historical Society

Request for Proposals for Cleaning of Audio Tapes

The Minnesota Historical Society is seeking proposals for the cleaning of audio tapes. These services, which will be provided under contract, are outlined in detail in the Request for Proposal (RFP). The formal RFP may be requested and inquiries directed to: Mark Schwartz, Contract Officer, 1500 Mississippi St., St. Paul, MN 55101, (612) 296-2155. The deadline for submitting completed proposals is the end of the business day (5:00 p.m.) Tuesday, January 16, 1990. Late proposals will not be accepted.

Department of Human Services

Notice of Request for Proposal for Pre-Certification Investigations (Fraud Prevention Investigations)

NOTICE IS HEREBY GIVEN that the Assistance Payments Division, Department of Human Services, is seeking proposals concerning the establishment of pilot grant programs for Fraud Prevention Investigations to test the effectiveness of conducting pre-certification investigations at the point of application for assistance.

This program is being established to:

- Reduce fraudulent receipt of AFDC and Food Stamp monies up-front at the application stage.
- Reduce post investigations and the need for recovery of lost program funds.
- Minimize the possibility of clients becoming involved in criminal prosecutions.
- Ensure the amount of assistance issued is correct.

Approximately $218,000 (state funds) and $436,000 (federal match funds) will be available for no less than 4 pilot projects for an 18 month period.

Proposals must be received by February 16, 1990.

A letter of intent must be received by January 29, 1990.

The Department of Human Services will notify grantees of their selection no later than March 2, 1990 and reserves the right to negotiate final funding conditions.

For a copy of the full Request for Proposal (RFP) or other information contact:

Brian Shields
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3834
(612) 296-0323
Fax # (612) 297-5840

Department of Natural Resources

Division of Parks and Recreation

Request for Proposal for Statewide Campsite and Accommodation Reservation System

The Minnesota Department of Natural Resources is requesting proposals to provide a reservation system for camping and lodging in 60 Minnesota State Parks. The State of Minnesota welcomes all interested parties to submit proposals. This Request for Proposal does not obligate the State to complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest. The State also reserves the right to negotiate details of the project tasks outlined in this request.

All costs of the vendor providing this service will be covered by charging users a cost per reservation to be identified in the proposal submitted by the vendor.

A. SCOPE OF PROJECT

The Minnesota Department of Natural Resources, Division of Parks & Recreation (hereafter referred to as "the Division") desires to offer a centralized reservation service to the public visiting state parks and recreation areas. This service will replace the existing reservation system in which each park accepts reservations for its own campsites, group camps, group centers and lodging facilities.

The Division manages 65 state parks and recreation areas located throughout the state. Of these sixty-five parks, 61 have campgrounds; 52 have rustic group camps (campsites with tables, fire rings, toilets and a water source); 6 have modern group centers (buildings for lodging, dining and sanitation); 2 have semi-modern group centers (buildings for dining and sanitation); 3 parks have one rental housekeeping cabin each; and one, Itasca State Park, has a lodge complex and rental cabins.

B. GOALS AND OBJECTIVES

The Department of Natural Resources, Division of Parks & Recreation desires to enter into an agreement with an outside source to provide a centralized reservation system for camping and lodging facilities.

The intent of this endeavor is to provide an efficient, effective centralized system capable of determining the current status of reservation vacancies in all parks, making reservations for any available overnight facilities, providing basic information on the state park system and individual parks to users, giving assistance to the caller in obtaining a suitable alternate location for a reservation if the first choice is unavailable, and disseminating the reservation information to the individual parks.

C. BACKGROUND AND OVERVIEW

The Minnesota Department of Natural Resources, Division of Parks & Recreation initiated its campsite reservation system in 1981 as a result of camper interest.

Each succeeding year until 1987, when all staffed parks with campgrounds came on line, the number of reservations taken has increased. The numbers of reservations taken for the past two years are indicated below:

Fiscal Year 1988: 22,021 reservations
Fiscal Year 1989: 31,125 reservations

The reservation fee has remained at $3.00 since the reservation system began. However, during the earlier years the procedures for making reservations changed slightly each year. For the past few years, the procedures have been relatively consistent:

1. Reservations have been made by phone or in person by contacting the park at which the party is interested in staying.

2. Reservations have been accepted up to 15 days prior to arrival for any day of the year. Reservations have been accepted Monday through Friday, 8:00 a.m. to 4:00 p.m.

3. The following information has been needed to reserve a site: name, address and phone number; date and time of arrival and departure; number in the party; type and size of camping equipment; and if an electrical site is requested.

4. Campsite reservations have been held until 8:00 p.m. of arrival date. If the party had not arrived by 8:00 p.m. and had not requested an extension, the campsite could be rented to someone else. All parks close at 10 p.m.

5. Specific sites have not been guaranteed.

6. Up to three reservations have been accepted per phone call or visit.

7. A nonrefundable reservation fee has been charged for each campsite reserved, payable on arrival.

8. The percent of total sites a park offers for reservations has been not less than 50% nor more than 75%.

Facilities:

The state parks in Minnesota that provide overnight accommodations vary tremendously in the facilities, activities and environment offered. They range from large (34,037 acres at St. Croix) to small (187 at Monson Lake); from rugged and hilly (Whitewater) to

prairie (Blue Mounds, Buffalo River) to water-based (Lake Carlos, Lake Shetek) and from remote (Zippel Bay, Judge Magney) to urban (William O'Brien, Afton).

The number of campsites varies from a high of 218 at Itasca to a low of 18 at Moose Lake.

Campsites also vary greatly. Some are strictly backpacking sites, others are suitable only for tent camping, and others are suited for recreational vehicles of varying sizes. More than 900 sites have electrical hookups.

The facilities currently available in Minnesota State Parks include:

- 3808 Drive-in sites (942 are electrical sites)
- 131 Backpack sites
- 86 Walk-in sites
- 75 Canoe sites
- 8 Class 1 Group centers in 6 parks
- 3 Class 2 Group centers in 3 parks
- 52 Class 3 Group camps in 52 parks
- 3 Rental housekeeping cabins in 3 parks

In addition, Itasca State Park has the following facilities:

- 6 One room housekeeping cabins
- 1 Two bedroom housekeeping cabin (Squaw Lake)
- 5 One bedroom cabins
- 1 Two bedroom cabin
- 6 Three bedroom cabins
- 1 Fourplex cabin (4 rooms)
- 1 Motel unit—Nicollet Court (18 rooms)
- 1 Clubhouse (10 rooms)
- 1 Lodge—Douglas Lodge (7 rooms)

Some campgrounds offer showers, flush toilets, playground equipment, and other developed facilities; others offer only vault toilets. The current camping fees are:

- Semi-modern (30 parks) $8.00/campsite/night
- Semi-modern $7.00/campsite/night
- Rustic $6.00/campsite/night
- Electricity $2.00/campsite/night
- Backpacking/Canoe $5.00/campsite/night

Some parks are very accessible; they have multiple phone lines and adequate staff to answer phones during business hours. Others, however, are minimally staffed and are unable to answer the phone during some periods. Some parks are located in areas where the only available phone service is a four party line.

Currently, 30 parks are equipped with IBM personal computers and 35-40 parks will be receiving fax machines before the project completion date.

D. PROJECT TASKS

Contractor Obligations.

The contractor will provide the following:

1. A computerized reservation system for the public to make a reservation for an appropriate non-specific campsite or other overnight accommodation at a specific park for a time period within the maximum set by the Division.

If the caller's requested park does not have suitable campsites or other overnight accommodations available, a computer search will be made to determine the availability of a suitable campsite or accommodation at another park. If a caller is interested in an accommodation with specific characteristics or services (i.e. electrical hook-ups), a computer search will be made to determine the availability of a suitable accommodation within the requested park or at another park.

The contractor will provide a national toll free "800" number for reservation requests and information.

The contractor will provide information concerning the state parks and the facilities which are available along a specific route to anyone attempting to make a reservation for camping, overnight accommodation or shelter facilities.

A caller shall be able to make a reservation for a vehicular campsite, walk-in campsite or backpacking campsite from one hundred-twenty (120) days in advance of the date of arrival up until three (3) days prior to the date of arrival. Approximately 70% of the campsites available in each park will be reservable.

A park user shall be able to make reservations for group camps, group centers, lodging rooms and cabins from 360 days in advance up until three (3) days in advance of the date of arrival; or as mutually agreed upon by the Division and the Contractor. During the five days prior to the 360 day period, the present occupant of the group camps and group centers shall have the option to renew for the following year. The Division will reserve the right to remove group centers from the Contractor's reservation system effective on the first or second anniversary of the effective date of the contract. All group camps, group centers, lodging rooms and cabins will be reservable. Horse camps will not be included in the reservation system.

Reservations made for each park shall be provided to the park or to a location specified for the park by computer or fax machine at least two days prior to arrival. (i.e. Friday reservations may be accepted through Tuesday and must be provided for the park on Wednesday.) This information shall also be available upon request at any time prior to the day when it must be delivered.

Contractor hours of operation shall be a minimum of Monday through Saturday, 8:00 a.m. through 6:00 p.m. Central Time, or as agreed upon in writing by both parties.

2. Any computer software needed, to include the supply, installation, and maintenance of the software. Upgrading and replacing all computer software shall be the responsibility of the contractor. Software supplied by the contractor shall be compatible with the IBM P.C.s used in Minnesota State Parks. The present communication software used by parks is CROSSTALK. If that is compatible with the Contractor's system, communications software need not be provided by the Contractor.

Those areas which have a computer or fax machine hook-up capability with the Contractor's main computer system will have the ability to request by phone, any and all reservation information necessary to successfully operate the reservation system at the park level. The cost of the phone call via computer modem or fax machine will be the responsibility of the State.

Those areas which have computer hook-up capability with the Contractor's main computer system will have the ability to receive operator messages and cancel reservations with the Contractor when notified of the cancellation by the user.

A work station with the features of an on-line terminal will be located at the Division's central office at 500 Lafayette Road, St. Paul, Minnesota and at Itasca State Park, Lake Itasca, Minnesota, and will be connected to the Contractor's main reservation system by modem or phone line. These work stations will function as on-line terminals and will have the capability to transfer data between the main system and local files for off-line processing. When connected to the main system, these work stations shall access other features as needed.

The Contractor shall be responsible for training Contractor and Division employees in the operation of all computer hardware and software related to the operation of the reservation system. The level of training shall be adequate to provide for the effective use of the software at the mutual agreement of both parties.

The Contractor shall have the capability to provide reservation information to each park via fax machines and shall be responsible for providing training adequate for the operation of the reservation system.

3. Sufficient staff to handle incoming calls for reservations. For the purpose of this proposal, "sufficient" means that callers should be able to access the reservation phone line at least once every hour.

4. A collection system whereby the Contractor will collect from the caller a reservation fee. A reservation fee as agreed upon will be charged for any campsite, group camp, group center, lodge room or cabin reserved. Fees for the option period, if exercised by the Division, are subject to negotiation but will not exceed the previous year's reservation fee by more than 20 percent.

The Contractor will accept MasterCard and Visa credit cards (and others at their option and expense) as a method of payment for phone-in reservations, and shall provide a method to accept personal checks as a means of payment for mail-in reservations.

The reservation fee is nonrefundable. The Contractor will handle cancellations which are received on the "800" number without charge and will notify the affected park. A written policy and procedures covering cancellations will be mutually developed by the Division and the contractor prior to the start of the reservation system.

5. A reporting system which will provide, as a minimum, the following information: the number of reservations taken (by park by day); the names and addresses of users; and summaries of user data collected at the time a reservation is made, in a form mutually agreed upon by the Division and the Contractor. Reports will be submitted on a monthly basis.

6. All forms needed to operate the reservation system. These forms will be printed at the Contractor's expense and provided to the Division by the Contractor at the Contractor's expense.

7. The capability to provide confirmation numbers. For each campsite, cabin or room reserved; a confirmation number will be provided to the customer and that number will be provided to the park where the reservation is made. The numbering system will include a park code number assigned by the Division.

8. The collection of data necessary to train its staff. The Contractor through its own personnel and its own expense will assemble the necessary data on each park and its accommodations for the purpose of training its own staff.

9. Assistance to the Division in collecting an inventory of each park's campsites, lodging and other facilities necessary to the operation of the Contractor's computer system. The Contractor will provide a standardized information form. This form will include campsite type, campsite length, lodging accommodations, location, description and any other necessary information.

10. A performance bond in the amount of $20,000. to the State of Minnesota to insure operation performance upon the agreement of the contract by both parties. The performance bond shall be payable to: State of Minnesota, Department of Natural Resources, Division of Parks & Recreation.

All monies earned as interest as a result of this bond shall be returned to the Contractor. The Division reserves the right to terminate the contract for cause if performance is not in the public interest.

11. A marketing plan as part of the Request for Proposal, identifying expenditures of a minimum of $10,000 per year through the life of the contract, for marketing of the reservation system. The marketing shall be as agreed upon by the Division and failure to provide marketing to the extent of the plan, documented by the Contractor, will result in payment to the Division of the balance of the $10,000 not spent.

12. Notification of specific information to each caller seeking a reservation. The Contractor shall inform each caller seeking a reservation through the Contractor's reservation system the following information.

a. An entrance fee is required to gain access to each state area and this fee is in addition to the camping, lodging and reservation fee.

b. The locations at the park where annual and daily park permits can be purchased and where the customer must check in at the park to pay camping and lodging fees.

c. Park closing hours and that the failure to arrive prior to a time to be determined at the Division's discretion will void the Division's obligation to honor the reservation for that night.

d. Other information as identified by the Division which is necessary to assure appropriate use of the overnight accommodations.

13. A reservation service starting May 1, 1990, continuously through the term of the contract ending December 31, 1992, except on those holidays agreed upon by the Division. At the option of the State the contract may be extended for a five year renewal term, expiring December 31, 1997.

14. A mailing list of reservation system users to the Division without charge upon request. The sale of any lists by the contractor is not permitted.

15. A method by which the Contractor can identify persons who will not be permitted further use of the reservation system because of abuses, etc. when such persons have been identified to the Contractor by the Division.

16. A method by which the Contractor shall exclude reservations for specific campsites, group camps, group centers and cabins upon notification by the Division for reasons of rehabilitation or other events.

Responder may propose additional tasks or activities if they will substantially improve the results of the project.

E. DEPARTMENT CONTACTS

Prospective responders who have any questions regarding this Request for Proposal may call or write:

Ronald G. Hains
Operations Manager
Minnesota Department of Natural Resources
Division of Parks & Recreation
500 Lafayette Road
St. Paul, MN 55155-4039
(612) 296-2609

PLEASE NOTE: Other Department personnel are not allowed to discuss the project with responders before the submittal of proposal deadline.

A formal question and answer period will be conducted by Mr. Hains and other Division representatives at **1 p.m. on January 17, 1990,** at the Division's office listed above. Bidder representatives are encouraged to attend.

F. SUBMISSION OF PROPOSALS

All proposals must be sent to and received by:

Ronald G. Hains
Operations Manager
Minnesota Department of Natural Resources
Division of Parks & Recreation
500 Lafayette Road
St. Paul, MN 55155-4039

not later than 2 p.m., January 24, 1990.

Late proposals will not be accepted. Submit three copies of proposal. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. Each copy of the proposal must be signed, in ink, by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project.

G. PROJECT COMPLETION DATE

The centralized reservation system will be fully operational by Tuesday, May 1, 1990.

H. PROPOSAL CONTENTS

The following will be considered minimum contents of the proposal:

1. A restatement of the objectives, goals and tasks to show or demonstrate the responder's view of the nature of the project.

2. An identification and description of the deliverables to be provided by the responder.

3. An outline of the responder's background and experience with particular emphasis on local, state, and federal government work; and identification of personnel to conduct the project, with detailed information about their training and work experience. No change in personnel assigned to the project will be permitted without the approval of the Operations Manager, Division of Parks & Recreation.

4. A detailed cost and work plan which will identify the major tasks to be accomplished and be used as a scheduling and managing tool as the basis for invoicing.

5. Identification of the level of the Division's participation in the project as well as any other services to be provided by the Division.

6. Identification of the reservation fee to be charged to each user which will be the sole source of revenue for the Contractor to cover the costs of the proposed reservation system. The State will pay nothing to the Contractor to implement the reservation system.

An alternate proposal must also be submitted to include the charge per reservation and any other differences in the proposal, if the Contractor is required to locate the reservation facility and offices within the state of Minnesota. For purposes of the alternate proposal, this facility shall house an operational manager and a sufficient number of operators to take the reservations. **NOTE: If the basic proposal is for a facility located within Minnesota this alternate need not be included. Failure to include it, otherwise, shall make the entire proposal void.**

I. EVALUATION

All proposals received by the deadline will be evaluated by representatives of the Department of Natural Resources. In some instances, an interview will be part of the evaluation process. Factors upon which proposals will be judged include, but are not limited to, the following:

1. Expressed understanding of project objectives.

2. Project work plan.

3. Project cost detail as identified by the fee per reservation made to be charged to users to cover the costs.

4. Qualifications of both company and personnel. Experience of project personnel will be given greater weight than that of firm.

Evaluation and selection will be completed by February 1, 1990. Results will be sent immediately by mail to all responders.

Minnesota Racing Commission

Notice of Contractual Positions for Assistant Veterinarian and Substitute Assistant Veterinarian

Assistant Veterinarian

The Minnesota Racing Commission is accepting applications for the contractual position of Assistant State Veterinarian for the 1990 race meet at Canterbury Downs in Shakopee, Minnesota. Approximate dates for employment are from mid-April through mid-October, 1990. Per Diem compensation is $210.00 maximum per race day worked; $100.00 maximum per non-racing day worked.

Qualified candidates must have served in a regulatory veterinary capacity in previous years, and must be licensed to practice veterinary medicine in the State of Minnesota (or eligible for licensure).

Resumes and letters of application should be sent to Dr. Camille McArdle, Minnesota Racing Commission, 11000 West 78th Street, Suite #201, Eden Prairie, Minnesota 55344. Applications must be received by 4:30 p.m. on Wednesday, January 31, 1990.

Substitute Assistant Veterinarian

The Minnesota Racing Commission is accepting applications for the contractual position of substitute Assistant State Veterinarian for the 1990 race meet at Canterbury Downs in Shakopee, Minnesota. Approximate term of the contract will run from mid-April through mid-October, 1990, with incumbents working on an as-needed/on-call basis. There are no guarantees of maximum or minimum days of work to be performed. Per Diem compensation ranges from $50.00 to $165.00 depending on shift worked and experience level of applicant.

Qualified candidates must be licensed to practice veterinary medicine in the State of Minnesota (or eligible for licensure).

Resumes and letters of application should be sent to Dr. Camille McArdle, Minnesota Racing Commission, 11000 West 78th Street, Suite #201, Eden Prairie, Minnesota 55344. Applications must be received by 4:30 p.m. on Wednesday, January 31, 1990.

Minnesota Racing Commission

Notice of Contractual Position of State Stewards

State Stewards

The Minnesota Racing Commission is accepting applications for the contractual position of State Steward (two positions) for the 1990 race meet at Canterbury Downs in Shakopee, Minnesota. Approximate dates of employment are from mid-April through mid-October, 1990. Per Diem compensation is $230.00 per day/six days per week.

Qualified candidates must have served as a steward, racing secretary, assistant racing secretary, starter, placing judge, patrol judge, paddock judge, or clerk of scales at one or more recognized race meetings for a period of not less than 60 days per year during at least three of the five preceding calendar years or has had at least five years experience as a jockey.

Resumes and letters of application should be sent to the Minnesota Racing Commission, 11000 West 78th Street, Suite #201, Eden Prairie, Minnesota 55344. Applications must be received by 4:30 p.m. on Wednesday, January 31, 1990.

Department of Transportation

Request for Proposals for Inter-City Bus Operations from Morris, MN to Minneapolis

The Minnesota Department of Transportation is seeking individuals, firms, and/or joint ventures to submit proposals for the design, promotion, **actual** operation and evaluation of a one year maximum inter-city bus service **demonstration** project. The project would be designed to provide same day round-trip service from Morris, MN into Minneapolis. Because the lack of effective marketing is viewed as the major barrier to profitability, marketing strategy will be highly rated in ranking proposals. Proposers may find a team approach utilizing a service provider and marketing firm more advantageous in developing concepts and strategies for a profitable service design.

The Department of Transportation wants the project to demonstrate whether this regular route service can be operated profitably. Funding will be provided by the State of Minnesota through the Transit Assistance Program. The successful proposal will be innovative in its **project** service concept, marketing approach and service delivery. The submission date for completed proposals is 3:30 p.m. February 6, 1990. Late proposals will not be accepted. This Request for Proposal does not obligate the State to complete the project and the State reserves the right to cancel this solicitation if it is construed to be in its best interest.

A copy of the Request for Proposal may be received by contacting Frank Bibeau, Office of Transit, Room 815, Transportation Building, St. Paul, Minnesota 55155, telephone (612) 296-2036.

Department of Transportation (Mn/DOT)

Electrical Services Division Section

Request for Facilities Management Consultants to Develop a Maintenance Management System for Traffic Signals and Freeway Lighting

Mn/DOT Electrical Services Section is advertising for experienced facilities management consultants to develop a comprehensive maintenance management system for traffic signals and freeway lighting. This includes database design for a record generating, work tracking system capable of statewide communications.

The system must be capable of managing:

- 1000 signal installations with 14,000 records (1 + Megabytes), and approximately 400 signal maintenance activities monthly.
- 25,000 freeway lighting units with 4000 records (1 Megabytes), and approximately 250 lighting maintenance activities monthly.

A request for technical proposal will be available to interested applicants prior to January 12, 1990.

Further information about the maintenance management system and the statewide communications and maintenance activities is available. Contact:

Tom Grimes
Minnesota Department of Transportation
Electrical Services Section
Fort Snelling Complex
6000 Minnehaha Avenue
St. Paul, Minnesota 55111
Phone (612) 297-4426

A copy of the Expression of Interest must be received by January 12, 1990.

ISSUE DATE:	January 2, 1990
PRE PROPOSAL CONFERENCE:	January 18, 1990
PROPOSALS DUE:	February 16, 1990
FINALISTS NOTIFICATION:	February 26, 1990
INTERVIEWS:	March 9, 1990
SELECTION:	March 12, 1990

Non-State Public Contracts

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as $1,000. Contact the editor for further details.

Metropolitan Council

Invitations for Sealed Bids for Printing Services for Metropolitan Council

The Metropolitan Council, Mears Park Centre, 230 E. Fifth St., St. Paul 55101, is requesting sealed bids to print the Metro Monitor.

Specifications for printing the publication can be obtained by contacting Nadine Farrington, publications unit, at 291-6478.

Sealed bids will be accepted by the Metropolitan Council until 4 p.m. January 18, 1990. The Council's purchasing officer will open the sealed bids publicly in the Council offices at 10 a.m. January 19.

All sealed bids shall be marked "Bids to print Metro Monitor—to be opened on January 19." Bids shall be mailed to Nadine Farrington, Community Services Department, Metropolitan Council, Mears Park Centre, 230 E. Fifth St., St. Paul, MN 55101.

The Metropolitan Council reserves the right to reject any or all bids, and to waive any minor irregularities or deviation from the specifications.

Supreme Court Decisions

Decisions of the Supreme Court Filed 29 December 1989

C1-89-1623 In re Petition for Disciplinary Action against Robert V. Maki, an Attorney at Law of the State of Minnesota. Supreme Court.

Indefinitely suspended. Per Curiam.

Orders

CX-89-888 State of Minnesota v. David Vincent Steele, Appellant. Court of Appeals.

Denied. Popovich, C.J.

Announcements

Campaign Finance Meeting: A public meeting discussion registration and reporting requirements of principal campaign committees, political committees, and political funds will be held Friday, January 12, 1990, in the State Office Building, Room 181, 100 Constitution Ave., capitol complex, St. Paul, from 9:30 a.m. to 11:30 a.m. Ethical Practices Board staff will review current laws and rules governing campaign finance disclosure. For information, contact the Ethical Practices Board, 625 North Robert St., St. Paul, MN 55101-2520, (612) 296-5148.

Environmental Quality Board (EQB): Comments are due January 24 on Environmental Assessment Worksheets (EAWs) for the following projects at their listed regional governing unit: **PAA Aitkin Peat Mining Project,** Minn. Dept. of Natural Resources (612) 296-9562; **Runway Use System, Minneapolis-St. Paul International Airport,** Metropolitan Airports Commission (612) 726-1892; **Upgrade of Randall Wastewater Treatment Facility,** Minn. Pollution Control Agency (612) 296-7794. Scoping EAWs will be performed on the following projects with meetings scheduled as listed: **West Publishing/Eagan Corporate Center,** City of Eagan (612) 454-8100, with a meeting on Jan. 18 at 4 p.m. in the Eagan City Hall, 3839 Pilot Knob Road, Eagan; **Ritz Block Development,** City of Minneapolis (612) 673-2351, with a meeting Jan. 16 at 3:30 p.m. in Room 210A Minneapolis City Hall; **I-494 Reconstruction, Minnesota River to I-394,** Minn. Dept. of Transportation (612) 593-8400, with a meeting scheduled Jan. 17 at 7 p.m. at the Edina Community Center, 5701 Normandale Road, Edina. A draft environmental impact statement (DEIS) is available for the **Consolidated End Use Concept Sand and Gravel Mining Operations and Reclamation Plans for Apple Valley,** EQB (612) 431-8800, with a meeting scheduled for Jan. 23 at 7:30 p.m. at the Apple Valley Community Center, 14603 Hayes Road, Apple Valley. The **Camp Ripley Demolition Debris Disposal Site** will have an alternate review, copies of the EAW will be available for public review at the Little Falls City Library, Pine River Kitchigami Regional Library and the Facilities Management Office, Camp Ripley. A petition has been received for environmental review of the **KCHK Radio Tower, Montgomery** by LeSueur County, contact Terry Bovee, zoning administrator, LeSueur County, Box 146, County Highway Bldg., LeCenter, MN 56057. There will be a public hearing on the matter of the **Alteration of the Cross Section of Unnamed Wetland (19-430W)** in Sections 14 and 15, Township 112 North, Range 20 West, Dakota County, by Herman Ohmann, with the hearing on Jan. 9 at the Northfield City Hall, Northfield. To discuss informal disposition call William A. Szotkowski, special assistant attorney general (612) 296-0690.

Check Bulk Chemical Storage Tanks: Because of winter temperatures, officials at the Minnesota Department of Agriculture are advising owners of bulk fertilizer and pesticide tanks to check for leaks that may cause chemical spills. "By immediately tending to any accidents brought on by cold temperatures owners can prevent adverse effects on the environment," said Roger Mackedanz, pesticide regulatory specialist. "It is also a good idea to periodically check your tanks and containers throughout the entire winter." Owners who discover leaks in tanks or site gauges are asked to immediately report them to the Minnesota Department of Agriculture by calling (612) 649-5451, metro, or 1-800-422-0798, Greater Minnesota.

Funds for Energy Assistance: The federal government has allocated $55.2 million for the Minnesota Energy Assistance Program. Minnesota's share for fiscal year 1990 is an increase of $400,000 over last year's funding, according to Commissioner Joe Samargia, Dept. of Jobs and Training. More than $44 million of the funds are being made available for distribution immediately to local delivery agencies. The Energy Assistance Program helps low-income households with the costs associated with keeping heat in the house. Services provided include financial help to pay heating bills, conservation and repair activities, consumer education and crisis assistance. Last year, more than 108,000 Minnesota households received energy assistance. Households eligible for assistance are those with incomes at or below 135 percent of the poverty guidelines. For a household of two, the income limit is $10,996. For a household of four people, it is $16,336. People wishing to apply for energy assistance should contact their local delivery agency for an appointment or call 1-800-652-9747.

Rental Housing Assistance: The Metropolitan Council Housing and Redevelopment Authority will take applications from low-income families, elderly people and people with physical and developmental disabilities for placement on a waiting list for the Section 8 rent assistance program on Thursday, Jan. 18, 1990. Applications will be taken from 8:30 a.m. to

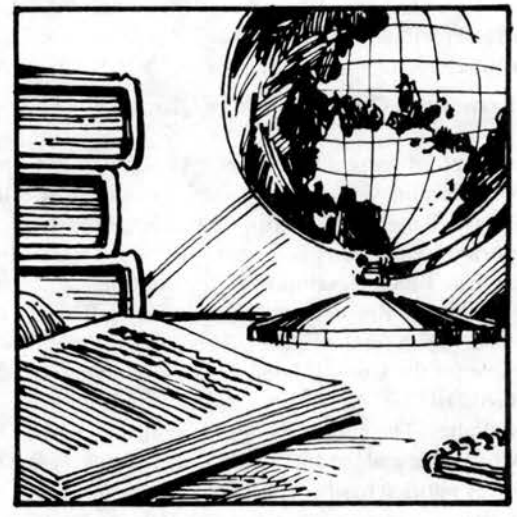
4 p.m. ***on that day only*** for the one- and two-bedroom waiting lists. People interested in applying must do so in person. Applications will be taken at 25 Metro Square Bldg., 7th and Robert Streets, in downtown St. Paul, as well as selected suburban locations. The Section 8 program helps people with low incomes rent housing in any of 98 communities in Anoka, Carver, suburban Hennepin (outside Minneapolis), suburban Ramsey (outside St. Paul), and Washington Counties. Applicants will be placed on a waiting list until certificates or vouchers become available. Priority placement is given to people who are homeless, living in substandard housing, paying more than 50 percent of income for rent, or are displaced by natural disaster, government action or domestic violence. For the one-bedroom list, applicants must be either 62 years or older, handicapped, disabled, or married with no dependents. For the two-bedroom list, families must have at least one—but not more than two—dependents. Family income cannot exceed $14,800 for one person, $16,900 for two people, $19,050 for three people, and $21,150 for four people. Applications will also be taken at the following locations: in western Hennepin County at Mound City Hall, 5341 Maywood Road; in southern Hennepin County at Southdale Regional Library, 7001 York Av. S., Edina; in northern Hennepin County at Brooklyn Park Community Library, 8600 Zane Av. N., Brooklyn Park; in Carver County at Carver County HRA, 308 N. Broadway, Carver; in Anoka County at Anoka City Hall, 2015 1st Av. N., Anoka, and Community United Methodist Church, 950 Gould Av., Columbia Heights; in Washington County at the county government center, 14900 N. 61st St., Stillwater, and the Washington County HRA, 321 Broadway, St. Paul Park. Call the Metro HRA at 291-7428 for more information. The Section 8 program is an equal housing opportunity program.

Get Smart with these Education Resources

Board of Teaching-Licensure Rules 1987. *Minnesota Rules* Chapter 8700. Requirements for the issuance and renewal of all licenses, from vo-tech and hearing impaired to librarians and media generalists. Includes the Code of Ethics for Minnesota Teachers, and standards for teachers prepared in other states. Code #3-74, $7.00 plus tax.

Education Directory 1988-89. All the elementary and secondary schools in the state. Includes Minnesota school districts, superintendents, boards, principals, district addresses, phone numbers and enrollment figures. Code #1-93, $7.00 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add $1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. ***Prices are subject to change.***



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Good Business Decisions are Made with Good Information

Minnesota Manufacturer's Directory. More than 7,000 entries that include name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2, $76.50 plus tax.

Business and NonProfit Corporation Act 1989. A handy reference that contains all the state laws governing the establishment and conduct of corporations in Minnesota. Includes *Minnesota Statutes* Chapters 80B, 302, 302A and 317. Code #2-87, $15.00 plus tax.

Minnesota Guidebook to State Agency Services 1987-1990. Packed with information to help you cut through red tape for easy and fast dealing with state agencies, this treasure of information opens state government to you. Its 640 pages describe agencies, how they work, listing contacts, addresses, phones, and license requirements, grants, forms, reports, maps, publications and much more. Gives historical, statistical and important data useful in hundreds of ways. Code #1-4. $15.00 plus tax.



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Resolve Bargaining Disputes and Grievances

Public Employment Labor Relations Act 1987. The collective bargaining rights and responsibilities of public employers and public employees. Details employees' right to organize and the legislature's authority. Code #2-90, $5.00 plus tax.

Public Sector Labor Relations in Minnesota. A practical resource and training guide analyzing public sector labor relations in Minnesota. A special emphasis on contract administration, grievance handling and the arbitration process. 286 pages, paperbound. Code #10-51, $12.50.

Minnesota Guidebook to State Agency Services 1987-1990. A treasure of helpful, useful, and interesting information about Minnesota state government. This important resource guides you through applications, fees, licenses, reports, history and travel highlights. Describes agencies in detail, giving addresses, phones and contact people. Code #1-4, $15.00 plus tax.



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

A Wise Investment—the rules of the game

Securities Laws, 1987. Governs the activities of broker/dealers, agents and investment advisors. *Minnesota Statutes* Chapter 80A. Code #2-12, $6.00 plus tax.

Securities Rules, 1988. Rules implementing the legislative mandate. Subjects include equity securities and investment companies. *Minnesota Rules* Chapter 2875. Code #3-5, $14.00 plus tax.

Minnesota Guidebook to State Agency Services, 1987-1990. Packed with information to help you, this 640-page resource guides you through license requirements, forms, fees, reports, services, grants, and more. Its listing of addresses, phones, and agency descriptions cut red tape for easy and fast service from state agencies. Code #1-4, $15.00 plus tax.



TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add $1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

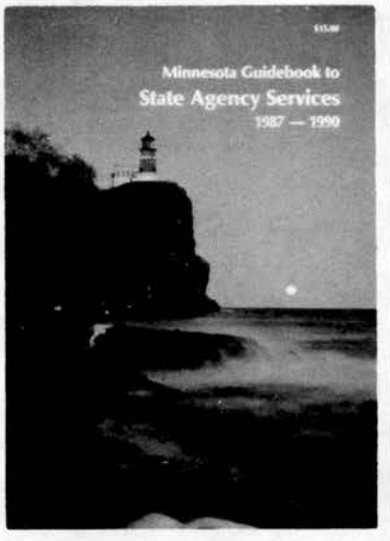
A Beacon to Guide You—Minnesota's Owners Manual

You'll enjoy smooth sailing through your business with state government with the ***Minnesota Guidebook to State Agency Services 1987-1990.***

Considered one of the finest resources to Minnesota's state agencies, this valuable and useful book is a treasure awaiting your discovery.

Packed with information to help you, its 640 pages guide you through license requirements, forms, fees, reports, services, grants, hotlines, maps, history, travel highlights and more. Its listing of addresses, phones, and agency descriptions cuts red tape so you get easy and fast service.

Copies cost $15.00 (+90¢ tax, MN residents only). Make checks out to the "State of Minnesota" and send to the Print Communications Division, 117 University Avenue, St. Paul, MN 55155. MasterCard and VISA orders can be taken over the phone by calling (612) 297-3000 or toll-free in Minnesota 1-800-652-9747.



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Welcome wildlife to your property



Landscaping for Wildlife. Attract wildlife to your land and gardens, farms and woodlots by spreading nature's welcome mat. Songbirds, butterflies, hummingbirds, pheasants, deer and other wildlife are drawn through these gardening tips and landscaping techniques that add natural beauty to your property and habitat for wildlife. Over 70 color photos and 144 pages give you simple, enjoyable, and inexpensive methods for adding the right touches for a "wildlife party" on your grounds, whether urban or rural. Stock #9-15, $8.95 plus tax.

Woodworking for Wildlife. Songbirds, owls, ducks, geese, loons and other wildlife will show appreciation for your skills by adding a "wild" dimension to your property. Carefully illustrated with a variety of game bird and mammal box designs, this booklet provides important tips on the placement of next in proper habitat areas and maintenance requirements. Construction diagrams included. 47 pp. Stock #9-14, $3.95 plus tax.

Wildlife Set. Order both books above as a set and save 15%. Stock #9-20, $10.95 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add $1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**

Publication editors: As a public service, please reprint this ad in your publication, either as is, reduced, or redesigned to suit your format.

Getaway in Style



Room at the Inn Wisconsin. Includes hard-to-find lodgings in out-of-the-way places, as well as in Wisconsin's major metropolitan areas and most popular vacation destinations. 224pp. Stock #19-3. $9.95 plus tax.

Room at the Inn Minnesota. Looking for a weekday or weekend get-away? For a business meeting or simply pleasure? This is the only guide to more than 50 historic "Bed & Breakfast" homes, hotels, and country inns and all are within a day's drive of the Twin Cities. 127pp. Stock #19-72, $9.95 plus tax.

Roughing It Elegantly. A guide for the canoe camper visiting the BWCA, Voyageurs Park and Quetico Provincial Park. Full of practical tips and information: planning, organizing, packing, site location, and camp set-up. Simple, creative, enjoyable meals are a major feature. 159pp. Stock #9-3, $9.95 plus tax.

Guide to Wilderness Canoeing. A unique blend of practical information and personal philosophy. Subjects covered include: spring and fall canoeing, traditional versus modern canoe design, and different paddling techniques. 143pp. Stock #19-81, $6.95 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add $1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**

Publication editors: As a public service, please reprint this ad in your publication, either as is, reduced, or redesigned to suit your format.



Armchair Adventures in Minnesota

Our Minnesota. More than 100 full-color photos by Les and Craig Blacklock portray Minnesota in her seasonal beauty, with text from the personal journal of Fran Blacklock's thirty years of traveling the state. Stock #9-23. $12.95 plus tax.

Minnesota Geographic Names. Place names by the thousand, with even more intriguing historical tidbits, in this over 800-page book. A must for the Minnesota-lover! Stock #17-13, $12.95 + tax.

Historic Sites and Place Names of Minnesota's North Shore. John Fritzen, long time employee of the Minnesota DNR draws upon his almost 40 years as a forester, mostly spent on Minnesota's colorful and legendary North Shore, to regale readers with tales of timbermen, pioneer settlers, miners, commercial fishermen and others. Black and white photos. Stock #9-11. $3.50 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add $1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. ***Prices are subject to change.***

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Minnesota's Bookstore

Publications, Services, Subscriptions

Order Form on Back—For Information, Call 297-3000

NEW PUBLICATIONS:

Minnesota Rules 1989. An 11-volume set of rules from the approximately 75 agencies empowered to promulgate rules by the Administrative Procedure Act. Stock #18-200, $160.00 + tax, or $15 for individual volumes. ***NOTE:*** This is a subscription service for the set, entitling subscriber to updates as they are produced.

Chemical Dependency Programs Directory 1989. Features comprehensive listings for programs ranging from Prevention/Intervention Services to a wide range of Treatment Services. Each type of program includes an alphabetical listing of facilities and brief narrative description of programming provided. Stock No. 1-12, $15.00 plus tax.

Process Parenting—Breaking the Addictive Cycle. A training manual that provides parent education and treatment techniques for professionals who work with recovering chemically dependent parents or dysfunctional families. Stock No. 5-4, $15.00 plus tax.

It's Never Okay: A Handbook for Professionals on Sexual Exploitation by Counselors and Therapists. Therapeutic and prevention issues and employer responsibilities are discussed in this task force report, as well as recommended curriculum for training institutions for counselors and therapists. Stock No. 14-16, $19.95

Hazardous Waste Rules 1989. Governs the storage, treatment, utilization, processing, transfer, and disposal of hazardous waste. Contains the complete requirements for application for permits for discharge of hazardous waste on construction and operation of a treatment facility. Stock No. 3-71, $16.95 plus tax.

Environmental Quality Board Rules 1989. Essential for long-term planning. Details the scope, purpose and objectives of the rules. Explains the need for environmental impact statements and the review process. Includes a special section on large energy facilities and high voltage transmission lines. Stock No. 3-54, $5.00 plus tax.

OTHER PUBLICATIONS

Our Minnesota. More than 100 full-color photos by Les and Craig Blacklock portray Minnesota in her seasonal beauty, with text from the personal journal of Fran Blacklock's thirty years of traveling the state. Stock #9-23. $13.95 plus tax.

Historic Sites and Place Names of Minnesota's North Shore. John Fritzen, long time employee of the Minnesota DNR draws upon his almost 40 years as a forester, mostly spent on Minnesota's colorful and legendary North Shore, to regale readers with tales of timbermen, pioneer settlers, miners, commercial fishermen and others. Black and white photos. Stock #9-11. $3.50 plus tax.

Landscaping for Wildlife. Attract songbirds, deer, butterflies, hummingbirds, pheasants, and other wildlife to your property by using the tips in this 144-page, 4-color book. Stock #9-15, $8.95 plus tax. See "Special Set Offer" below.

Woodworking for Wildlife. Carefully illustrated with a variety of game bird and mammal box designs, including maintenance requirements and important tips on placement of nests in proper habitat areas. 47 pages with diagrams. Stock #9-14, $3.95 plus tax. See "Special Set Offer" below.

"Special Set Offer." Save 15% by purchasing the two books together on wildlife mentioned above. Stock #9-20, $10.95 plus tax.

Minnesota Manufacturer's Directory, 1989. More than 7,000 entries listing name, address, phone, staff size, sales volume, market area, year of establishment, type of firm, CEO, sales or marketing and purchasing managers, and four manufactured products. Stock #40-2. $76.50 + $4.59 sales tax.

SUBSCRIPTIONS:

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court Calendar, Supreme Court and Tax Court Decisions. Annual subscription $130; Trial Subscription (13 weeks) $40.00; Single copies $3.50.

Workers Compensation Decisions. Volume 40. Selected landmark decisions of the Worker's Compensation Court of Appeals. Annual subscription. $105.00.

SERVICES:

Mailing Lists. Lists of Minnesota licensed professionals and permit holders. Write or call (612) 297-2552 for a free mailing list catalog which contains available lists, selections, formats, pricing and ordering information.

American Flag. Perfect for home or office. 3′ x 5′ with embroidered stars. Heavy nylon bunting. Code No. 6-1. $21.00, plus tax.

1989 Lake Map Index. Listing over 4,000 lake maps. Free.

1989 Publication Catalog of Minnesota's Bookstore. Lists publications available through Minnesota's Bookstore. Free.

State Register Binder. Durable 3½ inches, forest green binders imprinted with the *State Register* logo. $6.50 plus 39¢ tax.

STATE OF MINNESOTA

Department of Administration

Print Communications Division

117 University Avenue • St. Paul, Minnesota 55155

Metro Area 612-297-3000 (FAX: 612-296-2265)
In Minnesota, toll free 1-800-652-9747

Second Class
U.S. Postage
Paid
Permit No.
326630
St. Paul, MN

Please notify us of any address changes so that we can continue to give you our best service. Include your old mailing label to speed your service.

Celebrate MINNESOTA 1990

TO ORDER:

Complete attached order blank. Include either your VISA/MasterCard or American Express credit card number with the expiration date, or a check/money order made out to the State of Minnesota. Orders by phone are accepted when purchasing with your credit card. Please include a phone number where you can be reached during the day in case we have questions about your order.

Please include 6% sales tax and $1.50 postage and handling.

PREPAYMENT REQUIRED.

Merchandise may be returned if it is in resalable condition with a $1.50 restocking charge.

NOTE:

STATE REGISTER and other subscriptions do not require sales tax or postage and handling fees.

MasterCard VISA

Metro area (612) 297-3000
In Minnesota toll-free 1-800-652-9747
Facsimilie (FAX) (612) 296-2265

Prices subject to change without notice.

Please allow about 6 weeks for delivery. In a hurry? Stop by our Bookstore. Bookstore Hours 8 a.m.-4:30 p.m., Monday through Friday.

For Your Convenience, photocopy this order blank

Code No.	Quantity	Description	Item Price	Total

Name or Company			**Subtotal**	
Attention			Plus 6% tax MN Residents Only	
Address				
City	State	Zip	Postage/Handling (per order)	**$1.50**
American Express/VISA/MasterCard No.			**TOTAL**	
Signature	Expiration Date	Telephone (During Day)		