

95, Aug. 14

P182

The Minnesota  
**State  
Register**

RECEIVED

AUG 11 1995

LEGISLATIVE REFERENCE LIBRARY  
STATE OFFICE BUILDING  
ST. PAUL, MN 55155



**Rules and Official Notices Edition**

Published every Monday (Tuesday when Monday is a holiday)  
by the

Minnesota Department of Administration – Print Communications Division

**Monday 14 August 1995**

**Volume 20, Number 7**

**Pages 263-334**

# 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 and revenue notices, professional-technical-consulting contracts, non-state bids and public contracts and grants.

A *Contracts Supplement* is published Tuesday, Wednesday and Friday and contains bids and proposals for commodities, including printing bids.

### Printing Schedule and Submission Deadlines

Vol. 20 Issue Number	PUBLISH DATE	Deadline for both Adopted and Proposed RULES	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts
# 7	Monday 14 August	Monday 31 July	Monday 7 August
# 8	Monday 21 August	Monday 7 August	Monday 14 August
# 9	Monday 28 August	Monday 14 August	Monday 21 August
# 10	Tuesday 5 September	Monday 21 August	Monday 28 August

Arne H. Carlson, Governor 612/296-3391	Hubert H. Humphrey III, Attorney General 612/297-4272	Joan Anderson Growe, Secretary of State 612/296-2079
Joanne E. Benson, Lt. Governor 612/296-3391	Judi Dutcher, State Auditor 612/297-3670	Michael A McGrath, State Treasurer 612/296-7091
Department of Administration:	Print Communications Division:	Jane E. Schmidley, Acting Editor 612/297-7963
Elaine S. Hansen, Commissioner 612/296-1424	Kathi Lynch, Director 612/297-2553	Paul Hoffman, Assistant Editor 612/296-0929
Robert A Schroeder, Asst. Commissioner 612/297-4261	Mary Mikes, Manager 612/297-3979	Debbie George, Circulation Manager 612/296-0931

An "Affidavit of Publication" can be obtained at a cost of \$5.00 for notices published in the *State Register*. This service includes a notarized "Affidavit of Publication" and a copy of the issue of the *State Register* in which the notice appeared.

To submit notices for publication in the *State Register*, contact the editor listed above. The charge is \$80.00 per page, billed in tenths of a page (columns are seven inches wide). About 2-1/2 pages typed double spaced on 8-1/2"x11" paper equal one typeset page in the *State Register*. Submit two copies of your notice, typed double spaced, with a letter on your letterhead stationery requesting publication date. Send to the *State Register* at the address listed below.

#### SUBSCRIPTION SERVICES:

The *State Register* is published by the State of Minnesota, Department of Administration, Print Communications Division, pursuant to *Minnesota Statutes* § 14.46. The *State Register* is available at the main branch of county libraries in Minnesota and all "State Depository Libraries": State University and Community College libraries; the University of Minnesota libraries; St. Paul, Minneapolis and Duluth Public Libraries; State Law Library; Minnesota Historical Society Library; and the Library Development Service at the State Department of Education. Single copies cost \$3.50 and are available at Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Order by phone: Metro area: 297-3000 Toll free 800-657-3757. Telecommunication Device for the Deaf Metro area: 282-5077 Toll free 800-657-3706. NO REFUNDS. Both editions are delivered postpaid to points in the United States, second class postage paid for the *State Register* at St. Paul, MN, first class for the *Contracts Supplement*. 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.

- *State Register* (published every Monday, or Tuesday if Monday is a holiday) One year subscription: \$150.00
- *Contracts Supplement* (published every Tuesday, Wednesday, Friday) One year subscription: \$125.00 via first class mail, \$140.00 via fax or through our On-Line Service via your computer modem. For a free sample demo of the On-Line Service call via your modem: 612/821-4096. Access item "S": *State Register* Modem parameters 8-N-1 1200/2400. By purchasing the On-Line access you are agreeing to not redistribute without authorization.
- 13-week trial subscription which includes both the *State Register* and *Contracts Supplement*. \$60.00
- Single issues are available for a limited time: *State Register* \$3.50, *Contracts Supplement* 50¢. Add shipping charge of \$3.00 per order.
- "Commodity Contract Awards Reports," - lists awards of contracts and bids published in the Tuesday-Wednesday-Friday "*Contracts Supplement*" - published every two weeks, \$5.00 per individual report, plus \$3.00 shipping if applicable. Order stock # 99-42. Six-month subscriptions cost \$75.00. Appears every two weeks. Order stock # 90-14. Available in hard copy format only.
- "Professional-Technical-Consulting Award Reports," - published each month listing the previous month's awards of contracts and RFPs that appeared in the Monday edition of the "*State Register*." Individual copies are \$15.00 per report, plus \$3.00 shipping if applicable. Order stock # 99-43. Six-month subscriptions cost \$75.00. Appears monthly. Order stock number 90-15. Available in hard copy format only.

### 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 (612) 296-0504  
Room 231 State Capitol, St. Paul, MN 55155

#### 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 (612) 296-2146  
Room 175 State Office Building, St. Paul, MN 55155

## Minnesota Rules: Amendments & Additions

Vol. 20, issue #7 ..... 266

### Proposed Rules

#### Labor and Industry Department

Boiler operators..... 268 ✓

#### Pollution Control Agency

Air quality rules ..... 270 ✓

#### Revenue Department

Lawful gambling; annual audits and reviews ..... 292

### Adopted Rules

#### Administration Department

Recurring costs of Emergency 911 telephone system ..... 303

#### Higher Education Coordinating Board

Minnesota State Postsecondary Review Board..... 303

#### Health Department

Nursing Home Regulatory Reform..... 303

### Emergency Rules

#### Natural Resources Department

Emergency game and fish rules; game refuges..... 321

### Errata

#### Department of Employee Relations

Date changes to proposal request:  
 Qualified persons to provide specialized  
 learner-centered training..... 322

### Official Notices

#### Animal Health Board

September board meeting ..... 323

#### Chiropractic Examiners Board

Opinions sought on rule Chapter 2500:  
 miscellaneous recommendations ..... 323  
 licensure, fees and charges, suspension, late renewal  
 penalty ..... 323

#### Health Department

Public hearing and comments sought on preliminary  
 neuroimaging evaluation report..... 324

Quarterly change in regional and national consumer  
 price index ..... 325

### Human Services Department

Minnesota Health Care Program provider participation  
 list ..... 326

Notice of disproportionate population adjustment..... 326

### Labor and Industry Department

Opinions sought on rule for OSHA Administrative  
 Procedures ..... 326 ✓

Opinions sought on rule for occupational Safety and  
 Health Review Board..... 327 ✓

Interim notice regarding apportionment arbitration..... 328

Prevailing wage certifications for commercial  
 construction ..... 329

Correction to prevailing wage rates ..... 329

### Public Service Department

Opinions sought on rule for public utilities' investments  
 in energy conservation improvements ..... 330

### State Grant

#### Education Department

Instructional transformation through technology grants  
 available..... 331

### Professional, Technical and Consulting Contracts

#### Employee Relations Department

Proposals sought for promotional merchandise..... 331

#### Transportation Department

Proposals sought for "self-directed work team" services ..... 332

### Awards of State Contracts & Advertised Bids

Commodities and requisitions are advertised in the  
*State Register Contracts Supplement*, published  
 every Tuesday, Wednesday and Friday. "Commodity  
 Contract Awards Reports" are published every two weeks,  
 and "Professional-Technical-Consulting Contract Awards  
 Reports" are published monthly. Both are available through  
 Minnesota's Bookstore, (612) 297-3000 or 1-800-657-3757.  
 For subscription information call 612/296-0931.  
 Individual awards can be obtained from the  
**Materials Management Helpline** 612/296-2600.

# 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 1-800-657-3757.

## Vol. 20 issues #1-7 inclusive

<b>Administration Department</b>		<b>Natural Resources Department</b>	
1215.1400 (adopted) .....	303	6230.0400 (adopted emergency).....	321
<b>Agriculture Department</b>		6232.0900 (adopted emergency).....	198
1505.0754; .0756; .0758 (adopted).....	63	<b>Podiatric Medicine Board</b>	
<b>Commerce Department</b>		6900.0200, s.8 (repealed).....	168
2642.0380 (adopted) .....	227	<b>Pollution Control Agency</b>	
2675.0901; .2170; .2620 (adopted).....	168	7005.0100; 7007.0100; .0150; .0200; .0250; .0300; .0350; .0500;	
<b>Petroleum Tank Release Compensation Board</b>		.0800; .1110; .1115; .1120; .1130; .1150; .1200; .1250; .1300;	
2890.0010; .0070; .0071; .0072; .0073; .0074; .0075; .0076; .0077;		.1400; .1450; .1500; 7009.1000; .1040; 7011.0070; .0080;	
.0078; .0079; .0080; .0081; .0082; .0083; .0084; .0085; .0086;		.0150; 7017.2040 (proposed) .....	270
.0089; .0090 (adopted) .....	227	7005.0100, s.10d (proposed repealer).....	270
2890.0075; .0080 (repealed) .....	227	7045.0020; .0221; .0225; .0230; .0240; .0248; .0255; .0855, s.2;	
<b>Economic Security</b>		.0990, s.3a (withdrawn) .....	237
3300.5010; .5040; .5050; .5060 (adopted).....	168	7080.0010; .0020; .0030; .0040; .0060; .0110; .0120; .0125;	
3300.5010, s.38; .5060, s.1a,4,6,8,10 (repealed) .....	168	.0130; .0150; .0160; .0170; .0175; .0176; .0200; .0210	
3315.0210(adopted) .....	197	(withdrawn proposed rules) .....	83
<b>Health Department</b>		7080.0010; .0020; .0025; .0030; .0060; .0065; .0110; .0120;	
4655.0090; 4658.0010; .0020; .0025; .0045; .0050; .0055; .0060;		.0125; .0130; .0160; .0170; .0175; .0176; .0300; .0305; .0310;	
.0065; .0070; .0075; .0080; .0085; .0100; .0105; .0110; .0115;		.0315; .0350; .0700; .0705; .0710; .0715; .0720; .0800; .0805;	
.0130; .0135; .0140; .0190; .0300; .0350; .0400; .0405; .0420;		.0810; .0815; .0820; .0830; .0850; .0855; .0860; .0900; .0910;	
.0430; .0435; .0445; .0450; .0455; .0465; .0470; .0490; .0500;		.0920 (proposed) .....	93
.0505; .0510; .0515; .0520; .0525; .0530; .0580; .0700; .0705;		7080.0020, s.10,22a,29,34,41,50; .0050; .0070; .0080; .0090;	
.0715; .0720; .0725; .0730; .0750; .0800; .0805; .0810; .0815;		.0110, s.1,2,3,5; .0120, s.2; .0130, s.5; .0180; .0210, s.7,9,10-15	
.0850; .1300; .1305; .1310; .1315; .1320; .1325; .1335; .1350;		(withdrawn proposed repealer) .....	93
.1360; .1365 (adopted).....	303	7080.0020, s.10,20,22a,24a,29,34,41,50; .0040; .0050; .0070;	
4655.0010, s.4; .0320; .2410; .2420; .3900; .4900; .5600; .5700;		.0080; .0090; .0100; .0110, s.1,2,3,5; .0120, s.2; .0130, s.5;	
.5800; .5900; .6000; .6100; .6200; .6800; .7600; .7700; .7710;		.0180; .0200; .0210 (proposed repealer) .....	93
.7720; .7730; .7740; .7750; .7760; .7770; .7780; .7790; .8100;		<b>Revenue Department</b>	
.9400; .9500; .9600; .9700; .9800; .9900 (repealed).....	303	8122.0100; .0150; .0200; .0250; .0300; .0350; .0400; .0450;	
<b>Higher Education Coordinating Board</b>		.0500; .0550; .0600; .0650 (proposed).....	292
4890.0500 (adopted) .....	303	<b>Transportation Department</b>	
<b>Housing Finance Agency</b>		8820.0100; .0600; .0700; .0800; .1000; .1100; .1200; .1400;	
4900.0010 (adopted) .....	41	.1500; .1600; .2100; .2200; .2300; .2500; .2700; .2800; .2900;	
<b>Labor and Industry Department</b>		.3100; .3200; .3300; .3400; .4030; .4050; .4070; .9990; .9920;	
5205.0010 (adopted) .....	197	.9926; .9931; .9936; .9946; .9956; .9961; .9981; .9986; .9995	
5225.1110; .1140; .1180; .2700; .3100 (proposed).....	268	(proposed) .....	143

# Minnesota Rules: Amendments and Additions

<p>Proposed Renumbering..... 143</p> <p style="padding-left: 40px;">COLUMN A</p> <p>8820.0100, subpart 2, item B</p> <p>8820.0100, subpart 17, item A</p> <p>8820.0100, subpart 18</p> <p>8820.1500, subpart 10, item A</p>	<p style="padding-left: 40px;">COLUMN B</p> <p>8820.0100, subpart 2, item D</p> <p>8820.0100, subpart 17, item D</p> <p>8820.0100, subpart 15, item B</p> <p>8820.1500, subpart 8, item A</p>	<p>8820.0100, s.4a,9,15a,19; .1000, s.3; .2900, s.1a,2; .3100, s.3,4,7,9; .9910; .9925; .9930; .9935; .9940; .9945; .9950; .9955; .9965; .9970; .9985 (proposed repealer) ..... 143</p> <p><b>Human Services Department</b></p> <p>9515.3000; .3010; .3020; .3030; .3040; .3050; .3060; .3070; .3080; .3090; .3100; .3110 (proposed) ..... 84</p>
---	---	---

## 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 Labor and Industry

### Proposed Permanent Rules Relating to Boiler Operators

**NOTICE IS HEREBY GIVEN** that the State Department of Labor and Industry 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*, sections 14.06, 175.171, 183.001, 183.42, 183.465, 183.466, and 183.54.

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. The 30 day comment period ends on September 13, 1995.

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 must state his or her name and address, must specify the portion or portions of the rule to which the person objects or state that the person objects to the entire rule. They are encouraged to propose any change desired. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Pam Carlson  
Department of Labor and Industry  
443 Lafayette Road North  
St. Paul, Minnesota 55155-4301  
(612) 296-2992

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

A free copy of the rule is available upon request from Pam Carlson.

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 Pam Carlson upon request.

These amendments to existing rules will affect small business as defined by *Minnesota Statutes*, section 14.115, subdivision 1, in a positive manner due to the need for less frequent boiler inspections.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Chief Administrative Law Judge 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 Chief Administrative Law Judge. Persons who wish to be advised of the submission of this material to the Chief Administrative Law Judge, or who wish to receive a copy of the adopted rule, must submit the written request to Pam Carlson at the above address.

Dated: 2 August 1995

Gary W. Bastian  
Commissioner

**Rules as Proposed****5225.1110 BOILER OPERATION STANDARDS; ALL PLANTS.**

All boilers, unless specifically exempted by *Minnesota Statutes*, section 183.56, must be operated, maintained, and attended by an operating engineer in a prudent and attentive manner to avoid endangering human life and property. At a minimum, all operating boilers must be checked daily by an operating engineer in compliance with this chapter. The recommendations of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section VI, for low pressure and Section VII, for high pressure must be complied with and a log documenting the compliance must be completed daily by the chief engineer or an operating engineer designated by the chief engineer. of 3,000,000 Btu's or 34 horsepower or less, must be checked and logged by a licensed engineer a minimum of once per week.

Any low pressure steam or vapor boilers requiring a minimum of a second class "C" boiler's license, must be checked and logged daily, Monday through Friday, by a licensed operating engineer. On weekends and holidays, boilers must be checked and logged by a licensed operating engineer, prior to the building being occupied by the public.

Any low pressure steam or vapor boiler requiring a minimum of a first class "C" license or a chief "C" license, must be logged and checked daily, including weekends and holidays.

All high pressure boilers up to 200 horsepower must be checked and logged daily by the chief engineer or an operating engineer designated by the chief engineer, in accordance with part 5225.1140, subpart 1. All high pressure boilers over 200 horsepower require attendance as provided in parts 5225.1140, subpart 2, and 5225.1180, subpart 2, as applicable.

Water heating boilers requiring a minimum of a second class "C" license, 100 horsepower or higher, must be checked daily, Monday through Friday, and logged by a licensed operating engineer. Weekends and holidays do not require a boiler check if the building is vacant.

**5225.1140 ATTENDANCE AT HIGH PRESSURE PLANT.**

Subpart 1. **Attendance.** A high pressure boiler plant of ~~34 zero~~ to 200 horsepower may be left in operation unattended by an operating engineer for no more than two consecutive hours when the premises are occupied by employees of the public, except as permitted by part 5225.1180, subpart 1 ~~and 5225.1110.~~

Subp. 2. **Attendance required.** A high pressure boiler plant of more than 200 horsepower, when in operation, requires constant attendance by an operating engineer, except as permitted by part 5225.1180, subpart 1 or 2.

[For text of subp 3, see M.R.]

**5225.1180 ABSENCE FROM PLANT.**

Subpart 1. **EXEMPTION.** A high pressure boiler plant of ~~34 to~~ over 200 horsepower is exempt from the high pressure attendance requirements of part 5225.1140, subpart 1 ~~and 2,~~ and is ~~subject~~ requires only to the steam boiler attendance provisions of part 5225.1110 under the following conditions:

[For text of items A and B, see M.R.]

C. the valves and controls must be manually switched over by the operating engineer, the dates and time must be entered in the boiler room log, and the entry must be signed by the operating engineer; and

D. ~~the building in which the boiler is located is not occupied by the public or employees except for custodial, maintenance, or security personnel; and~~

~~E. the boiler is for supplying steam directly to a low pressure header with header safety valves set at or below 15 pounds per square inch and is of adequate capacity to prevent a pressure rise above 15 pounds per square inch in the system. The shutoff valve between the high and low pressure systems must be electrically interlocked with the low pressure control system so that the crossover valve is in the open position while operating on low pressure.~~

[For text of subp 2, see M.R.]

Subp. 3. **Limitations.** The absences described in ~~part 5225.1140, subpart 1, and this part subpart 2~~ may not approach nearly continuous absence from the plant. If the chief engineer or shift engineer has found the boiler to be in an unsafe condition, in addition to notifying the chief boiler inspector, absence from the plant is not allowed.

**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.

## Proposed Rules

---

### **5225.2700 REPAIRS BY INSPECTORS PROHIBITED; EXCEPTION.**

Boiler inspectors shall not make any of the repairs they order to boilers. ~~If, however, no competent mechanic is available in the locality in which the boiler is located, the chief boiler inspector may grant permission to the inspector to make emergency or minor repairs.~~

### **5225.3100 INSURED COVERAGE REPORT.**

Every insurance company insuring a boiler or pressure vessel must notify the division in writing within 30 days of the effective date of coverage (including binders). It must also mail a duplicate of the notification to the assured, who shall, until receipt of exemption certificate, display the notice in a conspicuous place near the boiler or pressure vessel. The person, firm, or corporation operating the insured boiler or pressure vessel shall procure and display an exemption certificate as provided in part 5225.3150 within a period of ~~60~~ 90 days from the date of coverage, and keep it displayed in a conspicuous place near the boiler or pressure vessel.

If the certificate is not displayed within ~~60~~ 100 days from date of coverage the boiler inspector from the division shall make the usual and customary inspection of the boiler or pressure vessel and charge the statutory fee.

## Pollution Control Agency

### Air Quality Division

### **Proposed Rule Amendments Governing Air Quality Rules, *Minnesota Rules* Chs. 7007, 7009, 7011, and 7017 and Public Notice and Opportunity to Comment on Proposed Revisions to Minnesota's State Implementation Plan to Incorporate Rule Amendments Governing Air Quality Rules, *Minnesota Rules* Chs. 7007, 7009, 7011 and 7017**

#### **Notice of Intent to Adopt Rule Amendments Without a Public Hearing**

The Minnesota Pollution Control Agency (MPCA) intends to adopt permanent rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes* §§ 14.22 to 14.28. You have 30 days to submit written comments on the proposed rule and may also submit a written request for a public hearing to be held on the rule.

**Agency Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

Norma Coleman  
Air Quality Division  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194  
Telephone: (612) 296-7712

**Subject of Rule and Statutory Authority.** The MPCA is proposing to adopt amendments to clarify rules relating to permitting activities at stationary sources. This proposed rulemaking will amend chapters 7005 (Definitions and Abbreviations), 7007 (Air Permit Rule), 7009 (Ambient Air Quality Standards), 7011 (Standards for Stationary Sources), and 7017 (Monitoring and Testing Requirements). The amendments are a result of comments made on past rulemakings that could not be dealt with in those proceedings. The amendments are also an effort to correct mistakes, clarify requirements, and address comments received on corrections that should be made to recently adopted rules. The comments were received from industry groups, the U.S. Environmental Protection Agency, and the MPCA staff. The MPCA's authority to adopt these rules is found in *Minnesota Statutes* §116.07, subd. 4 (1994) and *Minnesota Statutes* §116.07, subd. 4a (1994), provides the MPCA's authority to issue permits. A copy of the proposed rule is published immediately after this notice.

**Comments.** You have until 4:30 p.m., September 13, 1995 to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the MPCA contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the MPCA contact person by 4:30 p.m. on September 13, 1995. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If a public hearing is required, the MPCA will follow the procedures in *Minnesota Statutes* §§ 14.131 to 14.20.



**Request to Appear Before MPCA Board.** The MPCA's Commissioner is proposing to adopt this rule under a delegation of authority from the MPCA Board. In addition to submitting comments and/or a hearing request, you may also request to appear before the MPCA Board prior to adoption of this rule. Your request to appear before the Board must be in writing and must be received by the MPCA contact person by September 13, 1995. Your written request must include your name and address. If no one requests an appearance before the MPCA Board and a public hearing is not required, then the Commissioner of the MPCA will make the final decision on this rule as allowed by a delegation from the MPCA Board.

**Modifications.** The proposed rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the MPCA and may not result in a substantial change in the proposed rule as printed immediately after this notice. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the MPCA contact person. This statement 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.

**Small Business Considerations.** *Minnesota Statutes* § 14.115, subd. 4 (1994) requires that the notice of rulemaking include a statement of the impact of this proposed rule on small business. The proposed rule amendments will affect small businesses as defined in *Minnesota Statutes* § 14.115 (1994). As a result, the MPCA has considered the methods for reducing the impact of the rule amendments on small business as defined in *Minnesota Statutes* § 14.115, subd. 2 (1994).

The objective of the rule amendments is to make minor clarifications and changes that do not negatively impact small businesses.

Provisions which are intended to ease administrative burdens for small business include adding activities and clarifications to the insignificant activities list (*Minnesota Rules* 7007.1300) for which a permit amendment is not required. For a detailed explanation regarding small business considerations please read the statement of need and reasonableness.

**Consideration of Economic Factors.** In exercising its powers the MPCA is required by *Minnesota Statutes* § 116.07, subd. 6 (1994) to give due consideration to economic factors. In proposing these rule amendments, the MPCA has given due consideration to available information as to any economic impacts the proposed rule amendments would have. In considering the economic impacts of these revisions, the MPCA did not consider the economic effect of the revisions on individual industry sectors or on the state as a whole, because the net effect of the revisions, particularly for small sources, is expected to be a benefit. For a more detailed discussion regarding the consideration of economic factors please read the statement of need and reasonableness.

**Expenditure of Public Money by Local Public Bodies.** *Minnesota Statutes* § 14.11, subd. 1, requires the MPCA to include a statement of the rule's estimated costs to local public bodies in this notice if the rule would have a total cost of over \$100,000 to all local public bodies in the state in either of the two years following adoption of the rule.

It is not anticipated that this provision will result in the expenditure of more than \$100,000 per year by local public bodies in either of the next two years. In conjunction with the streamlining aspects of the revisions, there will be a significant net cost savings.

**Impacts on Agricultural Land and Farming Operations.** *Minnesota Statutes* § 116.07, subd. 2 (1994) requires that if the agency proposing the adoption of a rule determines that the rule may have a direct and substantial adverse impact on agricultural land in the state, the agency shall comply with specified additional requirements. Similarly, *Minnesota Statutes* § 116.07, subd. 4, requires that if a proposed rule affects farming operations, the MPCA must provide a copy of the proposed rule and a statement of the effect of the proposed rule to the Commissioner of Agriculture for review and comment. The MPCA believes that the proposed rule amendments will not have any impact on agricultural lands or farming operations because the proposed rule amendments affect only stationary sources of air pollution, not agricultural land or farming operations.

**Review by Commissioner of Transportation.** *Minnesota Statutes* § 174.05 (1994) requires the MPCA to inform the Commissioner of Transportation of all rulemakings that concern transportation, and requires the Commissioner of Transportation to prepare a written review of the rules. This requirement does not apply because this rulemaking does not affect transportation.

**Adoption and Review of the Rule.** If no hearing is required, after the end of the comment period the MPCA may adopt the rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to Norma Coleman.

**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.

## Proposed Rules

### Public Notice and Opportunity to Comment on Proposed Revisions to Minnesota's State Implementation Plan to Incorporate Rules Governing Air Quality Rules, *Minnesota Rules* Chs. 7007, 7009, 7011, and 7017

NOTICE IS HEREBY GIVEN that the MPCA is proposing to adopt rule amendments governing Air Quality rules, *Minnesota Rules* chs. 7007, 7009, 7011 and 7017. This proposed rulemaking will amend the chapters to make minor corrections and clarifications to the rules as well as respond to interested party comments on previous rulemakings.

A copy of the State Implementation Plan (SIP) revision will be available for inspection at the MPCA offices in St. Paul at 520 Lafayette Road North, 1st Floor, Air Quality Division, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Written comments concerning the SIP will be accepted until 4:30 p.m., September 13, 1995 and should be sent to:

Susan Mitchell  
Air Quality Division  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, Minnesota 55155  
Telephone (612) 297-3082

The public is hereby notified that the proposed amendments will be brought before a public hearing if anyone requests a public hearing during the public comment period. Persons who wish to request a public hearing concerning the proposed amendments should contact Ms. Mitchell at (612) 297-3087 or submit a written request by 4:30 p.m. September 13, 1995. Your written request must include your name and address. If no one requests a public hearing, the MPCA Citizens' Board will make the final decision on this SIP submittal.

Charles W. Williams  
Commissioner

#### Rules as Proposed

#### 7005.0100 DEFINITIONS.

[For text of subs 1 to 10, see M.R.]

##### Subp. 10a. Emission factor. "Emission factor" means:

A. For criteria pollutants, the emission factor listed in AIRS Facility Subsystem Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, EPA, 450/4-90-003, United States Environmental Protection Agency, Technical Support Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, March 1990, which is incorporated by reference and is available at the Minnesota state law library and through the Minitex interlibrary loan system.

B. For hazardous air pollutants (HAPs), the emission factor listed in Factor Information Retrieval (FIRE) Data System, EPA-454/C-94-032, United States Environmental Protection Agency, Technical Support Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, October 1994, which is incorporated by reference and is available through the Minitex interlibrary loan system. Where more than one emission factor is listed, emission factor means the one approved by the commissioner using best engineering judgment and based on one or more of the considerations in item C, subitem (2).

C. (1) Where no emission factor is available in AIRS or FIRE, or where the agency has determined that a more representative emission factor is available under this item, emission factor means an emission factor developed or approved by the commissioner and derived from the following sources:

(a) other EPA publications including, but not limited to, Compilation of Air Pollutant Emission Factors (AP-42), Locating and Estimating documents, Control Technology Center documents, the preamble and background information documents for New Source Performance Standards or National Emission Standards for Hazardous Air Pollutants;

(b) EPA databases and computer programs;

(c) engineering publications;

(d) performance test data from the same or a similar emission unit at the same or a similar facility; or

(e) manufacturer's performance tests.

(2) The commissioner shall develop or approve an emission factor using best engineering judgment and based on one or more of the following considerations:

(a) the precision and accuracy of the data;

(b) the similarity between the emission units tested and the emission units to which the emission factor is to be applied;

(c) the number of emission units tested in developing the emission factor under consideration;

(d) the availability of emission data of equal or greater quality;

(e) the emission unit operating conditions under which the tests were conducted; and

(f) the data analysis procedures.

[For text of subps 10b and 10c, see M.R.]

Subp. 10d. [See repealer.]

[For text of subps 11 to 45, see M.R.]

#### **7007.0100 DEFINITIONS.**

[For text of subps 1 to 8, see M.R.]

Subp. 8a. Deviation. "Deviation" means any noncompliance with a rule, regulation, or permit condition.

[For text of subps 9 to 24, see M.R.]

Subp. 25. Title I condition. "Title I condition" means one of the following types of permit conditions based on requirements of title I of the act:

[For text of item A, see M.R.]

B. any condition based on a source-specific determination of ambient impacts imposed for the purpose of achieving or maintaining attainment with a national ambient air quality standard and which was part of a state implementation plan approved by the EPA or submitted to the EPA and pending approval under section 110 of the act; and

C. any condition for which there is no corresponding underlying applicable requirement and that the stationary source has assumed to avoid being subject to a new source review program under part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) of the act or implementing state rules or federal regulations; and

D. any condition which is part of a plan approved by the EPA or submitted to the EPA and pending approval under section 111(d) of the act.

[For text of subps 26 to 28, see M.R.]

#### **7007.0150 PERMIT REQUIRED.**

[For text of subps 1 to 4, see M.R.]

Subp. 5. Variances from federal requirements. The agency shall not issue variances from any federal requirement to obtain an air quality permit, unless explicitly authorized to do so in writing by the administrator. Nothing in parts 7007.0100 to 7007.1850 shall allow a variance from federal applicable requirements as defined in part 7007.0100, subpart 7, items A to K.

#### **7007.0200 SOURCES REQUIRED OR ALLOWED TO OBTAIN A PART 70 PERMIT.**

Subpart 1. Part 70 permit required. The emission facilities, emission units, and stationary sources described in subparts 2 to 5 must obtain a part 70 permit from the agency. All provisions of parts 7007.0100 to 7007.1850 apply to part 70 permits unless the provision states that it applies only to state permits, registration permits, or general permits. If the owner or operator of a stationary source is required to obtain a part 70 permit by subpart 2, item B or C, the owner or operator shall also separately determine under subpart 2, item A, if the stationary source is a major source subject to major source requirements under section 112 of the act.

[For text of subps 2 to 6, see M.R.]

#### **7007.0250 SOURCES REQUIRED TO OBTAIN A STATE PERMIT.**

[For text of subps 1 to 4, see M.R.]

Subp. 5. Part 70 permits. Part 7007.0250 does not apply to a stationary source that is required to or chooses to obtain a part 70 permit under part 7007.0200. However, a stationary source that would otherwise be required to obtain a part 70 permit under part

**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.

## Proposed Rules

7007.0200 may avoid that requirement by obtaining a state permit under this part which ~~limits~~ contains federally enforceable conditions to limit its emissions to levels below those that would trigger the requirement to obtain a part 70 permit.

Subp. 6. **Waste combustors.** A waste combustor, as defined in part 7011.1201; must obtain a permit under this part unless it is:

A. a Class IV waste combustor located at a hospital; or

B. a waste combustor subject to the exemptions in part 7011.1215, subpart 3.

Notwithstanding the exemptions in items A and B, a Class IV waste combustor that does not comply with the stack height requirements of part 7011.1235, subpart 1, but uses alternative techniques to achieve equivalent ambient pollution concentrations, must obtain a permit under this part. The permit obtained shall not be a registration permit under parts 7007.1110 to 7007.1130.

[For text of subp 7, see M.R.]

### 7007.0300 SOURCES NOT REQUIRED TO OBTAIN A PERMIT.

Subpart 1. **No permit required.** The following stationary sources are not required to obtain a permit under parts 7007.0100 to 7007.1850:

[For text of item A, see M.R.]

B. notwithstanding parts 7007.0200 and 7007.0250, any stationary source that would be required to obtain a permit solely because it is subject to one or more of the following new source performance standards:

[For text of subitems (1) to (3), see M.R.]

(4) *Code of Federal Regulations*, title 40, part 60, subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units (incorporated by reference at part 7011.0570), if all steam generating units subject to this standard at the stationary source are only capable of combusting natural gas or propane;

[For text of items C and D, see M.R.]

[For text of subp 2, see M.R.]

### 7007.0350 EXISTING SOURCE APPLICATION DEADLINES AND SOURCE OPERATION DURING TRANSITION.

Subpart 1. **Transition applications under this part; deadline based on SIC code.** Initial permit applications under parts 7007.0100 to 7007.1850 for an emission unit, emission facility, or stationary source in operation on October 18, 1993, shall be considered timely if they meet the requirements of this part.

[For text of items A to C, see M.R.]

D. An application date for a stationary source or group of stationary sources may be deferred by the commissioner under the following circumstances: a source or sources will soon be subject to a new federal requirement that will affect the source's application or the commissioner finds that it will reduce the agency's administrative burden by deferring the application deadline for sources required to obtain a state permit. The application dates for sources required to submit a part 70 permit application shall be deferred to a date no later than one year after the administrator grants part 70 program approval to Minnesota, and the application dates for sources required to submit a state permit application may not be deferred more than two years after EPA program approval. The source or sources are required to submit the permit application by the new date specified by the commissioner under this item.

E. The owner or operator of a stationary source must comply with the applicable deadline in this part, even though the stationary source may be operating under a permit issued by the agency under parts 7001.1200 to 7001.1220 (the permit rules in effect before October 18, 1993), and the permit is not due to expire until after the applicable deadline in this part. If a stationary source is operating under a permit issued by the agency under parts 7001.1200 to 7001.1220, and the permit expires after October 18, 1993, but before the applicable deadline, the owner or operator need not reapply before expiration of the permit, but shall comply with the applicable deadline in this part.

E-E. Except as provided in subitems (1) and (2), the agency waives its authority to take enforcement action against the owner or operator of a stationary source for failure to obtain a permit authorizing operation under parts 7001.1200 to 7001.1220, if the owner or operator files a timely and complete permit application under this part. This waiver does not apply to:

[For text of subitems (1) and (2), see M.R.]

[For text of subs 2 and 3, see M.R.]

Subp. 4. **Preservation of enforcement authority.** The agency reserves its authority to take enforcement action against any source that violated the permitting requirements of parts 7001.1200 to 7001.1220 prior to their repeal or that violates any permit

issued under those parts, except as provided under subpart 1, item ~~G~~ E. Nothing in parts 7007.0100 to 7007.1850 shall be read to limit the administrator's authority to enforce parts 7001.1200 to 7001.1220 prior to their repeal or permits issued under those parts.

[For text of subp 5, see M.R.]

#### **7007.0500 CONTENT OF PERMIT APPLICATION.**

[For text of subpart 1, see M.R.]

Subp. 2. **Information included.** Applicants shall submit the following information as required by the standard application form:

[For text of items A and B, see M.R.]

C. The following emissions-related information:

(1) A permit application shall provide the information required by this part for every emissions unit within the stationary source, except as provided otherwise in subitems (2) to ~~(4)~~ (11). Notwithstanding the first sentence, if a stationary source is not a major source and the sole reason it is required to have a permit is because it is subject to federal standards described under part 7007.0250, subpart 2, then the application need only provide information for the emissions units regulated by those federal standards. All permit applications shall include information about fugitive emissions in the same manner as stack emissions, regardless of whether the stationary source category in question is included in the list of stationary sources contained in the definition of major source in part 7007.0200, subpart 2.

[For text of subitem (2), see M.R.]

(3) A permit application shall identify and describe each emission point in sufficient detail to verify the applicability of all applicable requirements. This shall include the location of all emission points, and the location of all emissions units and processes venting through each emission point. In addition, if the exhaust gas flow rate and temperature, and the stack height and diameter of an emission point are needed to determine applicability of or show compliance with any applicable requirement, this information shall be provided. ~~For stationary sources that are major sources according to part 7007.0200, subpart 2, item A, the exhaust gas flow rate and temperature and stack height and diameter shall be provided for all emission points.~~ For stationary sources that are major sources of sulfur dioxide, particulate matter less than ten microns, or nitrogen oxides according to part 7007.0200, subpart 2, items B and C, the exhaust gas flow rate and temperature, and stack height and diameter shall be provided for all emission points of the pollutant or pollutants for which the source is major.

(4) ~~A permit application shall identify rates of each regulated air pollutant and each hazardous air pollutant that is not yet a regulated air pollutant, as defined in part 7007.0100, subpart 19, emitted specify the potential emissions, as defined in part 7005.0100, subpart 35a, in tons per year from the stationary source as a whole. A permit application shall identify rates, in tons per year, and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method for each emissions unit subject to an applicable requirement. The application shall provide this information for potential emissions, as defined in part 7005.0100, subpart 35a. The application shall also include the emissions limits that will be imposed on the stationary source by applicable requirements. These potential emissions shall be specified for each regulated air pollutant and each hazardous air pollutant that is not yet a regulated air pollutant, as defined in part 7007.0100, subparts 12a and 19, except that pollutants which are regulated solely under section 112(r) of the act need not be included and pollutants regulated solely under section 602 of the act need not be included. In addition, for each emissions unit subject to an applicable requirement, the permit application shall specify, in tons per year, the potential emissions of the same pollutants referenced in the previous sentence. If the applicable requirement contains a standard reference test method which is to be used to establish compliance, the permit application shall specify the potential emissions in the same units as are used in the test method.~~

(5) ~~The permit application shall also include the emission limits that will be imposed on the stationary source by applicable requirements.~~

(6) A permit application shall provide the information on actual emissions for the preceding calendar year required in this subitem. ~~Notwithstanding the previous sentence, if actual emission data are not available for the preceding calendar year, the application shall provide an estimate of actual annual emissions required in this subitem.~~

[For text of units (a) and (b), see M.R.]

(e) ~~For stationary sources that are major sources under part 7007.0200, subpart 2, item A, the permittee shall~~

**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.

## Proposed Rules

provide actual emission rates, in tons per year, or if emissions of a hazardous air pollutant are less than one ton per year, in pounds per year, of each hazardous air pollutant for each emissions unit at the stationary source.

(6) (7) A permit application shall include the following information to the extent it is emissions-related: fuels, fuel use, raw materials, production rates, and operating schedules.

(7) (8) A permit application shall identify and describe all air pollution control equipment and compliance monitoring devices or activities. A permit application shall also contain the design operating efficiency of the air pollution control equipment. The permit application shall identify all air pollution control equipment located at the stationary source which the stationary source elects not to operate.

(8) (9) A permit application shall describe any work practice or physical limitation on stationary source operation that affects emissions of regulated air pollutants.

(9) (10) A permit application shall include additional information if required by any applicable requirements (such as information related to stack height limitations developed pursuant to section 123 of the act).

(10) (11) A permit application must explain the means by which the emissions information in subitems (1) to (9) (10) is gathered, and provide the calculations on which they are based.

[For text of items D to J, see M.R.]

K. For part 70 permit applications only, a compliance plan that contains the following:

(1) A description of the compliance status of the stationary source at the time of application submittal with respect to all applicable requirements and the requirements of parts 7007.0100 to 7007.1850, and a description of the methods used to determine compliance, including a description of monitoring, record keeping, and test methods; and operation and maintenance procedures for air pollution control equipment. The applicant shall identify in the description of compliance status any past modifications at the stationary source for which preconstruction review was required under parts C and D of the act but was not done.

[For text of subitems (2) to (4), see M.R.]

[For text of items L to N, see M.R.]

[For text of subps 3 to 5, see M.R.]

### 7007.0800 PERMIT CONTENT.

[For text of subps 1 to 4, see M.R.]

Subp. 5. **Record keeping.** The permit shall incorporate all applicable requirements related to record keeping and require the permittee to maintain adequate records, including at least the following:

[For text of items A to C, see M.R.]

D. A requirement that the permittee retain copies of deviation reports required by subpart 6 for a period of five years, or longer if requested by the commissioner, from the date of submittal of the report to the agency.

Subp. 6. **Reporting.** The permit shall require the permittee to submit to the agency the reports described in this subpart. The permit shall require that all reports be certified by a responsible official consistent with part 7007.0500, subpart 3.

A. The permit shall require the permittee, in the event of any deviation from permit conditions which could endanger human health or the environment, to orally notify the commissioner within 24 hours of discovering the deviation. Within five two working days of the discovery of such a deviation, the permittee shall submit to the commissioner a written description of the deviation; the cause of the deviation; the exact dates of the period of the deviation; if the deviation has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the deviation. The permit shall require the permittee, in the event of any other type of deviation from permit conditions, including those attributable to upset conditions as defined in the permit, to report the deviation with two working days and provide the information required in this item. Unless stated otherwise in the permit, a report filed under this provision does not satisfy the requirement to notify the agency of shutdowns and breakdowns under part 7005.1880 semiannually in a midyear report and an end-of-year report. The midyear report, covering deviations which occurred during the period from January 1 to June 30, is due by July 30 of each year. The end-of-year report, covering deviations which occurred during the period from July 1 to December 31, is due by January 30 of each year.

B. All part 70 permits shall require the permittee to submit progress reports at least every six months for any stationary source required to have a compliance schedule under part 7007.0500, subpart 2, item K, or any stationary source that is required to monitor under subpart 4 more frequently than every six months. The reports shall be more frequent than every six months if required by an applicable requirement. Other permits will require progress reports if the agency determines that they are necessary to ensure compliance with applicable requirements. All instances of deviations from permit conditions must be clearly identified in such reports subitem (4). Such progress reports shall contain the following:

(1) Reports of any monitoring required under subpart 4. All instances of deviations from permit conditions must be clearly identified in such reports.

(2) In the case of stationary sources required to submit compliance schedules under part 7007.0500, subpart 2, item K, the deadlines for achieving the activities, milestones, or compliance required in the compliance schedule and dates when such activities, milestones, or compliance were actually achieved. If any deadlines in the schedule of compliance were not or will not be met, the report shall note that, explain why, and include any preventive or corrective measures that have been or will be adopted as a result.

[For text of items C and D, see M.R.]

E. For deviations caused by emergencies, as defined in part 7007.1850, the permittee may assert an affirmative defense only if it meets all the requirements of part 7007.1850, which includes notifying the agency within two working days of when the emission limitations were exceeded due to the emergency.

[For text of subs 7 to 9, see M.R.]

**Subp. 10. Emissions trading.**

A. If requested by a permit applicant, the agency shall include provisions allowing the permittee to trade emissions increases and decreases that occur within the permitted facility. No title I modification may be made using this provision, and the trade may not result in the exceedance of any facility-wide emission limit in the permit. The agency shall make such trading available to the permittee only if it determines that all of the following are true:

[For text of subitems (1) to (3), see M.R.]

[For text of item B, see M.R.]

[For text of subp 11, see M.R.]

**Subp. 12. Operation in more than one location.** If requested by the applicant, the permit may allow a stationary source to be operated in more than one location during the course of the permit. No affected source shall be allowed this option. If more than one location is authorized, the permit shall include the following:

[For text of items A and B, see M.R.]

C. requirements that the owner or operator notify the agency at least 20 ten days in advance of each change in location, providing the exact location where the source will operate for all part 70 permits and at least 48 hours in advance of each change in location for all other state permits; and

[For text of item D, see M.R.]

[For text of subp 13, see M.R.]

**Subp. 14. Operation of control equipment.** Each If the commissioner determines that such provisions would substantially improve the likelihood of future permit compliance, the permit shall may specify operating and maintenance requirements for each piece of control equipment located at the stationary source or require the permittee to maintain an operation and maintenance plan on site.

[For text of subs 15 and 16, see M.R.]

**7007.1110 REGISTRATION PERMIT GENERAL REQUIREMENTS.**

[For text of subpart 1, see M.R.]

**Subp. 2. Stationary sources that may not obtain a registration permit.**

[For text of item A, see M.R.]

B. A stationary source may not obtain a registration permit if air quality specific conditions or limits not contained in parts 7007.1110 to 7007.1130 were assumed:

(1) as a mitigation measure in an environmental impact statement; or

(2) in obtaining a negative declaration in an environmental assessment worksheet.

**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.

## Proposed Rules

C. A stationary source may not obtain a registration permit if it is subject to a new source performance standard other than the following:

[For text of subitems (1) to (10), see M.R.]

[For text of subps 3 to 6, see M.R.]

Subp. 7. **Registration permit compliance requirements.** The owner and operator of the stationary source issued a registration permit, shall ~~comply with~~:

A. comply with this part including the general conditions in subpart 21;

B. comply with part 7007.1115 (Option A), 7007.1120 (Option B), 7007.1125 (Option C), or 7007.1130 (Option D), whichever applies; ~~and~~

C. comply with all applicable requirements; ~~and~~

D. if a stationary source qualifies for a registration permit, but has less than 12 months of emissions data, determine compliance during normal operation for the first 12 months under registration permit option B, C, or D on a form provided by the commissioner which uses the following formula:

$$N = .95 (\text{annual limit in option B, C, or D}) + .0045 (\text{annual limit in option B, C, or D})(n-1)$$

Where: n = number of months in operation.

[For text of subp 8, see M.R.]

Subp. 9. **Record retention, access to records, and inspections for stationary sources issued registration permits.**

A. The owner or operator of a stationary source issued a registration permit under parts 7007.1110 to 7007.1130 must maintain at the stationary source, or at the main office for an unattended stationary source, for a period of five years from the date the record was made all information required to be recorded under applicable state and federal rules, and part 7007.1115, 7007.1120, 7007.1125, or 7007.1130, whichever part applies to the stationary source. The owner or operator must make these records available for examination and copying upon request of the commissioner, and must upon request submit these records to the commissioner by the time specified by the commissioner in the request. A stationary source with a registration permit may maintain records at an office of the owner or operator of the stationary source for all years prior to the current calendar year of operation.

[For text of item B, see M.R.]

Subp. 10. **Changes or modifications at stationary sources issued registration permits that trigger certain new source performance standards.** If a change or modification made at a stationary source issued a registration permit results in the stationary source being subject to a new source performance standard listed under subpart 2, item ~~B C~~, or if the change or modification adds an emissions unit subject to the standards listed in part 7007.0300, the owner or operator must submit to the commissioner:

[For text of items A to C, see M.R.]

[For text of subps 11 to 19, see M.R.]

Subp. 20. **Operation in more than one location.** If requested by the applicant, the registration permit may allow a stationary source to be operated in more than one location. If more than one location is proposed by the permittee, the permittee shall:

A. include in the application an identification of all geographic areas where the stationary source is authorized to operate during the course of the permit; and

B. notify the commissioner at least ~~ten days~~ 48 hours in advance of each change in location, providing the exact location where the source will operate.

[For text of subps 21 and 22, see M.R.]

### 7007.1115 REGISTRATION PERMIT OPTION A.

Subpart 1. **Eligibility.** The owner or operator of a stationary source may apply for a registration permit under this part if the stationary source is required to obtain a permit solely because it is subject to a new source performance standard listed in part 7007.1110, subpart 2, item ~~B C~~, and the owner or operator does not anticipate making changes in the next year which will cause the stationary source to require a permit for other reasons. Insignificant activities at the stationary source listed in part 7007.1300 are not considered in the eligibility determination under this subpart.

Subp. 2. **Application content.** An application for a registration permit under this part must contain the following:

[For text of items A and B, see M.R.]

C. a copy of the applicable new source performance standards (NSPS) listed in part 7007.1110, subpart 2, item ~~B C~~, with the applicable portions of the standards highlighted, including applicable parts of *Code of Federal Regulations*, title 40, part 60, subpart



A, General Provisions, or an NSPS checklist form provided by the commissioner, for each affected facility as defined in *Code of Federal Regulations*, title 40, section 60.2.

Insignificant activities at the stationary source listed in part 7007.1300 are not required to be included in the application.

[For text of subp 3, see M.R.]

#### **7007.1120 REGISTRATION PERMIT OPTION B.**

[For text of subpart 1, see M.R.]

Subp. 2. **Application content.** An application for a registration permit under this part must contain the following:

[For text of items A and B, see M.R.]

C. a copy of the applicable new source performance standards (NSPS) listed in part 7007.1110, subpart 2, item ~~B~~ C, with the applicable portions of the standards highlighted, including applicable parts of *Code of Federal Regulations*, title 40, part 60, subpart A, General Provisions, or an NSPS checklist form provided by the commissioner, for each affected facility as defined in *Code of Federal Regulations*, title 40, section 60.2;

[For text of items D and E, see M.R.]

Subp. 3. **Compliance requirements.** The owner or operator of a stationary source issued a registration permit under this part shall:

[For text of items A and B, see M.R.]

C. ~~record qualification monthly by comparing the 12-month rolling sum for the purchase or use (whichever was stated in the permit application) a 12-month rolling sum of less than 2,000 gallons of VOC-containing materials to the 2,000 gallon limit;~~

[For text of item D, see M.R.]

E. comply with part ~~7011.1110~~ 7007.1100; and

[For text of item F, see M.R.]

#### **7007.1125 REGISTRATION PERMIT OPTION C.**

[For text of subpart 1, see M.R.]

Subp. 2. **Application content.** An application for a registration permit under this part must contain the following:

[For text of items A and B, see M.R.]

C. a copy of the applicable new source performance standards (NSPS) listed in part 7007.1110, subpart 2, item ~~B~~ C, with the applicable portions of the standards highlighted, including applicable parts of *Code of Federal Regulations*, title 40, part 60, subpart A, General Provisions, or an NSPS checklist form provided by the commissioner, for each affected facility as defined in *Code of Federal Regulations*, title 40, section 60.2;

[For text of items D and E, see M.R.]

Subp. 3. **Compliance requirements.** The owner or operator of a stationary source issued a registration permit under this part shall comply with all of the requirements in items A to J.

A. If the stationary source qualified in the permit application, in whole or in part, by calculating VOC actual emissions from VOC-containing materials purchased or used (whichever was stated in the permit application) in calculation 3 in subpart 4, the owner or operator must:

(1) record each month, the amount of each VOC-containing material purchased or used (whichever was stated in the permit application); ~~and the maximum VOC content;~~

[For text of subitems (2) and (3), see M.R.]

[For text of items B to G, see M.R.]

H. The owner or operator must comply with part ~~7011.1110~~ 7007.1110.

[For text of item I, see M.R.]

**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.

## Proposed Rules

J. The owner or operator shall keep the following information on site for emission points venting emission units included in subpart 4, calculation 1, which burn coal, coke, wood, bark, number 5 or 6 residual oil, or number 4 distillate oil:

[For text of subitems (1) to (3), see M.R.]

[For text of subp 4, see M.R.]

### 7007.1130 REGISTRATION PERMIT OPTION D.

[For text of subpart 1, see M.R.]

Subp. 2. **Application content.** An application for a registration permit under this part must contain all of the following requirements:

[For text of items A and B, see M.R.]

C. a copy of the applicable new source performance standards (NSPS) listed in part 7007.1110, subpart 2, item ~~B~~ C, with the applicable portions of the standards highlighted, including applicable parts of *Code of Federal Regulations*, title 40, part 60, subpart A, General Provisions, or an NSPS checklist form provided by the commissioner, for each affected facility as defined in *Code of Federal Regulations*, title 40, section 60.2;

[For text of item D, see M.R.]

E. the calculations required by subpart 4, and the total actual emissions per pollutant that result from those calculations. A stationary source in which the only hazardous air pollutant (HAP) emissions are VOC emissions and that has actual VOC emissions less than five tons per year, and combustion sources with a total heat input less than 30 MMBtu/hr burning fuel oil and burning gas (natural gas or propane) are not required to calculate emissions of HAPs. If the stationary source has not been operated, the owner or operator shall estimate actual emissions during normal operation in performing the calculations required by subpart 4. If the stationary source has been operated less than 12 months on the date of application under this part, the owner or operator shall estimate actual emissions by multiplying by 12 the larger of the following:

[For text of subitems (1) and (2), see M.R.]

[For text of item F, see M.R.]

Subp. 3. **Compliance requirements.** The owner or operator of a stationary source issued a permit under this part shall comply with all of the requirements in items A to J.

[For text of item A, see M.R.]

B. If the stationary source qualified in the permit application, in whole or in part, by using fuel burned in the calculations in subpart 4, the owner or operator must:

[For text of subitem (1), see M.R.]

(2) recalculate and record each month the 12-month rolling sum of emissions, the date the calculation was made, and the calculation itself.

C. If the stationary source qualified in the permit application, in whole or in part, by using hours of operation in the calculations in subpart 4, the owner or operator must:

[For text of subitem (1), see M.R.]

(2) recalculate and record each month the 12-month rolling sum of emissions, the date the calculation was made, and the calculations itself.

[For text of item D, see M.R.]

E. The owner or operator must recalculate and record each month, pursuant to subpart 4, the 12-month rolling sum of actual emissions from the stationary source, the date the calculation was made, and the calculation itself. This calculation must include all emissions units at the stationary source, except for insignificant activities under part 7007.1300, and the information required by subpart 4, item B, subitem ~~(2)~~ (3), if continuous emissions monitor (CEM) data is used in the calculation.

[For text of items F and G, see M.R.]

H. Comply with part ~~7011.1110~~ 7007.1110.

I. Comply with all applicable requirements including new source performance standards.

J. If the calculation of actual emissions required by subpart 2, item E, for the application or by subpart 3, item E, for compliance verification exceeds five tons per year of sulfur dioxide or particulate matter less than ten microns, the owner or operator shall keep the following at the stationary source for all emission ~~points~~ units venting to these emission ~~units~~ points:

[For text of subitems (1) to (3), see M.R.]

Subp. 4. **Calculation of actual emissions.** The owner or operator of a stationary source may use a calculation worksheet provided by the commissioner for calculating actual emissions under this part, or may use the calculation methods under items A to E. The owner or operator must calculate actual emissions for each emissions unit, except that similar emissions units may be aggregated for emission calculation purposes. The owner or operator of a stationary source shall use the calculation method in item B instead of the calculation method in item A if the data described in item B are available for the stationary source. The alternative methods described in items C, D, and E may be used by the owner or operator without advance notification to the commissioner. The commissioner shall reject data submitted using the methods described in items B to E if the conditions set forth for the method are not fully met. To prevent double counting of emissions, the owner or operator must select one calculation method under this subpart for each emissions unit at the stationary source. Fugitive dust emissions must be included in the calculations under this subpart, if the stationary source is a category listed in part 7007.0200, subpart 2, item B, subitems (1) to (27). ~~For purposes of this subpart, "emission factor" has the meaning given in part 7007.1200, subpart 3, item B.~~

A. All calculations of actual emissions required under this part shall be based on the stationary source's operating parameters, and must use the following equation:

$E = OP \times EF \times [1 - CE]$ , where

E = Actual Emissions in tons per year

OP = Operating Parameter as required by the Emission Factor (hours of operation or units produced)

EF = Emission Factor (pounds of pollutant per hour of operation or units produced) as defined in part 7005.0100, subpart 10a.

CE = Control Efficiency (percent expressed as a decimal fraction of 1.00) determined according to part 7011.0070.

B. If the owner or operator of the stationary source has collected emissions data through use of a continuous emission monitor (CEM) in compliance with the preconditions in subitems (1) and (2), the owner or operator shall use the CEM data to calculate actual emissions, if the calculation shall be based on all of the CEM data, and the following requirements are shall be met:

(1) the owner or operator must have operated the CEMs at the stationary source in compliance with all of the requirements of parts 7017.1000; 7019.1000 and 7019.2000; any other applicable state rules or federal regulations pertaining to CEM operation; and all applicable air emission permit conditions the CEM has been certified by the commissioner;

(2) the CEM data have not been rejected by the commissioner due to failure by the owner or operator to comply with all requirements of parts 7017.1000, 7019.1000, and 7019.2000; all applicable permit conditions; and any other applicable state or federal laws pertaining to CEM operation;

(3) the total operating time of the applicable emissions unit and the total operating time of the CEM for the previous 12 consecutive months must be included in the permit application and in the monthly records required in subpart 3; and

(4) an explanation of how the emissions were calculated based on the CEM data must be included in the permit application and in the monthly records required in subpart 3. In calculating actual emissions, the owner or operator must use the rated capacity of the flow unless the CEM provides actual data on the flow rate. For CEM downtime, this calculation must apply EPA periods when the CEM is down and the emission unit is operating, the CEM data shall be substituted with emission data calculated using data obtained from the CEM. The CEM must have recorded data for at least 90 percent of the hours the emission unit was operated for the calendar year. The substitute CEM data must be representative of emission unit operation and, if applicable, of the control equipment operation during the period of CEM downtime. If substitute CEM data meeting these conditions is not available, emissions during periods of CEM downtime shall be calculated using emission factors, as specified in item A or performance test data as specified in item C, or the method of reporting CEM downtime specified in Code of Federal Regulations, title 40, part 75 (Acid Rain Program, Continuous Emission Monitoring). This method may be used by any stationary source with a CEM, regardless of whether federal regulations require use of the CEM.

[For text of items C to E, see M.R.]

[For text of subp 5, see M.R.]

#### 7007.1150 WHEN A PERMIT AMENDMENT IS REQUIRED.

[For text of items A and B, see M.R.]

**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.

## Proposed Rules

C. A written notice to the agency shall be sent by any person who, at a permitted stationary source, makes a change that: (i) does not increase emissions of any regulated air pollutant; (ii) does not constitute a title I modification; and (iii) does not constitute any other type of modification, if the change is one of the following:

[For text of subitems (1) and (2), see M.R.]

(3) replacing air pollution control equipment with listed control equipment, as defined in part 7011.0060, subpart 4, which has an equivalent or better removal efficiency of regulated pollutants previously controlled with the ~~replacement~~ control equipment being replaced.

The written notice must be received by the agency seven working days prior to the installation or replacement. The permittee and the agency shall attach the notice to the stationary source's permit. If the agency finds that the installation or replacement triggers new monitoring, record keeping, or reporting requirements under applicable requirements or parts 7007.0100 to 7007.1850, the agency shall initiate an amendment under part 7007.1400 or 7007.1500 to include the new requirements. If the installation or replacement constitutes a title I modification or other type of modification, this item does not apply, and the permittee shall follow the applicable procedures of part 7007.1250, 7007.1350, 7007.1450, or 7007.1500. If notice is provided as required by this item, the installation and operation of the additional equipment shall not be considered a violation of the permit.

[For text of items D to F, see M.R.]

### 7007.1200 CALCULATING EMISSION CHANGES FOR PERMIT AMENDMENTS.

[For text of subs 1 and 2, see M.R.]

Subp. 3. **Calculation method for modifications that are not title I modifications.** Emissions changes for a modification must be calculated by comparing the hourly emission rate of the stationary source, at maximum physical capacity, before and after the proposed physical or operational change. The emission rate shall be expressed as pounds per hour of any regulated air pollutant. Items A to C shall be used to determine emission changes for modifications that are not title I modifications.

[For text of item A, see M.R.]

B. In cases where use of emission factors or related calculation methods clearly demonstrates whether or not the change will increase the emission level, the following emission factors or methods shall be used:

(1) ~~EPA emission factors as defined in part 7005.0100, subpart 40d, or other emission factors determined by the agency to be superior to EPA emission factors 10a;~~ or

[For text of subitem (2), see M.R.]

[For text of item C, see M.R.]

### 7007.1250 INSIGNIFICANT MODIFICATIONS.

Subpart 1. **When an insignificant modification can be made.** The permittee may make a modification described in either item A or B at a permitted stationary source without getting a permit amendment, unless the modification is prohibited by subpart 2.

[For text of item A, see M.R.]

B. Any modification that will:

(1) result in an increase of an air pollutant which is not listed in table 1 and is not a hazardous air pollutant; or

(2) result in an increase of an air pollutant which is listed below, but in an amount less than the corresponding threshold; or

(3) result in an increase of a hazardous air pollutant, at a major source as defined in Code of Federal Regulations, title 40, section 63.2, in an amount less than 25 percent of the de minimis emission rates established in the rules promulgated by the administrator under section 112(g) of the act. This subitem becomes effective when the rules promulgated by the administrator under 112(g) of the act become effective.

Pollutant	Threshold
NO <sub>x</sub>	2.28 pounds per hour
SO <sub>2</sub>	2.28 pounds per hour
VOCs	2.28 pounds per hour
PM-10	.855 pounds per hour
CO	5.70 pounds per hour
HAPs	25% of the hazardous air pollutant thresholds listed in part 7007.1251
<u>Lead</u>	<u>.025 pounds per hour</u>

For purposes of this subpart, whether or not the modification will cause an increase in emissions shall be calculated as described in part 7007.1200. An owner or operator may not use control equipment efficiencies for listed control equipment determined by part 7011.0070 to qualify for an insignificant modification, unless the specifications for the control equipment are from a control equipment manufacturer, as defined in part 7011.0060, subpart 4 3. Modifications which would otherwise be insignificant under this part may be title I modifications, for which a major amendment is required, using the methods of calculation required under title I of the act. Permittees are reminded to review the definition of title I modifications and the requirements of title I of the act.

[For text of subs 2 to 6, see M.R.]

**7007.1300 INSIGNIFICANT ACTIVITIES LIST.**

[For text of subpart 1, see M.R.]

Subp. 2. **Insignificant activities not required to be listed.** The activities described in this subpart are not required to be listed in a permit application under part 7007.0500, subpart 2, item C, subitem (2).

[For text of items A to C, see M.R.]

**D. Finishing operations:**

[For text of subitems (1) and (2), see M.R.]

(3) equipment ~~vented~~ venting particulate matter (PM) or particulate matter less than ten microns (PM-10) inside a building used for ~~(for example: buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic, precision parts, leather, metals, plastics, masonry, carbon, wood, or glass; equipment)~~ provided that emissions from the equipment are:

[For text of units (a) and (b), see M.R.]

[For text of subitem (4), see M.R.]

[For text of item E, see M.R.]

**F. Wastewater treatment ~~Drain, waste, and vent piping:~~**

(1) ~~stacks or vents to prevent escape of sewer gases through plumbing traps, not including stacks and vents emissions associated with processing at wastewater treatment plants;~~

(2) ~~sewer maintenance access covers and shafts;~~

(3) ~~sludge and septage landspreading site;~~

(4) ~~sludge loadout pumping operations for publicly owned treatment works with a design flow less than 5,000,000 gallons per day; and~~

(5) ~~odor control systems on components of publicly owned treatment works collection systems.~~

**G. Cleaning operations: ~~alkaline/phosphate cleaners and associated cleaners and associated burners.~~**

**H. Residential activities: typical emissions from residential structures, not including:**

(1) ~~fuel burning equipment with a total capacity of 500,000 Btu/hour or greater; and~~

(2) ~~emergency backup generators; and~~

(3) ~~incinerators.~~

**I. H. Recreational activities: use of the following for recreational purposes:**

[For text of subitems (1) to (3), see M.R.]

**J. I. Health care activities: activities and equipment directly associated with the diagnosis, care, and treatment of patients in medical or veterinary facilities or offices, not including support activities such as power plants, heating plants, emergency generators, incinerators, or other units affected by applicable requirements as defined in part 7007.0100, subpart 7.**

**K. L. Miscellaneous:**

[For text of subitems (1) and (2), see M.R.]

**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.

## Proposed Rules

(3) operation of mobile sources, except for fugitive dust emissions from mobile sources at a stationary source required to be included under title I, and except for stationary sources where the agency determines the fugitive emissions from associated mobile source activity may impact attainment of national ambient air quality standards;

[For text of subitems (4) to (6), see M.R.]

~~L. K.~~ Demonstration projects conducted by a teaching institution, where the sole purpose of a demonstration project is to provide an actual functional example of a process unit operation to the students or other interested parties, where actual operating hours of each emission unit shall not exceed a total of 350 hours in a calendar year and where the emissions unit is not used to dispose of waste materials.

Subp. 3. **Insignificant activities required to be listed.** The activities described in this subpart must be listed in a permit application, and calculation of emissions from these activities shall be provided if required by the agency, under part 7007.0500, subpart 2, item C, subitem (2). ~~If emissions units listed in this subpart are subject to additional requirements under section 114(a)(3) of the act (Enhanced Monitoring) or section 112 of the act (Hazardous Air Pollutants), or if part of a title I modification, or if accounted for, make a stationary source subject to a part 70 permit, emissions from the emissions units must be calculated in the permit application.~~ the emissions units listed in this subpart shall be included in the permit application if emissions from the emissions units listed under this subpart, in addition to all other emissions from the stationary source, could make the stationary source subject to different applicable requirements or different requirements under parts 7007.0100 to 7007.1850. For purposes of this subpart, applicable requirement means applicable requirement as defined in part 7007.0100, subpart 7, items B to L.

[For text of item A, see M.R.]

B. Furnaces; and boilers; and incinerators:

(1) infrared electric ovens; and

(2) fuel burning equipment of less than 500,000 Btu/hour capacity except where total capacity of equipment exceeds 2,000,000 Btu/hour when operated by one stationary source.

[For text of item C, see M.R.]

D. Finishing operations:

[For text of subitem (1), see M.R.]

(2) equipment ~~vented~~ venting particulate matter (PM) or particulate matter less than ten microns (PM-10) inside a building used for (for example: buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic, precision parts, leather, metals, plastics, masonry, carbon, wood, or glass, equipment) provided that emissions from the equipment are:

[For text of units (a) and (b), see M.R.]

[For text of items E to G, see M.R.]

H. Miscellaneous:

[For text of subitems (1) to (5), see M.R.]

(6) equipment used exclusively for melting or application of wax; and

(7) nonasbestos equipment used exclusively for bonding lining to brake shoes; and

(8) cleaning operations: alkaline/phosphate cleaners, associated cleaners, and associated burners.

[For text of item I, see M.R.]

J. Fugitive dust emissions from unpaved entrance roads and parking lots, except from a stationary source applying for an Option D registration permit under part 7007.1130. ~~A stationary source applying for an Option D registration permit must account for fugitive emissions from roads and parking lots in determining eligibility under part 7007.1130.~~

[For text of subp 4, see M.R.]

### 7007.1400 ADMINISTRATIVE PERMIT AMENDMENTS.

Subpart 1. **Administrative amendments allowed.** The agency may make the permit amendments described in this subpart through the administrative permit amendment process described in this part. An owner or operator of a stationary source shall request an administrative amendment if changes are to be made under item B or E:

[For text of items A and B, see M.R.]

C. an amendment requiring the permittee to comply with additional, more frequent, or expanded, testing, monitoring, record keeping, or reporting requirements;

[For text of items D to G, see M.R.]

H. an amendment to extend a deadline in a permit by no more than 120 days, provided that the agency may only extend a deadline established by an applicable requirement described in part 7007.0100, subpart 7, items A to K, if the agency has been delegated authority to make such extensions by the administrator. Notwithstanding the previous sentence, the agency may do an administrative amendment to extend a testing deadline in a permit up to 365 days if the agency finds that the extension is needed to allow the permittee to test at worst case conditions as required by part 7017.2025, subpart 2.

[For text of subps 2 to 7, see M.R.]

**7007.1450 MINOR AND MODERATE PERMIT AMENDMENTS.**

Subpart 1. **Minor and moderate amendment exclusions.** The agency may amend a permit using the minor and moderate permit amendment processes described in this part if the amendments are described in subparts 2 and 3, and if the amendments do not:

A. amend existing permit terms related to monitoring (including test methods), record keeping, reporting, or compliance certification requirements ~~other than adding new requirements, eliminating the requirements if they are rendered meaningless because the only emissions to which the requirements apply will no longer occur, or changing from one validated reference test method for a pollutant and source category to another~~ which are major amendments under part 7007.1500, subpart 1, item A;

[For text of items B to E, see M.R.]

Subp. 2. **Minor amendment applicability.** Except as provided in subpart 1, the agency may amend a permit to allow a modification under the minor permit amendment process of this part, if the modification is described in either item A or B.

A. The modification will not cause an increase in emissions of an air pollutant listed below in an amount greater than the threshold:

Pollutant	Threshold
NO <sub>x</sub>	9.13 pounds per hour
SO <sub>2</sub>	9.13 pounds per hour
VOCs	9.13 pounds per hour
PM-10	3.42 pounds per hour
CO	22.80 pounds per hour
HAPs	Hazardous air pollutant thresholds listed in part 7007.1251
<u>Lead</u>	<u>.11 pounds per hour</u>

B. The modification will not cause an increase in emissions of a hazardous air pollutant at a major source, as defined in Code of Federal Regulations, title 40, section 63.2, above the de minimis emission rates established in the rules promulgated by the administrator under section 112(g) of the act. This item becomes effective when the rules promulgated by the administrator under section 112(g) of the act become effective.

For purposes of ~~the previous sentence~~ this part, whether or not the modification will cause an increase in emissions shall be calculated as described in part 7007.1200. Modifications which would otherwise qualify for a minor or moderate amendment under this part may be title I modifications, for which a major amendment is required, using the methods of calculation required under title I of the act. Permittees are reminded to review the definition of title I modifications and requirements of title I of the act.

[For text of subps 3 to 9, see M.R.]

**7007.1500 MAJOR PERMIT AMENDMENTS.**

Subpart 1. **Major permit amendment required.** A "major permit amendment" is required for any modification at a permitted stationary source that is not allowed under parts 7007.1250 and 7007.1350 and for which an amendment cannot be obtained under

**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.

## Proposed Rules

the administrative permit amendment provisions of part 7007.1400, or the minor or moderate permit amendment provisions of part 7007.1450. The following always require major permit amendments:

A. any significant amendment to existing monitoring, reporting, or record keeping requirements in the permit other than adding new requirements, eliminating the requirements if they are rendered meaningless because the only emissions to which the requirements apply will no longer occur, or changing from one validated reference test method for a pollutant and source category to another;

[For text of items B to E, see M.R.]

[For text of subps 2 to 4, see M.R.]

### 7009.1000 AIR POLLUTION EPISODES.

Parts 7009.1000 to 7009.1110 apply to any owner or operator of any emission facility or stationary source having allowable emissions of any single air pollutant of 250 or more tons per year located within or having air pollutant emissions affecting any area within Minnesota for which an air pollution alert, air pollution warning, air pollution emergency, or air pollution significant harm episode has been declared by the commissioner.

### 7009.1040 CONTROL ACTIONS.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Episode emission reduction plan.** The owner or operator of each emission facility or stationary source located ~~within~~ in an area of the state designated by the commissioner as having exceeded the alert levels in part 7009.1060, table 1, within the last ten years and having allowable ~~air pollutant~~ emissions of at least more than 250 tons per year of the pollutant causing the episode. ~~shall within 90 days of the effective date these parts~~ submit to the commissioner an episode emission reduction plan to be implemented at the facility or stationary source in the event of a declaration by the commissioner of an air pollution episode. The plan shall be submitted to the commissioner within 90 days of the designation of the area or by September 1, 1995, whichever is later. The plan shall be consistent with the emission reduction objectives in subpart 4 and shall designate at least two individuals to be notified in the event of the declaration of an air pollution episode. The plan shall be subject to the approval of the commissioner. If the commissioner finds that the plan is inconsistent with such emission reduction objectives the plan shall be returned to the owner or operator along with a written statement of the reason(s) for disapproval. The owner or operator shall correct the deficiency within 30 days of notification of disapproval and shall resubmit the plan to the commissioner.

[For text of subps 4 and 5, see M.R.]

### 7011.0070 LISTED CONTROL EQUIPMENT AND CONTROL EQUIPMENT EFFICIENCIES.

Subpart 1. **Listed control equipment efficiencies.** Unless a part 70, state, or general permit specifies a different control efficiency, the owner or operator of a stationary source must at all times attain at least the control efficiency listed in Table A for each piece of listed control equipment at the stationary source. The applicable control efficiency for a type of listed control equipment and a given pollutant is determined by whether air emissions are discharged to the control equipment through a hood or through a total enclosure. The control equipment efficiencies in Table A do not apply to any hazardous air pollutant. The owner or operator of a stationary source that is subject to the control efficiencies given for hoods in Table A must evaluate, on a form provided by the commissioner, whether the hood conforms to the design and operating practices recommended in "Industrial Ventilation - A Manual of Recommended Practice, American Conference of Governmental Industrial Hygienists," and must include with the permit application the certification required in subpart 3.

#### CONTROL EQUIPMENT EFFICIENCY-TABLE A

ID#	CONTROL EQUIPMENT DESCRIPTION	POLLUTANT	CONTROL EFFICIENCY	
			TOTAL ENCLOSURE	HOOD

#### PM CONTROL CATEGORY-CYCLONES

means a device where airflow is forced to spin in a vortex through a tube



## Proposed Rules

007	Centrifugal Collector (cyclone)-high efficiency means: a cyclonic device with parameters stated in drawing 1 and table 1	PM,PM-10	80%	64%
008	Centrifugal Collector (cyclone)-medium efficiency means: a cyclonic device with parameters stated in drawing 1 and table 1	PM,PM-10	50%	40%
009	Centrifugal Collector (cyclone)-low efficiency means: a cyclonic device with parameters stated in drawing 1 and table 1	PM,PM-10	10%	8%
076	Multiple Cyclone without Fly Ash Reinjection means: a cyclonic device with more than one tube where fly ash is not reinjected	PM,PM-10	80%	NA
077	Multiple Cyclone with Fly Ash Reinjection means: a cyclonic device with more than one tube where fly ash is reinjected	PM,PM-10	50%	NA
085	Wet Cyclone Separator or Cyclonic Scrubbers means: a cyclonic device that sprays water into a cyclone	PM,PM-10	50%	40%
012	PM CONTROL CATEGORY- ELECTROSTATIC PRECIPITATORS means: a control device in which the incoming particulate matter receives an electrical charge and is then collected on a surface with the opposite electrical charge			
	-assumed efficiency for boiler fly ash control	PM-10	40%	NA
	-assumed efficiency for other applications	PM-10	70%	56%

**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.

## Proposed Rules

### PM CONTROL CATEGORY-OTHER CONTROLS

016	Fabric Filter means: a control device in which the incoming gas stream passes through a porous fabric filter forming a dust cake	PM,PM-10	99%	79%
052	Spray Tower means: a control device in which the incoming gas stream passes through a chamber in which it contacts a liquid spray	PM,PM-10	20%	16%
053	Venturi Scrubber means: a control device in which the incoming gas stream passes through a venturi into which a low pressure liquid is introduced	PM,PM-10	90%	72%
055	Impingement Plate Scrubber means: a control device in which the incoming gas stream passes a liquid spray and is then directed at high velocity into a plate	PM,PM-10	25%	20%
058	<del>Mat or Panel</del> <u>HEPA and Other Wall Filter</u> means: a control device in which the incoming gas stream passes through a panel of coarse fibers. <u>Panels are Other Wall Filters means</u> removable panels for cleaning <del>or and</del> replacement <del>and, or liquid curtains for particulate removal that</del> provide little resistance to air flow	PM,PM-10	92%	NA

### VOC CONTROL CATEGORY

019	Afterburners (thermal or catalytic oxidation) means: a device used to reduce VOCs to the products of combustion through thermal (high temperature) oxidation or catalytic (use of a catalyst) oxidation in a combustion chamber	VOC	95%	<del>76%</del> <u>57%</u>
023	Flaring or Direct Combustor means: a device in which air, combustible organic waste gases, and supplementary fuel (if needed) react in the flame zone (e.g., at the flare tip) to destroy the VOCs	VOC	98%	<del>78%</del> <u>59%</u>

Drawing 1

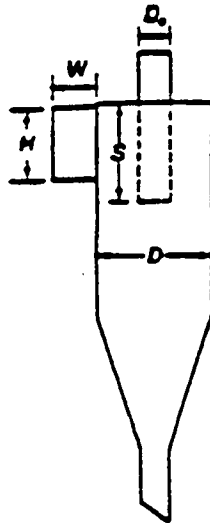


Table 1  
Cyclone Type

Ratio Dimensions	High Efficiency	Medium Efficiency	Low Efficiency
Height of inlet, H/D	$\leq 0.44$	$> 0.5$ <u><math>\geq 0.44</math></u> and $< 0.8$	$\geq 0.8$
Width of inlet, W/D	$\leq 0.2$	$> 0.2$ and $< 0.375$	$\geq 0.375$
Diameter of gas exit, $D_e/D$	$\leq 0.4$	$> 0.4$ and $< 0.75$	$\geq 0.75$
Length of vortex finder, S/D	$\leq 0.5$	$> 0.5$ and $< 0.875$	$\geq 0.875$

If one or more of the "ratio dimensions," as listed in table 1, are in a different efficiency category (high, medium, low), then the lowest efficiency category shall be applied.

[For text of subp 2, see M.R.]

**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.

## Proposed Rules

Subp. 3. **Certification for hoods.** The certification required by subpart 1 for hoods shall be signed by an engineer the responsible official, and shall state as follows:

"I certify under penalty of law that I ~~have evaluated~~ the aforementioned hood(s) has (have) been evaluated under my direction or supervision by qualified personnel and that, to the best of my knowledge and belief, the (each) hood conforms to the design and operating practices recommended in "Industrial Ventilation - A Manual of Recommended Practice, American Conference of Governmental Industrial Hygienists.""

### 7011.0080 MONITORING AND RECORD KEEPING FOR LISTED CONTROL EQUIPMENT.

The owner and operator of a stationary source shall comply with the monitoring and record keeping required for listed control equipment by the table in this part. The owner or operator shall maintain the records required by this part for a minimum of five years from the date the record was made. For hoods, the owner shall maintain at the stationary source the ~~engineer's~~ evaluation of each hood required in part 7011.0070, as well as a monthly record of the fan rotation speed, fan power draw, or face velocity of each hood, or other comparable air flow indication method.

EPA Identification Number(s)	Pollution Control Equipment Type	Monitoring Parameter(s)	Record Keeping Requirement
007, 008, 009, 076, 077	Centrifugal collector (cyclone)	Pressure drop	Record pressure drop every 24 hours if in operation
011A, 011B, 012A, 012B	Electrostatic precipitator	Primary and secondary voltage; primary and secondary current; sparking rate; and number of fields on-line	Record each parameter every 24 hours if in operation
016	Fabric filter (bag house)	Pressure drop	Record pressure drop every 24 hours if in operation
052	Spray tower	Liquid flow rate and pressure drop	Record each parameter every 24 hours if in operation
053, 055	Venturi scrubber, impingement plate scrubber	Pressure drop and liquid flow rate	Record each parameter every 24 hours if in operation
058A, 058B	HEPA and other wall filters	Condition of the filters, including, but not limited to, alignment, saturation, and tears and holes	Record of filter(s) condition every 24 hours if in operation

085	Wet cyclone separator	Pressure drop; and water pressure	Record each parameter every 24 hours if in operation
019	Thermal incinerator	Combustion temperature or inlet and outlet temperatures	Continuous hard copy readout of temperatures or manual readings every 15 minutes
019	Catalytic incinerator	Inlet and outlet temperatures; and catalyst bed reactivity as per manufacturer's specifications	Continuous hard copy readout of temperatures or manual readings every 15 minutes; and results of catalyst bed reactivity
023	Flaring	Temperature indicating presence of a flame	Continuous hard copy readout of temperatures or manual readings every 15 minutes

**7011.0150 PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE.**

No person shall cause or permit the handling, use, transporting, or storage of any material in a manner which may allow avoidable amounts of particulate matter to become airborne.

No person shall cause or permit a building or its appurtenances or a road, or a driveway, or an open area to be constructed, used, repaired, or demolished without applying all such reasonable measures as may be required to prevent particulate matter from becoming airborne. All persons shall take reasonable precautions to prevent the discharge of visible fugitive dust emissions beyond the lot line of the property on which the emissions originate. The commissioner may require such reasonable measures as may be necessary to prevent particulate matter from becoming airborne including, but not limited to, paving or frequent clearing of roads, driveways, and parking lots; application of dust-free surfaces; application of water; and the planting and maintenance of vegetative ground cover.

**7017.2040 CERTIFICATION OF PERFORMANCE TEST RESULTS.**

Subpart 1. **Certification required.** The test report shall contain a certification by the responsible parties that the test results have been reported accurately, that the field data is a true representation of the sampling procedures, and that the process data is a true indicator of the operating parameters of the emissions unit at the time of the performance test. The commissioner shall reject the results of a performance test if the test report does not contain the certifications required by subparts 2 to 5 or if any of the certifications in subparts 2 to 5 are determined to be false.

[For text of subs 2 to 5, see M.R.]

**REPEALER.** Minnesota Rules, part 7005.0100, subpart 10d, is 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.

## Proposed Rules

---

---

### Department of Revenue

#### Proposed Permanent Rules Relating to Lawful Gambling; Annual Audits and Reviews

##### DUAL NOTICE:

**NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING UNLESS 25 OR MORE PERSONS REQUEST A HEARING, AND**

**NOTICE OF HEARING IF 25 OR MORE REQUESTS FOR HEARING ARE RECEIVED**

**Introduction.** The State of Minnesota Department of Revenue intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedures Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rule within 30 days or by September 13, 1995, a public hearing will be held on Tuesday, September 26, 1995. To find out whether the rule will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after September 13, 1995 and before September 26, 1995.

**Agency Contact Person.** Comments or questions on this rule and written requests for a public hearing on the rule must be submitted to:

Roger Swanson  
Minnesota Department of Revenue  
Special Taxes Division; Lawful Gambling Unit  
10 Rive Park Plaza  
St. Paul, Minnesota 55146  
telephone: (612) 297-1772  
fax #: (612) 297-5192

**Subject of Rule and Statutory Authority.** The proposed rule concerns Lawful Gambling Annual Audits and Reviews. As a result of 1994 legislation, *Minnesota Statutes*, section 297E.06, subd. 4 was enacted. That provision requires that certain organizations licensed under Chapter 349 to conduct lawful gambling activities need to have annual audits or reviews performed by independent accountants licensed by the state of Minnesota. The statute directs the Commissioner of Revenue to prescribe the standards for the annual audits and reviews. The purpose of the proposed rule is to set forth these standards. In drafting the proposed rules, the department relied heavily upon input from a public advisory committee made up of accountants and gaming industry representatives. The proposed rule details accountant qualifications; provides for due dates and extensions; and sets forth detailed requirements of what should be in an annual audit or financial review.

*Minnesota Statutes*, section 270.06 grants the Commissioner of Revenue authority to promulgate rules concerning administration and enforcement of the gambling tax laws. A copy of the proposed rule is published in the *State Register* on August 14, 1995 and attached to this Notice as mailed.

**Comments.** You have until 4:30 p.m. on September 13, 1995, to submit written comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on September 13, 1995. Your written request for a public hearing must include your name, address and telephone number. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing.

**Modifications.** The proposed rule may be modified either as a result of public comment or as a result of the rule hearing process. Modifications must not result in a substantial change in the proposed rule as attached and as printed in the *State Register* and must be supported by data and views submitted to the agency or presented at the hearing. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Cancellation of Hearing.** The hearing scheduled for September 26, 1995 will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person after September 13, 1995 to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit written requests for a public hearing on the rule, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held at the Minnesota Department of

---

---

## Proposed Rules

Revenue, Skjogstad Seminar Room, 8th Floor, 10 River Park Plaza, St. Paul, Minnesota, 55146, on Tuesday, September 26, 1995, beginning at 9:00 a.m. and will continue until all interested persons have been heard. The hearing will continue, if necessary, at additional times and places as determined during the hearing by the administrative law judge. The administrative law judge assigned to conduct the hearing is Steve Mihalchick. Judge Mihalchick can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401; phone number 341-7600.

**Hearing Procedure.** If a hearing is held, you and all interest or affected persons including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should relate to the proposed rule. You may also mail written materials to the administrative law judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day 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. Comments received during this period will be available for review at the Office of Administrative Hearings. You and the agency may respond in writing within five business days after the submission period ends to any new information submitted. All written materials and responses submitted to the administrative law judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. No additional evidence may be submitted during the five-day period. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.0200 to 1400.1200 and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the administrative law judge.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule. It also includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing, if one is held. The statement may also be reviewed and copies obtained at the cost of reproduction from the Office of Administrative Hearings.

**Small Business Considerations.** *Minnesota Statutes*, section 14.115 requires an agency, when proposing a new rule or amending an existing rule that may affect small business, to consider certain methods of reducing the impact of the rule on small businesses. The impact of this rule on small businesses had been considered. The proposed rule does not impose new filing or payment requirements on small businesses and, therefore, is not expected to place any additional financial or administrative burden on small businesses. The rule is meant to prescribe the standards for the annual audits and reviews required by *Minnesota Statutes*, section 297.E.06, subd. 4. A Public Advisory Task Force was formed including representatives of organizations required to have these annual audits and reviews. The Task Force discussed the impact of the rule on small businesses and concluded that the rule would create a more level playing field among small and large organizations by setting forth uniform audit and review standards.

**Expenditure of Public Money by Local Public Bodies; Impact on Agricultural Lands.** Pursuant to *Minnesota Statutes*, section 14.11, the proposed rule will not require the expenditure of public monies by local units of government and will not have any direct adverse impact on agricultural lands in the states.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. The statute provides certain exceptions. Questions regarding this requirement should be directed to Jeanne Olson, Executive Director, Ethical Practices Board, First Floor South, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155; telephone (612) 296-1721.

**Adoption Procedure if No Hearing.** If no hearing is required, after the end of the comment period the agency may adopt the rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the attorney general's decision on the rule. If you want to be so notified, or wish to receive a copy of the adopted rule, submit your request to the agency contact person listed above.

**Adoption Procedure After the Hearing.** If a hearing is held, after the close of the hearing record, the administrative law judge will issue a report on the proposed rule. You may request to be notified 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 rule for a period of five working days. If you want to be so notified about the report, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. You may also request notification of the date on which the rule is adopted and filed with the Secretary of State. The agency's notice of adoption must be mailed on the same day that the rule is filed. If you want to be notified of the adoption, you may so indicate at the hearing or send a request in writing to the agency contact person at any time prior to the filing of the rule with the Secretary of State.

State of Minnesota

**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.

## Proposed Rules

---

Matthew G. Smith  
Commissioner of Revenue

Dated: 31 July 1995

Terese Koenig  
Director of Legal Services

### Rules as Proposed (all new material)

#### 8122.0100 SCOPE; PURPOSE.

*Minnesota Statutes*, section 297E.06, subdivision 4, mandates that the commissioner of revenue prescribe standards for the annual audit and review of certain organizations licensed to conduct lawful gambling in Minnesota. The purpose of this chapter is to set minimum standards for these annual audits and reviews.

#### 8122.0150 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter are defined in *Minnesota Statutes*, chapter 297E, unless separately defined under this part.

Subp. 2. **Accrual basis.** "Accrual basis" means the method of accounting in which revenue is recognized in the period earned and expense is recognized in the period incurred.

Subp. 3. **Audit.** "Audit" means the examination of accounting records with the expression of an opinion on whether the financial statements of the organization present fairly, in all material respects, the financial position, results of operations, and its cash flows, in conformity with the regulatory basis of accounting.

Subp. 4. **Certified public accountant; CPA.** "Certified public accountant" or "CPA" means a person who is licensed as a certified public accountant by the Minnesota Board of Accountancy.

Subp. 5. **Cash basis.** "Cash basis" means the method of accounting in which revenues are recognized when actually received and expenses are recognized when actually disbursed.

Subp. 6. **Ending inventory.** "Ending inventory" means the cost of unopened pull-tab and tipboard deals, paddlewheels, unused bingo paper or sheets, and the cost of pull-tab, tipboard, and paddlewheel games in play on the last day of the month. Sales tax is excluded from ending inventory.

Subp. 7. **Licensed public accountant; LPA.** "Licensed public accountant" or "LPA" means a person who is licensed as a licensed public accountant by the Minnesota Board of Accountancy.

Subp. 8. **Material weakness.** "Material weakness" means a reportable condition in which the design or operation of the specific internal control structure elements do not reduce to a relatively low level the risk that material errors or irregularities could occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Subp. 9. **Regulatory basis.** "Regulatory basis" means a method of accounting other than generally accepted accounting principles. All receipts, allowable expenses, and lawful purpose expenditures are determined using the cash basis method of accounting with the exception of the cost of the games and taxes imposed under *Minnesota Statutes*, section 297E.02, subdivisions 1 and 6 (ten percent tax and combined receipts tax), which are recognized on the accrual basis method of accounting.

Subp. 10. **Reportable condition.** "Reportable condition" means significant deficiencies in the design or operation of the internal control structure which could adversely affect the organization's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

Subp. 11. **Review.** "Review" means the expression of a limited assurance, based on performing inquiry and analytical procedures, that there are no material modifications that should be made to the financial statements for the statements to be in conformity with the regulatory basis of accounting.

Subp. 12. **Year.** "Year," when used in defining an audit or review period, means the organization's fiscal year used for filing federal form 990 or 990-T (Unrelated Business Income Tax).

#### 8122.0200 ACCOUNTANTS QUALIFICATIONS.

Subpart 1. **License required.** An accountant must be an independent certified public accountant or independent licensed public account in good standing with the Minnesota State Board of Accountancy and licensed to practice in Minnesota.

Subp. 2. **Standards of independence.** The CPA and LPA shall maintain objectivity and be free of the appearance of conflicts of interest when discharging professional responsibilities needed to perform the audit or review. CPAs and LPAs shall adhere to the standards of objectivity and independence as established in the American Institute of Certified Public Accountants professional standards.



In addition, for purposes of this subpart, an individual CPA or LPA who is a member of an organization, or the accounting firm the individual belongs to, must not perform the organization's annual audit or review if one or more of the following occurred during the fiscal year:

- A. the CPA or LPA was an employee of the organization;
- B. the CPA or LPA was an officer of the organization, such as treasurer, executive director, chief executive officer, gambling manager, or president;
- C. the CPA or LPA served on the board of directors for the organization;
- D. the CPA or LPA served on a gambling committee or other committee with oversight or decision-making authority over gambling business transactions, other than in a member's capacity to approve gambling business transactions presented at monthly membership meetings as required under *Minnesota Statutes*, chapter 349; or
- E. in connection with the organization general fund, gambling fund, or any other organization fund, the CPA or LPA prepared or reconstructed accounting record source documents, consummated transactions, had custody over assets, exercised authority, or unduly exercised authority on behalf of the organization by assuming the role of employee or management.

#### **8122.0250 DUE DATE; EXTENSIONS.**

The annual audits and annual reviews required are due on or before the last day of the sixth month following the organization's fiscal year end or on an extended due date.

A written request to file the annual audit or annual review after the required due date must be submitted to the Department of Revenue by the required annual audit or annual review due date. The request must be signed by the organization's chief executive officer, general manager, or the independent accountant performing the audit. The request must include the:

- A. organization's name;
- B. organization's license number;
- C. organization's fiscal year end;
- D. reason for the request; and
- E. expected completion date.

An automatic 30-day extension will be granted in each fiscal year. Second requests for an extension or requests for extensions exceeding 30 days will be granted only upon a showing of reasonable cause.

#### **8122.0300 COMMUNICATION OF ILLEGAL ACTS, MATERIAL ERRORS, AND IRREGULARITIES.**

An organization is responsible to communicate illegal acts, material errors, and irregularities to the Department of Revenue in writing within ten days of notification from auditors that such acts, errors, or irregularities exist. The organization must include a copy of all correspondence or notes taken during meetings between the independent auditors and the licensed organization specifically detailing the illegal acts, material errors, and irregularities.

#### **8122.0350 ACCOUNTING RECORDS.**

All licensed organizations are required to maintain records that account for the assets, liabilities, and fund balance of their lawful gambling operation. These records must also account for their gambling revenue, prize payouts, allowable expenses, and lawful purpose expenditures.

If, in the opinion of the independent CPA or the independent LPA engaged to conduct the annual financial audit or review, the licensed organization has not maintained proper accounting records in a form that can be audited or reviewed, the accountant must either:

- A. notify the organization in writing of the deficiencies that exist and the corrective action required, with an estimate of the cost to generate auditable records or the reason the cost cannot be estimated; or
- B. terminate the audit engagement.

**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.

## Proposed Rules

---

### 8122.0400 ACCOUNTANT'S WORKPAPERS.

Workpapers are the records kept by the independent CPA or independent LPA of the procedures followed, tests performed, information obtained, and conclusions reached pertinent to the examination and review of the financial statements of a licensed gambling organization. Workpapers must include, but are not limited to, work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of organization documents, and schedules or commentaries prepared or obtained by the accountant in the course of the audit and that support the accountant's opinion or assurance.

The communication with the organization must include, but is not limited to, matters relating to the auditor's responsibility, significant accounting policies, the process used in obtaining management judgments, significant audit adjustments, auditor responsibilities for other information, auditor disagreements with organization's management, auditor views on auditing and accounting matters for which other auditors were contacted, major issues discussed with management prior to retention, and any difficulties encountered while performing the audit.

Every licensed gambling organization required to file an audit or review shall require the accountant, through the licensed gambling organization, to make available for review by the Department of Revenue the workpapers and communications with the organization prepared in the conduct of the audit. The licensed gambling organization shall require that the accountant retain the workpapers for a period of not less than 3-1/2 years after the opinion date of the audit report.

### 8122.0450 TERMINATION OF AUDIT ENGAGEMENT OR REVIEW.

If for any reason the audit engagement or review is terminated by either the licensed organization or the independent accountant prior to its completion and filing of the annual financial audit report or financial review report, the accountant is, within ten days of termination, required to make a written report to the Department of Revenue detailing the reason or reasons for the termination.

### 8122.0500 LESS THAN A 12-MONTH AUDIT OR REVIEW.

An organization whose license is active, discontinued, terminated, or expired at the organization's fiscal year end, is required to complete and file an audit or a review, if the organization's gross receipts exceed \$50,000 as specified in *Minnesota Statutes*, section 297E.06.

In the year an organization commences gambling activity, the audit or review required may cover the operations of the organization for a period of less than 12 months.

In the year an organization's license expires, is discontinued, or terminated, the audit or review will be through the organization's fiscal year end, unless the organization's license termination plan has been approved by the Gambling Control Board prior to the fiscal year end. In this circumstance, the organization has the option of performing the required audit or review through the license termination plan approval date, or another date specified by the organization that is between the approval date and the last day of the fiscal year.

### 8122.0550 AUDIT.

**Subpart 1. Minimum requirements.** The annual financial audits must be prepared on the regulatory basis of accounting and contain, at a minimum, an opinion, financial statements, supplemental schedules, a report on internal controls, a response to internal controls report, and other information as noted.

**Subp. 2. Opinion.** An audit opinion expressed in accordance with generally accepted auditing standards regarding the fairness of the presentation of the financial statements must be properly signed and dated by the individual CPA or LPA from the accounting firm who performed the audit. The name and address of the accounting firm must be listed.

**Subp. 3. Financial statements.** The financial statements must be comparative financial statements showing the current year and previous year's financial information. The statements must be presented in a format prescribed by and acceptable to the commissioner of revenue. The financial statements required are as follows:

A. The statement of assets, liabilities, and fund balance must include all assets, liabilities, and the fund balance of the gambling operations as follows, if applicable:

- (1) all game starting banks;
- (2) all gambling checking accounts;
- (3) all savings accounts;
- (4) all certificates of deposit and other negotiable instruments;
- (5) inventory from pull-tabs, tipboards, paddlewheels, bingo, and raffles, in play and unused;
- (6) fund losses;
- (7) excess cash shortages to be reimbursed;

- (8) other assets specifically identified;
- (9) accrued Minnesota ten percent gambling tax;
- (10) accrued combined receipts taxes;
- (11) unpaid cost of games, plus sales tax;
- (12) loans from all sources;
- (13) other liabilities specifically identified; and
- (14) fund balance (profit carryover).

B. The statement of revenue and expense must include revenues and expenses from the gambling operations and include, at a minimum:

- (1) gross receipts detailed by game type, such as bingo, pull-tabs, tipboards, paddlewheels, and raffles, including ideal or actual gross receipts from games found to be missing or unreported, respectively;
- (2) actual prizes paid out detailed by game type including ideal or actual prizes from games found to be missing or unreported, respectively;
- (3) interest income;
- (4) gross profit;
- (5) allowable expenses;
- (6) lawful purpose expenditures detailed by ten percent tax, combined receipts tax, unrelated business income tax, federal form 730 and form 11C tax, federal and state income taxes, real estate taxes, and donations; and
- (7) board-approved expenditures.

C. The statement of changes in fund balance must include, at a minimum:

- (1) beginning fund balance (profit carryover);
- (2) profit or loss for the year;
- (3) ending fund balance (profit carryover); and
- (4) other adjustments.

D. The annual audit must include notes to the financial statements. The notes to the financial statements must include, at a minimum:

- (1) nature of organization;
- (2) basis of presentation of the financial statements;
- (3) related party activity;
- (4) restrictions on assets;
- (5) subsequent events;
- (6) uncertainties;
- (7) commitments such as mortgages, rent, donations, or all taxes not paid or not filed, if material;
- (8) contingent liabilities;
- (9) board-approved expenditures;
- (10) games tested and results: of the games tested, state if the games tested included games with unsold tickets, if games were tested from all active sites and the types of games tested, such as pull-tabs and tipboards; and
- (11) a list of all forms of gambling conducted by the organization which must be confirmed by the chief executive officer.

**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.

## Proposed Rules

Subp. 4. **Supplemental schedules.** The annual audit must include the following supplemental schedules:

A. An allowable expense comparison schedule that compares the actual allowable expense amount to the statutory limit set for allowable expenses. The schedule must include, at a minimum:

- (1) gross profit for the year;
- (2) total allowable expense limit. Determined by multiplying the gross profit for the year by 50 percent. If bingo was conducted during the year, list the gross profit from bingo and multiply by four percent. The two amounts added together determine the total allowable expense limit;
- (3) allowable expenses expended, which is the total amount of actual allowable expenses from the revenue and expense statement; and
- (4) expenses below or above the allowable limit, which is the amount by which the allowable expenses expended is below or above the statutory total allowable expense limit.

B. The annual audit must include a reconciliation of the gambling operations bank accounts to the reported profit carryover. The reconciliation must include, at a minimum:

- (1) all assets and liabilities as required in the statement of assets, liabilities, and fund balance as noted in subpart 3, item A;
- (2) a comparison of the audited fund balance (profit carryover) made to the Department of Revenue's fund balance (profit carryover) as of the fiscal year end;
- (3) any difference between the adjusted gambling fund balance and the fund balance (profit carryover) is a variance; and
- (4) any or all of the items that identify the variance if known.

C. The annual audit must include a reconciliation between the number of pull-tab, paddlewheel, and tipboard games played to the number of pull-tab, paddlewheel, and tipboard games reported on schedule B, Report of Non-bar Coded Games Played, Destroyed or Lost, or B-2, Report of Bar Coded Games Played, Destroyed or Lost, for the fiscal year audited. The schedule must include, at a minimum:

- (1) the cost and number of games in beginning inventory;
- (2) the cost and number of games purchased during the year audited;
- (3) the cost and number of games available during the year audited;
- (4) the cost and number of games in ending inventory as of the last day of the organization's fiscal year end;
- (5) the cost and number of games used which is determined by subtracting the ending inventory from total games available;
- (6) the number of games reported as played, lost, or destroyed on schedule B, Report of Non-bar Coded Games Played, Destroyed or Lost, or B-2, Report of Bar Coded Games Played, Destroyed or Lost; and
- (7) calculate the difference between the games determined as played and games reported as played, lost, or destroyed on schedule B, Report of Non-bar Coded Games Played, Destroyed or Lost, or B-2, Report of Bar Coded Games Played, Destroyed or Lost.

Subp. 5. **Sampling and testing; closed games.** Closed games and occasions must be tested independently by the CPA or LPA based upon criteria set by the CPA or LPA within professional standards. The sampling and testing of tipboard, pull-tab, paddleticket, bingo, and raffle closed games must meet the following requirements:

A. When a minimum sample size is required, the random or systematic method of sampling will be used. When a minimum sample is expanded, the expanded portion of the sample may use random, systematic, or haphazard methods. When a minimum sample is not required, the sample method may be random, systematic, or haphazard. The following chart of gross receipts will be used to determine the minimum size of a sample for closed pull-tab and tipboard games.

Gross Receipts		Minimum Sample Size
\$0	to \$999,999	10 games
\$1,000,000	to \$2,499,999	20 games
\$2,500,000	to \$4,499,999	40 games
over \$5,000,000		60 games

There is no minimum sample size requirement for testing paddletickets, bingo, and raffles. Closed games and occasions will be sampled independently by the CPA or LPA using judgment based on professional standards.

B. Closed tipboard and pull-tab games selected in the sample will be tested for the following minimum criteria:

- (1) each game specified in the sample was available from closed-deal storage;
- (2) the following items as reported on schedule B, Report of Non-bar Coded Games Played, Destroyed or Lost, or B-2, Report of Bar Coded Games Played, Destroyed or Lost, must be compared against test results for the same items, and differences shown:
  - (a) ideal gross receipts;
  - (b) ideal prizes;
  - (c) total value of unsold tickets;
  - (d) gross receipts;
  - (e) total value of prizes paid;
  - (f) net receipts;
  - (g) cash in hand;
  - (h) cash long or short; and
  - (i) date removed from play;
- (3) each deposit ticket meets the gambling receipt deposit requirements in *Minnesota Statutes*, section 349.19, subdivision 2;
- (4) each deposit was recorded at the bank within four business days after the game was completed;
- (5) each prize receipt form was properly completed for prizes awarded of \$50 or more and for last sale prizes of \$20 or more;
- (6) each redeemed prize winning ticket was adequately defaced; and
- (7) each game flare is easily available from storage.

C. The results of closed game sampling and testing must be provided to the organization upon a request from the organization.

**Subp. 6. Report on internal control structure and other matters.**

A. A report about internal control structure reportable conditions observed, or evidenced by testing, during the course of an audit, that could affect the organization's ability to record, process, summarize, and report financial data must be submitted. The report may elevate a condition to that of a material weakness, when the magnitude of the condition may be considered material in relation to the financial statements being audited. This report must follow and the department adopts and incorporates by reference the most recent addition of the internal audit standards as provided by audit section 325.11 of the American Institute of Public Accountants - "The Standards of Field Work - Communication of Internal Control Structure Related Matters Noted in an Audit," published June 1, 1994. This incorporation is not subject to frequent change and is available to the public through the Minitex inter-library loan system. If no reportable conditions or material weaknesses are detected, a report must be submitted stating that no material weaknesses were detected. This report is required under subpart 1.

A list of the types of gambling audit reportable condition or material weakness to include in this report follows in subitems (1) to (12). This list is illustrative, and not all-inclusive:

- (1) absence of appropriate segregation of duties;
- (2) inadequate provision for safeguarding of inventory, cash, or other assets;
- (3) excessive cash shortages or overages;
- (4) material delinquent taxes due to state or federal taxing authorities;
- (5) lack of required accounting records maintained;

**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.

## Proposed Rules

---

- (6) lack of or inaccurate preparation of bank reconciliations or gambling fund reconciliations;
- (7) material differences between games played and games reported as played;
- (8) nonuse or inaccurate use of perpetual or physical inventories for all forms of gambling engaged in;
- (9) lack of specific required identification for tracking and accountability of deposit tickets;
- (10) material underreporting or overreporting of allowable expenses, lawful purpose expenditures, or board-approved expenditures;
- (11) failure to properly account for and report fund losses, form LG-250, Fund Loss Report; and
- (12) inattention to and lack of correction to prior year reportable conditions and material weaknesses.

B. A regulatory checklist questionnaire must be included with the report from item A, on a form prescribed by the commissioner. Responses to questions on this checklist must be based on findings and information collected during the course of the audit.

Subp. 7. **Organization's response to report on internal control structure.** The licensed organization shall file with the Department of Revenue a response to the reportable conditions item by item, including any remedial action taken or proposed by the organization. This response may be submitted with the annual audit or review or be filed separately within 60 days after the due date of the annual audit or review. The response must include the following items:

A. Any profit carryover variance as shown on the reconciliation of profit carryover supplemental schedule must be identified. All identified variances which require amendments to tax returns must be amended and submitted to the Department of Revenue along with supporting documentation. The response must indicate if such amendments have been submitted to the Department of Revenue.

Variances which require adjustments instead of amendments should be adjusted by sending a letter to the Department of Revenue requesting an adjustment along with supporting documentation.

Unidentified variances must be investigated by the organization and identified.

B. If the comparison of games played to games reported on schedule B, Report of Non-bar Coded Games Played, Destroyed or Lost, or B-2, Report of Bar Coded Games Played, Destroyed or Lost, shows a difference, the organization must respond to the reportable conditions item by identifying and stating if the game difference was due to the games being:

- (1) missing or lost;
- (2) destroyed, with state approval;
- (3) played and unreported; or
- (4) reported in following month.

C. Specific items as noted on the internal control structure report must be responded to.

If no response is received from the organization, the organization must submit to the Department of Revenue a copy of the audit management letter upon request.

Subp. 8. **Other.** The annual audit must contain the following items:

- A. the organization's license number on the front of the audit report; and
- B. the Minnesota ID number on the front of the audit report.

### 8122.0600 REVIEW.

Subpart 1. **Minimum requirements.** The annual financial reviews must be prepared on the regulatory basis of accounting and contain, at a minimum, an expression of limited assurance, financial statements, supplemental schedules, and other information as noted.

Subp. 2. **Limited assurance.** An expression of limited assurance regarding the financial statements must be submitted which must be properly signed and dated by the individual CPA, LPA, or firm who performed the review. The expression of limited assurance must also include the name and address of the accounting firm that performed the review.

Subp. 3. **Financial statements.** The financial statements must be comparative financial statements showing the current year and previous year's financial statements. The financial statements required are as follows:

A. The statement of assets, liabilities, and fund balance, regulatory basis, must include all assets, liabilities, and the fund balance of the gambling operations as follows, if applicable:

- (1) all game starting banks;
- (2) all gambling checking accounts;

- (3) all savings accounts;
- (4) all certificates of deposit and other negotiable instruments;
- (5) inventory from pull-tabs, tipboards, paddlewheels, bingo, and raffles (in play and unused);
- (6) fund losses;
- (7) excess cash shortages to be reimbursed;
- (8) other assets;
- (9) accrued Minnesota ten percent gambling tax;
- (10) accrued combined receipts taxes;
- (11) unpaid cost of games plus sales tax;
- (12) loans from all sources other than gambling;
- (13) other liabilities; and
- (14) fund balance (profit carryover).

B. The statement of revenue and expense must include revenues and expenses from the gambling operations and include, at a minimum:

- (1) gross receipts detailed by game type, such as bingo, pull-tabs, tipboards, paddlewheels, and raffles, including ideal or actual gross receipts from games found to be missing or unreported respectively;
- (2) interest income;
- (3) actual prizes paid out, detailed by game type, including ideal or actual prizes from games found to be missing or unreported, respectively;
- (4) gross profit;
- (5) allowable expenses;
- (6) lawful purpose expenditures detailed by ten percent tax, combined receipts tax, unrelated business income tax, federal form 730, Monthly Federal Wagering Tax, and form 11C, Federal Wagering Tax Stamp, federal and state income taxes, real estate taxes, and donations; and
- (7) board-approved expenditures.

C. The statement of changes in fund balance must include, at a minimum:

- (1) beginning fund balance (profit carryover);
- (2) profit or loss for the year; and
- (3) ending fund balance (profit carryover).

D. The annual review must include notes to the financial statements. The notes to the financial statements must include at a minimum:

- (1) nature of organization;
- (2) basis of presentation of the financial statements;
- (3) related party activity;
- (4) restrictions on assets;
- (5) subsequent events;
- (6) uncertainties;
- (7) commitments such as mortgages, rent, donations, or all taxes not paid or not filed if material;
- (8) contingent liabilities;

**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.

## Proposed Rules

---

(9) board-approved expenditures; and

(10) list all forms of gambling conducted by the organization which should be confirmed by the chief executive officer.

Subp. 4. **Supplemental schedules.** The annual review must include the following supplemental schedules:

A. The allowable expense comparison schedule comparing the actual allowable expense amount to the statutory limit set for allowable expenses. The schedule must include, at a minimum:

(1) gross profit for the year;

(2) total allowable expense limit, determined by multiplying the gross profit for the year by 50 percent. If bingo was conducted during the year, list the gross profit from bingo and multiply by four percent. The two amounts added together determine the total allowable expense limit;

(3) allowable expenses expended which is the total amount of actual allowable expenses from the revenue and expense statement; and

(4) expenses below or above the allowable limit which is the amount by which the allowable expenses expended is below or above the statutory total allowable expense limit.

B. The annual review must include a reconciliation of the gambling operations bank accounts to the reported profit carryover. The reconciliation must include, at a minimum:

(1) all assets and liabilities as required in the statement of assets, liabilities, and fund balance as noted in part 8122.0550, subpart 3, item A;

(2) a comparison of the audited fund balance (profit carryover) made to the Department of Revenue's fund balance (profit carryover) as of the fiscal year end;

(3) any difference between the adjusted gambling fund balance and the fund balance is a variance; and

(4) any or all of the items that identify the variance, if known.

C. The list of games in ending inventory must include all pull-tab, tipboard, and paddlewheel games in play and unused as of the last day of the fiscal year audited.

Subp. 5. **Other.** The annual review must contain the following items:

A. the organization's license number on the front of the review report; and

B. the Minnesota ID number on the front of the review report.

### **8122.0650 FAILURE TO FILE OR FAILURE TO MEET REQUIREMENTS.**

Subpart 1. **Failure to file.** If an organization fails to file the required annual audit or review, the Department of Revenue will request the delinquent items. If the organization fails to respond to the request and correct the delinquency, the Gambling Control Board will be informed and a suspension of the organization's gambling activity will be requested. An organization may also be ineligible for relicensing until the delinquent reports are submitted. The Gambling Control Board may also issue fines for noncompliance with the annual audit and review requirements.

Subp. 2. **Failure to meet requirements.** If the audit or review fails to comply with all or part of the audit or review requirements, the audit or review will be deemed deficient and not satisfying the annual audit or review requirements. If an organization fails to file the required annual audit or review or fails to comply with any part of the requirements for the annual audit or review, the Department of Revenue will request the delinquent items. If the organization fails to respond to the request and correct the delinquency, the Gambling Control Board will be informed and a suspension of the organization's gambling activity will be requested. An organization may also be ineligible for relicensing until the delinquent reports are submitted. The Gambling Control Board may also issue fines for noncompliance with the annual audit and review requirements.



## 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 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 Administration

### Adopted Permanent Rules Relating to Payment of Recurring Costs of Emergency 911 Telephone Systems

The rules proposed and published at *State Register*, Volume 19, Number 42, pages 2113-2114, April 17, 1995 (19 SR 2113), are adopted as proposed.

## Higher Education Coordinating Board

### Adopted Permanent Rules Relating to Minnesota State Postsecondary Review Program

The rules proposed and published at *State Register*, Volume 19, Number 27, pages 1441-1451, January 3, 1995 (19 SR 1441), are adopted with the following modifications:

#### Rules as Adopted

#### 4890.0500 REVIEW STANDARDS.

Subp. 11. **Student complaint process.** The board shall review an institution's procedures for investigating and resolving student complaints regarding wrongs, grievances, or injuries pertaining to the standards in part 4890.0500. To be in compliance with this subpart, an institution must publish and follow the procedures in items A and B.

A. An institution shall establish, publish, and document that it administers a complaint process to receive, investigate, and respond to student complaints regarding wrongs, grievances, or injuries pertaining to the standards in part 4890.0500. The process must include:

(1) the institution's definition of the term "complaint" within the guidelines in this subpart;

## Department of Health

### Adopted Permanent Rules Relating to Nursing Home Regulatory Reform

The rules proposed and published at *State Register*, Volume 19, Number 16, pages 785-819, October 17, 1994 (19 SR 785), are adopted with the following modifications:

#### Rules as Adopted

#### 4655.0090 SCOPE.

~~The rules in~~ This chapter ~~apply~~ applies to both nursing homes and boarding care homes unless the context clearly indicates other-

**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.

## Adopted Rules

wise. This chapter does not apply to nursing homes in those areas covered by the dietary and food services rules in parts 4658.0600 to 4658.0685 4658.0010 to 4658.1365.

### 4658.0010 DEFINITIONS.

Subp. 5. **Licensed nurse.** "Licensed nurse" means a registered nurse or a licensed practical nurse.

~~Subp. 6. Licensee.~~ "Licensee" means the person or governing body to whom the license is issued. The licensee is responsible for compliance with this chapter.

Subp. 6. **Nurse.** "Nurse" means a registered nurse or a licensed practical nurse licensed by the Minnesota Board of Nursing, or exempt from licensure and practicing in accordance with Minnesota Statutes, sections 148.171 to 148.285.

Subp. 7. **Nurse practitioner.** "Nurse practitioner" means a registered nurse who has graduated from a program of study designed to prepare a registered nurse for advanced practice as a nurse practitioner and who is certified through a national professional nursing organization listed in part 6330.0350.

Subp. 7. 8. **Nursing assistant.** "Nursing assistant" means a nursing home employee who is assigned by the director of nursing services to provide or assist in the provision of nursing or nursing-related services under the supervision of a registered nurse. Nursing assistant includes nursing assistants employed by nursing pool companies but does not include a licensed health professional.

Subp. 9. **Nursing care.** "Nursing care" has the meaning given it in Minnesota Statutes, section 144A.01, subdivision 6.

Subp. 8- 10. **Nursing home.** "Nursing home" means a licensed facility or unit used to provide care for aged or infirm persons who require nursing care and related services in accordance with this chapter. A nursing home license is required for the facility if any of the residents need or receive nursing care. Examples of nursing care are:

(1) bedside care, including administration of medications, irrigations and catheterizations, and applications of dressings or bandages;

(2) rehabilitative nursing techniques; or

(3) other treatments prescribed by a physician which require technical knowledge, skill, and judgment as possessed by a licensed nurse has the meaning given it in Minnesota Statutes, section 144A.01, subdivision 5.

Subp. 9- 11. **Nursing personnel.** "Nursing personnel" means registered nurses, licensed practical nurses, and nursing assistants.

Subp. 12. **Physician.** "Physician" means a person licensed by the Minnesota Board of Medical Practice, or exempt from licensure, and practicing in accordance with Minnesota Statutes, chapter 147.

Subp. 13. **Physician designee.** "Physician designee" means a nurse practitioner or physician assistant who has been authorized in writing by the physician to perform medical functions.

Subp. 10- 14. **Resident.** "Resident" means an individual cared for in a nursing home.

Subp. 15. **Time periods.** "Time periods" means the minimum and maximum time allowed to complete an activity. For purposes of this chapter, time periods means:

A. "Weekly" means a time period which requires an activity to be completed at least 52 times a year within intervals ranging from six to eight days.

B. "Monthly" means a time period which requires an activity to be completed at least 12 times a year within intervals ranging from 27 to 33 days.

C. "Quarterly" means a time period which requires an activity to be performed at least four times a year within intervals ranging from 81 to 99 days.

Subp. 16. **Volunteer.** "Volunteer" means a person who, without monetary or other compensation, provides services to residents or to the nursing home.

### 4658.0020 LICENSING IN GENERAL.

Subp. 2. **License fees.** Each application for either an initial or renewal license to operate a nursing home must be accompanied by a fee based upon the formula as provided by Minnesota Statutes, section 144.122. A bed must be licensed if it is available for use by resident residents. If the number of licensed beds is increased during the term of the license, a full year's fee for each additional bed must be paid. There is no refund for a decrease in licensed beds.

Subp. 5. **Separate licenses.** Separate licenses are required for institutions maintained on separate, noncontiguous premises even though operated under the same management. A separate license is not required for separate buildings maintained by the same owner on the same premises.

**4658.0025 PROCEDURES FOR LICENSING NURSING HOMES.**

Subp. 16. **Disclosure of managerial employees.** A nursing home license application must provide identify the name and address of all administrators, assistant administrators, directors of nursing, medical directors, and ~~service directors~~ all other managerial employees, as defined in Minnesota Statutes, section 144A.01, subdivision 8, and indicate their previous work experience in nursing homes during the past two years.

**4658.0045 PENALTIES FOR LICENSING RULE VIOLATIONS.**

Penalty assessments will be assessed on a daily basis for violations of parts 4658.0010 to 4658.0035 and are as follows:

**4658.0050 LICENSEE.**

Subp. 2. **Specific duties.** The licensee must develop written bylaws or policies for the management and operation of the nursing home and for the provision of resident care, which are must be available to all members of the governing body, and must assume legal responsibility for matters under its control, for the quality of care rendered and for compliance with applicable laws and rules of legally authorized agencies relating to the safety and sanitation of nursing homes, or which otherwise relate directly to the health, welfare, and care of residents.

Subp. 3. **Responsibilities.** A licensee is responsible for:

A. Full disclosure of each person having an interest of ten percent or more of the ownership of the home to the department with any change reported in writing within 14 days of its occurrence after the licensee knew of or should have known of the transfer, whichever occurs first. In case of corporate ownership, the name and address of each officer and director must be specified. If the home is organized as a partnership, the name and address of each partner must be furnished. In the case of a home operated by a lessee, the persons or business entities having an interest in the lessee organization must be reported and an executed copy of the lease agreement furnished. If the home is operated by the holder of a franchise, disclosure must be made as to the franchise holder who must also furnish an executed copy of the franchise agreement.

B. Appointment of a licensed nursing home administrator who is responsible for the operation of the home in accordance with law and established policies and whose authority to serve as administrator is delegated in writing. ~~The administrator of a hospital with a convalescent and nursing care unit may serve both units according to Minnesota Statutes, section 144A.04.~~

C. Notification of the termination of service of the administrator and the appointment of a replacement must be given within five working days in writing to the department by the governing body of the home. If a licensed nursing home administrator is not available to assume the position immediately, notification to the department must include the name of the person temporarily in charge of the home. The governing body of a nursing home must not employ an individual as the permanent administrator until it is determined that the individual qualifies for licensure as a nursing home administrator in Minnesota under *Minnesota Statutes*, section 144A.04. The governing body of the nursing home must not employ an individual as an acting administrator or person temporarily in charge for more than 30 days unless that individual has secured an acting administrator license, as required by Minnesota Statutes, section 144A.27.

F. Provision of evidence of adequate financing, ~~property~~ proper administration of funds, and the maintenance of required statistics. A nursing home must have financial resources at the time of initial licensure to permit full service operation of the nursing home for six months without regard to income from resident fees.

**4658.0055 ADMINISTRATOR.**

Subpart 1. **Designation.** A nursing home must designate ~~one individual who is a licensed nursing home administrator to be in~~ immediate charge of the operation and administration of the nursing home, whether that individual is the licensee or a person designated by the licensee. The individual must have authority to carry out the provisions of this chapter and must be charged with the responsibility of doing so.

Subp. 2. **Serve only one nursing home.** The administrator must be full time, at least 35 hours per week, and serve only one nursing home and may not serve as the director of ~~nurses nursing services,~~ except as permitted by *Minnesota Statutes*, section 144A.04. For purposes of this subpart, "full time" means no less than 40 hours worked per week. The administrator at a hospital with a convalescent and nursing care unit may serve both according to Minnesota Statutes, section 144A.04.

Subp. 3. **Administrator's absence; requirements.** The administrator must not leave the premises without giving information as to where the administrator can be reached and without delegating authority to a person who is at least 21 years of age and capable of

**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.

## Adopted Rules

---

acting in an emergency and without giving information as to where the administrator can be reached. At no time may a nursing home be left without competent supervision. The person left in charge must have the authority to act in an emergency.

### 4658.0060 RESPONSIBILITIES OF ADMINISTRATOR.

The administrator is responsible for the:

F. maintenance of a weekly time schedule which shows each employee's name, job title, hours of work, and days off for each day of the week. The schedule must be dated and communicated to employees. The schedules, and time cards, and payroll records, or other written documentation of actual time worked and paid for must be kept on file in the home for three years and must be available to representatives from the department;

H. establishment of a recognized accounting system: ~~There must be financial resources at the time of initial licensure to permit full-service operation of the home for six months without regard to income from resident fees; and~~

### 4658.0065 RESIDENT SAFETY AND DISASTER PLANNING.

Subpart 1. **Safety program.** A nursing home must ~~have~~ develop and implement an organized safety program in accordance with a written safety plan. The written plan must be included in the orientation and in-service training programs of all employees and volunteers to ensure safety of residents at all times.

Subp. 5. **Drills.** Residents do not need to be evacuated during a drill except when ~~a~~ an evacuation drill is planned in advance.

### 4658.0070 QUALITY ASSESSMENT AND ASSURANCE COMMITTEE.

A nursing home must maintain a quality assessment and assurance committee consisting of the administrator, the director of nursing services, the medical director or other physician designated by the medical director, and at least three other members of the nursing home's staff, representing ~~all~~ disciplines directly involved in resident care. The quality assessment and assurance committee must identify issues with respect to which quality assurance activities are necessary and develop and implement appropriate plans of action to correct identified quality deficiencies. The committee must address, at a minimum, incident and accident reporting, infection control, and medications and pharmacy services.

### 4658.0075 OUTSIDE RESOURCES.

If a nursing home does not employ a qualified professional person to furnish a specific service to be provided by the nursing home, the nursing home must have that service furnished to residents under a written agreement with a person or agency outside the nursing home. The written agreement must specify that the service meets professional standards and principles that apply to professionals providing services in a nursing facility home, and that the service meets the same standards as required by this chapter.

### 4658.0080 NOTIFICATION OF BOARDS.

~~A nursing home must notify the applicable professional board when a licensed health professional is providing inappropriate services, inadequate care, or fails to respond to the needs of the residents.~~

### 4658.0085 NOTIFICATION OF CHANGE IN RESIDENT HEALTH STATUS.

A nursing home must develop and implement policies to guide staff decisions to consult physicians, physician assistants, and nurse practitioners, and if known, notify the resident's legal representative or an interested family member of a resident's acute illness, serious accident, or death. At a minimum, the director of nursing services, and the medical director or an attending physician must be involved in the development of these policies. The policies must have criteria which address at least the appropriate notification times for:

### 4658.0100 EMPLOYEE ORIENTATION AND IN-SERVICE EDUCATION.

Subp. 2. **In-service education.** A nursing home must provide in-service education. The in-service ~~training~~ education must be sufficient to ensure the continuing competence of employees, must address areas identified by the quality assessment and assurance committee, and must address the special needs of residents as determined by the nursing home staff. A nursing home must provide an in-service training program in rehabilitation for all nursing personnel to promote ambulation; aid in activities of daily living; assist in activities, self-help, maintenance of range of motion, and proper chair and bed positioning; and in the prevention or reduction of incontinence.

Subp. 3. **Reference materials.** Textbooks, periodicals, dictionaries, and other reference materials must be available and kept current. A nursing home must review the currency of these reference materials at least annually.

### 4658.0105 COMPETENCY.

A nursing home must ensure that direct care staff are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through the comprehensive resident assessments and described in the comprehensive plan of care, and are able to perform their assigned duties.

**4658.0110 INCIDENT AND ACCIDENT REPORTING.**

~~A detailed incident~~ All persons providing services in a nursing home must report of any accident or injury to a resident, and the nursing home must immediately complete a detailed incident report of the accident or injury and the action taken must be completed immediately after learning of the accident or injury.

**4658.0115 WORK PERIOD.**

A nursing home must not schedule a person to duty for more than one consecutive work period except in a documented emergency. For purposes of this chapter, a documented emergency means situations where replacement staff are not able to report to duty for the next shift due to adverse weather conditions, natural disasters, illness, strike, or other documented situations where normally scheduled staff are no longer available. For purposes of this chapter, a normal work period must not exceed 12 hours. For purposes of this chapter, documentation of an emergency means a written record of the emergency. Documentation on the work schedule is one method of providing written record of the emergency.

**4658.0130 EMPLOYEES' PERSONNEL RECORDS.**

A current personnel record must be maintained for each employee and be stored in a confidential manner. The personnel records for at least the most recent three-year period must be maintained by the nursing home. The records must be available to representatives of the department and must contain:

D. the date of resignation or discharge.

Employee health information, including the record of all accidents and ~~reportable~~ those illnesses reportable under part 4605.7040, must be maintained and stored in a separate employee medical record.

**4658.0135 POLICY RECORDS.**

Subpart 1. Availability of policies. All policies and procedures directly related to resident care adopted by the home must be placed on file and be made available upon request to nursing home personnel, residents, ~~and family members~~ legal representatives, and designated representatives.

**4658.0140 TYPE OF ADMISSIONS.**

Subpart 1. Selection of residents. The administrator, in cooperation with the director of the nursing service services and the medical director, is responsible for ~~exercising discretion in the type of residents admitted~~ the admission of residents to the home in accordance with according to the admission policies of the nursing home.

Subp. 2. Residents not accepted. Unless otherwise provided by law, including laws against discrimination, residents must not be admitted or retained for whom care cannot be provided in keeping with their known physical, mental, or behavioral condition. Prospective residents who are denied admission must be informed of the reason for the denial of their admission.

**4658.0190 PENALTIES FOR ADMINISTRATION AND OPERATIONS RULE VIOLATIONS.**

Penalty assessments will be assessed on a daily basis for violations of parts 4658.0050 to 4658.0155 and are as follows:

- C. part 4658.0050, subpart 3, ~~items~~ item A and D, \$250;
- D. part 4658.0050, subpart 3, ~~items B, to F, G, and H,~~ \$100;
- E. ~~part 4658.0050, subpart 3, items C and E,~~ \$50;
- F. part 4658.0055, subparts 1 to 3, \$100;
- G. ~~E.~~ part 4658.0055, subpart 4, \$50;
- H. ~~G.~~ part 4658.0060, items A, F, H, and I, \$50;
- I. ~~H.~~ part 4658.0060, items B, C, D, E, and G, \$100;
- J. ~~I.~~ part 4658.0065, \$200;
- K. ~~J.~~ part 4658.0070, \$100;
- L. ~~K.~~ part 4658.0075, \$100;
- M. part 4658.0080, \$100;

**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.

## Adopted Rules

---

- ~~N.~~ L. part 4658.0085, \$350;
- ~~O.~~ M. part 4658.0090, \$500;
- ~~P.~~ N. part 4658.0095, \$50;
- ~~Q.~~ O. part 4658.0100, subparts 1 to 3 and 2, \$100;
- ~~R.~~ P. part 4658.0100, subpart 4 3, \$50;
- ~~S.~~ Q. part 4658.0100, subpart 5 4, \$300;
- ~~T.~~ R. part 4658.0105, \$300;
- ~~U.~~ S. part 4658.0110, \$100;
- ~~V.~~ T. part 4658.0115, \$100;
- ~~W.~~ U. part 4658.0120, subpart 1, \$100;
- ~~X.~~ V. part 4658.0120, subpart 2, \$500;
- ~~Y.~~ W. part 4658.0120, subpart 3, \$50;
- ~~Z.~~ X. part 4658.0125, \$50;
- ~~AA.~~ Y. part 4658.0130, \$50;
- ~~BB.~~ Z. part 4658.0135, subpart 1, \$50;
- ~~CC.~~ part 4658.0135, subpart 2, \$50;
- ~~DD.~~ AA. part 4658.0140, subpart 1, \$100;
- ~~EE.~~ BB. part 4658.0140, subpart 2, \$250;
- ~~FF.~~ CC. part 4658.0145, subpart 1, \$100;
- ~~GG.~~ DD. part 4658.0145, subpart 2, \$100;
- ~~HH.~~ EE. part 4658.0150, \$100; and
- ~~I.~~ FF. part 4658.0155, \$50.

### 4658.0300 USE OF RESTRAINTS.

Subpart 1. **Definitions.** For purposes of this part, the following terms have the meanings given.

A. "Physical restraints" means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body. Physical restraints include, but are not limited to, leg restraints, arm restraints, hand mitts, soft ties or vests, and wheelchair safety bars. Physical restraints also include practices which meet the definition of a restraint, such as tucking in a sheet so tightly that a resident confined to bed cannot move; bed rails; chairs that prevent rising; or placing a ~~wheelchair-bound~~ resident in a ~~wheelchair~~ so close to a wall that the wall prevents the resident from rising. Bed rails are considered a restraint if they restrict freedom of movement. If the bed rail is used solely to assist the resident in turning or to help the resident get out of bed, then the bed rail is not used as a restraint. Wrist bands or devices on clothing that trigger electronic alarms to warn staff that a resident is leaving a room or area do not, in and of themselves, restrict freedom of movement and should not be considered restraints.

E. "~~Involuntary seclusion~~" means the separation of a resident from other residents or from the resident's room against the resident's will, or the will of the resident's legal representative. ~~Emergency or short-term monitored separation from other residents is not considered involuntary seclusion and is allowed if used as a therapeutic intervention to reduce agitation until professional staff can develop a plan of care to meet the resident's needs.~~

F. "Emergency measures" means the immediate action necessary to alleviate an unexpected situation or sudden occurrence of a serious and urgent nature.

Subp. 2. **Freedom from restraints.** Residents must be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms. ~~Residents must be free from corporal punishment and involuntary seclusion.~~

Subp. 3. **Emergency use of restraints restraint.**

A. If a resident exhibits behavior which becomes a threat to the health or safety of the resident or others, the nurse or person in charge of the nursing home, if other than a nurse, must take temporary, emergency measures to protect the resident and other persons in the nursing home, and the physician must be called immediately.

B. If a restraint is needed, it ~~may be applied only upon the~~ a physician's order must be obtained which specifies the duration and circumstances under which the ~~restraints are~~ restraint is to be used.

Subp. 4. **Decision to apply restraint.** The decision to apply a restraint must be based on the comprehensive resident assessment of each resident's capabilities and an evaluation of least restrictive measures. The least restrictive restraint must be used in accordance with and incorporated into the comprehensive plan of care and. The comprehensive resident assessment, which plan of care must allow for progressive removal or the progressive use of less restrictive means. Nothing in this part requires a resident to be awakened during the resident's normal sleeping hours strictly for the purpose of releasing restraints. ~~At a minimum,~~ For a resident placed in a physical or chemical restraint, a nursing home must:

~~A.~~ obtain an informed consent; and

~~B.~~ obtain a written order from the attending physician; At a minimum, for a resident placed in a physical restraint, a nursing home must also:

~~C. A.~~ check the resident at least every 30 minutes;

~~D. B.~~ assist the resident as often as necessary for the resident's safety, comfort, exercise, and elimination needs;

~~E. C.~~ provide an opportunity for motion, exercise, and elimination for not less than ten minutes during each two-hour period in which a restraint is employed;

~~F. D.~~ release the resident from the restraint as quickly as possible; and

~~G. E.~~ keep a record of restraint usage and checks.

#### **4658.0350 PENALTIES FOR USE OF RESTRAINTS RULE VIOLATIONS.**

Penalty assessments will be assessed on a daily basis for violations of part 4658.0300 and are as follows:

D. part 4658.0300, subpart 4, ~~item A~~ first paragraph, \$250;

E. part 4658.0300, subpart 4, ~~item B~~ items A to D, \$300; and

F. part 4658.0300, subpart 4, ~~items C to F~~ item E, \$500; and

~~G.~~ part 4658.0300, subpart 4, item G, \$300.

#### **4658.0400 COMPREHENSIVE RESIDENT ASSESSMENT.**

Subpart 1. **Assessment.** A nursing home must conduct a comprehensive assessment of each resident's needs, which describes the resident's capability to perform daily life functions and significant impairments in functional capacity. A nursing assessment conducted according to Minnesota Statutes, section 148.171, paragraph (3), may be used as part of the comprehensive resident assessment. The results of the comprehensive resident assessment must be used to develop, review, and revise the resident's comprehensive plan of care as defined in part 4658.0405.

Subp. 2. **Information gathered.** The comprehensive resident assessment must include at least the following information:

L. cognitive status; and

M. drug therapy; and

N. resident preferences.

Subp. 3. **Frequency.** Comprehensive resident assessments must be conducted:

B. promptly within 14 days after a significant change in the resident's physical or mental condition; and

Subp. 4. **Review of assessments.** A nursing home must examine each resident at least ~~once every 90 days~~ quarterly and must revise the resident's comprehensive assessment to ensure the continued accuracy of the assessment.

#### **4658.0405 COMPREHENSIVE PLAN OF CARE.**

Subpart 1. **Development.** A nursing home must develop a comprehensive plan of care for each resident within seven days after the completion of the comprehensive resident assessment as defined in part 4658.0400. The comprehensive plan of care must be developed by an interdisciplinary team that includes the attending physician, a registered nurse with responsibility for the resident,

**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.

## Adopted Rules

and other appropriate staff in disciplines as determined by the resident's needs, and, to the extent practicable, with the participation of the resident, the resident's legal guardian or chosen representative.

**Subp. 2. Contents of plan of care.** The comprehensive plan of care must list measurable objectives and timetables to meet the resident's long- and short-term goals for medical, nursing, and mental and psychosocial needs that are identified in the comprehensive resident assessment. The comprehensive plan of care must include:

**A.** the physician's orders for medications, treatments, diet, and other therapy; and

**B.** the types of care and consultation services needed, how they can best be accomplished, how the plan meets the needs and interests of the resident, what methods are most successful, and the modifications necessary to ensure best results the individual abuse prevention plan required by Minnesota Statutes, section 626.557, subdivision 14, paragraph (b).

**Subp. 2. 3. Use.** A comprehensive plan of care must be used by all personnel involved in the care of the resident.

**Subp. 4. Revision.** The A comprehensive plan of care must be reviewed and updated revised by an interdisciplinary team that includes the attending physician, a registered nurse with responsibility for the resident, and other appropriate staff in disciplines as determined by the resident's needs, and, to the extent practicable, with the participation of the resident, the resident's legal guardian or chosen representative at least every 90 days and after any permanent or significant change in resident condition. An interdisciplinary conference to review the comprehensive plan of care must be conducted regularly to keep the plans current quarterly and within seven days of the revision of the comprehensive resident assessment required by part 4658.0400, subpart 3, item B.

### **4658.0420 PENALTIES FOR COMPREHENSIVE ASSESSMENT AND PLAN OF CARE RULE VIOLATIONS.**

Penalty assessments will be assessed on a daily basis for violations of parts 4658.0400 and 4658.0405 and are as follows:

### **4658.0430 HEALTH INFORMATION MANAGEMENT SERVICE.**

**Subpart 1. Health information management.** A nursing home must maintain a health information management service services, including clinical records, in accordance with accepted professional standards and practices, federal regulations, and state statutes pertaining to the content of the clinical record, health care data, computerization, confidentiality, retention, and retrieval. For purposes of this part, "health information management" means the collection, analysis, and dissemination of data to support decisions related to: disease prevention and resident care; effectiveness of care; reimbursement and payment; planning, research, and policy analysis; and regulations.

**Subp. 2. Quality of health information.** A nursing home must develop and utilize a mechanism for auditing the quality of its health information management service services.

### **4658.0435 CONFIDENTIALITY OF CLINICAL RECORDS AND INFORMATION.**

**Subp. 2. Electronic transmission of health care data.** If a nursing home chooses to transmit or receive health care data by facsimile machine electronic means, the nursing home must develop and comply with policies and procedures to ensure the confidentiality, security, and verification of the transmission and receipt of information authorized to be transmitted by facsimile machine electronic means. A durable copy of the facsimile transmission must be placed in the resident's clinical record.

### **4658.0445 CLINICAL RECORD.**

**Subp. 2. Form of entries and authentication.** Data collected must be timely, accurate, and complete. All entries must be entered, authenticated, and dated by the person making the entry. If a nursing home uses an electronic paperless means of storing the clinical record, the nursing home must comply with part 4658.0475. All entries must be made as soon as possible after the observation or treatment in order to keep the clinical record current. In cases where authentication is done electronically or by rubber stamp, safeguards to prevent unauthorized use must be in place, and a rubber stamp may be used only if allowed by the licensing rules for that health care professional. Nursing assistants may document in the nursing notes if allowed by nursing home policy.

**Subp. 4. Admission information.**

**A. Identification information.** Identification information must be collected and maintained for each resident upon admission and must include, at a minimum:

(11) legal representative or personal designated representative, if any;

(12) religious affiliation, place of worship, and clergy member;

### **4658.0450 CLINICAL RECORD CONTENTS.**

Each resident's clinical record, including nursing notes, must include:

**B.** temperature, pulse, respiration, and blood pressure, taken at least weekly, and pertinent observations as often as indicated by the condition of the resident according to part 4658.0520, subpart 2, item I;



C. the resident's height and weight at the time of admission, and weight at least once each month thereafter, according to part 4658.0520, subpart 2, item I;

E. observations, assessments, and interventions provided by all disciplines responsible for care of the resident, with the exception of confidential communications with religious personnel;

H. a report of a tuberculin test within the ~~past~~ three months prior to admission, as described in part 4658.0810;

I. reports of ~~appropriate~~ laboratory examinations;

K. dates and times of visits by ~~physicians, dentists, or podiatrists~~ all licensed health care practitioners;

P. results of the initial comprehensive resident assessment and all subsequent comprehensive assessments as described in part 4658.0400.

#### **4658.0455 TELEPHONE AND ELECTRONIC ORDERS.**

B. Orders received by telephone or other electronic means, not including facsimile machine, must be immediately recorded or placed in the resident's record by the person authorized by the nursing home and must be countersigned by the ordering health care practitioner ~~licensed~~ authorized to prescribe at the time of the next visit, or within 60 days, whichever is sooner.

C. Orders received by facsimile machine must have been signed by the ordering health practitioner ~~licensed~~ authorized to prescribe, and must be immediately recorded or a durable copy must be placed in the resident's clinical record by the person authorized by the nursing home.

#### **4658.0465 TRANSFER, DISCHARGE, AND DEATH.**

Subpart 1. Discharge summary at death. ~~At the time of discharge or~~ When a resident dies, the nursing home must compile a discharge summary that includes the date, time, and cause of death.

Subp. 2. Other discharge. When a resident is transferred or discharged for any reason other than death, the nursing home must compile a discharge summary that includes the date and time of transfer or discharge, reason for transfer or discharge, and transfer or discharge diagnosis diagnoses, and condition; or the date, time, and cause of death.

Subp. ~~2-3.~~ Transfer of resident information or discharge to another facility. When a resident is transferred or discharged to another health care facility or program, the nursing home must send the discharge summary compiled according to subpart 2, and pertinent information about the resident's immediate care and sufficient information to ensure continuity of care must accompany the resident prior to or at the time of the transfer or discharge to the other health care facility or program. Additional information not necessary for the resident's immediate care may be sent to the new health care facility or program at the time of or after the transfer or discharge.

#### **4658.0470 RETENTION, STORAGE, AND RETRIEVAL.**

Subp. 3. Retrieval. If records of discharged residents are stored off site, policies and procedures must be developed and implemented by clinical record personnel and the nursing home administration for the confidentiality, retention, and timely retrieval of records within 24 hours one working day. The policies and procedures must specify who is authorized to retrieve a record. Off-site archived copies of clinical databases must be protected against fire, flood, and other emergencies. The policies must address the location and retention of records if the nursing home discontinues operation.

#### **4658.0490 PENALTIES FOR CLINICAL RECORDS RULE VIOLATIONS.**

Penalty assessments will be assessed on a daily basis for violations of parts 4658.0430 to 4658.0475 and are as follows:

O. part 4658.0465, subpart 3, \$300;

P. part 4658.0470, \$100; and

P. Q. part 4658.0475, \$300.

#### **4658.0500 DIRECTOR OF NURSING SERVICES.**

Subpart 1. Qualifications and duties. A nursing home must have a director of nursing services who is a registered nurse ~~currently~~ licensed in Minnesota.

**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.

## Adopted Rules

Subp. 2. **Requirement of full-time employment.** A director of nursing services must be employed full time, no less than 40 35 hours per week, and devote be assigned full time to the nursing services of the nursing home.

Subp. 3. **Assistant to director.** A licensed nursing home must designate a nurse who serves as the assistant to the director of nursing services must be designated and to be responsible for the duties of the director of nursing services related to the provision of resident services in the director's absence and must assist the director of nursing services in carrying out the director's responsibilities so that the functions of the director of nursing services are maintained seven days per week.

Subp. 4. **Education.** After the effective date of this part, A person newly appointed to the position of the director of nursing services must be educated have training in rehabilitation nursing techniques, gerontology, nursing service administration, management, supervision, and psychiatric or geriatric nursing before or within the first 12 months after appointment as director of nursing services.

### 4658.0505 RESPONSIBILITIES; DIRECTOR OF NURSING SERVICES; RESPONSIBILITIES.

A nursing home must have a The written job description for the director of nursing services that includes must include responsibility for:

B. establishing and implementing procedures for general the provision of nursing care and delegated medical care, developing nursing policy and procedure manuals that must be available at each nurse's station, and developing written job descriptions for each level category of nursing personnel;

C. planning and conducting orientation programs for new nursing personnel, volunteers, and temporary staff, and continuing in-service education for all nursing home personnel staff in nursing homes under 90 beds, if there is no one is designated who is as responsible for all in-service education;

E. participating in recruitment and, selection, and termination of nursing personnel;

F. assigning, supervising, and evaluating the performance of all nursing personnel and;

G. delegating and monitoring nonnursing responsibilities to other personnel staff consistent with their training, experience, and licensure competence, and legal authorization, and with nursing home policy;

G. H. participating in the selection of prospective residents in terms of based on nursing service care needed and nursing personnel competencies available;

H. I. assuring that a resident care comprehensive plan of care is established and implemented for each resident and that the plan is reviewed every 90 days at least quarterly and revised when there is a permanent or significant change within seven days of the revision of the comprehensive resident assessment required by part 4658.0400, subpart 3, item B;

I. J. coordinating nursing services for the residents in the nursing home with other resident care services provided both within and outside the nursing home;

J. K. participating in planning, decision making, and budgeting for nursing care;

K. L. interacting with physicians to plan care for residents; and

L. recommending termination of employment of nursing personnel when necessary; and

M. participating in assuring that discharge or and transfer planning for residents is conducted.

### 4658.0510 NURSING STAFF PERSONNEL.

Subpart 1. **Staffing requirements.** A nursing home must have on duty at all times a sufficient number of qualified nursing personnel, including registered nurses, licensed practical nurses, and nursing assistants to meet the needs of the residents at all nurses' stations, on all floors, and in all buildings if more than one building is involved. This includes relief duty, weekends, and vacation replacements. The minimum number of hours of nursing personnel to be provided in a nursing home is the greater of two hours of nursing personnel per resident per 24 hours or 0.95 hours per standardized resident day, plus additional qualified nursing staff commensurate with the needs of the residents. "Standardized resident day" means the sum of the number of residents in each case mix class multiplied by the case mix weight for that resident class, as described in part 9549.0059, subpart 2, calculated on the basis of the nursing home's census for any given day.

Subp. 2. **Minimum hour requirements.** The minimum number of hours of nursing personnel to be provided is:

A. For nursing homes not certified to participate in the medical assistance program, a minimum of two hours of nursing personnel per resident per 24 hours.

B. For nursing homes certified to participate in the medical assistance program, the nursing home is required to comply with Minnesota Statutes, section 144A.04, subdivision 7.

Subp. ~~2~~ 3. **On-site coverage.** A ~~licensed~~ nurse must be employed so that on-site nursing coverage is provided eight hours per day, seven days per week.

Subp. ~~3~~ 4. **On call coverage.** A registered nurse must be on call during all hours when a registered nurse is not on duty.

Subp. ~~4~~ 5. **Assignment of duties.** Nursing personnel must not perform duties for which they have not had proper and sufficient training. Duties assigned to nursing personnel must be consistent with their training, experience, competence, and ~~license~~ credentialing.

Subp. ~~5~~ 6. **Duties.** ~~The Nursing staff personnel~~ must be employed and used for nursing duties only. A nursing home must provide sufficient additional staff for housekeeping, dietary, laundry, and maintenance duties and those persons must not provide nursing care.

#### **4658.0515 FREQUENCY OF REPORTING.**

Nursing notes must be recorded at least ~~once every seven days~~ weekly on all residents and more often if indicated by their condition.

#### **4658.0520 ADEQUATE AND PROPER NURSING CARE.**

Subpart 1. **Care in general.** A resident must receive nursing care and treatment, personal and custodial care, and supervision based on individual needs and preferences as identified in the comprehensive resident assessment and plan of care as described in parts 4658.0400 and 4658.0405. A nursing home resident must be out of bed as much as possible unless there is a written order from the attending physician ~~states in writing on the resident's clinical record~~ that the resident must remain in bed or the resident prefers to remain in bed.

Subp. 2. **Criteria for determining adequate and proper care.** The criteria for determining adequate and proper care include:

B. Clean skin and freedom from offensive odors. A bathing plan must be part of each resident's plan of care. A resident ~~con-~~ finned to whose condition requires that the resident remain in bed must be given a complete bath at least every other day and more often as indicated. An incontinent resident must be checked at least every two hours, and must receive perineal care following each episode of incontinence. Clean linens or clothing must be provided promptly each time the bed or clothing is soiled. Perineal care includes the washing and drying of the perineal area. Pads or diapers must be used to keep the bed dry and for the resident's comfort. Special attention must be given to the skin to prevent irritation. Rubber, plastic, or other types of protectors must be kept clean, be completely covered, and not come in direct contact with the resident. Soiled linen and clothing must be removed immediately from resident areas to prevent odors.

C. A shampoo at least ~~every seven days~~ weekly and assistance with daily hair grooming as needed.

I. Monitoring resident temperature, pulse, respiration, and blood pressure as often as indicated by the resident's condition but at least ~~every seven days~~ weekly.

J. Recording resident height and weight at the time of admission and weight at least ~~once every 30 days~~ monthly thereafter.

#### **4658.0525 REHABILITATION NURSING CARE.**

Subpart 1. **Rehabilitation nursing care Program required.** A nursing home must have an active program of rehabilitation nursing care directed toward assisting each resident to achieve and maintain the highest practicable physical, mental, and psychosocial well-being according to the comprehensive resident assessment and plan of care described in parts 4658.0400 and 4658.0405. Continuous efforts must be made to encourage ambulation and purposeful activities.

Subp. 2. **Range of motion.** A supportive program that is directed toward prevention of deformities through positioning and range of motion must be implemented and maintained. Based on the comprehensive resident assessment, the director of nursing home services must ensure coordinate the development of a nursing care plan which provides that:

Subp. 3. **Pressure sores.** Based on the comprehensive resident assessment, the director of nursing home services must ensure coordinate the development of a nursing care plan which provides that:

A. a resident who enters the nursing home without pressure sores does not develop pressure sores unless the individual's clinical condition demonstrates, and a physician authenticates, that they were unavoidable; and

Subp. 5. **Incontinence.** A nursing home must have a continuous program of bowel and bladder training management to reduce

**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.

## Adopted Rules

incontinence and the unnecessary use of catheters. Based on the comprehensive resident assessment, a nursing home must ensure that:

Subp. 6. **Activities of daily living.** Based on the comprehensive resident assessment, a nursing home must ensure that:

A. ~~a resident's resident is given the appropriate treatments and services to maintain or improve~~ abilities in activities of daily living ~~do not diminish unless circumstances of the individual's clinical condition indicate that diminution was unavoidable~~ deterioration is a normal or characteristic part of the resident's condition. For purposes of this part, activities of daily living includes the resident's ability to:

(5) use speech, language, or other functional communication systems; and

B. ~~a resident is given the appropriate treatment and services to maintain or improve the abilities specified in item A;~~ and

C. ~~a resident who is unable to carry out activities of daily living receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.~~

Subp. 7. **Nasogastric tubes, gastrostomy tubes, and feeding syringes.** Based on the comprehensive resident assessment, a nursing home must ensure that:

Subp. 10. **In-service.** ~~A nursing home must provide evidence of an in-service training program in rehabilitation for all nursing personnel to promote ambulation; aid in activities of daily living; assist in activities, self-help, maintenance of range of motion; and proper chair and bed positioning; and in the prevention or reduction of incontinence.~~

### 4658.0530 ASSISTANCE WITH EATING.

Subpart 1. **Nursing personnel.** Nursing personnel must determine that residents are served diets as prescribed. Residents needing help in eating must be promptly assisted upon receipt of the meals and the assistance must be unhurried and in a manner that maintains or enhances each resident's dignity and respect. Adaptive self-help devices must be provided to contribute to the resident's independence in eating. Food and fluid intake of residents must be observed and deviations from normal reported to the charge nurse responsible for the resident's care during the work period the observation of a deviation was made. Persistent unresolved problems must be reported to the attending physician.

Subp. 2. **Other persons Volunteers.** ~~Persons other than nursing personnel~~ Volunteers may assist residents with eating if the following conditions are met:

A. the nursing home has a policy allowing that assistance. The policy must specify whether family members are allowed to assist their immediate relatives with eating and, if allowed, what training is required for family members;

B. the resident has been assessed and a determination made that the resident may be safely fed by a person other than nursing personnel volunteer, and that is documented in the comprehensive plan of care;

C. the resident has agreed, or an immediate family member, the legal guardian, or designated representative has agreed for the resident, to be fed by a person other than nursing personnel volunteer;

D. the person volunteer has completed a training program on assisting residents with eating, which, at a minimum, meets the training and competency standards for eating assistance contained in the nursing assistant training curriculum;

E. the person is under the supervision of the director of nursing services while must be responsible for the monitoring of all persons, including family members, performing this activity; and

F. there are mechanisms in place to ensure appropriate reporting to the nursing staff personnel of observations made by the person volunteer during meal time; and

G. ~~the use of persons other than nursing personnel to substitute for sufficient nursing staff is prohibited.~~

Subp. 3. **Risk of choking.** A resident identified in the comprehensive resident assessment, and as addressed in the comprehensive plan of care, as being at risk of choking on food must be continuously monitored by nursing personnel when the resident is eating so that timely emergency intervention can occur if necessary.

### 4658.0580 PENALTIES FOR NURSING SERVICES RULE VIOLATIONS.

Penalty assessments will be assessed on a daily basis for violations of parts 4658.0500 to 4658.0530 and are as follows:

F. part 4658.0505, items D to ~~G~~ E, \$100;

G. part 4658.0505, item ~~H~~ G, \$300;

H. part 4658.0505, items I to ~~M~~ item H, \$100;

I. part 4658.0505, item I, \$300;

J. part 4658.0505, items I to M, \$100;

- ~~K.~~ part 4658.0510, subpart 1, \$300;  
~~J. L.~~ part 4658.0510, subparts 2 to 4 5, \$500;  
~~K. M.~~ part 4658.0510, subpart 5 6, \$300;  
~~L. N.~~ part 4658.0515, \$300;  
~~M. O.~~ part 4658.0520, subpart 1, \$350;  
~~N. P.~~ part 4658.0520, subpart 2, items A to H, \$350;  
~~O. Q.~~ part 4658.0520, subpart 2, items I to J, \$300;  
~~P. R.~~ part 4658.0525, subparts 1 to 9, \$350; and  
~~Q.~~ part 4658.0525, subpart 10, \$100; and  
~~R. S.~~ part 4658.0530, \$350.

**4658.0700 MEDICAL DIRECTOR.**

Subpart 1. **Designation.** A nursing home must designate a physician ~~licensed by the state of Minnesota~~ to serve as medical director.

Subp. 2. **Duties.** The medical director, in conjunction with the administrator and the director of nursing services, must be responsible for:

- A. the development of resident care policies and procedures that are to be approved by the ~~governing body licensee~~;
- D. the medical direction and coordination of medical care in the nursing home, including serving as liaison with attending physicians, and periodic evaluation of the adequacy and appropriateness of health professional and supportive staff and services to meet the medical needs of residents;
- F. ~~participation with~~ periodic advisement to the director of nursing services to ensure a quality level of delegated medical care provided to residents; and
- G. participation, or designation of another physician for participation, on the quality assessment and assurance committee as required ~~in~~ by part 4658.0070.

**4658.0705 MEDICAL CARE AND TREATMENT.**

Subpart 1. **Physician supervision.** A nursing home must ensure that each resident has a ~~licensed physician designated for the supervision of~~ to authorize and supervise the medical care and treatment of the resident during the resident's stay in the nursing home, and must ensure that another physician is available to supervise the resident's medical care when the attending physician is unavailable.

Subp. 2. **Availability of physicians for emergency and advisory care.**

- B. The name and telephone number of the emergency physician must be readily available at all times.
- C. A nursing home must develop and maintain policies and procedures regarding obtaining medical intervention when the resident's attending physician or the emergency physician does not respond to a request for medical care or is not available in a timely manner.

**4658.0715 MEDICAL INFORMATION FOR CLINICAL RECORD.**

A physician or physician designee must provide the following information for the clinical record:

- H. any advanced directives; and
- I. ~~physician contacts with the resident's family or the resident's representative; and~~
- ~~J.~~ condition on discharge or transfer, or cause of death.

**4658.0720 PROVIDING DAILY ORAL CARE.**

Subpart 1. **Daily oral care plan.** A nursing home must establish a daily oral care plan for each resident as part of the initial con- sistent with the results of the comprehensive resident assessment.

**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.

## Adopted Rules

### 4658.0725 PROVIDING ROUTINE AND EMERGENCY ORAL HEALTH SERVICES.

Subpart 1. **Routine dental services.** A nursing home must provide, or obtain from an outside resource, routine dental services to meet the needs of each resident. Routine dental services include dental examinations and cleanings, fillings and crowns, root canals, periodontal care, oral surgery, bridges and removable dentures, orthodontic procedures, and adjunctive services that are provided for similar dental patients in the community at large, as limited by third party reimbursement policies.

#### Subp. 3. **Emergency dental services.**

A. A nursing home must provide, or obtain from an outside resource, emergency dental services to meet the needs of each resident. Emergency dental services include services needed to treat: an episode of acute pain in teeth, gums, or palate; broken or otherwise damaged teeth; or any other problem of the oral cavity, appropriately treated by a dentist, that requires immediate attention.

### 4658.0730 NURSING HOME REQUIREMENTS.

Subp. 2. **Written agreement.** A nursing home must maintain a written dental provider agreement with at least one licensed dentist, licensed by the Board of Dentistry, who agrees to provide:

Subp. 5. **List of dentists.** A nursing home must maintain a list of dentists in the service area willing and able to provide routine or emergency dental services for the nursing home's residents. Copies of the list must be readily accessible to nursing staff personnel.

### 4658.0750 PENALTIES FOR PHYSICIAN AND DENTAL SERVICES RULE VIOLATIONS.

Penalty assessment will be assessed on a daily basis for violations of parts 4658.0700 to 4658.0730 and are as follows:

- G. part 4658.0705, subpart 2, item C, \$300;
- H. part 4658.0710, subpart 1, \$350;
- ~~H. I.~~ part 4658.0710, subpart 2, \$300;
- ~~I. J.~~ part 4658.0710, subpart 3, item A, \$350;
- ~~J. K.~~ part 4658.0710, subpart 3, items item B and C, \$300;
- ~~K. L.~~ part 4658.0710, subpart 4, \$100;
- ~~L. M.~~ part 4658.0715, \$350;
- ~~M. N.~~ part 4658.0720, subpart 1, \$300;
- ~~N. O.~~ part 4658.0720, subpart 2, \$100;
- ~~O. P.~~ part 4658.0725, subpart 1, \$350;
- ~~P. Q.~~ part 4658.0725, subparts 2 and 3, \$300;
- ~~Q. R.~~ part 4658.0725, subpart 4, \$100;
- ~~R. S.~~ part 4658.0730, subparts 1 to 4, \$300; and
- ~~S. T.~~ part 4658.0730, subpart 5, \$100.

### 4658.0800 INFECTION CONTROL.

Subpart 1. **Infection control program.** A nursing home must establish and maintain an infection control program designed to provide a safe, and sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection.

Subp. 2. **Direction of program.** A nursing home must assign one person, either a licensed registered nurse or a licensed physician, the responsibility of directing infection control activities in the nursing home.

Subp. 4. **Policies and procedures.** The infection control program must include policies and procedures which provide for the following:

A. surveillance designed to establish based on systematic data collection to identify nosocomial infection rates and to identify the major sites of infection; their cause or origin, and associated complications infections in residents;

G. a system for reviewing antibiotic utilization use;

H. a system for review and evaluation of products which affect infection control, including items such as disinfectants, anti-septics, gloves, and disposable diapers incontinence products; and

### 4658.0805 PERSONS PROVIDING SERVICES.

All persons providing services, including volunteers, with a communicable disease as listed in part 4605.7040 or with infected

skin lesions must not be permitted to work in the nursing home until a physician certifies unless it is determined that the person's condition will permit the person to work without endangering the health and safety of residents and other staff. ~~The administrator may require that a staff member have a medical examination when a reasonable suspicion of communicable disease exists. The employee health policies required in part 4658.0800, subpart 4, item F, must address grounds for excluding persons from work and for reinstating persons to work due to a communicable disease or infected skin lesions.~~

#### **4658.0810 RESIDENT TUBERCULOSIS PROGRAM.**

Subpart 1. **Tuberculosis test at admission.** A resident's clinical record at admission must contain a report of a standard Mantoux tuberculin test within the past three months or, if the Mantoux test is positive or contraindicated or if there is a history of a positive Mantoux test, a chest X-ray within three months in advance of admission and as indicated thereafter prior to admission or within 72 hours after admission, administered in conformance with the general guidelines for surveillance and diagnosis as found in Morbidity and Mortality Weekly Report (MMWR), Recommendations and Reports, July 13, 1990, Vol. 39, No. RR-10: "Prevention and Control of Tuberculosis in Facilities Providing Long-Term Care to the Elderly; Recommendations of the Advisory Committee for Elimination of Tuberculosis," as issued by the Centers for Disease Control and Prevention. This guideline is incorporated by reference. It is available through the Minitex interlibrary loan system. It is not subject to frequent change.

Subp. 2. **Evaluation of symptoms.** A resident exhibiting symptoms consistent with tuberculosis must be evaluated by Mantoux test, unless certified in writing by a physician to have had a positive reaction to a standard intradermal tuberculin test or other medical contraindication; chest X-ray; or other diagnostic tests as deemed necessary by a physician or physician designee. Symptoms consistent with tuberculosis include chronic cough with or without anorexia, weight loss, or fever, that does not respond promptly and completely to antibiotic treatment or which persist for a period of four weeks. **Identification; evaluation; treatment.** A nursing home must develop and implement policies and procedures addressing the identification, evaluation, and initiation of treatment for residents who may have active tuberculosis in accordance with Morbidity and Mortality Weekly Report (MMWR), October 28, 1994, Vol. 43, No. RR-13; section II.C. of the "Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health-Care Facilities, 1994," issued by the Centers for Disease Control and Prevention, October 28, 1994. This guideline is incorporated by reference. It is available through the Minitex interlibrary loan system. It is not subject to frequent change.

#### **4658.0815 EMPLOYEE TUBERCULOSIS PROGRAM.**

Subpart 1. **Responsibility of nursing home.** A nursing home must ensure that all employees, prior to employment and as otherwise indicated in this part, are screened for show freedom from active tuberculosis according to this part. A nursing home must establish a tuberculosis counseling, screening, and prevention program for all employees, in accordance with Morbidity and Mortality Weekly Report (MMWR), October 28, 1994, Vol. 43, No. RR-13; section II.J. of the "Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health-Care Facilities, 1994," issued by the Centers for Disease Control and Prevention. This guideline is incorporated by reference. It is available through the Minitex interlibrary loan system. It is not subject to frequent change.

Subp. 2. **Tuberculin test.** All employees, unless certified in writing by a physician to have had a positive reaction or other medical contraindication to a standard intradermal tuberculin test, must have a standard an intradermal tuberculin test with purified protein derivative (Mantoux) within three months prior to employment.

Subp. 3. **Positive test.** If the tuberculin test is positive or if the employee's physician has certified a positive reaction to the tuberculin test within the past two years, the employee must submit, prior to employment, a written report by a physician of a negative full-sized chest X-ray taken within the previous three months. Annual written reports of the employee's negative chest X-ray must be required until two years have passed since the first documented positive standard intradermal tuberculin test. All employees who have taken a complete course or are currently taking preventive therapy as directed by their physician are exempt from the testing requirements of this part.

Subp. 4. **Written documentation of compliance.** Reports or copies of reports of the tuberculin test or chest X-ray must be maintained by the nursing home.

Subp. 5-4. **Evaluation of symptoms.** All employees exhibiting symptoms consistent with tuberculosis must be evaluated within 72 hours by Mantoux test, unless certified in writing by a physician to have had a positive reaction or other medical contraindication to a standard intradermal tuberculin test; chest X-ray; or other diagnostic test as deemed necessary by a physician or physician

**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.

## Adopted Rules

designee. Symptoms consistent with tuberculosis include chronic cough with or without anorexia, weight loss, or fever, which do not respond promptly and completely to antibiotic treatment or which persist for a period of four weeks.

### 4658.0850 PENALTIES FOR INFECTION CONTROL RULE VIOLATIONS.

Penalty assessments will be assessed on a daily basis for violations of parts 4658.0800 to 4658.0820 and are as follows:

- D. part 4658.0815, subparts 1 ~~to 3~~ and 2, \$200;
- E. part 4658.0815, subpart 4 ~~3~~, \$50;
- F. part 4658.0815, subpart ~~5 4~~, \$300; and
- G. part 4658.0820, \$100.

### 4658.1300 MEDICATIONS AND PHARMACY SERVICES; DEFINITIONS.

Subp. 3. **Pharmacy services.** "Pharmacy services" means services to ensure the accurate acquiring, receiving, ~~dispensing,~~ and administering of all drugs to meet the needs of each resident.

### 4658.1305 PHARMACIST SERVICE CONSULTATION.

A nursing home must employ or obtain the services of a licensed pharmacist currently licensed by the Board of Pharmacy who:

### 4658.1310 DRUG REGIMEN REVIEW.

A. The drug regimen of each resident must be reviewed at least ~~once every 30 days~~ monthly by a licensed pharmacist currently licensed by the Board of Pharmacy. This review must be done in accordance with Appendix N of the State Operations Manual, Surveyor Procedures for Pharmaceutical Service Requirements in Long-Term Care, published by the Department of Health and Human Services, Health Care Financing Administration, April 1992. This standard is incorporated by reference. It is available through the Minitex interlibrary loan system. It is not subject to frequent change.

C. If the attending physician does not concur with the pharmacist's recommendation, or does not provide adequate justification, and the pharmacist believes the resident's quality of life is being adversely affected, the pharmacist must refer the matter must be reported to the medical director and reviewed by the Quality Assurance and Assessment (QAA) committee required by part 4658.0070. The QAA must make a recommendation to the attending physician regarding a solution to the pharmacist report. for review if the medical director is not the attending physician. If the medical director determines that the attending physician does not have adequate justification for the order and if the attending physician does not change the order, the matter must be referred for review to the quality assessment and assurance committee required by part 4658.0070. If the attending physician is the medical director, the consulting pharmacist must refer the matter directly to the quality assessment and assurance committee.

### 4658.1315 UNNECESSARY DRUG USAGE.

Subp. 2. **Monitoring.** A nursing home must monitor each resident's drug regimen for unnecessary drug usage, based on the nursing home's policies and procedures, and the pharmacist must report any irregularity to the resident's attending physician. If the attending physician does not concur with the nursing home's recommendation, or does not provide adequate justification, and the pharmacist believes the resident's quality of life is being adversely affected, the pharmacist must refer the matter must be reported to the medical director and reviewed by the QAA committee as required by part 4658.0070. The QAA must make a recommendation to the attending physician regarding a solution to the nursing home report. for review if the medical director is not the attending physician. If the medical director determines that the attending physician does not have adequate justification for the order and if the attending physician does not change the order, the matter must be referred for review to the Quality Assurance and Assessment (QAA) committee required by part 4658.0070. If the attending physician is the medical director, the consulting pharmacist shall refer the matter directly to the QAA.

### 4658.1320 MEDICATION ERRORS.

A nursing home must ensure that:

A. ~~It is free of its medication error rates of rate is less than~~ five percent or greater as described in the Interpretive Guidelines for *Code of Federal Regulations*, title 42, section 483.25(m), found in Appendix P of the State Operations Manual, Guidance to Surveyors for Long-Term Care Facilities, which is incorporated by reference in part 4658.1315. For purposes of this part, a medication error means:

(1) a discrepancy between what was prescribed and what medications are actually administered to residents in the nursing home; including a noticeable pattern of medication errors as noted during a review of the medication error forms or incident reports if training or discipline was not done for the individual or individuals responsible for the errors; or

C. All medications are administered as prescribed. An incident report or medication error report must be filed for any medication error that occurs. Any significant medication errors or resident reactions must be reported to the physician or the physician's



~~designee~~ and the resident or the resident's legal ~~designee~~ guardian or designated representative and an explanation must be made in the resident's clinical record.

#### **4658.1325 ADMINISTRATION OF MEDICATIONS.**

Subpart 1. **Pharmacy services.** A nursing home must ~~provide~~ arrange for the provision of pharmacy services.

Subp. 2. **Staff ~~allowed~~ designated to administer medications.** A ~~licensed~~ nurse or unlicensed nursing personnel, as described in part 4658.1360, must be designated as responsible for the administration of medications during each work period.

Subp. 4. **Self-administration.** A resident may self-administer medications if the comprehensive resident assessment and comprehensive plan of care as required in parts 4658.0400 and 4658.0405 ~~indicates~~ indicate this practice is safe and there is a written order from the attending physician.

Subp. 6. **Medications added to food.** Adding medication to a resident's food must be prescribed by the resident's physician and the resident, or the resident's legal guardian or designated representative, must consent to having medication added to food. This subpart does not apply to adding medication to food if the sole purpose is for resident ease in swallowing.

Subp. 8. **Documentation of administration.** The name, date, time, quantity of dosage, and method of administration of all medications, and the signature of the nurse or authorized ~~persons~~ person who administered and observed the same must be recorded in the resident's clinical record. Documentation of the administration must take place following the administration of the medication. If administration of the medication was not completed as prescribed, the documentation must include the reason the administration was not completed, and the follow-up that was provided, such as notification of a registered nurse or the resident's attending physician.

#### **4658.1335 DRUGS IN STOCK MEDICATIONS.**

Subpart 1. **Stock supply ~~drugs~~ medications.** Only medications obtainable without prescription may be retained in general stock supply and must be kept in the original labeled container.

Subp. 2. **Emergency ~~drug~~ medication supply.** A nursing home ~~must~~ may have an emergency ~~drug supplies~~ medication supply which must be approved by the QAA committee and used when necessary for resident care in emergencies. The contents, maintenance, and usage use of the emergency medication supply must comply with part 6800.6700.

Subp. 3. **Prohibitions.** No prescription drug supply for one resident may be used or saved for the use of another resident in the nursing home. ~~The QAA committee must monitor for any use of borrowed medications.~~

#### **4658.1350 DISPOSITION OF MEDICATIONS.**

Subpart 1. **Drugs given to discharged residents.**

A. Current medications, except controlled substances listed in Minnesota Statutes, section 152.02, subdivision 3, belonging to a resident must be given to the resident, or the resident's legal guardian or designated representative, when discharged or transferred and must be recorded on the clinical record.

B. ~~A nursing home must contact the Minnesota Board of Pharmacy or the nursing home's consulting pharmacist about~~

**Subp. 2. Destruction of medications.**

A. Unused portions of controlled substances remaining in the nursing home after death or discharge of a resident for whom they were prescribed, or any controlled substance discontinued permanently must be destroyed in a manner recommended by the Board of Pharmacy or the consultant pharmacist. The board or the ~~pharmacy~~ pharmacist must furnish the necessary instructions and forms, a copy of which must be kept on file in the nursing home for two years.

~~B.~~ B. Unused portions of other prescription drugs remaining in the nursing home after the death or discharge of the resident for whom they were prescribed or any prescriptions discontinued permanently, must be destroyed by nursing staff in the presence of a pharmacist or registered nurse in the nursing home, by flushing them into the sewer system and defacing or destroying the labels from the containers according to part 6800.6500, subpart 3, or must be returned to the pharmacy according to part 6800.2700, subpart 3 2. A notation of the destruction listing the date, quantity, name of medication, and prescription number, signature of the person destroying the drugs, and signature of the witness to the destruction must be recorded on the clinical record.

~~Subp. 2 3.~~ 3. **Loss or spillage.** When a loss or spillage of a prescribed Schedule II drug occurs, an explanatory notation must be made in a Schedule II record. The notation must be signed by the person responsible for the loss or spillage and by one witness who must also observe the destruction of any remaining contaminated drug by flushing into the sewer system or wiping up the spill.

**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.

## Adopted Rules

Subp. 3-4. **Returned to pharmacy.** Drugs and prescribed medications used in nursing homes may be returned to the dispensing pharmacy in accordance with according to part 6800.2700, subpart 2.

### 4658.1360 ADMINISTRATION OF MEDICATIONS BY UNLICENSED PERSONNEL.

Subpart 1. **Authorization.** The director of nursing services may delegate medication administration to unlicensed personnel according to Minnesota Statutes, sections 148.171, subdivision 3, and 148.262, subdivision 7.

Subp. 2. **Training.** Unlicensed nursing personnel who administer medications in a nursing home must:

B. have completed a standardized medication administration training program for unlicensed personnel in nursing homes which is offered through a Minnesota postsecondary educational institution that includes, at a minimum, instruction on the following:

- (1) the complete procedure of checking the resident's medication record;
- (2) ~~transferring individual doses preparation~~ of the medication from the resident's prescription container for administration;
- (3) ~~distribution~~ administration of the medication to the resident; and
- (4) assisting residents with self-administration as necessary;
- (5) ~~recording~~ documentation after administration of the date, time, quantity of dosage, and method of administration of all medications, or the reason for not administering the medication as ordered, and the signature of the nurse or authorized persons person who administered and observed the same; and
- (6) the type of information regarding medication administration reportable to a nurse.

Subp. 2-3. **Documentation of training course.** A nursing home must keep written documentation verifying completion of the required course by all unlicensed nursing personnel administering medications.

Subp. 3-4. **Medical Medication administration.** A person who completes the required training course, and has been delegated the responsibility, may administer medication, whether oral, suppository, eye drops, ear drops, inhalant, or topical, if:

B. in the case of pro re nata (PRN) medications, the administration of the medication is authorized by a nurse or reported to a registered nurse within a time period that is specified by nursing home policy prior to the administration. Responsibility for delegating the task of medication administration is as specified in the Minnesota Nurse Practice Act, Minnesota Statutes, section 148.171, paragraph (3). Administration of injectable medications must be done as specified in part 4658.1325, subpart 5.

### 4658.1365 PENALTIES FOR MEDICATIONS AND PHARMACY SERVICES RULE VIOLATIONS.

Penalty assessments will be assessed for violations of parts 4658.1300 to 4658.1360 and are as follows:

- S. part 4658.1360, subpart 1, ~~\$300~~ \$350;
- T. part 4658.1360, subpart 2, ~~\$50; and~~ \$300;
- U. part 4658.1360, subpart 3, ~~\$350~~ \$50; and
- V. part 4658.1360, subpart 4, \$350.

**REPEALER.** Minnesota Rules, parts 4655.0010, subpart 4; 4655.0320; 4655.2410; 4655.2420; 4655.3900; 4655.4900; 4655.5600; 4655.5700; 4655.5800; 4655.5900; 4655.6000; 4655.6100; 4655.6200; 4655.6800; 4655.7600; 4655.7700; 4655.7710; 4655.7720; 4655.7730; 4655.7740; 4655.7750; 4655.7760; 4655.7770; 4655.7780; 4655.7790; 4655.8100; 4655.9400; 4655.9500; 4655.9600; 4655.9700; 4655.9800; and 4655.9900, are repealed.

**EFFECTIVE DATE.** Minnesota Rules, parts 4655.0090 and 4658.0010 to 4658.1365 are effective 90 days after the notice of adoption is published in the State Register.

## Emergency Rules

### Proposed Emergency Rules

According to Minn. Stat. of 1984, §§14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

- 1) that a free copy of the proposed emergency rule is available upon request from the agency;
- 2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
- 3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
- 4) that the emergency rule may be modified if the data and views submitted support such modification.

### Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

### Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. §§14.14-14.28 supercede emergency rules.

## Department of Natural Resources

### Adopted Expedited Emergency Game and Fish Rules; Game Refuges

NOTICE IS HEREBY GIVEN that the above entitled rules have been adopted through the process prescribed by *Minnesota Statutes*, section 14.29, subdivision 4(b). The statutory authority for the contents of these rules is *Minnesota Statutes*, sections 97A.045, subd. 2, 97A.091, subd. 2, 97A.092, 97A.401, subd. 4, 97B.731 and 97B.803.

Dated: 2 August 1995

Rodney W. Sando  
Commissioner of Natural Resources  
Gail Lewellan, Assistant Commissioner  
Human Resources and Legal Affairs

### Rules as Adopted

#### 6230.0400 SPECIAL PROVISIONS FOR STATE GAME REFUGES.

[For text of subpart 1, see M.R.]

Subp. 2. **Bemidji Game Refuge, Beltrami county.** The Bemidji Game Refuge in Beltrami county is open to:

- A. small game hunting, except waterfowl, through October 31;
- B. trapping for beaver, mink, and muskrat only; and
- C. deer and bear hunting by archery through the first Sunday in December.

[For text of subp 3, see M.R.]

Subp. 4. **Claremont Game Refuge, Dodge county.** The Claremont Game Refuge in Dodge county is open to:

- A. small game hunting, except ~~waterfowl~~ ducks and mergansers;
- B. trapping; and
- C. deer and bear hunting by archery.

Subp. 5. **Clay County Game Refuge, Clay county.** The Clay County Game Refuge in Clay county is ~~open to:~~

- A. ~~deer and bear hunting by firearms;~~ and
- B. ~~deer and bear hunting by archery~~ closed to hunting.

# ERRATA

---

---

[For text of subs 6 to 20, see M.R.]

Subp. 21. **Lac qui Parle Game Refuge, Chippewa and Lac qui Parle counties.** The following special provisions apply to the Lac qui Parle Game Refuge, Chippewa, and Lac qui Parle counties:

[For text of item A, see M.R.]

B. From September 20 to December 1, a person may not trespass on any part of the refuge which is posted with signs prohibiting trespass during this period, except that, beginning the day after the goose season closes fishing is permitted in the posted closed area within the Lac qui Parle Goose Zone; fishing is permitted in the posted area until the day before the opening day of the goose season and beginning again the day after the goose season closes.

[For text of item C, see M.R.]

[For text of subs 22 to 34, see M.R.]

Subp. 35. **Paul Bunyan Game Refuge, Hubbard county.** The Paul Bunyan Game Refuge in Hubbard county is open to:

- A. small game hunting, except waterfowl, through the Thursday nearest November 4;
- B. trapping;
- C. deer hunting by muzzleloader during the muzzleloader season; and
- D. deer and bear hunting by archery ~~through the Thursday nearest November 4.~~

[For text of subp 36, see M.R.]

Subp. 37. **Pine County Game Refuge, Units 1, 2, and 3 Unit 2, Pine county.** The Pine County Game Refuge, ~~Units 1, 2, and 3 Unit 2~~ in Pine county ~~are is~~ open to:

- A. small game hunting;
- B. trapping; and
- C. deer and bear hunting by archery.

[For text of subs 38 to 50, see M.R.]

Subp. 51. **Bellwood Game Refuge, Dakota county.** The Bellwood Game Refuge in Dakota county is open to:

- A. trapping; and
- B. deer and bear hunting by archery.

Subp. 52. **Anoka and Isanti Counties Game Refuge, Anoka and Isanti counties.** The Anoka and Isanti Counties Game Refuge in Anoka and Isanti counties is open to firearms deer hunting by permit.ERRATA

# ERRATA

---

---

## Department of Employee Relations

### Date Changes to Proposal Request: Qualified Persons to Provide Specialized Learner-Centered Training

Date changes are as follows:

- a. The contract is expected to not exceed \$50,000 for the biennium ending June ~~20~~, **30**, 1997.
- b. All proposals must be received no later than 4:30 p.m., Friday, September ~~29~~, **1**, 1995.

Prospective responders who have questions regarding this Request for Proposal may call Linda See, (612) 296-1713, or they may write for information:

Linda See  
Department of Employee Relations  
Human Resources Development Services Division  
200 Centennial Office Building  
658 Cedar Street  
St. Paul, MN 55155

Pursuant to the provisions of Minnesota Statutes §14.101, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

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

---

## Board of Animal Health

### Notice of Board Meeting

A meeting of the Board of Animal Health has been scheduled for Friday, September 15, 1995. It is to be held at the Hilltop Cafe in Paynesville, Minnesota and is scheduled to start at 9:30 a.m.

## Board of Chiropractic Examiners

### Notice of Solicitation of Outside Information or Opinions Regarding Miscellaneous Amendments to *Minnesota Rules Chapter 2500*

NOTICE IS HEREBY GIVEN that the Minnesota Board of Chiropractic Examiners (MBCE) is seeking information or opinions from sources outside the agency on possible revisions to its rules. The purpose of those revisions include 1) deletion of unnecessary language regarding advertising, 2) clarification of the license renewal deadline, 3) correction of terminology related to the license termination procedure for the purposes of clarification, 4) restating continuing education requirements to be consistent with recent rule changes reflecting a biennial rather than an annual cycle, 5) updating "executive secretary" to "executive director", 6) deleting a reference in *Minnesota Rule 2500.1900* to a previously repealed rule, 7) adding requirements to the waiver or deferment of continuing education requirements, 8) amending the language related to the keeping of patient records, and 9) renaming the sexual abuse recognition continuing education requirement and aligning it with the biennial continuing education cycle. The amendment of these rules is authorized by *Minnesota Statutes*, section 148.08, which permits the agency to promulgate rules in order to administer sections 148.01 to 148.105.

Groups and individuals who are likely to be affected by these rules are Minnesota licensed chiropractors.

Interested persons or groups may submit data or views on the subject matter of concern in writing. Written statements should be addressed to: Rules Committee, MBCE, 2700 University Avenue West, Suite 20, St. Paul, MN 55114-1089.

Written comments on the possible revisions will be accepted until further notice or until a Notice of Intent to Adopt or a Notice of Hearing is published in the *State Register*. Any written material received by the MBCE shall become part of the rulemaking record to be submitted to the office of administrative hearings in the event that the amendments are adopted.

Drafts of all proposed rules will automatically be sent to any persons who have requested in writing that their names be included on the MBCE rulemaking mailing list. Drafts of proposed rules will be mailed prior to the publication in the *State Register* of the Notice of Intent to Adopt or Notice of Hearing.

Dated: 26 July 1995

Larry A. Spicer, D.C.  
Executive Director

## Board of Chiropractic Examiners

### Notice of Solicitation of Outside Information or Opinions Regarding *Minnesota Rules Chapter 2500*

NOTICE IS HEREBY GIVEN that the Minnesota Board of Chiropractic Examiners (MBCE) is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing 1) reciprocal licensure and/or licensure by endorsement, 2) a chiropractor's responsibility to disclose his/her fees and charges, 3) penalties for the late renewal of an independent examination or acupuncture registration, and 4) the creation of procedures for the suspension of a registration when a violation of that registration has occurred. The amendment of these rules is authorized by *Minnesota Statutes*, section 148.08, which permits the agency to promulgate rules in order to administer sections 148.01 to 148.105.

## Official Notices

---

---

Groups and individuals who are likely to be affected by these rules are Minnesota licensed chiropractors and chiropractors licensed in another state who are seeking licensure in Minnesota.

Interested persons or groups may submit data or views on the subject matter of concern in writing. Written statements should be addressed to: Rules Committee, MBCE, 2700 University Avenue West, Suite 20, St. Paul, MN 55114-1089.

Written comments on the possible revisions will be accepted until further notice or until a Notice of Intent to Adopt or a Notice of Hearing is published in the *State Register*. Any written material received by the MBCE shall become part of the rulemaking record to be submitted to the office of administrative hearings in the event that the amendments are adopted.

Drafts of all proposed rules will automatically be sent to any persons who have requested in writing that their name be included on the MBCE rulemaking mailing list. Drafts of proposed rules will be mailed prior to the publication in the *State Register* of the Notice of Intent to Adopt or Notice of Hearing.

Dated: 26 July 1995

Larry A. Spicer, D.C.  
Executive Director

## Minnesota Health Care Commission

### Health Technology Advisory Committee

#### Notice of: 1) Availability of Preliminary Neuroimaging Evaluation Report; 2) Solicitation of Written Comments; and 3) Public Hearing Date

The Health Technology Advisory Committee (HTAC) of the Minnesota Health Care Commission has completed its preliminary report on the evaluation of neuroimaging to diagnose headache. Any interested individuals or organizations may submit written comments regarding the technology evaluation report within 30 days from the publication of this notice to Mary Fahey at:

121 East 7th Place, Suite 400  
P.O. Box 64975  
St. Paul, MN 55164-0975  
Fax: 612.282.5628

Any questions regarding the technology evaluation process should be directed to Mary Fahey at 612.282.6355. A copy of the full preliminary report may be obtained by contacting Kris Iverson at 612.282.6331.

Public testimony on HTAC's evaluation of neuroimaging will be accepted by the Minnesota Health Care Commission on Wednesday, October 18, 1995, at 10:30 AM at:

Capitol View Conference Center  
70 West County Road B-2  
Little Canada, MN 55117

A presentation will precede public testimony and will begin at 9:30 AM. Individuals interested in providing public testimony are asked to provide prior written or verbal notice to Mary Fahey by Friday, September 15, 1995, and to limit testimony to five minutes.

Any written material received by the Minnesota Health Care Commission shall be subject to the requirements of the Minnesota Data Practices Act (*Minnesota Statutes*, Section 13).

#### Neuroimaging to Diagnose Headache:

#### Computed Tomography (CT), Magnetic Resonance Imaging (MRI) and Positron Emission Tomography (PET)

##### EXECUTIVE SUMMARY

###### Conclusions

1. Three neuroimaging techniques - computed tomography (CT), magnetic resonance imaging (MRI) and positron emission tomography (PET) - have been found to be particularly useful in diagnosing abnormalities of the brain. Both CT and MRI can detect underlying organic conditions that cause chronic headache such as tumor, inflammation, congenital abnormalities, and other organic disorders. For all these conditions, MRI has been found to provide superior characterization when compared with CT. In contrast, for subarachnoid and intraparenchymal hemorrhage, two causes for the sudden onset of severe headache, CT has been found superior to MRI. However, PET has been found to provide the best definition of the

margins of lesions; therefore, it can provide more detailed information regarding the extent of the disease.

It has not been demonstrated that MRI or PET are superior to CT in **detecting** brain abnormalities, with two exceptions. MRI is superior to CT in imaging the area of the posterior fossa and in diagnosing multiple sclerosis. However, MRI reveals more incidental findings and inconsequential pathologic results. If pathology is found, the additional imaging detail provided by MRI and PET could be helpful and perhaps necessary in determining and executing treatment strategies. The exception to this would be patients with the clinical diagnosis of migraine where the pathology detected is unrelated.

CT and MRI tests show that for patients with migraine headaches or other headaches not accompanied by neurological abnormalities or other signs and symptoms indicative of underlying pathology, the proportion of potentially treatable lesions is very low - about 0.3% to 0.4% for migraine and about 2.4% for other unspecified headaches. Clinicians are investigating if health outcomes are changed by early diagnosis of brain tumors, vascular abnormalities and hydrocephalus, the major categories of lesions that have been linked to headache as the presenting symptom. For most of these lesions, the time span between onset of headache and other suspicious findings is relatively short, without irreversible damaging occurring.

2. Available data do not indicate that additional imaging tests (MRI, PET, repeat CT) will diagnose undetected lesions, if the initial CT scan does not identify pathology and the quality of the scan is adequate.
3. Research data and medical consensus identify the following clinical indications for the use of neuroimaging in the diagnosis of headache of unknown origin when the headache is characterized as:
  - accompanied by neurological abnormalities;
  - new or sudden onset of severe, incapacitating headache; and/or
  - a marked change in headache pattern or severity, including a side-locked (single side) headache.

Though other clinicians suggest neuroimaging for those with chronic, recurrent headache, if headache is the only symptom, study data do not reflect a significant yield of underlying pathology.

4. The average charge for CT with and without contrast and MRI without contrast have been reported at about \$500 and \$900 respectively, with reductions in these figures for Medicare and within some managed care plans. PET scan charges are reported as 6 to 7 times the charges for CT and MRI scans - \$3,000 to \$6,000. Given the charges associated with CT, MRI and PET, when neuroimaging is clinically indicated in the initial diagnosis of headache, without accompanying indications of posterior fossa involvement, CT appears to be the most cost-effective.
5. Clinicians and researchers report performing neuroimaging to allay patient anxiety. Research data do not reflect an exploration of other, less costly methods of reducing patient fear and concern.
6. The review of medical malpractice cases arising from a failure to use neuroimaging with headache as the presenting clinical problem indicates physicians' concerns regarding lawsuits are not reflected in verdicts and settlements. Very little litigation appears to have been brought against physicians who do not perform CT or MRI with a primary diagnosis of headache in the absence of other signs and symptoms suggesting organic lesions.

## Department of Health

### Notice Regarding Quarterly Change in the Regional and National Consumer Price Index:

Pursuant to *Minnesota Statutes* section 62J.94 Subdivision 1, the commissioner of health is required to publish the quarterly change in the regional consumer price index for urban consumers. This publication is intended to monitor change in the general inflation as measured by the quarterly change in the North Central CPI-U index. The quarterly change in the U.S. city average CPI-U index is also published for comparative purposes.

- The change in the average, unadjusted North Central CPI-U index for all items, from the 1st quarter 1995 to the 2nd quarter 1995, is 1.14%.
- The change in the average, unadjusted U.S. city CPI-U index for all items, from the 1st quarter 1995 to the 2nd quarter 1995, is 0.88%.
- The seasonally adjusted annualized rate of change in the average U.S. city CPI-U index, from the 1st quarter 1994 to the 2nd quarter 1995, is 3.40%.

## Department of Human Services

### Notice of Availability of the Minnesota Health Care Program's Provider Participation List [Also Known as DHS Rule 101 Provider Compliance List]

NOTICE IS HEREBY GIVEN that the Minnesota Health Care Program's provider participation list for July 1, 1995 is now available. The provider participation list is a compilation of health care providers who are in compliance with DHS Rule 101. This list is distributed on a quarterly basis to the Department of Employee Relations, the Department of Labor and Industry, and the Department of Commerce. To obtain the list, contact David Godfrey, Rule 101 specialist, at (612) 297-3880/1-800-657-3974. Or send your request to David Godfrey, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3856 or fax Attention: David Godfrey at (612) 296-5690.

Maria Gomez  
Commissioner  
Department of Human Services

## Department of Human Services

### Reimbursement Division

### Notice of Disproportionate Population Adjustment for State Regional Treatment Centers

The purpose of this notice is to provide information concerning the Disproportionate Population Adjustment (DPA) under the Medical Assistance (MA) Program. The following DPA factors are effective for admissions occurring from July 1, 1995 through June 30, 1996. The inpatient cost of care rate of each hospital is increased by the indicated percentage.

PID	HOSPITAL	DPA%
1700012	Anoka Regional Treatment Center	59.10
1700023	Brainerd Regional Treatment Center	58.53
1700056	Fergus Falls Regional Treatment Center	51.02
170009X	St. Peter Regional Treatment Center	59.14
1700103	Willmar Regional Treatment Center	53.97

Questions and comments may be directed to:

Larry Houff  
Department of Human Services  
Reimbursement Division  
444 Lafayette Road  
St. Paul, MN 55155-3824  
(612) 297-4184

## Department of Labor and Industry

### Occupational Safety and Health Division

### Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to Rules Governing OSHA Administrative Procedures

NOTICE IS HEREBY GIVEN that the Minnesota Department of Labor and Industry is seeking information or opinions from sources outside the agency on the proposed adoption of amendments to rules governing administrative procedures of the Occupational Safety and Health Division.

**Subject of Rules and Statutory Authority.** Primarily, the rules implement statutory changes, simplify the contestation process, and clarify rights and responsibilities of employers and employees. The proposed amendments to existing rules clarify currently



effective provisions governing discrimination against employees, adoption of standards, inspection procedures, posting requirements, and variances. Other proposed amendments remove ambiguous or duplicative statutory language. Proposed new rules streamline the contestation process for employers and employees and include rules which are identical or similar to existing OSHA Review Board rules which are no longer applicable following the 1992 statutory changes to the Minnesota Occupational Safety and Health Act (*Minnesota Statutes* Chapter 182).

The adoption of these rules is authorized by *Minnesota Statutes*, section 182.657.

**Parties Affected by the Rules.** All employers and employees in the State of Minnesota, both private and public sectors, are subject to coverage under the Minnesota Occupational Safety and Health Act and, therefore, are potentially affected by these rule amendments. All employers who have at least one employee are covered. Independent contractors are also covered to the extent defined in *Minnesota Statute* 182.6521. Those operations under the exclusive jurisdiction of the federal government are exempt as are farming operations that employ ten or fewer employees and do not operate a temporary labor camp.

**Comments and Agency Contact Person.** The Minnesota Department of Labor and Industry requests information and opinions concerning the subject matter of the rules. Interested person or groups may submit data or views on the proposed rules in writing or orally. Written statements should be mailed or faxed to:

Patricia Lorentz  
Department of Labor and Industry  
Occupational Safety and Health Division  
443 Lafayette Road  
St. Paul, MN 55155-4307  
FAX: (612) 297-2527

Oral statements will be received during regular business hours (8 a.m. to 4:30 p.m.) over the telephone at (612) 297-3254 and in person at the above address. Drafts of the proposed rules may be obtained by calling the agency contact person.

Written comments shall be accepted until the Notice of Intent to Adopt Rules without a Hearing is published in the *State Register*. However, commenters are encouraged to submit comments before October 13, 1995.

The department does not intend to establish an advisory task force to comment on these proposed rules. If no hearing is required, the rulemaking process is expected to be completed by January, 1996.

All written materials received by the Department of Labor and Industry shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event the rules are adopted.

Dated: 4 August 1995

Gary W. Bastian  
Commissioner

## **Department of Labor and Industry**

### **Occupational Safety and Health Review Board**

#### **Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Occupational Safety and Health Review Board**

**NOTICE IS HEREBY GIVEN** that the Occupational Safety and Health Review Board is seeking information or opinions from sources outside the agency in preparing to propose the adoption of amendments to rules governing procedures of the Occupational Safety and Health Review Board.

**Subject of Rules and Statutory Authority.** Primarily, the rules implement statutory changes, simplify the appellate process, and clarify rights and responsibilities of employers and employees. The proposed amendments repeal currently effective provisions governing contestation procedures which are no longer necessary because of the 1992 statutory changes transferring contestation proceedings to the Office of Administrative Hearings. Other proposed amendments remove ambiguous or duplicative statutory language. Under a separate and simultaneous notice the Department of Labor and Industry will be soliciting outside information and opinions regarding separate proposed new rules which streamline the contestation process for employers and employees and include rules which are identical or similar to existing OSHA Review Board rules which are no longer applicable following the 1992 statutory changes to the Minnesota Occupational Safety and Health Act (*Minnesota Statutes* Chapter 182) and which the Review Board,

## Official Notices

---

therefore, proposes to repeal. The adoption of these rules is authorized by *Minnesota Statutes*, section 14.06, 182.661, subd. 3 and 182.664, subds. 3 and 5.

**Parties Affected by the Rules.** All employers and employees in the State of Minnesota, both private and public sectors, are subject to coverage under the Minnesota Occupational Safety and Health Act and, therefore, are potentially affected by these rule amendments in the event of appeal of a final order in a contested OSHA case. All employers who have at least one employee are covered. Independent contractors are also covered to the extent defined in *Minnesota Statute* 182.6521. Those operations under the exclusive jurisdiction of the federal government are exempt as are farming operations that employ ten or fewer employees and do not operate a temporary labor camp.

**Comments and Agency Contact Person.** The Occupational Safety and Health Review Board requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views on the proposed rules in writing or orally. Written statements should be mailed or faxed to:

Pamela Carlson  
Executive Secretary  
Occupational Safety and Health Review Board  
443 Lafayette Road  
St. Paul, MN 55155  
FAX: (612) 296-8899

Oral statements will be received during regular business hours (8:00 a.m. to 4:30 p.m.) over the telephone at (612) 296-2992 and in person at the above address. Drafts of the proposed rules may be obtained by calling the agency contact person.

Written comments shall be accepted until the Notice of Intent to Adopt Rules without a Hearing is published in the *State Register*. However, commenters are encouraged to submit comments before October 13, 1995.

The Board does not intend to establish an advisory task force to comment on these proposed rules. If no hearing is required, the rulemaking process is expected to be completed by January, 1996.

All written materials received by the Occupational Safety and Health Review Board shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event the rules are adopted.

Dated: 4 August 1995

Kenneth Sovereign, Chair  
Minnesota Occupational Safety  
and Health Review Board

## Department of Labor and Industry

Index Number 0001:

### Interim Notice Regarding Apportionment Arbitration

The Department of Labor and Industry along with representatives of affected groups will be implementing changes to *Minnesota Statutes* 176.191. This involves setting up a system to resolve apportionment disputes through an arbitration process.

It is anticipated that disputes on apportionment will be brought in front of a panel of arbitrators, one of whom will be neutral, the others will be non-voting representatives from each of the parties to the action. Disputes will be resolved either by submission of documents only or by submission of arguments and testimonial evidence also.

The criteria for becoming an arbitrator and procedural requirements for arbitration proceedings will be set out by rules which are currently in process.

This notice is published pursuant to *Minnesota Rules* 5220.2960.

Dated: 8 August 1995

Commissioner Gary Bastian  
Minnesota Department of Labor and Industry  
443 Lafayette Road  
St. Paul, MN 55155

## Department of Labor and Industry

### Labor Standards Division

#### Notice of Prevailing Wage Certifications for Commercial Construction Projects

Effective August 14, 1995 prevailing wage rates were determined and certified for commercial construction projects in the following counties:

**Chippewa:** WWTF Package Plant Improvements-Granite Falls.

**Dakota:** ISD #196 High School No. 4-Apple Valley.

**Hennepin:** MN Vets Home (Bldg #13) 5101 Minnehaha Ave-Minneapolis; Phase 2 HCMC and Upgrades-Minneapolis.

**LeSueur:** Wastewater Treatment Facility Improvements-LeCenter.

**McLeod:** Glencoe Early Childhood First Education Center-Glencoe.

**Morrison:** UH-1 Simulator Facility-Camp Ripley; Controlled Waste Handling Facility (CWHF) USPFO Warehouse-Camp Ripley; Installation of Electrical & Plumbing for Paint Removal Equipment-Camp Ripley. M-COFT Pad Site Preparation East Range-Camp Ripley; Replace Clarifier Valves at Waste Water Treatment Facility-Camp Ripley.

**Pine:** ADA Compliance Remodel & Addition to the Administration Bldg. Arch Mech & Elect-Willow River.

**Pope:** Glenwood Public Library Addition-Glenwood.

**Ramsey:** Asbestos Removal "C" Building Metro State Univ-St Paul; Improvements East Cliff Landscape Entry-St Paul; Tri-District Community School-Maplewood.

**Redwood:** Toilet Room Addition-Morton.

**Rice:** Regional Treatment Center-Faribault.

**St Louis:** Water Pipe Replacement UMD Griggs Stadium Vehicle Maint. Shop, Research Lab Bldg-Duluth.

**Scott:** Prior Lake-Savage Area Schools District Storage Facility-Prior Lake.

**Sherburne:** ISD #728 Elk River Public Schools-Elk River.

**Stearns:** Reroof Albany Senior High & Farming Elementary-Albany and Farming.

Copies of the certified wage rate for these projects may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306. The charge for the cost of copying and mailing are \$1.36 per project. Make check or money order payable to the State of Minnesota.

Gary W. Bastian, Commissioner

## Department of Labor and Industry

### Labor Standards Division

#### Notice of Correction to Prevailing Wage Rates

Prevailing wage rates determined and certified for 407-Electrician, commercial construction have been corrected for the following counties:

**Anoka:** 6 Miles NW of Anoka Daytonport Scenic Byway Rest Area-Anoka, dated 950724; Anoka County Library-Johnsville Branch-Blaine, dated 950731; Fred Moore Middle School Electric Service Upgrade-Anoka, dated 950731.

**Hennepin:** MAC Sand Barn Remodeling-Minneapolis, dated 950807; Addition & Remodeling Wilshire Park Elementary School-St Anthony, dated 950807; Renovation B-3 Orthopaedics-Minneapolis, dated 950807; Baker National Golf Course Clubhouse Enhancements-Edina, dated 950807; Security Modifications Juvenile Detention Center-Minneapolis, dated 950807; Upgrade HVAC Controls to DDC Wilson Library-Minneapolis, dated 950807; U of M Smith Hall Attic Exhaust Fans Alterations-Minneapolis, dated 950807; Cathodic Protection for Lift Stations-11 different sites, dated 950807; HCMC Economic Assistance-Minneapolis, dated 950731; Pratt Education Center Renovation-Minneapolis, dated 950724; Cooper School Asbestos Abatement-Minneapolis, dated 950731; 1995 Partial Reroofing at Wilder School-Minneapolis, dated 950724.

**Scott:** New Prague Elementary Reroof-New Prague, dated 950724.

## Official Notices

---

**Washington:** Partial Reroof of Washington County Northern Public Building-Stillwater Township, dated 950807.

Copies of the corrected certification may be obtained by contacting the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306, or calling (612) 296-6452.

Gary W. Bastian, Commissioner

## Department of Public Service

### Energy Planning and Intervention Division

#### Notice of Intent to Solicit Outside Information Regarding the Possible Amendment of Rules Governing the Conservation Improvement Program Process, Chapter 7690

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Public Service, Energy Planning and Intervention Division (the department) is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rule governing energy conservation investments by public utilities (*Minnesota Rules* 7690.0100 to 7690.1500), as required by *Minnesota Statutes*, section 216B.241. Adoption of the rule is authorized by *Minnesota Statutes*, section 216A.07, subd. 5, which requires the commissioner to make substantive and procedural rules to implement the provisions of *Minnesota Statutes* Chapter 216B.

The department requests information and opinions concerning the subject matter of the rule. Rule amendments will impact all public utilities currently required to make energy conservation improvement investments as required under *Minnesota Statutes* 216B.241. The rules will also impact other parties interested in evaluating a public utility's proposed investments or proposing alternative investments.

Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements or requests for a list of questions on which the department is seeking specific comment on should be addressed to:

Christopher Davis (612-296-7130)  
Susan Kosowski (612-297-1769)  
Department of Public Service  
121 7th Place East, Suite 200  
St. Paul, Minnesota 55101-2145

Oral statements or comments will be received during regular business hours (8:00 a.m. to 4:30 p.m., Monday through Friday). All statements of information and opinions shall be accepted until Friday, September 29, 1995.

Drafts of future rule proposals may be obtained by contacting the department at the aforementioned address. Any written material received by the Department of Public Service shall become part of the rulemaking record to be submitted to the Attorney General or Administrative Law Judge in the event that the rules are amended.

Dated: 7 August 1995

Krista L. Sanda, Commissioner  
Department of Public Service

---

---

## Professional, Technical & Consulting Contracts

---

---

## State Grants

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

---

### Department of Education

#### Office of Information Technologies

#### Notice of Pending Grant Availability

The 1995 Legislature appropriated 5.4 million dollars for instructional transformation through technology grants over the FYI 1996-97 biennium. The Minnesota Department of Education is currently developing a request for proposals that encompasses the criteria, desired results, and parameters for the 1995-96 round of these grants.

It is expected that the RFP will be published in the *State Register* in mid to late August. Copies will be provided to each school district office and educational cooperative organization at that time. The RFP will also be available by request at the time of publication.

Specific information regarding the content of the RFP or the grant process is not available at this time, but if you wish to be placed on the mailing list for the instructional transformation through technology grants, please contact Mary Mehsikomer, Project Specialist, Office of Information Technologies, at (612) 296-2752 or via e-mail at [mary.mehsikomer@state.mn.us](mailto:mary.mehsikomer@state.mn.us).

---

---

## Professional, Technical & Consulting Contracts

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.

In accordance with *Minnesota Rules Part 1230.1910*, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a 6% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (612)296-2600 or [TDD (612)297-5353 and ask for 296-2600].

---

### Department of Employee Relations

#### Notice of Request for Proposals (RFP) for Promotional Merchandise

The Minnesota Department of Employee Relations (DOER) is soliciting proposals from qualified vendors to provide stock and customized promotional merchandise for the State Employee Health Promotion Program (SEHPP). This program will provide promotional merchandise to state agencies throughout Minnesota. The quality promotional merchandise must be available through both stock inventory (with pre-printed state logo) and customized merchandise upon request.

It is anticipated that the contract period will begin October 1, 1995 and continue through September 30, 1997. 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.

## Professional, Technical & Consulting Contracts

---

---

A complete statement of the state's requirements and other terms and conditions governing the RFP may be obtained by contacting:

Lisa M. Mueller  
Minnesota Department of Employee Relations  
Employee Insurance Division - State Employee Health Promotion Program  
200 Centennial Office Building  
658 Cedar Street  
St. Paul, MN 55155  
(612) 296-1689  
(612) 297-2003 (TTY)  
(612) 296-5445 (FAX)

All proposals must be received by DOER by 4:00 p.m. on Tuesday, September 5, 1995. Late proposals will not be accepted. Five (5) copies of the proposal must be submitted in a sealed mailing envelope or package with the vendor's name and address written on the outside.

## Department of Transportation

### Finance and Administration Division

#### Notice of Availability of a Contract for Professional "Self-directed Work Team" Services

The Department of Transportation is requesting proposals for a qualified vendor to analyze self-directed work teams in both the seven county metro area and greater Minnesota Mn/DOT offices, and to develop and implement a manual with a training program and working models for team members, supervisors and managers. The department estimates that the cost of this project need not approach, but shall not exceed \$50,000 (fifth thousand dollars.) It is anticipated that the contract period will begin in September 1995 and continue through August, 1996.

For further information or to obtain a copy of the completed Request for Proposal contact:

Sue Muehlbach, Education Services Director  
Mail Stop 200, 395 John Ireland Boulevard  
St. Paul, MN 55155  
Phone: 612-296-3125  
FAX: 612-297-7944

Proposals must be received at the above address no later than 4:00 p.m. on September 5, 1995. This request does not obligate the State of Minnesota, Department of Transportation to complete the work contemplated in this notice, and the department reserves the right to cancel this solicitation. All expenses incurred in responding to this notice shall be borne by the responder.

## Training Materials / Directory -----

### Learning Objectives for Professional Peace Officer Education

Outlines minimum level of knowledge, skill and abilities required of peace officers. Academic and clinical skill objectives are detailed. Subjects covered include: MN statutes, criminal procedure, juvenile justice, criminal investigation and more. 207pp. (*Police Ofcr. Standards & Training Bd., 1991*) Stock No. 10-80 \$14.95

### Background Investigations Process for Minnesota Law Enforcement Agencies

A guide for agencies administering background investigations of potential law enforcement officers. Outlines selection standards, data practices, sources and verification information, and the application/investigation process. Includes sample forms. Looseleaf, 55pp. (*Police Ofcr. Standards & Trng. Bd., 1991*) Stock No. 14-15 \$7.00

### Manual for Part-Time Peace Officers

An aid to students taking the POST board exam. Subjects include: laws of arrest and search and seizure, laws and rules of evidence and confessions, crime scene search and investigation and more. 74pp. (*Police Ofcr. Standards & Trng. Bd., 1984*) Stock No. 14-8 \$6.95

### Study of the Minnesota Professional Peace Officer Education System

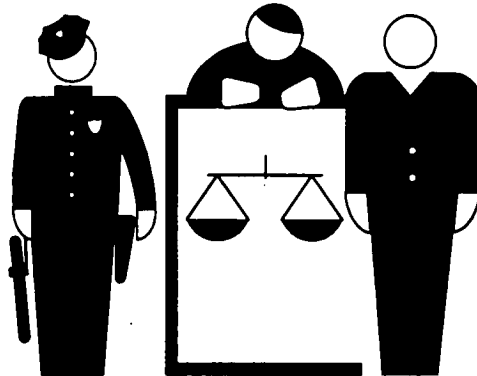
Summary of peace officer education and critical review of the professional development of law enforcement. Identifies critical issues and recommendations to ensure quality training. 118pp. (*Police Ofcr. Standards & Trng. Bd., 1991*) Stock No. 14-19 \$10.95

### Law Enforcement Agencies Directory

Directory of sheriff and police departments and state law enforcement agencies. Lists names, addresses, phone numbers and county of each. 11pp. (*Police Ofcr. Standards & Trng. Bd., 1995*) Stock No. 1-6 \$7.00

### A Study of Deadly Force by Peace Officers

POST Board study presents an objective perspective on the use of force by current law enforcement officials. Examines the effect of policies, firearms, and training in relation to deadly force. 63pp. (*Police Ofcr. Standards & Trng. Bd., 1991*) Stock No. 14-20 \$12.95



### Police Report Writing Style Manual

Establishes a common framework for report writing throughout the state. Discusses the general purpose of police reports, reviews field note-taking, offers instructions on completing common report forms, and includes the Data Practices Act. 185pp. (*Police Ofcr. Standards/Training. Bd., 1989*) Stock No. 14-13 \$15.00

### MN State Patrol Radar Operator's Manual

Guide to traffic radar operation. Explains the Doppler Principle, installation of radar unit, proper calibration testing procedures, and more. 40pp. (*MN State Patrol, 1987*) Stock No. 10-3 \$6.00

### Breath Test Operator Training Course

Complete course material for training for the Intoxilyzer 5000. Reviews Minnesota test sequence, infrared theory, pharmacology and toxicology, and more. 114pp. (*Public Safety, 1990*) Stock No. 14-9 \$15.00

### Sentencing Guidelines & Commentary

1994 82pp. Stock No. 14-18 \$10.95  
 1993 78pp. Stock No. 14-18C \$10.95  
 1992 74pp. Stock No. 14-18B \$10.95  
 (See page 7 for sentencing worksheets.)

### Policy Development Instructional Materials for Use of Force Training

Outline for teaching Use of Force Training 80pp. (*Police Ofcr. Standards & Trng. Bd., 1992*) Stock No. 14-21 \$10.95

## Statutes/Rules

Minnesota's Bookstore carries a wide selection of law enforcement law/rule extracts. For a free catalog listing ALL law/rule extracts, call during business hours.

