

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MJC
3-13-92

RULE REVIEW CHECKLIST

File No. 1907
DATE RECEIVED 3-12-92
REVIEW DATE ~~3/21/92~~ - 3-23-92
DUE DATE 3-26-92
(DIS)APPROVED 3-23-92 mjc
WITHDRAWN _____

Docket No. 05 0009 1210
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 3-13-92
REVISOR (DIS)APPROVED 3-16-92
FILED W/SEC. OF STATE 3-23-92
RETURNED TO AGENCY 3-23-92

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
NOV 4, 1991 Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

_____ Board's Authorizing Resolution
_____ Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
16A.128 Statutory Authority 144.05(1) 144.122
✓ Small Business Statement
IDA Expenditure of public money statement
Jan 6, 1992 Signature

✓ Statement of Need and Reasonableness (if applicable)
✓ Small Business Statement
✓ Fees - § 16A.128 sent letters received permission from 1 enclosure

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
January 15, 1992 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
_____ ~~Copy of rule or summary~~ attached

✓ Publication in State Register
January 21, 1992 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ ~~Effective date of law requiring rule~~ (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

~~Resolution Adopting~~
~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting
March 3, 1992 Date

~~Written Requests, Submissions~~ or Comments

✓ Declaration of Attorney
Marie Unsta Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

Rules acl

12/27/91(rev)

STATE OF MINNESOTA

In the Matter of Proposed Amendments
to Rules of the Minnesota Department of
Health Relating to Fees for Public
Swimming Pools, Minnesota Rules,
parts 4717.0200 and 4717.0310

STATEMENT OF NEED
AND REASONABLENESS

Amendments to Minnesota Rules, parts 4717.0200 and 4717.0310 are proposed to increase the fees that must be paid to review public swimming pool construction plans and provide for inspection for compliance with the approved plans.

AUTHORITY TO ADOPT RULES

Authority to promulgate the proposed amendments is found in Minnesota Statutes, section 144.05, (c) which authorizes the commissioner to:

> (c) Establish and enforce health standards for the protection and the promotion of the public's health such as quality of health services, reporting of disease, regulation of health facilities, environmental health hazards and personnel.

Authority to prescribe fees by rule is contained in Minnesota Statutes, section 144.122 which provides that:

> (a) The state commissioner of health, by rule, may prescribe reasonable procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the

> commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the general fund unless otherwise specifically appropriated by law for specific purposes.

Since 1972, the department has regulated the construction and design of public swimming pools (parts 4717.0100 to 4717.3900). The cost of the review of public swimming pool plans, on-site inspection and surveillance and the handling of public pool complaints was not directly funded as a program until 1987 when the legislature created a specific public swimming pool program position and authorized the collection of fees to fund the program. The department promulgated the current fee system under Laws of Minnesota 1987, chapter 403, article 1, section 8, subdivision 2 to address program costs and projected revenue identified at that time.

> The appropriation for preventive and protective health services reflects an increase of $54,000 the first year and $53,000 the second year for swimming pool surveillance and monitoring. The increase is not available until the department has established a fee system that will allow the increased costs to be fully recovered.

The Department of Finance reviews expenditures and revenue generated by programs that are fee supported. In the case of the public swimming pool program, the Department of Finance has indicated the revenue generated by the current fee system is not meeting program costs. In accordance with Minnesota Statutes, section 16A.128, the department is proposing a revision to the adopted fees to address changes in projected program costs and revenue.

NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION

The Notice of Intent to Solicit Outside Opinion was published in the State Register on November 4, 1991 at 16 S.R. 1131.

APPROVAL OF THE COMMISSIONER OF FINANCE; NOTICE TO HOUSE AND SENATE

With regard to the requirements of Minnesota Statutes, section 16A.128, subdivision 1a, the Commissioner of Finance has reviewed and approved the proposed fee system. A copy of the Commissioner of Finance's approval is attached.

With regard to the requirements of Minnesota Statutes, section 16A.128, subdivision 2a, the agency sent a copy of the notice to adopt rules and the proposed rules to the chairs of the house appropriations committee and senate finance committee.

NEED FOR AND REASONABLENESS OF AMENDMENTS

4717.0200 DEFINITIONS

Subp. 6. Spa pool. The proposed amendment to part 4717.0200 subpart 6 is necessary to provide definition to the term "spa pool." This definition is needed because the term is now used in part 4717.0310 as proposed for amendment to describe a category of pools with a separate and distinct fee requirement. The subpart clarifies that the term "spa pool" is synonymous with the term "whirlpool." Clarification is necessary to eliminate any confusion about these terms which tend to be used interchangeably by the regulated industry.

There is no single recognized definition of the term "spa pool" within the regulated community. The proposed definition is consistent with how the department has used the term while reviewing plans for the construction of spa pools. The key elements distinguishing a spa pool are that it uses hot water, usually much hotter than the temperature of water normally found in public swimming pools; persons are seated in the pool; the pool is used for recreation; and the pool has a water agitation system in addition to the pool's water filtration and recirculation system. Spa pools meet the definition of a public swimming pool to the extent that they are used collectively by the general public.

The proposed definition is similar to the term as defined by the State of Connecticut in section 19-13-B 33b of that state's public health code.

> "Public Spas", "Whirlpools:, or "Hot Tubs" are pools used for recreational bathing which are used in conjunction with high velocity air systems, high velocity water recirculation systems, hot water, cold water, mineral baths or any combination of these items.

The State of Maine has developed guidelines for "public spas" and "hot tubs." Within those guidelines, that state indicates that spas may also be called:

> whirlpools, jacuzzis (a brand name), hydro-therapy, or soaking tubs. These are large tubs or small pools which hold hot water for people to soak in, not bathe. Some are equipped with whirlpool jets and bubblers for underwater massage...

Subp. 7. Special purpose pool. The amendments proposed to this subpart are technical in nature to ensure the consistent use of defined terms throughout the proposed rules and to ensure parallel construction within the definition.

4717.0310 FEES

This part is proposed for revision to adjust the fee required to be submitted with constructions plans for each pool project. It is necessary to revised the current fee system so projected revenue covers program cost. The proposed fees cover the cost of 1 FTE swimming pool engineer to review and approve construction plans and conduct onsite surveillance and monitoring to ensure that pool construction is in compliance with approved plans and adopted state standards.

The existing fee schedule does not provide adequate revenue to recover program costs. The average program costs for fiscal year 91 through fiscal year 95 is projected to be $45,000 annually (See Fee Review - Attachment). Based on the number of public swimming pool projects submitted to the department in recent years, the existing fee schedule is estimated to generate $31,000 in revenue in fiscal year 91 and about $32,000 in fiscal year 92. Under the proposed schedule, using the same number and type of pool projects per year, it is estimated that $49,000 in revenue would be generated per year through fiscal year 1995 thus recovering program costs.

Number of pool projects per year		Proposed fee		Revenue
80 pools	x	$500	=	$40,000
25 spa pools	x	$200	=	$ 5,000
20 pool alterations	x	$200	=	$ 4,000

The department intends the proposed fees to become effective July 1, 1992 which is consistent with the beginning of the state fiscal year.

The proposed schedule is reasonable because it meets the legislative mandate to recover the costs associated with the public swimming pool construction inspection program. The proposed fees are reasonable because they are similar to fees charged by the other states whose public swimming pool programs are totally fee supported. The State of Ohio, for example, charges $550 for large pools and $275 for small pools. Its swimming pool program, like Minnesota's, is totally fee supported and not subsidized by the state general fund. The proposed separate and smaller fee for spa pools is reasonable because it is proportionally in line with the total project cost to the owner of the spa pool. Spa pools are usually much smaller in size than other public swimming pool projects and require less cost to install or construct.

SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes, section 14.115 requires that an agency consider five factors for reducing the impact of proposed rules on small business. According to Minnesota Statutes, section 14.115 a small

business is an entity, including its affiliates, that (a) is independently owned and operated; (b) is not dominant in its field; and (c) employs fewer than 50 full-time employees or has gross annual sales of less than $4 million. The proposed amendments may impact small businesses such as hotels, motels, resorts, health clubs and recreational camping areas.

The methods delineated in Minnesota Statutes, section 14.115 for reducing the impact of the rule on small business include:

A) the establishment of less stringent compliance or reporting requirements for small businesses;
B) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
C) the consolidation or simplification of compliance or reporting for small businesses;
D) the establishment of performance standards for small businesses to replace design or operational standards required in rule; and
E) the exemption of small businesses from any or all the requirements of the proposed rules.

The proposed amendments do not pertain to reporting requirements. The establishment of less stringent deadlines or schedules is not relevant because the fee is a one time only per construction project fee that must be paid in a timely manner because the state has to pay its program costs on a specific schedule. The establishment of performance standards for small businesses to replace design or operational standards does not apply to the proposed amendments since the changes proposed are to project fees, not to specific construction standards for public swimming pools.

The exemption of small business from fee payment would not be reasonable because the commissioner is responsible to ensure the safe construction and use of public swimming pools regardless of the size of the facility owning or operating the pool.

The department has however, taken into consideration the impact on small business by allowing a smaller fee for spa pool installation or construction. This is a type of pool which is frequently associated with small businesses.

PUBLIC POOLS
SECTION 19-13-B 33b OF THE PUBLIC HEALTH CODE OF THE STATE OF CONNECTICUT

PUBLIC POOLS. The following requirements shall apply to any public pool.

(a) Definitions

1. "**Public Pool**" means an artificial basin constructed of concrete, steel, fiberglass or other relatively impervious material intended or recreational bathing, swimming, diving, or therapeutic purposes which is located either indoors or outdoors and is provided with a controlled water supply and which is not used or intended to be used as a pool at a single family residence. The term also includes a pool located at a single family residence which is used or intended to be used for commercial or business purposes. The term "public pool" includes any related equipment, structures, areas, and enclosures that are intended for the use of the pool patrons or pool staff such as toilet, dressing, locker, shower, and pool equipment rooms. Public pools shall be classified as follows:

   (A.) "**Public Swimming Pools**" are conventional pools used or intended to be used for recreational bathing, swimming and water recreation activities.

   (B.) "**Public Wading Pools**" are pools principally used or intended to be used for wading and recreational bathing by small children.

   (C.) "**Public Spas**", "**Whirlpools**", or "**Hot Tubs**" are pools used for recreational bathing which are used in conjuction with high velocity air systems, high velocity water recirculation systems, hot water, cold water, mineral baths or any combination of these items.

   (D.) "**Public Diving Pools**" are pools used only for diving or the training and practice of diving techniques.

   (E.) "**Special Purpose Public Pools**" are pools used exclusively for a particular purpose, including but not limited to water flumes, pools for scuba diving instruction, therapeutic pools, hydrotherapy pools, flotation vessels and pools used in aquatic programs for handicapped persons.

2. "**Commissioner**" means the commissioner of health services or his designee.

3. "**Depth Markers**" means numerals of four inches minimum height which are of a contrasting color with the background of the pool and denote water depth in the immediately adjacent portion of the pool.

4. "**One Unit of Lifesaving Equipment**" shall consist of a ring buoy not more than fifteen inches inside diameter to which shall be attached a fifty foot length of one-quater inch line, and a life pole or shepherd's crook with blunted ends which is a minimum of twelve feet in length.

GUIDELINES

FOR

SEP 1989
RECEIVED
WS & GE

PUBLIC SPAS

AND

HOT TUBS

STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
AUGUSTA, MAINE 04333

Introduction

Some cultures, such as the Japanese, have long realized the physical and psychological benefits of soaking in hot water. Now Americans are also discovering the pleasures and benefits of the hot tub and spa.

Soaking in a hot tub can be soothing and relaxing. The warmth relaxes muscles and promotes blood flow to the skin and to the limbs. Many people find that this comfortable experience helps them to rest and manage stress.

You can appreciate the benefits of your hot tub even more when you know it is being used and maintained correctly. This brochure will provide you with guidelines for the safe use of your hot tub so you can enjoy your tub and avoid most hazards or risks.

Bacteria, algae, and fungi love the warm water of your tub. They prosper in moist, warm environments and can spread infection and disease. The hot water in a hot tub can also be a potential health hazard-water which is too hot can be harmful, especially if you or your bathers are pregnant, have any circulatory problems, heart disease, are on certain medications, or have been drinking alcohol.

That's why it is very important that you properly use and maintain your hot tub. A well-operated hot tub can bring you many years of enjoyment and satisfaction.

DEFINITION

In this brochure we call them by their popular name: SPA's and HOT TUBS. They can also be called whirlpools, Jacuzzis (a brand name), hydro-therapy, or soaking tubs. These are large tubs or small pools which hold hot water for people to soak in, not bathe. Some are equipped with whirlpool jets and bubblers for underwater massage. They are made of wood, cement, tile, plastic or fiberglass. There are many sizes, brands and types, but they all require careful use, operation and maintenance.

Using Your Hot Tub Safely

****** WATER TEMPERATURE: HOTTER IS NOT BETTER! ******

The water of your hot tub should not be warmer than 100°-104°F. Always keep an accurate thermometer in the tub water because your hot tub's thermostat may be in error. Use a high quality shatterproof thermometer with at least one degree increments.

Water which is too hot can raise the body temperature high enough to cause heat stroke (the body's inability to regulate its internal temperature). This can be fatal even to healthy adults.

A temperature of 100°F. is considered safe and comfortable for a healthy adult. A healthy adult can enjoy this water temperature for as long as desired, although it may raise the body temperature to the water temperature, and eventually become uncomfortable (like a fever). At higher water temperatures, the soaking time should be shorter; limit your soak to a maximum of 20 minutes at a water temperature of 102°F. If you are planning a long rest in the tub, lower the water temperature closer to normal body temperature, about 99°F. Some people find even lower water temperatures useful as an energizing experience. Try different water temperatures in the 98°F-102°F range until you find what suits you best.

The surrounding air temperature will also affect the way your hot tub water feels, especially for outdoor tubs. On hot or cold days, the hot tub water may seem warmer or cooler than it really is. Therefore, always check your thermometer for the true water temperature before adjusting your water heater. The point is that you should not rely on your estimate of the water temperature because you may inadvertently raise the temperature too high for safety.

Special caution is recommended for young children; their temperature rises faster than an adult's. Children's small bodies cannot absorb much heat, and their sweat glands are not fully developed.

FI-00195-02 (3/90)

Department of Finance
FEE REVIEW - Attachment

Date Prepared: September 24, 1991

Department/Agency: HEALTH

Budget Activity: Environmental Health

Fee Name: Plan Review and Inspection Fees for Swimming Pools

Remarks:

Currently $13.04/hr. (Swimming Pool Engineer)

FY 91 $13.04 x 2,088 = $27,228 + 18% fringe = $32,128 + $4,000 S&E + IDC = $41,294

FY 92 FY 91 + 4% = $32,128 (1.04) = $33,413 + $4,000 S&E + IDC = $42,763

FY 93 FY 92 + 6% = $33,413 (1.06) = $35,417 + $4,000 S&E + IDC = $45,054

FY 94 FY 93 + 6% = $35,417 (1.06) = $37,542 + $4,000 S&E + IDC = $47,482

FY 95 FY 94 + 6% = $37,542 (1.06) = $39,794 + $4,000 S&E + IDC = $50,057

AVERAGE: $45,000

PROPOSED

Pools	$500 x 80 =	$40,000
Spas	$200 x 25 =	$ 5,000
Alteration	$200 x 20 =	$ 4,000
		$49,000

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : Health

DATE : December 5, 1991

TO : Bruce Reddemann, Director
Budget Operations and Support
Department of Finance

FROM : Jane Nelson, Rules Coordinator
Division of Environmental Health

PHONE : 627-5038

SUBJECT : Review of Proposed Rules on Fees Pursuant to Minnesota Statutes, section 16A.128, Public Swimming Pool Fees, Minnesota Rules, parts 4717.0200 and 4717.0310



Please find attached, a draft Statement of Need and Reasonableness and draft rules pertaining to public swimming pool fees, Minnesota Rules, parts 4717.0200 and 4717.0310. The rules revise the amount charged to review public swimming pool construction plans and provide for inspection for compliance with approved plans. Authority for these rules is found in Minnesota Statutes, sections 144.05 (e) and 144.122 and Laws of Minnesota 1987, chapter 403, article 1, section 8, subdivision 2.

We plan to send these rules to the State Register on January 6, 1992. If you should have any questions, please contact me.

Upon review of the attached supporting information justifying the reasonableness of the proposed fees and pursuant to the authority vested in the Department of Finance under M.S. 16A.128 (1987), the fees set forth in the proposal of the Department of Health are hereby approved.

/s/ Bruce Reddemann — 12/17/91

Bruce J. Reddemann, Director
Budget Operations and Support

Date

JN:lk

Attachment

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

January 6, 1992

The Honorable Wayne Simoneau
Minnesota House of Representatives
Appropriations Committee
Room 365
State Capitol Building
St. Paul, Minnesota 55155

Dear Representative Simoneau:

Pursuant to Minnesota Statutes, section 16A.128, subdivision 2a, the department is notifying you of the submission of a permanent rule governing public swimming pool fees, Minnesota Rules, parts 4717.0200 and 4717.0310 to the State Register for publication on January 21, 1992.

Attached to this letter is a copy of the proposed rule, the notices to adopt, and the notification to the commissioner of finance in accordance with Minnesota Statutes, section 16A.128, subdivision 1a.

If you have any questions about this matter, please contact Chris Moore at 623-5463.

Sincerely,

Marlene E. Marschall
Commissioner

MEM:JN:lk

Enclosures

an equal opportunity employer

Celebrate MINNESOTA 1990

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

January 6, 1992

The Honorable Gene Merriam
Minnesota Senate
Finance Committee
Room 121
State Capitol Building
St. Paul, Minnesota 55155

Dear Senator Merriam:

Pursuant to Minnesota Statutes, section 16A.128, subdivision 2a, the department is notifying you of the submission of a permanent rule governing public swimming pool fees, Minnesota Rules, parts 4717.0200 and 4717.0310 to the State Register for publication on January 21, 1992.

Attached to this letter is a copy of the proposed rule, the notices to adopt and the notification to the commissioner of finance in accordance with Minnesota Statutes, section 16A.128, subdivision 1a.

If you have any questions about this matter, please contact Chris Moore at 623-5463.

Sincerely,

Marlene E. Marschall
Commissioner

MEM:JN:lk

Enclosures

an equal opportunity employer

Celebrate MINNESOTA 1990

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: March 23, 1992

TO: Milton Bellin
Minnesota Department of Health
925 Southeast Delaware Street
Minneapolis, MN

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Swimming Pools

The above-referenced rule has been approved as to its legality by the Attorney General on March 23, 1992.

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:jj

cc: Maria Christu
William Brown, Chief Judge
MaryAnn Hruby

Department of Health

Adopted Permanent Rules Relating to Swimming Pools

Rules as Adopted

4717.0200 DEFINITIONS.

[For text of subps 1 to 5, see M.R.]

Subp. 5a. **Spa pool.** "Spa pool" means a hot water pool intended for seated recreational use that includes a water agitation system in addition to the recirculation system. Spa pool is synonymous with the term "whirlpool."

Subp. 6. **Special purpose pool.** "Special purpose pool" means a treatment pool, therapeutic pool, special pool for water therapy, whirlpool, spa pool, or cold plunge.

[For text of subps 7 and 8, see M.R.]

4717.0310 FEES.

All plans for swimming pool construction, installation, or alteration submitted to the commissioner of health for review and approval under part 4717.0300 must be accompanied by the fee specified in this part:

A. each pool, except as provided in items B and C, $500;

B. each spa pool, $200; and

C. alterations to an existing pool without changing the size or configuration of the pool, $200.

APPROVED AS TO FORM AND LEGALITY

March 23 19 92

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAR 23 1992

Joan Anderson Growe
Secretary of State

a-5 gx
RC

Stat Authority 144.05 (c) 144.122

The state commissioner of health shall have general authority ...
(c) Establish and enforce health standards for the protection and promotion of the public

144.122 The state commissioner of health by rule, may prescribe reasonable procedures and fees for filing with the commissioner as

Findings of Fact missing

K (7)
statement no submission to AG

end of comment period in Notice
Feb 20, 1992

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : Health

DATE : March 12, 1992

TO : Patricia Nolte, Legal Assistant
Public Finance Division
Capitol Office Building

FROM : Jane A. Nelson, Rules Coordinator
Environmental Health Division Jane Nelson

PHONE : 627-5038

SUBJECT : Review of a Rule Adopted Without a Public Hearing Governing Fees for Public Swimming Pools, Minnesota Rules, parts 4717.0200 and 4717.0310.

Enclosed are the documents required to be submitted under Minnesota Rules, part 2010.0400 for your review of a rule adopted without a public hearing. Please address any questions and your order on this matter to me.

Official documents in this submittal include:

A. A copy or photocopy of the notice of solicitation of outside information or opinions as published in the State Register.

B. A copy of the proposed rule with a certificate of approval as to form by the Revisor of Statutes attached.

C. A copy of the notice of intent to adopt a rule without a public hearing as mailed.

D. A copy of the statement of need and reasonableness in support of the proposed rule complying with part 2010.0700.

E. A copy of the notice of mailing the Statement of Need and Reasonableness to the Legislative Commission to Review Administrative Rules.

F. A copy of the certificate and affidavit of mailing the notice of intent to adopt a rule without a public hearing. The certificate states that the mailing list maintained by the Department pursuant to Minnesota Statutes, section 14.14 and 14.22 is accurate, complete, and current and that the notice of intent to adopt the rule was mailed to all persons and groups whose names appear on the list.

G. A copy or photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register.

H. Four copies of the rule as adopted. The department made no modifications to the rules as proposed.

I. A copy of the Findings of Fact, Conclusions, and Order Adopting the Rule.

J. A copy of all written requests, submissions, or comment on the rule received by the Department except requests solely for copies of the rule or for the statement of need and reasonableness. The department received no written comment in response to the published rule.

K. A copy of the Declaration of Counsel of the Attorney General-Health.

L. No requests to be notified of submittal of the rule to the Attorney General were received.

If you have any questions on this submittal, please call me at 627-5038.

JAN:lk

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : Health

DATE : January 6, 1992

TO : Legislative Commission to Review Administrative Rules
Room 55 State Office Building
100 Constitution Avenue, St. Paul, Minnesota

FROM : Jane A. Nelson, Rules Coordinator
Environmental Health Division
Minnesota Department of Health

PHONE : 627-5038

SUBJECT : Submission of Statement of Need and Reasonableness pursuant to Minnesota Statutes, sections 14.131 and 14.23

In accordance with the above matter, the Minnesota Department of Health is submitting to you the Statement of Need and Reasonableness on proposed rules governing amendments to fees for public swimming pools, parts 4717.0200 to 4717.0310. These rules are scheduled for publication in the State Register January 21, 1992.

JAN:lk

Enclosure

Department of Health

Proposed Permanent Rules Relating to Swimming Pools

Rules as Proposed

4717.0200 DEFINITIONS.

[For text of subps 1 to 5, see M.R.]

Subp. 5a. **Spa pool.** "Spa pool" means a hot water pool intended for seated recreational use that includes a water agitation system in addition to the recirculation system. Spa pool is synonymous with the term "whirlpool."

Subp. 6. **Special purpose pool.** "Special purpose pool" means a treatment ~~pools~~ pool, therapeutic ~~pools~~ pool, special ~~pools~~ pool for water therapy, ~~whirlpools~~ whirlpool, ~~spas~~ spa pool, ~~and~~ or cold ~~plunges~~ plunge.

[For text of subps 7 and 8, see M.R.]

4717.0310 FEES.

All plans for swimming pool construction, installation, or alteration submitted to the commissioner of health for review and approval under part 4717.0300 must be accompanied by the ~~appropriate~~ fee ~~as prescribed below~~ specified in this part:

A. each pool, except as provided in items B and C, ~~$300.~~ $500;

B. each ~~additional~~ spa pool ~~located at the same site, shown in the same plans, and constructed at the same time,~~ $200~~.~~; and

C. alterations to an existing pool without changing the size or configuration of the pool, ~~$100~~ $200.

Approved by Revisor MEO

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Swimming Pools

AGENCY: Department of Health

MINNESOTA RULES: Chapter 4717

The attached rules are approved for
publication in the State Register

Marie E. O'Neill

Marie E. O'Neill
Assistant Revisor

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Minnesota Department of Health Governing fees for public swimming pools, Minnesota Rules parts 4717.0200 and 4717.0310.	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, AND NOTICE OF INTENT TO CANCEL HEARING ON THE PROPOSED RULES IF FEWER THAN 25 PERSONS REQUEST A HEARING

I.

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (hereinafter "Department") hereby proposes to adopt rules without a public hearing under the rulemaking procedure of Minnesota Statutes, sections 14.22 to 14.28. However, if 25 or more persons request a hearing on the proposed rules, one will be held according to Minnesota Statutes, section 14.25. To expedite the rulemaking process should that occur, the Department is at the same time giving notice of hearing on the proposed rules according to Minnesota Statutes, sections 14.131 to 14.20. The hearing on the proposed rules will be cancelled if 25 or more persons do not request that one be held. With the comment period closing at 4:30 p.m. on February 20, 1992, there will be twelve days before the scheduled hearing date. This twelve-day period will give interested persons time to contact the Department to find out whether the hearing will be cancelled.

II.

NOTICE OF INTENT TO ADOPT PROPOSED RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health (hereinafter "Department") 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 Department has elected to follow the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28.

Interested persons shall have 30 days from the date this notice is published in the State Register to submit comment in support of or in opposition to the proposed rules. The 30 days will expire at 4:30 p.m. on February 20, 1992. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rules by the commentor. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department 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 portions of the proposed rules addressed, the reason for the request, and any changes the commentor wants 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 Department 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 Department 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 amendments or a portion thereof by 4:30 p.m. on February 20, 1992, thus necessitating that one be held with respect to the proposed rules. If a hearing is required, it will be held in accordance with the provisions of Minnesota Statutes, sections 14.131 to 14.20 and the hearing notice provided in section III below.

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

Milton Bellin, Engineering/Plumbing Unit
Environmental Health Division
Minnesota Department of Health
925 SE Delaware Street
P. O. Box 59040
Minneapolis, MN 55459-0040
612-627-5122

The statutory authority of the Department to adopt the proposed rules is contained in Minnesota Statutes, sections 16A.128, 144.05(c), 144.122 and Laws of Minnesota 1987, chapter 403, article 1, section 8, subdivision 2.

The proposed rules are published immediately following this notice in the State Register on January 21, 1992, and a free copy of the rules may be obtained from the Department by writing or telephoning Milton Bellin at the address or telephone number listed above.

The proposed rules include provisions relating to fees that must be paid to review public swimming pool construction plans and provide for inspection for compliance with the approved plans. The proposed rules delineate fees for public swimming pools, spa pools and alterations to an existing pool. Definition of a spa pool is proposed.

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 obtained from the Department by writing or telephoning Milton Bellin at the address or telephone number listed above.

After the close of the comment period on the proposed rules, if no hearing is required, the Department will submit to the

Attorney General the proposed rules and notice as published, the rules as proposed for adoption, any written comments received by the Department, the statement of need and reasonableness, and a statement explaining any modifications to the proposed rules. The Attorney General will approve or disapprove the rules as to their legality and their form, including the issue of substantial change and determine whether the Department has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. The Department will give notice to all persons who request to be informed that these materials have been submitted to the Attorney General. Persons who wish to be advised of the submission of these materials to the Attorney General should submit a written request to Milton Bellin at the address listed above. If the proposed rule has been modified, the notice will also state that fact and will state that a free copy of the proposed rule, as modified, will be available upon request from the Department.

LOCAL GOVERNMENT CONSIDERATIONS

The proposed rules will not result in an aggregate increase in total spending by public bodies of over $100,000 in either of the first two years following the rule's adoption.

AGRICULTURAL LAND

The proposed rule amendments will not have an impact on agricultural land; therefore, no further information need be provided under Minnesota Statutes, section 14.11.

(14) SMALL BUSINESS CONSIDERATIONS

The Department is subject to Minnesota Statutes, section 14.115 regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

NOTICE TO DEPARTMENT OF FINANCE, HOUSE AND SENATE

In accordance with Minnesota Statutes, section 16A.128, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the Statement of Need and Reasonableness. As required by Minnesota Statutes, section 16A.128, subdivision 2a, a copy of this notice and the proposed rules have been submitted to the chairs of the House Appropriations Committee and Senate Finance Committee prior to publication of this notice.

III.

NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING ON THE PROPOSED RULES

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING ON THE PROPOSED RULES WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON MARCH 3, 1992, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held under Minnesota Statutes, sections 14.131 to 14.20, in the Chesley Room of the Minnesota Department of Health, 717 S.E. Delaware Street, Minneapolis, Minnesota, on March 3, 1992, commencing at 9:00 a.m. The hearing will continue, if necessary, at additional times and places 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 hearing which is to be included in the hearing record may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative

Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7606. 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 Department 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 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the administrative law judge.

The statutory authority for the Department to adopt the proposed rules is contained in Minnesota Statutes, sections 16A.128, 144.05(c), 144.122 and Laws of Minnesota 1987, chapter 403, article 1, section 8, subdivision 2.

The proposed rules are published immediately following this notice in the State Register on January 21, 1992, and a free copy of the rule amendments may be obtained from the Department by writing or telephoning Milton Bellin at the address and telephone number listed above in Part II of this notice.

The proposed rules include provisions relating to fees that must be paid to review public swimming pool construction plans and provide for inspection for compliance with the approved plans. The proposed rule delineate fees for public swimming pools, spa pools and alterations to an existing pool. Definition of a spa pool is proposed.

The proposed rules may be modified as a result of the rule hearing process. Persons who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days

after he or she commences lobbying. 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 review at the Department and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Department 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 Department or 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 Department may not take any final action on the proposed 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 Department at any time prior to the filing of the rules with the Secretary of State.

LOCAL GOVERNMENT CONSIDERATIONS

The proposed rules will not result in an aggregate increase in total spending by public bodies of over $100,000 in either of the first two years following the rule's adoption.

AGRICULTURAL LAND

The proposed rule amendments will not have an impact on agricultural land; therefore, no further information need to be provided under Minnesota Statutes, section 14.11.

SMALL BUSINESS CONSIDERATIONS

The Department is subject to Minnesota Statutes, section 14.115, regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

NOTICE TO DEPARTMENT OF FINANCE

In accordance with Minnesota Statutes, section 16A.128, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the statement of need and reasonableness. As required by Minnesota Statutes, section 16A.128, subdivision 2a, a copy of this notice and the proposed rules have been submitted to the chairs of the House Appropriations Committee and Senate Finance Committee prior to the publication of this notice.

IV.

NOTICE OF INTENT TO CANCEL HEARING ON THE PROPOSED RULES IF FEWER THAN 25 PERSONS REQUEST A HEARING ON THE PROPOSED RULES

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED ON THE PROPOSED RULES IF FEWER THAN 25 PERSONS REQUEST A HEARING ON 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 call or write Milton Bellin at the address or telephone number listed above before February 20, 1992, and leave your name, address, and telephone number. You will be notified after February 20, 1992, if the hearing has been cancelled. You may also call Milton Bellin at (612) 627-5122 after February 20, 1992, for oral confirmation regarding the scheduled hearing.

Dated:

January 6, 1992

Marlene E. Marschall
COMMISSIONER OF HEALTH

Department of Health

Proposed Permanent Rules Relating to Swimming Pools

Rules as Proposed

4717.0200 DEFINITIONS.

[For text of subps 1 to 5, see M.R.]

Subp. 5a. **Spa pool.** "Spa pool" means a hot water pool intended for seated recreational use that includes a water agitation system in addition to the recirculation system. Spa pool is synonymous with the term "whirlpool."

Subp. 6. **Special purpose pool.** "Special purpose pool" means a treatment ~~pools~~ pool, therapeutic ~~pools~~ pool, special ~~pools~~ pool for water therapy, ~~whirlpools~~ whirlpool, ~~spas~~ spa pool, ~~and~~ or cold ~~plunges~~ plunge.

[For text of subps 7 and 8, see M.R.]

4717.0310 FEES.

All plans for swimming pool construction, installation, or alteration submitted to the commissioner of health for review and approval under part 4717.0300 must be accompanied by the ~~appropriate~~ fee ~~as-prescribed-below~~ specified in this part:

A. each pool, except as provided in items B and C, ~~$300~~ $500;

B. each ~~additional~~ spa pool ~~located-at-the-same-site, shown-in-the-same-plans, and-constructed-at-the-same-time,~~ $200~~.~~; and

C. alterations to an existing pool without changing the size or configuration of the pool, ~~$100~~ $200.

Approved by Revisor MEO

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Swimming Pools

AGENCY: Department of Health

MINNESOTA RULES: Chapter 4717

The attached rules are approved for
publication in the State Register

Marie E. O'Neill

Marie E. O'Neill
Assistant Revisor

The Minnesota

State Register

Department of Administration—Print Communications Division

LIBRARY
MINNESOTA DEPARTMENT OF HEALTH
717 Delaware Street S.E.
P.O. Box 9441
Minneapolis, Minnesota 55440
NOV 5 ...



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(Tuesday if Monday is a holiday)

Monday 4 November 1991

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the Commissioner. The petition must show how the contested case affects the petitioner's legal rights, duties or privileges and shall state the grounds and purposes for which intervention is sought and indicate the petitioner's statutory right to intervene if one exists.

5. In addition to or in place of participating at the hearing, any person may also submit written recommendations for the disposition of the application. These recommendations must be mailed to the administrative law judge on or before December 4, 1991.

6. Any subpoena needed to compel the attendance of witnesses or the production of documents may be obtained pursuant to *Minnesota Rules* pt. 1400.7000.

7. At the hearing the applicant will present its evidence showing that a license should be granted and that all persons will be given an opportunity to cross-examine witnesses, to be heard orally, to present witnesses, and to submit written data or statements. All persons are encouraged to participate in the hearing and are requested to bring to the hearing all documents, records, and witnesses needed to support their position. It is not necessary to intervene as a party in order to participate in the hearing.

8. Please be advised that if non-public data is admitted into evidence, it may become public data unless an objection is made and relief is requested under *Minnesota Statutes* §§ 14.60, subd. 2.

9. You are hereby informed that you may choose to be represented by an attorney in these proceedings, may represent yourself, or be represented by a person of your choice if not otherwise prohibited as the unauthorized practice of law.

10. A Notice of Appearance must be filed with the administrative law judge identified above within 20 days following receipt of the Notice by any person intending to appear at the hearing as a party.

11. In accordance with the provisions of *Minnesota Statutes* §§ 14.61, the final decision of the Commissioner in this proceeding will not be made until the Report of the Administrative Law Judge has been made available to the parties in this proceeding for at least 10 days. Any party adversely affected by the Report of the Administrative Law Judge has the right to file exceptions and present arguments to the Commissioner. Any exceptions or arguments must be submitted in writing and filed with the Commissioner of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, within 10 days of the receipt of the Administrative Law Judge's Report.

Dated: 28 October 1991

Marlene E. Marschall
Commissioner of Health

Department of Health

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Fees for Public Swimming Pools

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health is seeking information or opinions from sources outside the Department in preparing to propose the adoption of rules of the Minnesota Department of Health Governing Fees for Public Swimming Pools, *Minnesota Rules*, parts 4717.0200 and 4717.0310. The adoption of the rule is authorized by *Minnesota Statutes*, section 144.122 and *Laws of Minnesota 1987*, chapter 403, article 1, section 8, subdivision 2, which permits the Department to charge fees for the review and approval of plans for the construction, alteration and surveillance of public swimming pools including spas.

The Minnesota Department of Health requests information and opinions concerning the subject matter of the rule. Interested or affected persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Milton Bellin
Minnesota Department of Health
Division of Environmental Health
925 Southeast Delaware Street
Minneapolis, Minnesota 55459

Oral statements will be received during regular business hours over the telephone at (612) 627-5122 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the Minnesota Department of Health becomes 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: 28 October 1991

Jane A. Nelson
Rules Coordinator

STATE OF MINNESOTA

MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Adoption of Rules of the Minnesota Department of Health Relating to Fees for Public Swimming Pools, Minnesota Rules, parts 4717.0200 and 4717.0310.

DECLARATION OF COUNSEL

I, Maria Christu, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 52 0015 1210.

Maria C. Christu
Special Assistant
Attorney General

Dated: 3/12/92

JAN 1992
RECEIVED
M.D.H.
E.H.

The Minnesota

State Register

Department of Administration—Print Communications Division



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(Tuesday if Monday is a holiday)

Tuesday 21 January 1992

Volume 16, Number 30

Pages 1701-1732

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 Health

Proposed Permanent Rules Relating to Swimming Pools

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, and Notice of Intent to Cancel Hearing on the Proposed Rules if Fewer Than 25 Persons Request a Hearing

I.

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (hereinafter "Department") hereby proposes to adopt rules without a public hearing under the rulemaking procedure of *Minnesota Statutes*, sections 14.22 to 14.28. However, if 25 or more persons request a hearing on the proposed rules, one will be held according to *Minnesota Statutes*, section 14.25. To expedite the rulemaking process should that occur, the Department is at the same time giving notice of hearing on the proposed rules according to *Minnesota Statutes*, sections 14.131 to 14.20. The hearing on the proposed rules will be cancelled if 25 or more persons do not request that one be held. With the comment period closing at 4:30 p.m. on February 20, 1992, there will be twelve days before the scheduled hearing date. This twelve-day period will give interested persons time to contact the Department to find out whether the hearing will be cancelled.

II.

NOTICE OF INTENT TO ADOPT PROPOSED RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health (hereinafter "Department") 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 Department has elected to follow the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28.

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comment in support of or in opposition to the proposed rules. The 30 days will expire at 4:30 p.m. on February 20, 1992. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rules by the commentor. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department 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 portions of the proposed rules addressed, the reason for the request, and any changes the commentor wants 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 Department 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 Department 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 amendments or a portion thereof by 4:30

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.

p.m. on February 20, 1992, thus necessitating that one be held with respect to the proposed rules. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes*, sections 14.131 to 14.20 and the hearing notice provided in section III below.

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

Milton Bellin, Engineering/Plumbing Unit
Environmental Health Division
Minnesota Department of Health
925 SE Delaware Street
P. O. Box 59040
Minneapolis, MN 55459-0040
612-627-5122

The statutory authority of the Department to adopt the proposed rules is contained in *Minnesota Statutes*, sections 16A.128, 145.05(c), 144.122 and *Laws of Minnesota* 1987, chapter 403, article 1, section 8, subdivision 2.

The proposed rules are published immediately following this notice in the *State Register* on January 21, 1992, and a free copy of the rules may be obtained from the Department by writing or telephoning Milton Bellin at the address or telephone number listed above.

The proposed rules include provisions relating to fees that must be paid to review public swimming pool construction plans and provide for inspection for compliance with the approved plans. The proposed rules delineate fees for public swimming pools, spa pools and alterations to an existing pool. Definition of a spa pool is proposed.

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 obtained from the Department by writing or telephoning Milton Bellin at the address or telephone number listed above.

After the close of the comment period on the proposed rules, if no hearing is required, the Department will submit to the Attorney General the proposed rules and notice as published, the rules as proposed for adoption, any written comments received by the Department, the statement of need and reasonableness, and a statement explaining any modifications to the proposed rules. The Attorney General will approve or disapprove the rules as to their legality and their form, including the issue of substantial change and determine whether the Department has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. The Department will give notice to all persons who request to be informed that these materials have been submitted to the Attorney General. Persons who wish to be advised of the submission of these materials to the Attorney General should submit a written request to Milton Bellin at the address listed above. If the proposed rule has been modified, the notice will also state that fact and will state that a free copy of the proposed rule, as modified, will be available upon request from the Department.

LOCAL GOVERNMENT CONSIDERATIONS

The proposed rules will not result in an aggregate increase in total spending by public bodies of over $100,000 in either of the first two years following the rule's adoption.

AGRICULTURAL LAND

The proposed rule amendments will not have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes*, section 14.11.

SMALL BUSINESS CONSIDERATIONS

The Department is subject to *Minnesota Statutes*, section 14.115 regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

NOTICE TO DEPARTMENT OF FINANCE, HOUSE AND SENATE

In accordance with *Minnesota Statutes*, section 16A.128, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the Statement of Need and Reasonableness. As required by *Minnesota Statutes*, section 16A.128, subdivision 2a, a copy of this notice and the proposed rules have been submitted to the chairs of the House Appropriations Committee and Senate Finance Committee prior to publication of this notice.

III.

NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING ON THE PROPOSED RULES

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING ON THE PROPOSED RULES WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON MARCH 3, 1992, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held under *Minnesota Statutes*, sections 14.131 to 14.20, in the Chesley Room of the Minnesota Department of Health, 717 S.E. Delaware Street, Minneapolis, Minnesota, on March 3, 1992, commencing at 9:00 a.m. The hearing will continue, if necessary, at additional times and places 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 hearing which is to be included in the hearing record may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7606. 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 Department 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 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the administrative law judge.

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The Department is subject to *Minnesota Statutes*, section 14.115, regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

NOTICE TO DEPARTMENT OF FINANCE

In accordance with *Minnesota Statutes*, section 16A.128, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the statement of need and reasonableness. As required by *Minnesota Statutes*, section 16A.128, subdivision 2a, a copy of this notice and the proposed rules have been submitted to the chairs of the House Appropriations Committee and Senate Finance Committee prior to the publication of this notice.

IV.

NOTICE OF INTENT TO CANCEL HEARING ON THE PROPOSED RULES IF FEWER THAN 25 PERSONS REQUEST A HEARING ON THE PROPOSED RULES

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED ON THE PROPOSED RULES IF FEWER THAN 25 PERSONS REQUEST A HEARING ON 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 call or write Milton Bellin at the address or telephone number listed above before February 20, 1992, and leave your name, address, and telephone number. You will be notified after February 20, 1992, if the hearing has been cancelled. You may also call Milton Bellin at (612) 627-5122 after February 20, 1992, for oral confirmation regarding the scheduled hearing.

Dated: 6 January 1992

Marlene E. Marschall
Commissioner of Health

Rules as Proposed

4717.0200 DEFINITIONS.

[For text of subps 1 to 5, see M.R.]

Subp. 5a. **Spa pool.** "Spa pool" means a hot water pool intended for seated recreational use that includes a water agitation system in addition to the recirculation system. Spa pool is synonymous with the term "whirlpool."

Subp. 6. **Special purpose pool.** "Special purpose pool" means a treatment ~~pools~~ pool, therapeutic ~~pools~~ pool, special ~~pools~~ pool for water therapy, ~~whirlpools~~ whirlpool, ~~spas~~ spa pool, ~~and~~ or cold ~~plunges~~ plunge.

[For text of subps 7 and 8, see M.R.]

4717.0310 FEES.

All plans for swimming pool construction, installation, or alteration submitted to the commissioner of health for review and approval under part 4717.0300 must be accompanied by the ~~appropriate~~ fee ~~as prescribed below~~ specified in this part:

A. each pool, except as provided in items B and C, ~~$300.~~ $500;

B. each ~~additional~~ spa pool ~~located at the same site, shown in the same plans, and constructed at the same time~~, $200~~.~~; and

C. alterations to an existing pool without changing the size or configuration of the pool, ~~$100~~ $200.

STATE OF MINNESOTA

MINNESOTA DEPARTMENT OF HEALTH

In the Matter of Proposed Amendments to Minnesota Rules, parts 4717.0200 to 4717.0310 relating to fees for public swimming pools

AFFIDAVIT OF MAILING PROPOSED RULE AND NOTICE TO PARTIES ON DEPARTMENT CERTIFIED RULEMAKING LIST AND DISCRETIONARY MAILING LIST

Laurie Kowalik, being sworn, says:

That on the 15 day of January, 1992, in the City of Minneapolis, County of Hennepin, State of Minnesota, I mailed the attached proposed rule and notice to parties on department certified rulemaking list and discretionary mailing list by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the attached department certified rulemaking list and discretionary mailing list.

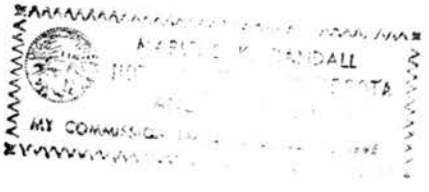
Laurie Kowalik
(name)

Secretary
(title)

Environmental Health
(division)

Subscribed and sworn to before me this 15th day of January, 1992.

Marlene K Randall



1/6/92

Discretionary Mailing List
Minnesota Department of Health
Proposed Rules on Public Swimming
Pool Fees, parts 4717.0200 to 4717.0310

DEBRA UNDERBERG
A-JACKS POOL & SPA SERVICE
3101 S DULUTH
SIOUX FALLS SD 57105

ROBERT J DINCAU
A-PRO COMPANY
BOX 430
CHISAGO CITY MN 55013

ROGER SCHILTZ
ALL-AMERICAN RECREATION
1290 73RD AVE NE
FRIDLEY MN 55432

ROB ANDERSON
ALL POOLSIDE SERVICES INC
121 E COUNTY RD C
ST PAUL MN 55117

LANCE E ANDERSON
ANDERSON MANUFACTURING CO
2885 COUNTRY DR #190
ST PAUL MN 55717

LYLE DAVIDS
APPLE POOLS & SPAS
14650 GLENDA AVE
APPLE VALLEY MN 55124

BRIAN KLAUSEN
B K POOL & SPA
2301 OMEARA COURT
BURNSVILLE MN 55337

~~BENSON PUMP CO~~
~~3114 ALGOMA BLVD~~
~~OSHKOSH WI 54901~~

FRED IVEY
BENSON PUMP CO
2468 LOUISIANA AVE N
MINNEAPOLIS MN 55427

RICHARD SOUKUP
CLASSIC POOLS PLUS INC.
1458 W COUNTY RD C
ST PAUL MN 55113

DENNIS OPLAND
COUNTRYSIDE POOLS INC
9242 HUDSON BLVD
LAKE ELMO MN 55042

DENNIS OLSON
CREATIVE LIVING INC
2921 FIECHTNER DR
FARGO ND 58103

HAROLD C GROTTE
CUSTOM DISTRIBUTORS INC
P O BOX 175
ROGERS MN 55374

GINNY MULVANEY
CUSTOM POOLS
601 E EXCELSIOR AVE
HOPKINS MN 55343

DON TWEDT
D & T EXCAVATING
24760 LOGAN AVE
LAKEVILLE MN 55044

HARVEY BLUMENBERG
DOLPHIN POOL & PATIO
3405 N HWY 169
PLYMOUTH MN 55441

WILLIAM BALLANTYNE
ECOLAB
ECOLAB CENTER
ST PAUL MN 55102

WAYNE ELAM
ELAM POOLS
582 E QUAIL DR
LITCHFIELD MN 55355

KEITH RAISANEN
FINNLEO SAUNAS OF THE NORTH
P O BOX 610
COKATO MN 55321

LEROY J SCHWARTZ
FLO-PAK CORPORATION
700 N WASHINGTON AVE #400
MINNEAPOLIS MN 55401

BILL SHUHERK
FORT WAYNE POOLS OF MN
5620 INTERNATIONAL PKWY
NEW HOPE MN 55428

JEFF GROTTE
P O BOX 1284
MAPLE GROVE MN 55369

JAMES FICKE
HARCROS CHEMICAL INC
584 N FAIRVIEW AVE
ST PAUL MN 55104

DARCY DEBING
INFOTRAC
1355 HIGH SITE DR
EAGAN MN 55121

BOB REESE
JACUZZI BROS DIVISION
332 21ST AVE SW
ROCHESTER MN 55902

JOE KING
KING TECHNOLOGY INC
9909 SMETANA ROAD
MINNEAPOLIS MN 55343

KIRBY POSTHUMA
KIRBY'S POOL SUPPLIES
3426 BUNKER LAKE BLVD
ANDOVER MN 55304

JOHN SHREFLER
LAKE-WOODS LEISURE PRODUCTS
555 PAUL BUNYAN DR SE
BEMIDJI MN 56601

JON EATON
LYNDE COMPANY
3040 E HENNEPIN AVE
MINNEAPOLIS MN 55413

JAMES WUEBKER
MARSHALL SPAS & POOLS
904 E MAIN ST
MARSHALL MN 56258

DONALD E SMITH
BERNARD J MULCAHY CO INC
1125 E 79TH ST
BLOOMINGTON MN 55420

ERIC SWANSON
POOLS INC
229 W 60TH ST
MINNEAPOLIS MN 55419

RICHARD THATCHER
THATCHER POOLS & SPAS
1210 HILLCREST COURT SE
ROCHESTER MN 55904

LEONARD C RILEY
NORTHERNAIRE SWIMMING POOLS
5930 EXCELSIOR BLVD
ST LOUIS PARK MN 55416

PAT HENRY
PRESTIGE POOL & PATIO
245 E ROSELAWN AVE #29
ST PAUL MN 55117

JAMES E WOODARD
3M CONSTRUCTION MARKETS
3M CENTER BLDG 225-4S-08
ST PAUL MN 55144-1000

RICHARD A OLSON
OLSON POOL COMPANY
BOX 747
HAWLEY MN 56549

ARDY NEUTZ
QUALITY POOLS & SPAS
12465 ZINRAN AVE
SAVAGE MN 55378

RONALD GROTH
TOWN & COUNTRY POOLS & SPAS
66 COPELAND AVE
LACROSSE WI 54603

RICHARD J STOKS
OLYMPIC POOLS INC
135 S ATWOOD
SHAKOPEE MN 55379

JAY OBERG
RAYPAK INC
5522 CENTURY AVE #1
MIDDLETON WI 53562

BRUCE E PANGERL
VALLEY NORTH POOL & SPA
1200 HWY 210 W
BRAINERD MN 56401

~~SUDD JACKSON~~
~~OMNI POOL & SPA~~
~~5118 N 130TH ST~~
~~WHITE BEAR LAKE MN 55110~~

PAT SJOQUIST
RECREATION RESOURCES
50 S 9TH ST
MINNEAPOLIS MN 55402

HILARY S BERCZYK
VALLEY POOLS INC
651 CLIFF ROAD
BURNSVILLE MN 55337

LARRY SWISTOSKI
OPUS TWO SPECIALTIES
1709 E 81ST ST
LINO LAKES MN 55038

WILLY JENSEN
ROCHESTER POOL & SPA
1503 N HWY 52
ROCHESTER MN 55901

~~*MR MILT BELLIN~~
~~MN DEPT OF HEALTH~~
~~DIV OF ENVIRONMENTAL HEALTH~~
~~P O BOX 59040~~
~~MINNEAPOLIS MN 55459-0040~~

~~SCOTT HUBBARD~~
~~PACIFIC POOL & PATIO~~
~~6922 55TH ST N~~
~~N ST PAUL MN 55109~~

BRENDA KUHN
ROYAL POOL & SPA SERVICE
777 E COUNTY RD D
VADANIS HTS MN 55117

~~*MICHAEL HANSON~~
~~REGION V-NSPI~~
~~710 E OGDEN #113~~
~~NAPERVILLE IL 60540~~

GREG PETERSON
PETERSON POOLS & SPAS
13110 EXCELSIOR BLVD
MINNETONKA MN 55343

PATRICK DOYLE
STRICTLY SERVICE INC.
14399 60TH ST N
STILLWATER MN 55082

Consulting Engineers Council of MN
5407 Excelsior Blvd
St. Louis Park MN 55416

CHUCK KUSSMAN
THE POOL STORE INC
10100 HWY 65 NE
BLAINE MN 55434

MARK KWIATKOSKI
SUN POOL-N-PATIO
1632 GATEWAY DR
GRAND FORKS ND 58201

MN Mechanical Contractors Assoc.
766 Transfer Road
St. Paul MN 55114

ROBERT POTVIEN
POOLS OF FUN
3910 TRINITY ROAD
DULUTH MN 55811

MIKE CHINNOCK
TEXTRON FINANCIAL CORP
6120 EARL BROWN DR #700
BROOKLYN CENTER MN 55430

MN Plumbing/Heating Coding Contractors
Association
8085 Wayzata Blvd
Suite 109

MN Plumbing/Heating Coding Contractors
8085 Wayzata Blvd Suite 109
Minneapolis MN 55426

Members of Minnesota Chapter of the National Spa and Pool Institute

The Minnesota Consulting Engineers Council

The Minnesota Plumbing Heating Cooling Contractors Association

The Minnesota Mechanical Contractors Assocuation

STATE OF MINNESOTA

MINNESOTA DEPARTMENT OF HEALTH

In the Matter of Proposed
Amendments to Minnesota Rules
parts 4717.0200 and 4717.0310
relating to fees for public
swimming pools

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a, that their names be placed on file with, and maintained by, the Minnesota Department of Health for the purpose of receiving notice of rule hearings, is accurate and complete as of

2:00 p.m., this 10th day of January, 1992.

Christine Barton

Christine Barton

Michael J. Ahern
4800 Norwest Center
90 S. 7th St.
Minneapolis, MN 55402-4119

Donna M. Anderson
Dakota County Public
Health Department
33 E. Wentworth Ave. #345
West St. Paul, MN 55118

Anoka County Environmental
Services
% Robert Hutchison
Courthouse - 4th Floor
Anoka, MN 55303

Walter A. Baldus
Woodale Management
Services
P.O. Box 1047
Austin, MN 55912

June Barron
115 Cottage Downs
Hopkins, MN 55343

Lester Block
School of Public Health
Box 197 Mayo
University of Minnesota
Minneapolis, MN 55455

William Bond
MN Pharmacists Assoc. Court International
2550 University Ave. W.
#320N St. Paul
~~Minneapolis~~, MN 55414

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Morrison County Public
Health Services
808 S.E. Third Street
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Broeker, Geer, Fletcher
& LaFond, Limited
Attn: Sue Gilgenbach
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Suite 1510
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Minnesota Manufactured
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555 Park Street, Ste. 400
St. Paul, MN 55103

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POST Board
1600 University Avenue
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Dorsey & Whitney
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Minneapolis, MN 55402

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St. Paul, MN 55102

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St. Paul, Mn 55111

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So. St. Paul, MN
55075-1390

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135 Colorado Street East
St. Paul, MN 55107

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3800 West 80th Street
Minneapolis, MN 55431-4409

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Community Health Board
325 Lake Avenue South
Suite 604
Duluth, MN 55802

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St. Paul, MN 55101

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Director
St. Louis County Health
Department
222 East Superior Street
Duluth, MN 55802-2134

Bob Fitzgerald, D.C.
133 West Lake Street
Minneapolis, MN 55408

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Supervising Sanitarian
City of Crystal
4141 Douglas Drive North
Crystal, MN 55422

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Care Consumers
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Minneapolis, MN 55419

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P.O. Box 838
Faribault, MN 55021

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Community Living, Inc.
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Victoria, MN 55386

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Courthouse - Fourth Floor
Anoka, MN 55303

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444 Lafayette Road
St. Paul, MN 55155

Robert A. Harder
MN Dental Association
2236 Marshall Avenue
St. Paul, MN 55104

Ms. Elisabeth Hennessey
Executive Director
Arc Olmsted County
903 West Center Street
Rochester, MN 55902

Mr. John W. Henrich
Bergerson Caswell
5115 Industrial Street
Maple Plain, MN 55359

Charles B. Hoffman
Director-Env. Affairs
Pickands Mather & Co.
Ste 811-200 W. Superior
St. Duluth, MN 55802

Hope Residence Inc.
Box 63
Waterville, MN 56096

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Minneapolis, MN 55438

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Mrne St. Crx., MN
55047-9751

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252 W. Wabasha Street
Winona, MN 55987

Bob Kent
Lakeland Drilling
Route 1, Box 67-C
Wrenshall, MN 55797

David R. Kiely
% A.R.R.M.
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St. Paul, MN 55101

Karen Knepper
N. Memorial Medical Ctr
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Robbinsdale, MN 55422

Jim Koesling
Capitol Supply Co.
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St. Paul, MN 55101

Julie Krause
Todd County Public Health
Nursing Service
119 Third Street
Long Prairie, MN 56347

Vicki Kunerth
3426 - 39th Ave. So.
Minneapolis, MN 55406

Sue Kvendru
MN Senior Federation
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St. Paul, MN 55104

Byron Laher
404 South 8th Street
Minneapolis, MN 55404

Wayne Larson
Mt. Olivet Rolling Acres
7200 Rolling Acres Road
Excelsior, MN 55317

Ernest K. Lehmann &
Associates, Inc.
Attn: Land Department
430 First Ave. N.-Ste. 790
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St. Marys Hospital
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Rochester, MN 55902

Dakota's Children Inc.
Attn: Kathleen LeMay
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West St. Paul, MN 55118

Karen Lenander
Northern States Power Co.
A.S. King Plant
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Bayport, MN 55003

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Assisi Residences, Inc.
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Blue Earth, MN 56013

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City of Minneapolis
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Minneapolis, MN 55415-1372

Mary Luth, Washington
County Public Health Dir.
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Stillwater, MN 55082

MBW Company
513 Center Street
New Ulm, MN 56073

Manty/A Well Drilling Inc.
1392 St. Croix Tr. No.
Box 797
Lakeland, MN 55043

Ms. Mary Martin
GRAY, PLANT, MOOTY, MOOTY
& BENNETT
3400 City Center
33 South Sixth Street
Minneapolis, MN 55402

Angie McCollum
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St. Paul, MN 55155-3843

Minnesota Chiropractic
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St. Paul, MN 55114-1082

Lyonel Norris, Family &
Children's Service
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Pine River, MN 56474

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Scott-Levin Assoc.
60 Blacksmith Road
New Town, PA 18940

Public Affairs Department
Care Providers of MN
2850 Metro Drive, #200
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Public Health Service
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HA Swift
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James Temple
Chrestomathy Center Inc.
310 East 38th Street
Minneapolis, MN 55409

Jerry Thelen
Minneapolis Health Dept.
250 South Fourth Street
Minneapolis, MN 55415

Torgerson Well Co., Inc.
6855 Dogwood Street
Rockford, MN 55373

Eric Weller, Director
South Central MN EMS
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Mankato, MN 56001

Colleen Wieck
State Planning Agency
300 Centennial Office Bldg
658 Cedar Street
St. Paul, MN 55155

Sue Zuidem
Hennepin County Community
Health Department
525 Portland Ave. South
Minneapolis, MN 55415

Daniel McInerney
Leonard, Street & Deinard,
Suite 2300
150 South 5th Street
Minneapolis, MN 55402

#83 - Revised 4/4/91

STATE OF MINNESOTA

MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Minnesota Department of Health Relating to Fees for Public Swimming Pools, Minnesota Rules, parts 4717.0200 and 4717.0310.

Findings of Fact, Conclusions, and Order Adopting Rules Without Public Hearing

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on Tuesday, January 21, 1992 and was sent by United States mail to all persons on the list maintained by the Department pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on January 15, 1992. (2) The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the Department mailing list and published in the State Register and was available to the public. In accordance with Minnesota Statutes, sections 14.131 and 14.23, the Statement of Need and Reasonableness was submitted to the Legislative Commission to Review Administrative Rules on January 6, 1992. (3) In accordance with Minnesota Statutes, section 16A.128, a copy of the proposed rules were reviewed and approved on December 5, 1991 by the Department of Finance. In accordance with Minnesota Statutes, section 16A.128, subdivision 2a, a copy of the notice and proposed rules were sent to the House Finance Committee and Senate Appropriations Committee on January 6, 1992.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (5) The Department received no comment and no requests for public hearing. Therefore, the Department did not receive requests for a public hearing from 25 or more persons which were not withdrawn.

Based on the evidence in the record before the Department, I find the following:

FINDINGS

1. (8) Based on the comment and evidence in the record before the Department, including the Statement of Need and Reasonableness which is incorporated herein, the above matter is needed and reasonable.

CONCLUSIONS

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

2. Any duplication in these rules of language contained in Minnesota Statutes is crucial to the ability of the persons affected by the rules to comprehend their meaning and effect.

3. The Department has complied with all applicable provisions of law and rule in the promulgation of these rules.

4. If any finding or part of a finding, above, is properly characterized as a conclusion, it is adopted as a conclusion.

NOW THEREFORE, IT IS ORDERED that the rule identified as Rules (9) of the Minnesota Department of Health Relating to Fees for Public Swimming Pools, Minnesota Rules, parts 4717.0200 and 4717.0310 are adopted this 3RD day of MARCH, 1992, pursuant to authority vested in me by Minnesota Statutes, sections 144.05 (c) and 144.122.

Marlene E. Marschall
COMMISSIONER OF HEALTH