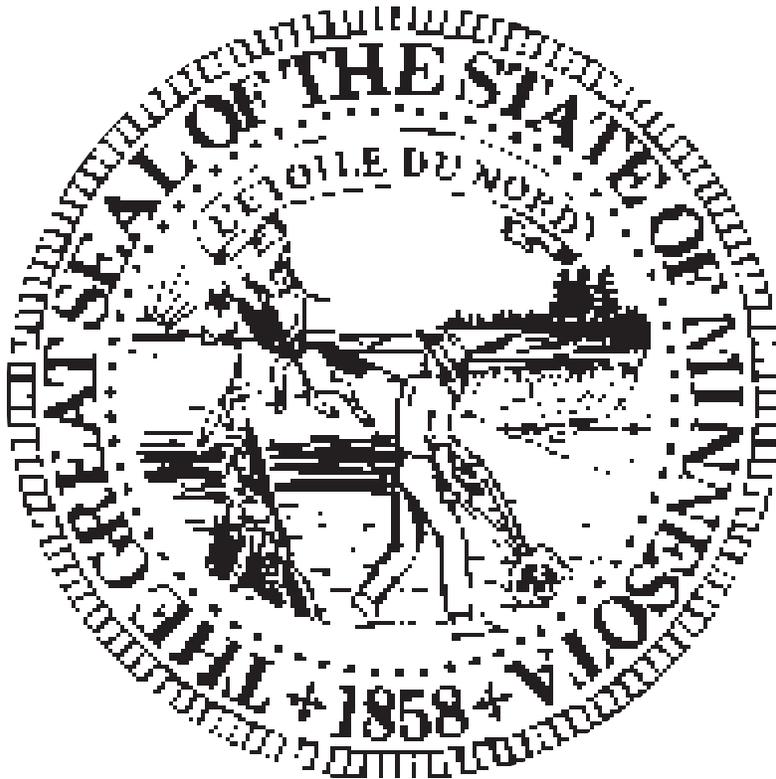


The Minnesota

State Register

Rules and Official Notices Edition



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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.

Printing Schedule and Submission Deadlines

Vol. 22 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
# 41	Monday 13 April	Noon Wednesday 1 April	Noon Tuesday 7 April
# 42	Monday 20 April	Noon Wednesday 8 April	Noon Tuesday 14 April
# 43	Monday 27 April	Noon Wednesday 15 April	Noon Tuesday 21 April
# 44	Monday 4 May	Noon Wednesday 22 April	Noon Tuesday 28 April

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Joanne E. Benson, Lt. Governor 612/296-3391	Judi Dutcher, State Auditor 612/297-3670	Michael A. McGrath, State Treasurer 612/296-7091
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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:

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

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

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Individual copies and subscriptions for both publications are available through Minnesota's Bookstore, (612) 297-3000 or 1-800-657-3757.	

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 80 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. The current 1995 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a 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 most current edition of 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 issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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Comments on Planned Rules or Rule Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing

After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. 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*.

Department of Agriculture

Proposed Permanent Rules Relating to Agricultural Development Grants

Notice of Intent to Adopt a Rule Without a Public Hearing

Proposed Amendments to Rules Governing Agricultural Development Grants, *Minnesota Rules* 1552.0040, subp. 2, and 1552.0050, subp 2.

Introduction. The Minnesota Department of Agriculture intends to adopt amendments to permanent rules without a public hearing following the procedures set forth in the Administrative Procedures Act, *Minnesota Statutes*, sections 14.22-14.28 and rules of the Office of Administrative Hearings parts 1400.2300-1400.2310. You have 30 days to submit written comments on the proposed amendments and may also submit a written request that a hearing be held on the amendments.

Agency Contact Person. Comments or questions on the amendments and written requests for a public hearing on the amendments must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107: Phone (612) 296-6906, Fax (612) 297-5522. TTY users may contact the Department of Agriculture through Minnesota Relay Service at 1-800/627-3529.

Subject of Rules and Statutory Authority. The proposed amendments are about changes in grant application requirements for Agricultural Development Grants. The statutory authority to adopt these amendments is *Minnesota Statutes*, section 17.101, subd. 2. A copy of the proposed amendments is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. May 13, 1998, to submit written comment in support of or in opposition to the proposed amendments or any subpart of the amendments. Your comments 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 amendments addressed and the reason for the comment. You are encouraged to propose any change desired. Any comment you would like to make on the legality of the proposed rule must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the amendments. 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 May 13, 1998. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed amendments to which you object or state that you oppose the entire rule. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed amendments.

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

Withdrawal of Requests. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their request in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131-14.20.

Modifications. The proposed amendments may be modified as a result of public comment. The modifications must be supported by the comments and information submitted to the agency, and the adopted rule may not be substantially different than the proposed amendments. If the proposed amendments affect 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 agency contact person. This statement contains a summary of the justification for the proposed amendments including a description of who will be affected by the proposed amendments and an estimate of the probable cost of the proposed amendments.

Adoption and Review of the Rules. If no hearing is required, the agency may adopt the amendments after the end of the comment period. The amended rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the amended rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted amendments, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: 16 March 1998

Sharon Clark, Deputy Commissioner
Department of Agriculture

1552.0050 APPLICATION PROCEDURES.

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

Subp. 2. **Application content.** The application must include the following information:

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

F. a budget showing total project costs and contributions, as follows:

(1) an identification of all sources of contributions and the amounts and types of contributions from each source;

(2) an itemization of costs and indication of the source and type of contribution for the following items: personnel, travel, rental of office space or equipment, supplies, printing, postage and telephone, promotional or demonstrational equipment to be purchased, or other costs, and a description of the source and amount of funds for each type of expenditure (either anticipated grant or applicant contribution); and

G. a copy of the latest audit report, financial statement, or other appropriate statement of financial condition of the applicant; ~~and~~

~~H. a statement certifying that the applicant will not use agricultural development grant funds to continue existing agricultural promotion activities.~~

[For text of subps 3 and 4, see M.R.]

REPEALER. *Minnesota Rules*, part 1552.0040, subpart 2, is repealed.

Pollution Control Agency

Proposed Permanent Rules Relating to Aboveground Storage of Liquid Substances

DUAL NOTICE: Notice of Intent to Adopt a Rule Without a Public Hearing, and Notice of Hearing (Subject to 25 or More Requests for a Hearing) for a Proposed Amendment to Rules Governing Aboveground Storage of Products Capable of Polluting the Waters of the State, *Minnesota Rules*, Chapter 7100, Parts 7100.0010 - 7100.0090, Chapter 7001, Parts 7001.0020 and 7001.4200 - 7001.4250, and Chapter 7151, Parts 7151.1000 - 7151.9600.

Introduction. NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) intends to adopt a rule without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28 and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rule within 30 days or by May 13, 1998, a public hearing will be held at the following times and locations:

Mankato State University Student Union Room 253 Mankato, Minnesota starting at 7:00 p.m. on June 1, 1998	Central Lakes College Room 247 Brainerd, Minnesota starting at 7:00 p.m. on June 2, 1998
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To find out whether the rule will be adopted without a hearing or if the hearing will be held, you should contact the MPCA contact person after May 13, 1998, and before June 1, 1998.

MPCA Contact Person. Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to: Thomas Honebrink, Hazardous Waste Division, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194. Mr. Honebrink may be reached at telephone number (612) 297-8659.

Subject of Rule and Statutory Authority. The proposed rule and rule amendment is about the technical and administrative requirements for storage of liquid substances in aboveground storage tanks. The proposed rules and rule amendments include provisions relating to secondary containment, substance transfer, tanks and piping, monitoring and inspections, permits, removal from service, inadequate safeguards, and variances, as well as the application procedures and requirements for obtaining a major facility liquid storage permit. The statutory authority to adopt the rule is *Minnesota Statutes*, §§ 115.03, subd. 1(e)(3). A copy of the proposed rule and rule amendment is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on May 13, 1998, to submit written comment in support of or in opposition to the proposed rule and rule amendment or any part or subpart of the rule and rule amendment. Your comment must be in writing and received by the MPCA contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule or rule amendment addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rule or rule amendment must also be made during this comment period.

Request for 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 May 13, 1998. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rule to which you object or state that you oppose the entire rule. Any request that does not comply with these requirements is not valid and cannot be counted by the MPCA for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rule.

Withdrawal of Requests. If 25 or more persons submit a written request for hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the MPCA must give written notice of this to all persons who requested a hearing, explain the actions the MPCA took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the MPCA will follow the procedures in *Minnesota Statutes*, §§ 14.131 to 14.20.

Accommodation. If you need an accommodation to make this hearing accessible, please contact the MPCA contact person at the address or telephone number listed above.

Modifications. The proposed rule may be modified, either as a result of public comment or as a result of the rule hearing

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

process. Modifications must be supported by data and views submitted to the MPCA or presented at the hearing and the adopted rule may not be substantially different than this proposed rule. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearings scheduled for June 1, and June 2, 1998, will be canceled if the MPCA does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the MPCA will notify you before the scheduled hearings whether or not the hearings will be held. You may also call the MPCA contact person after May 13, 1998 to find out whether the hearings 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*, §§ 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. An Administrative Law Judge is assigned to conduct the hearing. The judge can be reached at the following address: Allan W. Klein, Administrative Law Judge, Office of Administrative Hearings, 100 Washington Square, Suite 1700, 100 Washington Avenue South, Minneapolis, Minnesota, 55401-2138 or phone (612) 341-7609.

Hearing Procedure. If a hearing is held, you and all interested 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 before the close of the hearing record. All evidence presented should relate to the proposed rule. You may also submit written material 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. Following the comment period, there is a five-working-day response period during which the MPCA and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments 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. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, Parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, §§ 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

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

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the MPCA contact person. This statement contains a summary of the justification for the proposed rule, including a description of who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule. The statement may also be reviewed and copies obtained at the cost of reproduction from either the MPCA or the office of Administrative Hearings.

Impact on Farming Operations. *Minnesota Statutes*, § 14.111, is not applicable because the proposed rules do not affect farming operations.

Review by Agency of Transportation. The requirement of *Minnesota Statutes*, § 174.05 is not applicable.

Agency of Finance Review of Charges. *Minnesota Statutes*, § 16A.1285, is not applicable because the proposed rules do not entail charges.

Consideration of Economic Factors. In proposing these rules, the Agency has given due consideration to available information as to any economic impacts the proposed rules would have. These economic impacts are described in Part IV.B. of the Statement of Need and Reasonableness. Consideration for economic factors were considered in the development of this rule. While some of the requirements of this chapter will cause some tank owners and operators to incur expenses to upgrade their facilities, other requirements were designed to give regulatory credit for operation and administrative activities already being carried out by tank owners and operators. Any expenses related to implementing an effective tank management plan are reasonable as described in the Statement.

Lobbyist Registration. *Minnesota Statutes*, Chapter 10A, requires each lobbyist to register with the Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board: Campaign Finance and Public Disclosure Board, 100 Centennial Office, 658 Cedar Street, St. Paul, MN 55155, (612) 296-5148 or 1-800-657-3889.

Request to Have MPCA Board Make Decision on Rule if No Hearing is Required. If a hearing is required, the MPCA Board will make the final decision on whether to adopt the rule. However, even if no hearing is required, you have the right to submit a request to the MPCA Commissioner to have the MPCA Board make the decision on whether to adopt the proposed rule. Your petition must be in writing and must be received by the MPCA contact person by 4:30 p.m. on May 13, 1998. Your petition will be granted or denied in the sole discretion of the MPCA Commissioner. Under *Minnesota Statutes*, § 116.02, where a hearing is not

required the MPCA Board will only make the decision on the rule if the MPCA Commissioner grants your petition or if an MPCA Board member makes a timely request that the decision be made by the MPCA Board.

Adoption Procedure if No Hearing. If no hearing is required, and if the decision is not required to be made by the MPCA Board, the MPCA Commissioner may adopt the rule after the end of the comment period. The rule and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rule is submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rule, or want to register with the MPCA to receive notice of future rule proceedings, submit your request to the MPCA 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 ask to be notified of the date when the judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. After the report is issued, the MPCA Board will make the final decision on whether to adopt the rule. You may also ask to be notified of the date on which the MPCA adopts the rule and files it with the Secretary of State, and can make this request at the hearing or in writing to the MPCA contact person stated above.

Order. I order that the rulemaking hearing be held at the date, time and location listed above.

Dated: 1 April 1998

Peder Larson
Commissioner

7001.0020 SCOPE.

Except as otherwise specifically provided, parts 7001.0010 to 7001.0210 apply to the following:

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

I. An agency permit required for the construction or operation of a liquid storage facility which:

(1) is a major facility as defined in part 7001.4010;

(2) stores:

(a) a substance as defined in part 7001.4010;

(b) asphalt; or

(c) fuel oil number 6; and

(3) is not an excluded aboveground storage tank system under part 7151.1300, subpart 2.

Part 7001.0080 applies to the permits in this item except that the time period referenced in part 7001.0080 shall be five years instead of three years.

MAJOR FACILITY LIQUID SUBSTANCE STORAGE PERMITS

7001.4200 SCOPE.

Parts 7001.0010 to 7001.0210 and 7001.4200 to 7001.4250 govern the application procedures, issuance, and conditions of major facility liquid substance storage permits. Chapter 7000 shall be construed to supplement parts 7001.0010 to 7001.0210 and 7001.4200 to 7001.4250.

7001.4205 DEFINITIONS.

Subpart 1. Scope. The definitions in parts 7001.0010 and 7151.1200 apply to the terms used in parts 7001.4200 to 7001.4250 unless the terms are defined in this part.

Subp. 2. Major facility. "Major facility" means one or more aboveground storage tanks, including any indoor tanks, together with any associated secondary containment areas, appurtenances, and substance transfer areas, that are located in a single area and used in part of a single business operation and where the total liquid design capacity of all such tanks at the site is 1,000,000 gallons or greater.

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. Major facility permit. "Major facility permit" means a permit issued by the agency to a major facility pursuant to this chapter.

Subp. 4. Substance. "Substance" means any liquid material which is not gaseous or solid at standard atmospheric temperature and pressure that is capable of polluting the waters of the state.

7001.4210 INCORPORATIONS BY REFERENCE.

Subpart 1. Scope. For purposes of this chapter, the documents in subpart 2 are incorporated by reference. The documents are not subject to frequent change. They are available at:

- A. the address shown in subpart 2; and
- B. the agency library through the Minitex interlibrary loan system.

Subp. 2. Referenced Standards. The documents incorporated by reference in this chapter are as follows: American Petroleum Institute (API), 1220 L Street Northwest, Washington, DC 20005:

- A. 650, Welded Steel Tanks for Oil Storage, Ninth Edition (1993);
- B. 651, Cathodic Protection of Aboveground Petroleum Storage Tanks, First Edition (1991);
- C. 652, Lining of Aboveground Petroleum Storage Tank Bottoms, First Edition (1991); and
- D. 653, Tank Inspection, Repair, Alteration, and Reconstruction, Second Edition (1995).

7001.4215 PERMIT APPLICATION AND PUBLIC COMMENT.

Subpart 1. Public notice and comment. If the permit applicant requests or the agency determines that issuance, reissuance, or modification of a permit involve issues that generate or are likely to generate significant material adverse comment from the public, based on previous adverse public comment on the proposed permit or related issues, the procedures in items A to C, prior to issuance, reissuance, or modification of the permit, apply.

A. The agency shall give notice:

(1) by posting the notice in the post office, public library, or other buildings used by the general public in the designated geographical area;

(2) by posting the notice at or near the entrance of the applicant's premises, if located near the facility or activity that is the subject of the permit application;

(3) by publishing the notice in one or more newspapers or periodicals of general circulation in the designated geographical area; or

(4) by publishing the notice in a manner constituting legal notice to the public.

B. The notice must identify:

(1) the name and location of the facility to be permitted;

(2) the name and address of the permittee;

(3) the name and address of the agency;

(4) the activity or activities proposed to be permitted;

(5) the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, and all other materials available to the agency that are relevant to the permit decision;

(6) a brief description of the comment procedures required by this part; and

(7) the time and place of any meeting or hearing that may be held, including a statement of procedures to request a meeting or hearing under item C, unless a meeting or hearing has already been scheduled.

C. The agency shall provide at least 30 days for public comment and shall give notice of any public informational meeting or contested case hearing at least 30 days in advance of the meeting or hearing. The provisions of part 7001.0110 apply to public comments received under this part.

7001.4220 PERMIT APPLICATION.

If the applicant is requesting the issuance, modification, revocation and reissuance, or reissuance of a major facility liquid substance storage permit, the applicant shall submit the following information to the commissioner:

A. the information required by part 7001.0050;

B. for each outdoor tank system:

- (1) tank number;
- (2) substance stored;
- (3) design capacity in gallons;
- (4) year of tank's installation;
- (5) status of tank as active or out of service under part 7151.8200;
- (6) tank construction material;
- (7) tank fabrication for field-erected and shop-fabricated tanks;
- (8) tank wall construction;
- (9) tank floor construction;
- (10) liquid level gauging mechanism;
- (11) overflow protection system on tank;
- (12) corrosion protection system for the underside of each tank floor;
- (13) leak detection system;
- (14) aboveground and underground piping location, fabrication, and preventative safeguards;
- (15) date of the most recent out-of-service inspection and the method used to evaluate the tank;
- (16) the scheduled or estimated date of the next out-of-service inspection; and
- (17) secondary containment area information including:
 - (a) containment area number;
 - (b) tank number of each tank within the tank area;
 - (c) volume in gallons of the secondary containment area;
 - (d) construction materials including the dike walls and basin area; and
 - (e) the permeability factor of the materials used to construct the containment area;

C. for each indoor tank:

- (1) tank number;
- (2) substance stored;
- (3) design capacity in gallons; and
- (4) indoor containment method;

D. site geology information:

- (1) average or estimated depth to groundwater;
- (2) native soil classification, between surface and groundwater;
- (3) the calculated or estimated vertical permeability of native soil, not including any containment liner;
- (4) average or estimated depth to bedrock;
- (5) bedrock type and formation name; and
- (6) existing tank or pipe-related site contamination or any investigation indicating no contamination; and

E. any additional information the commissioner determines necessary to process the major facility permit application.

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Proposed Rules

7001.4230 RETENTION OF TANK AND SUBSTANCE TRANSMISSION LINE RECORDS.

If a liquid storage facility is required to obtain a major facility permit under this chapter, the permittee shall retain the following data on file at the facility for the retention times specified:

A. for each field-erected tank:

- (1) external inspection results, for five years;
- (2) internal inspection final reports, for the life of the tank;
- (3) specifications for the tank floor coating, for the life of the coating;
- (4) design specifications, including anode and rectifier placement, for the cathodic protection system, for the life of the system;
- (5) record of results of all bimonthly rectifier reading results and annual cathodic protection surveys, for three years;
- (6) specifications for the tank gauging system, for the life of the system;
- (7) daily gauge readings, for three years;
- (8) specifications for the overfill protection system, for the life of the system;
- (9) record of results of annual testing or calibration of the gauging and overfill protection systems, for one year;
- (10) records of leak testing, including date, method, operator, and results, for three years; and
- (11) records of any major tank modifications or repairs, for the life of the tank;

B. for each underground substance transmission line:

- (1) information addressing the line segment, including age, material, diameter, location shown on a scaled map, type of service, pressure rating, and any special conditions of service, for the life of the line;
- (2) specifications for any leak safeguards, such as pipe coating or wrapping, cathodic protection, double walled, or leak detection system, for the life of the safeguard; and
- (3) record of results of inspections and leak tests, including date, method, operator, and results, for three years; and

C. facility wide: records of daily visual inspections, for one year.

Unless otherwise addressed in the terms and conditions of the permit, the major facility permittee shall retain all data specified in this part. The permittee shall, upon agency request, make the data available to the agency for viewing and copying.

7001.4240 REDUCTION OR INCREASE OF LIQUID STORAGE CAPACITY.

Subpart 1. Major facilities which reduce liquid storage capacity. Any major facility operating pursuant to a major facility permit under this part, which reduces liquid storage capacity so as to no longer meet the definition of a major facility under part 7001.4205, subpart 2, shall continue to comply with all terms and conditions of the major facility permit until the expiration of the permit.

Subp. 2. Facilities which increase liquid storage capacity. Any liquid storage facility which does not meet the definition of a major facility under part 7001.4205, subpart 2, on the effective date of this part, which proposes to increase liquid storage capacity so as to meet the definition of a major facility, shall apply for and obtain a major facility permit under this part prior to increasing storage of liquid substances at the facility.

7001.4250 NOTIFICATION REQUIREMENTS FOR FIELD-ERECTED TANKS.

The notification required for field-erected tanks is as described in items A to C.

A. Except as provided in item B, the permittee shall notify the commissioner, in writing, at least 30 days prior to implementation of any of the following:

- (1) construction or installation of any of the following:
 - (a) a new field-erected aboveground storage tank;
 - (b) a new underground substance transmission line;
 - (c) a new floor in an existing field-erected aboveground storage tank;
 - (d) a secondary containment system for a field-erected aboveground storage tank;
 - (e) a cathodic protection system for a field-erected aboveground storage tank or for an underground line;
 - (f) an internal coating for a field-erected aboveground storage tank; or
 - (g) a release detection system for a field-erected aboveground storage tank.

- (2) relocation of a field-erected aboveground storage tank;
- (3) return to service of a closed field-erected aboveground storage tank;
- (4) deviations from American Petroleum Institute standards 650, 651, 652, and 653;
- (5) change of substance stored in tank; or
- (6) deviation from schedules contained in the permit.

B. The permittee need not notify the commissioner of any construction or installation of a type listed in item A which is specifically required by the permit or excluded by the terms and conditions of the permit.

C. The permittee shall obtain the commissioner's written approval prior to placing any new field-erected tank or underground transmission line into service, returning to service any field-erected tank closed at the time of issuance of the permit, or deviating from schedules contained in the permit.

GENERAL

7151.1100 PURPOSE.

The purpose of this chapter is to provide for the protection of the public health and the environment by establishing uniform performance standards and technical requirements for aboveground storage of liquid substances which may cause pollution of the waters of the state.

7151.1200 DEFINITIONS.

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

Subp. 2. **Aboveground storage tank system or tank system.** "Aboveground storage tank system" or "tank system" means any one or a combination of containers, vessels, and enclosures, including structures and appurtenances connected to them, that is used to contain or dispense substances, and that is not an underground storage tank under Minnesota Statutes, section 116.46, subdivision 8.

Subp. 3. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 4. **Appurtenances.** "Appurtenances" means any aboveground or underground lines connected to an aboveground storage tank that are two inches or greater inside diameter, together with any associated valves and manifolds.

Subp. 5. **Capacity.** "Capacity" means the maximum volume of liquid in gallons that may be contained by an aboveground storage tank pursuant to the tank's design.

Subp. 6. **Cathodic protection.** "Cathodic protection" means the technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell through the application of either galvanic anodes or impressed current.

Subp. 7. **Cathodic protection tester.** "Cathodic protection tester" means a person who demonstrates an understanding of the principles and measurements of cathodic protection systems as applied to metal piping and tanks. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of metal piping and tanks.

Subp. 8. **Class 2 surface water.** "Class 2 surface water" means all waters of the state that are or may be used for fishing, fish culture, bathing, or any other recreational purpose, and for which quality control is or may be necessary to protect aquatic or terrestrial life, or the public health, safety, or welfare.

Subp. 9. **Compatible.** "Compatible" means the ability of two or more substances or materials in a tank system to maintain their respective physical and chemical properties upon contact with one another.

Subp. 10. **Corrosion expert.** "Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the application of corrosion control on metal piping systems and metal tanks. The person shall be accredited, certified by the National Association of Corrosion Engineers, or a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of metal piping systems and metal tanks.

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Proposed Rules

Subp. 11. **Dike.** “Dike” means an embankment, ridge, or wall capable of preventing the movement of stored substances out of a secondary containment area following a release from a tank.

Subp. 12. **Double-walled tank.** “Double-walled tank” means an aboveground storage tank designed and built with an outer and inner shell and an interstitial space between the shells that allows for monitoring.

Subp. 13. **Electrical equipment.** “Electrical equipment” means equipment such as transformers which contain dielectric fluid necessary for operation.

Subp. 14. **Farm.** “Farm” means a tract of land devoted to the production of crops or raising of animals.

Subp. 15. **Field-erected tank.** “Field-erected tank” means an aboveground storage tank that is constructed by final assembly on site at a facility.

Subp. 16. **Hazardous material.** “Hazardous material” means any substance listed as a hazardous material in *Code of Federal Regulations*, title 49, section 172.101.

Subp. 17. **Heating and cooling equipment.** “Heating and cooling equipment” means equipment intended or installed for the purpose of heating, cooling, and/or conditioning air, water, and/or fluid by mechanical means for environmental, process, or other purposes.

Subp. 18. **Hydraulic lift tank.** “Hydraulic lift tank” means an aboveground storage tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

Subp. 19. **Impermeable.** “Impermeable” means the ability to prevent a substance or combination of compatible substances from penetrating through a secondary containment area for a minimum of 72 hours.

Subp. 20. **Indoor tank.** “Indoor tank” means an aboveground storage tank located inside a building or other type of enclosed structure, resting on or elevated above an impermeable floor surface, from which a release would:

A. be entirely contained within a secondary containment structure;

B. not escape from the building through any doorways, floor drains, or other means; or

C. be directed by any drainage system of the building either to a permitted on-site wastewater treatment facility or to a permitted municipal wastewater treatment facility.

Subp. 21. **Major facility.** “Major facility” means one or more aboveground storage tanks, including any indoor tanks, together with any associated secondary containment areas, appurtenances, and substance transfer areas, that are located in a single area and used in part of a single business operation and where the total liquid design capacity of all such tanks at the site is 1,000,000 gallons or greater.

Subp. 22. **Major facility permit.** “Major facility permit” means a permit issued by the agency to a major facility under part 7001.4200.

Subp. 23. **Operator.** “Operator” means a person in control of or having responsibility for the daily operation of an aboveground storage tank or tank system, or a person who was in control of or had responsibility for the daily operation of a tank or tank system immediately before discontinuation of its use.

Operator also means a person who is responsible under *Minnesota Statutes*, section 115C.021, for a release from an aboveground storage tank containing petroleum or a person who is responsible under *Minnesota Statutes*, section 115B.03, for a release from an aboveground storage tank containing a hazardous material.

Subp. 24. **Other regulated substances.** “Other regulated substances” means any substance, including a food-based product intended for human or animal consumption, which is capable of polluting the waters of the state and is not:

A. a petroleum substance under standard temperature and pressure; or

B. a hazardous material.

Subp. 25. **Owner.** “Owner” means a person who holds title to, controls, or owns an interest in an aboveground storage tank or tank system, or a person who held title to, controlled, or possessed an interest in the tank or tank system immediately before discontinuation of its use.

Owner also means a person who is responsible under *Minnesota Statutes*, section 115C.021, for a release from an aboveground storage tank containing petroleum or a person who is responsible under *Minnesota Statutes*, section 115B.03, for a release from an aboveground storage tank containing a hazardous material.

Owner does not include a person who holds an interest in a tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of and operated the tank.

Subp. 26. **Person.** “Person” means an individual, partnership, association, corporation, or other legal entity, including the United States government, an interstate commission or other body, the state, or any agency, board, bureau, office, department, or political subdivision of the state, but does not include the Minnesota Pollution Control Agency.

Subp. 27. **Piping or lines.** “Piping” or “lines” means a hollow cylinder or tubular conduit, that is two inches or greater inside diameter, that is constructed for conveying a substance from one point to another within an aboveground storage tank system.

Subp. 28. **Release.** “Release” means a spill, leak, or discharge of a substance from a tank or its appurtenances to the environment, including a spill, leak, or discharge into a secondary containment area, into the ground underneath a tank, or into a substance transfer area. For purposes of this chapter, release does not include intentional venting or fugitive air emissions from a tank allowed under agency rules.

Subp. 29. **Safeguard.** “Safeguard” means a device, system, or combination of devices or systems designed to detect or prevent the escape or movement of a substance from the place of storage under such conditions that might cause pollution of the waters of the state.

Subp. 30. **Secondary containment.** “Secondary containment” means a safeguard specifically designed to prevent a release from an aboveground storage tank or tank system from spreading vertically or horizontally and contaminating the land or water outside the containment area.

Subp. 31. **Shop-fabricated tank.** “Shop-fabricated tank” means an aboveground storage tank that is constructed at a tank manufacturer’s plant and transported to a facility for installation.

Subp. 32. **Substance.** “Substance” means any material which is liquid at ambient pressures and temperatures and which is capable of polluting waters of the state.

Subp. 33. **Substance transfer area.** “Substance transfer area” means the area where a truck or rail car makes its connection to or from an aboveground storage tank system for the purpose of unloading or receiving a substance.

Subp. 34. **Tank or aboveground storage tank.** “Tank” or “aboveground storage tank” means a container, vessel, or enclosure designed to contain substances and is constructed of materials such as concrete, steel, plastic, or fiberglass reinforced plastic, provides structural support, and is located aboveground. A tank includes bladders, rail cars, and trucks.

Subp. 35. **Tank service project.** “Tank service project” means the installation, erection, repair, withdrawal from service, or removal of an aboveground storage tank. Each tank service project addresses discrete tank work and is separated in time and space from another tank service project.

Subp. 36. **Tote tank.** “Tote tank” means an aboveground storage tank that:

- A. is not filled or refilled at the site of substance use;
- B. is 1,100 gallons or less in capacity; and
- C. is located at the site of use for less than 180 days.

Subp. 37. **Type A substances.** “Type A substances” means gasoline, aviation gas, naphtha, denatured ethanol, and hazardous materials, or mixtures or blends containing such substances.

Subp. 38. **Type B substances.** “Type B substances” means crude oil, diesel, kerosene, jet fuel, fuel oil numbers 1 to 4, waste oils, or mixtures or blends of such substances with Type C substances.

Subp. 39. **Type C substances.** “Type C substances” means asphalt cement, roofing flux, fuel oil numbers 5 and 6, and other regulated substances.

Subp. 40. **Underground storage tank.** “Underground storage tank” means any one or combination of containers including tanks, vessels, enclosures, or structures and appurtenances connected to them that is used to contain or dispense regulated substances pursuant to chapter 7150, and the volume of which, including the volume of piping connected to them, is ten percent or more beneath the surface of the ground.

Subp. 41. **Underground piping or underground lines.** “Underground piping” or “underground lines” means a hollow cylinder or tubular conduit, that is two inches or greater inside diameter, that is constructed for conveying a substance from one point to another within an aboveground storage tank system. The volume of piping must be ten percent or more beneath the surface of the ground.

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Proposed Rules

7151.1300 APPLICABILITY.

Subpart 1. **Scope.** Except as otherwise provided in subpart 2, this chapter applies to any owner or operator of an aboveground storage tank system which is not required to obtain a permit under chapter 7001. Any major facility must obtain a major facility liquid substance storage permit under part 7001.4200.

Subp. 2. **Exclusions.** The following aboveground storage tank systems are excluded from the requirements of this chapter:

A. a wastewater clarifier or other type of wastewater treatment basin located at a permitted municipal or industrial wastewater treatment facility;

B. equipment or machinery containing substances for operational purposes such as integral hydraulic lift tanks, lubricating oil reservoirs for pumps and motors, electrical equipment, and heating and cooling equipment;

C. an indoor tank;

D. a tote tank;

E. an aboveground storage tank containing hazardous wastes which are subject to a treatment or storage permit issued pursuant to chapter 7001;

F. an aboveground storage tank containing agricultural chemicals regulated under *Minnesota Statutes*, chapter 18B, 18C, or 18D;

G. a vehicle, such as a tank truck or railroad tank car, designed and used to transport substances from one location to another unless:

(1) the vehicle contains substances and remains in the same location more than 30 consecutive days; or

(2) the vehicle dispenses substances and is refilled while in the same location;

H. a surface impoundment, pit, pond, or lagoon;

I. an aboveground storage tank constructed of stainless steel containing other regulated substances;

J. an aboveground storage tank containing drinking water or water stored for fire or emergency purposes;

K. an aboveground storage tank located on a farm;

L. an aboveground storage tank located on residential property of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

M. an aboveground storage tank of 1,100 gallons or less capacity used for storing heating oil for consumption on the premises where stored; and

N. any aboveground storage tank of 1,100 gallons or less capacity, not otherwise exempt under items A to M, unless that tank is greater than 500 gallons capacity and is located within 500 feet of a Class 2 surface water.

7151.2100 INCORPORATIONS BY REFERENCE.

Subpart 1. **Scope.** For purposes of this chapter, the documents in subpart 2 are incorporated by reference. The documents are not subject to frequent change. They are available at:

A. the addresses shown in subpart 2; and

B. the agency library through the Minitex interlibrary loan system.

Subp. 2. **Referenced standards.** The documents incorporated by reference in this chapter are listed in this subpart.

A. American National Standards Institute (ANSI), 1430 Broadway, New York, New York 10018:

(1) B31.3, *Process Piping* (1996);

(2) B31.4, *Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols* (1992);

(3) B16, *Standards for Valves*; and

(4) B36, *Pipe Material Standards*.

B. American Petroleum Institute (API), 1220 L Street Northwest, Washington, DC 20005:

(1) 620, *Design and Construction of Large, Welded, Low-Pressure Storage Tanks*, Ninth Edition (1996);

(2) 650, *Welded Steel Tanks for Oil Storage*, Ninth Edition (1993);

(3) 651, *Cathodic Protection of Aboveground Petroleum Storage Tanks*, First Edition (1991);

- (4) 652, Lining of Aboveground Petroleum Storage Tank Bottoms, First Edition (1991);
(5) 653, Tank Inspection, Repair, Alteration, and Reconstruction, Second Edition (1995);
(6) 1631, Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks, Third Edition (1992);
(7) 1632, Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, Third Edition (1996); and
(8) 2015, Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry from Decommissioning Through Recommissioning, Fifth Edition (1994).
- C. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19429-2959:
- (1) D1785-96, Specifications for Poly (Vinyl Chloride) (PVC) Plastic Pipe, Schedules 40, 80, and 120 (1997);
(2) ES40-94, Alternative Procedures for the Assessment of Buried Steel Tanks Prior to the Addition of Cathodic Protection (1997); and
(3) Applicable Standard Practices and Test Methods for Evaluating Soil Permeability Analysis and Sampling.
- D. Code of Federal Regulations, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954: title 49, part 172.101, Transportation (1997).
- E. National Association of Corrosion Engineers (NACE), Publication Department, P.O. Box 218340, Houston, Texas 77218:
- (1) RP-01-69, Control of External Corrosion on Underground or Submerged Metallic Piping Systems (1996); and
(2) RP-02-85, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection (1995).
- F. National Leak Prevention Association (NLPA), 7685 Fields Ertel Road, Cincinnati, OH 45241:
- (1) 631, Spill Prevention, Minimum 10-year Life Extension of Existing Steel Underground Storage Tanks by Lining Without the Addition of Cathodic Protection, Second Addition (1988); and
(2) 632, Internal Inspection of Steel Tanks for Upgrading With Cathodic Protection Without Internal Lining (1989).
- G. Steel Tank Institute, 570 Oakwood Road, Lake Zurich, IL 60047:
- (1) #F941-97, Standard for Fireguard® Thermally Insulated Aboveground Storage Tanks (1997);
(2) R942-97, Lightweight Double-Wall Steel Aboveground Storage Tanks (1997);
(3) #F921-97, Standard for Aboveground Tanks with Integral Secondary Containment (1997);
(4) #F911-93, Standard for Diked Aboveground Steel Tanks (1993);
(5) R931-93, Double Wall AST Installation and Testing Instructions (1993);
(6) R892-91, Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems (1991); and
(7) R893-89, Recommended Practice for External Corrosion Protection of Shop Fabricated Aboveground Tank Floors (1989).
- H. Underwriters Laboratory, Inc. (UL), 333 Pfingsten Road, Northbrook, Illinois 60062:
- (1) 109, Tube Fittings for Flammable and Combustible Fluids, Refrigeration Service and Marine Use (1993);
(2) 142, Steel Aboveground Tanks for Flammable and Combustible Liquids (1993);
(3) 567, Pipe Connectors for Petroleum Products and LP-Gas (1996);
(4) 971, Nonmetallic Underground Pipe for Flammable Liquids (1995); and
(5) 2085, Insulated Aboveground Tanks for Flammable and Combustible Liquids (1994).

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Proposed Rules

7151.3100 TANK SERVICE PROJECTS.

Subpart 1. Notification. An owner or operator of an aboveground storage tank system shall notify the agency before beginning a tank service project.

Subp. 2. Tank service providers. Owners and operators shall ensure that tank service providers utilize methods in accordance with guidance specified in applicable industry standards. After the effective date of this part, owners and operators shall ensure that tank service providers are certified.

7151.4100 TEMPORARY STORAGE.

Subpart 1. Scope. This part applies to storage of a substance in an aboveground storage tank at a site for a period of more than 30 days but less than one year.

Subp. 2. Labeling. The exterior of a temporary storage tank shall be clearly labeled with the words "Temporary Storage" and the date storage began at the site.

Subp. 3. Sign. Tank owners and operators shall provide for a sign at the site of temporary storage tanks pursuant to part 7151.5300, subpart 3.

Subp. 4. Containment. Parts 7151.6400 and 7151.7300 apply to the construction and maintenance of secondary containment areas.

STANDARDS FOR NEW ABOVEGROUND STORAGE TANKS

7151.5100 REQUIREMENT.

Subpart 1. Application and definition. Except as otherwise provided in subparts 2 and 3, parts 7151.5100 to 7151.5700 apply to the design and installation of all aboveground storage tanks or tank systems installed after the effective date of this chapter. For the purposes of parts 7151.5100 to 7151.5700, a new tank or tank system is one installed on or after the effective date of this chapter.

Subp. 2. Small tanks near surface water. Owners and operators of new tanks less than 1,100 gallons but greater than 500 gallons, located within 500 feet of a Class 2 surface water, need not comply with part 7151.5500, 7151.5600, or 7151.5700.

Subp. 3. Tanks storing other regulated substances. Owners and operators of new tanks storing other regulated substances need not comply with parts 7151.5400, subparts 4 and 5, 7151.5500, 7151.5600, and 7151.5700.

7151.5200 TANK AND PIPING STANDARDS.

Subpart 1. Tank and piping design standards. New tanks and the related appurtenances must be designed and constructed in accordance with the applicable standards under part 7151.2100, subpart 2.

Subp. 2. Underground storage tanks. Tanks designed and constructed for service as underground storage tanks must not be used for aboveground storage.

Subp. 3. Used aboveground storage tanks.

A. Except as provided in item C, an aboveground storage tank that has been removed from a site must not be reinstalled at a second site for the purpose of liquid storage unless:

(1) the tank is determined to be sound by one of the following leak test methods:

- (a) tracer gas test;
- (b) vacuum test;
- (c) air pressure test; or
- (d) hydrostatic test; and

(2) the area of secondary containment which is directly under the tank is designed and constructed to provide for the detection of a release of a stored substance before the release permeates through the containment. Methods of leak detection include:

- (a) visual monitoring of elevated tanks;
- (b) interstitial monitoring between the tank's inner and outer shell or the tank's shell and the containment area; and
- (c) vapor monitoring in the soil directly under the tank bottom or perimeter and above the water table.

B. Except as provided in item C, a tank that has been lifted or moved within a site must not be reinstalled for the purpose of liquid storage unless:

(1) the tank is determined to be structurally sound through:

(a) thorough internal and external cleaning, degassing, and inspection; or

(b) a leak test is conducted pursuant to item A, subitem (1); and

(2) the area of secondary containment which is directly under a tank is designed and constructed to provide for the detection of a release of a stored substance before the release permeates through the containment.

C. The following are exempt from the requirements of this subpart:

(1) tanks which are mounted on wheel carriages or which have legs cast into the construction; and

(2) double-walled tanks.

7151.5300 LABELING.

Subpart 1. **Tanks.** Tanks must be clearly labeled indicating the substance stored and the tank's capacity. If there is more than one tank at a site, each tank must be labeled with a unique tank number.

Subp. 2. **Lines.** Lines used for loading and unloading a substance from a tank must be labeled so that the person controlling the substance transfer can readily identify which line is connected to which tank.

Subp. 3. **Sign.** A tank facility that does not have a person on site 24 hours a day must have a sign with the name, address, and telephone number of the facility owner, operator, or local emergency response. The sign must be posted in a conspicuous place and legible from outside any secondary containment area.

7151.5400 SECONDARY CONTAINMENT.

Subpart 1. **Requirement.** All tanks regulated by this chapter must have secondary containment. If tanks containing more than one type of substance are stored within one secondary containment area, the substances must be compatible with each other.

Subp. 2. **Volume.** A secondary containment area must be able to contain at least 100 percent of the design capacity of the largest tank in the secondary containment area plus displacement from additional tanks within the containment area, with an additional ten percent capacity where secondary containment areas are exposed to precipitation.

Subp. 3. **Materials.** A secondary containment area must be constructed with materials that are impermeable to and compatible with the substance being stored and that will prevent a release to the environment. Materials for secondary containment include:

A. compacted clay;

B. geosynthetic clay liner;

C. treated concrete;

D. synthetic membrane;

E. the outer shell of a double-walled tank;

F. the lower bottom of a double-bottomed tank; or

G. other approved materials pursuant to part 7151.9300.

Owners and operators shall install and maintain secondary containment areas constructed of synthetic or manufactured materials according to the manufacturer's recommendations.

Subp. 4. **Design.** The area of secondary containment which is directly under a tank must be designed and constructed to provide for the detection of a release of a substance before the release permeates through the containment. Methods of leak detection are as follows:

A. visual monitoring of elevated tanks;

B. interstitial monitoring between the tank's inner and outer shell or the tank's shell and the containment area; and

C. vapor monitoring in the soil directly under the tank bottom or perimeter and above the water table.

Subp. 5. **Clay.** A secondary containment area constructed of clay must:

A. be used as an integral part of a geosynthetic clay liner; or

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B. meet the following standards:

(1) consist of a minimum of 12 inches of compacted imported clay or native clay soil;

(2) be protected with cover material to prevent drying and erosion;

(3) be designed, inspected, and certified by a registered professional engineer to prevent a release from the primary tank from extending outside the containment; and

(4) show, through postinstallation testing, that the compacted clay has a permeability rate to water equal to or less than 1×10^{-2} centimeters per second.

7151.5500 SUBSTANCE TRANSFER AREAS.

Subpart 1. General. Except as otherwise provided in subpart 2, owners or operators shall provide substance transfer safeguards. The safeguards, such as spill boxes, remote fill boxes, or containment areas must effectively contain a release at the connection point, as well as at the vehicle, during transfer of the substance to and from the tank.

Subp. 2. Exclusions. A substance transfer area safeguard is not required for:

A. a tank that is filled with a hand-held nozzle;

B. a transfer of the substance through a continuous pipeline between tanks at one site; or

C. a barge transfer facility regulated under United States Coast Guard regulations, Code of Federal Regulations, title 33, parts 126, 154, and 156.

7151.5600 CORROSION PROTECTION.

Subpart 1. Tanks. The floor of a steel aboveground storage tank must be protected from corrosion using one of the following methods:

A. the tank is elevated so that the underside of the tank floor is not in contact with any surface other than the tank supports;

B. the tank rests on a continuous, impermeable concrete pad that is constructed with grooves which slope away from the center of the tank floor;

C. the tank is double walled;

D. the tank is double floored with a vacuum pulled on the interstitial space;

E. the tank floor is:

(1) cathodically protected; and

(2) internally lined in accordance with American Petroleum Institute Standard 652;

F. the tank floor is:

(1) cathodically protected; and

(2) internally inspected in accordance with American Petroleum Institute Standard 653; or

G. the tank floor is:

(1) internally lined in accordance with American Petroleum Institute Standard 652; and

(2) internally inspected in accordance with American Petroleum Institute Standard 653.

Subp. 2. Lines. A steel line must be protected from external corrosion using one of the following methods:

A. the line is not in contact with soil;

B. the line is cathodically protected; or

C. the line is double walled.

Subp. 3. Design criteria. Cathodic protection of new tanks and lines must meet the following design criteria:

A. the cathodic protection system must be designed by a corrosion expert in accordance with American Petroleum Institute Standards 651 and 1632, as applicable; and

B. underground lines and the underside of the floor of a shop-fabricated steel tank must be coated with dielectric material in accordance with Steel Tank Institute Recommended Practice R893-89.

7151.5700 OVERFILL PROTECTION.

Subpart 1. Requirement. A tank which is filled by transfers of more than 25 gallons at one time must have one of the following systems for overfill protection:

A. a high-level alarm, set at no greater than 95 percent of the tank's capacity, that is visible or audible to the person controlling the substance transfer;

B. a system that automatically shuts off the flow of substance into the tank, set at no greater than 95 percent of the tank's capacity;

C. a permanently mounted site glass or gauge, visible to the person controlling the substance transfer, that accurately shows the level of substance in the tank; or

D. a person who manually gauges substance level with a level stick during substance transfer and controls the substance transfer or is in contact with a person who controls the substance transfer.

Subp. 2. Double-walled tanks. Double-walled tanks which are not otherwise located within an agency-approved secondary containment area must have one of the following systems for overfill prevention:

A. a high-level alarm, set at no greater than 95 percent of the tank's capacity, that is visible or audible to the person controlling the substance transfer; or

B. a system that automatically shuts off the flow of substance into the tank, set at no greater than 95 percent of the tank's capacity.

Subp. 3. Volumetric conversion. If any level stick, site glass, or gauge does not read in volumetric measurements and requires conversion, a clearly labeled conversion chart indicating maximum working capacity of the tank must be mounted on the tank or the tank's delivery manifold and visible to the person controlling the substance transfer.

STANDARDS FOR EXISTING ABOVEGROUND STORAGE TANKS

7151.6100 REQUIREMENT.

Subpart 1. Application. Parts 7151.6100 to 7151.6700 apply to all aboveground storage tanks or tank systems installed prior to the effective date of this chapter except as otherwise provided in subparts 2 and 3. For the purpose of parts 7151.6100 to 7151.6700, an existing tank or tank system is one installed prior to the effective date of this chapter.

Subp. 2. Small tanks near surface water. Owners and operators of tanks less than 1,100 gallons, but greater than 500 gallons and located within 500 feet of a Class 2 surface water, need not comply with part 7151.6500, 7151.6600, or 7151.6700.

Subp. 3. Tanks storing other regulated substances. Owners and operators of tanks storing other regulated substances need not comply with parts 7151.6400, subparts 4 and 5, 7151.6500, 7151.6600, and 7151.6700.

7151.6200 TANK AND PIPING STANDARDS.

Subpart 1. Tank and piping standards. Owners and operators of aboveground storage tank systems shall ensure that existing systems used to store regulated substances will not structurally fail or corrode.

Tank owners and operators shall conduct, pursuant to part 7151.7200, subpart 6, an internal inspection on all field-erected tanks within ten years of the effective date of this chapter.

Subp. 2. Underground storage tanks. Tanks designed and constructed for service as underground storage tanks must not be used for aboveground storage.

7151.6300 LABELING.

All existing aboveground storage tank systems must meet the labeling requirements of part 7151.5300.

7151.6400 SECONDARY CONTAINMENT.

Subpart 1. Requirement. Owners and operators must provide secondary containment for the storage of all substances in tanks. If more than one type of substance is stored within a single secondary containment area, the substances shall be compatible with each other and with the secondary containment area.

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Secondary containment areas for existing aboveground storage tanks must have a continuous dike surrounding the tanks which will prevent releases from contaminating surface waters.

Subp. 2. Volume. All secondary containment systems for existing aboveground storage tanks must meet the volume requirements of part 7151.5400, subpart 2.

Subp. 3. Materials. All secondary containment systems for existing aboveground storage tanks must meet the materials requirements of part 7151.5400, subpart 3.

Subp. 4. Design.

A. If the tank is lifted or moved within a site, the secondary containment system must meet the design requirements of part 7151.5400, subpart 4.

B. If the tank is moved from a site and reinstalled on a second site, the tank must meet the standards for new aboveground storage tanks in part 7151.5100.

Subp. 5. Soils. A secondary containment area constructed of soils must:

A. be used as an integral part of a geosynthetic clay liner; or

B. show, through testing, a permeability rate to water equal to or less than the following:

<u>Substance Classification</u>	<u>Groundwater or Bedrock < 10 Feet from Grade or Class 2 Surface Water within 100 Feet of Aboveground Storage Tank</u>	<u>Groundwater and Bedrock ≥ 10 Feet from Grade and Class 2 Surface Water not within 100 Feet of Aboveground Storage Tank</u>
<u>Type A</u>	<u>Minimum of three feet of soil at 1×10^{-5}</u>	<u>Minimum of three feet of soil at 1×10^{-4}</u>
<u>Type B</u>	<u>Minimum of three feet of soil at 1×10^{-4}</u>	<u>Minimum of three feet of soil at 1×10^{-3}</u>
<u>Type C</u>	<u>Minimum of three feet of soil at 1×10^{-3}</u>	<u>No minimum permeability standard</u>

Subp. 6. Containment area evaluation. Owners and operators shall perform postinstallation permeability testing on containment areas constructed of native soils, amended soils, or imported clay liners requiring a minimum permeability standard under subpart 5. A qualified soil technician or testing company shall evaluate the top three feet of soil, below any cover material, for vertical soil permeability. Evaluation must:

A. comport with approved ASTM standard field or lab sampling techniques;

B. utilize at least three samples collected per containment area or one sample per tank, whichever is greater; and

C. utilize at least one sample collected from the lowest point in the containment area with the remaining samples triangulated across the entire basin.

Subp. 7. Timing of compliance.

A. Owners and operators shall comply with subpart 1, item A, effective November 1, 1998.

B. Owners and operators shall comply with subparts 2 to 6, effective November 1, 2003.

7151.6500 SUBSTANCE TRANSFER AREAS.

Subpart 1. General. Owners and operators shall provide, for all tank systems, substance transfer safeguards such as spill boxes, remote fill boxes, or containment areas. The safeguards must effectively contain a release at the connection point, as well as at the vehicle, during transfer of the substance to and from the tank.

Subp. 2. Timing of compliance. Owners and operators shall comply with subpart 1 after one year following the effective date of this chapter.

7151.6600 CORROSION PROTECTION.

Subpart 1. General. Owners and operators shall apply corrosion protection to all tanks and tank systems except as otherwise provided in subpart 5.

Subp. 2. **Tanks.** The floor of an existing steel aboveground storage tank must be protected from external corrosion using one or more of the following methods:

- A. the tank is elevated so that the underside of the tank's floor is not in contact with any surface other than the supports;
- B. the tank rests on a continuous concrete pad that is constructed with grooves which slope away from the center of the tank floor;
- C. the tank is double walled;
- D. the tank is double floored with a vacuum pulled on the interstitial space;
- E. the tank floor is:
 - (1) cathodically protected; and
 - (2) internally lined in accordance with American Petroleum Institute Standard 652;
- F. the tank floor is:
 - (1) cathodically protected; and
 - (2) internally inspected in accordance with American Petroleum Institute Standard 653 prior to the effective date of this part, and thereafter as indicated by the results of the inspection; or
- G. the tank floor is:
 - (1) internally lined in accordance with American Petroleum Institute Standard 652; and
 - (2) internally inspected in accordance with American Petroleum Institute Standard 653.

Subp. 3. **Lines.** An existing steel line must be protected from external corrosion using one or more of the following methods:

- A. the line is not in contact with soil;
- B. the underground line is:
 - (1) cathodically protected; and
 - (2) tested for leaks unless the line is less than one year old on the effective date of this chapter; or
- C. the line is double walled.

Subp. 4. **Design criteria.** Cathodic protection of existing steel tanks and lines must be designed by a corrosion expert in accordance with American Petroleum Institute Standards 651 and 1632, as applicable.

Subp. 5. **Exclusions.** Tanks or tank systems within a secondary containment area which comply with the requirements of part 7151.5400, subparts 1, 2, 3, items B to G, and 4, are excluded from the requirements of this part.

Subp. 6. **Timing of compliance.** Owners and operators shall comply with this part effective November 1, 2003.

7151.6700 OVERFILL PROTECTION.

Subpart 1. **General.** Except as otherwise provided in subpart 2, owners and operators shall provide overfill protection, as provided in part 7151.5700, for all tank systems.

Subp. 2. **Exclusions.** Tanks or tank systems within a secondary containment area which are constructed to a 1×10^{-7} centimeters per second permeability standard and meet the requirements of part 7151.5400 or 7151.6400, subparts 1 to 4, are excluded from the requirements of this part.

Subp. 3. **Timing of compliance.** Effective November 1, 2003, overfill protection shall be implemented pursuant to part 7151.5700.

OPERATION AND MAINTENANCE OF ABOVEGROUND STORAGE TANKS

7151.7100 REQUIREMENT.

Subpart 1. **Application.** Parts 7151.7100 to 7151.7600 apply to all aboveground storage tank systems in use on the effective date of this chapter except as otherwise provided in subpart 2.

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Proposed Rules

Subp. 2. Exclusions. The following aboveground storage tanks are excluded from the requirements of parts 7151.7100 to 7151.7600:

- A. tanks less than 1,100 gallons but greater than 500 gallons and located within 500 feet of Class 2 surface water; and
- B. tanks storing other regulated substances.

7151.7200 MONITORING.

Subpart 1. Transfer. At least one person must be present during substance loading or unloading of a tank to visually monitor and terminate the transfer. The person monitoring the substance transfer shall take immediate action to stop the flow of the substance being transferred when the capacity of the tank has been reached or in the event of an equipment failure or emergency. Tank owners and operators shall recover all contaminated soils and any substance released during transfer.

Subp. 2. Weekly monitoring. Owners or operators of tanks shall conduct visual monitoring as described in items A to C to verify that no releases have occurred from the tank system.

A. If the secondary containment area complies with the standard established in part 7151.5400, the owner or operator shall visually monitor an aboveground storage tank site at least weekly.

B. If the secondary containment area complies with the standard established in part 7151.6400, the owner or operator shall visually monitor an aboveground storage tank site at least every 72 hours.

C. Owners and operators of double-walled tanks need not conduct visual monitoring of the tank.

Subp. 3. Monthly monitoring. The owner or operator shall visually inspect tank systems at least monthly, including:

A. walking through the site to identify cracks or other defects in the secondary containment area and any substance transfer area;

B. a visual examination of the exterior surfaces of tanks, piping, valves, pumps, and other equipment for cracks, corrosion, releases, and maintenance deficiencies; and

C. identification of poor maintenance, operating practices, or malfunctioning equipment.

Subp. 4. Leak detection. The owner or operator shall monitor tank systems for leaks at least monthly as described in items A to D. Any suspected releases shall be investigated and resolved.

A. If a tank is designed pursuant to part 7151.5400, subpart 4, leak detection must be conducted as follows:

(1) visual monitoring of elevated tanks;

(2) interstitial monitoring between the tank's inner and outer shell or the tank's shell and the containment area; or

(3) vapor monitoring in the soil directly under the tank bottom or perimeter and above the water table.

B. If a tank is not designed pursuant to part 7151.5400, subpart 4, leak detection must be conducted using one or more of the following:

(1) monthly reconciliation of daily substance measurements with dispenser meter readings, shipments, deliveries, and internal transfers; any difference of 2.0 percent or more of monthly throughput shall be investigated and resolved; or

(2) statistical inventory reconciliation as approved by the agency.

C. Owners and operators need not conduct leak detection on elevated tanks.

D. All underground lines must be tested for leaks at least annually using one or more of the following methods:

(1) tracer gas;

(2) hydrostatic; or

(3) lockdown pressure.

Subp. 5. Annual equipment check. Owners and operators shall maintain in functioning condition all equipment used for release detection, monitoring, or warning. Owners and operators shall check such equipment for proper function or calibration at least yearly or in accordance with manufacturer's guidance.

Subp. 6. Tank inspection. All field-erected tanks must be internally and externally inspected by a certified tank inspector pursuant to American Petroleum Institute standard 653.

Subp. 7. Corrosion protection monitoring.

A. A qualified cathodic protection tester shall inspect all cathodic protection systems on tanks and piping as follows:

(1) all cathodic protection systems must be tested pursuant to the National Association of Corrosion Engineers RP-02-85 code of practice within six months of installation and at least every three years thereafter; and

(2) impressed current systems must be inspected for proper function every 60 days.

B. A lined tank which does not have external cathodic protection must be internally inspected within ten years after lining, and every ten years after that. The liner must be structurally sound with the lining performing pursuant to original design specifications.

C. If corrosion protection monitoring conducted in conformance with this part indicates inadequate corrosion protection, corrective measures must be taken within 180 days to ensure that the measured surface potential conforms to the requirements of this part.

7151.7300 MAINTENANCE.

Subpart 1. Tank.

A. Owners and operators shall minimize rust on the tank exterior so as to not jeopardize the integrity of the tank system.

B. Owners and operators shall dispose of water that is drawn from the bottom of a tank according to applicable state and federal laws.

Subp. 2. **Containment safeguards.** Tank owners and operators shall maintain the integrity of containment safeguards as follows:

A. the secondary containment and substance transfer areas must be maintained free of cracks, open seams, open drains, siphons, and vegetation other than grass;

B. precipitation must be removed as often as practical to ensure proper containment volume; and

C. tank owners and operators shall reduce the storage volume within the tank or tank system to accommodate decreased secondary containment volume if accumulation of precipitation reduces the volume of the containment basin below 100 percent.

Subp. 3. **Stormwater discharge.** Stormwater that collects within the secondary containment area or substance transfer area must be discharged in compliance with all applicable state and federal laws.

Subp. 4. **Schedules.** Safeguard systems must be installed and maintained pursuant to applicable manufacturer's schedules and applicable standards.

7151.7400 RECORDS.

Subpart 1. **Application.** Owners and operators of tanks shall retain information, reports, and records according to this part. Upon agency request, tank owners and operators shall make such data available to the agency for viewing and copying.

Subp. 2. Tank system design.

A. Except as specified in item C, the owner and operator shall retain, for the life of the tank system, the following:

(1) maintenance and repair documentation;

(2) third-party certifications of tank system equipment; and

(3) as-built drawings.

B. As-built drawings must be maintained by the owner or operator of all field-erected tank installations conducted after the effective date of this chapter. The drawings shall be certified by a professional engineer and illustrate:

(1) the tank foundation;

(2) the tank bottom design; and

(3) the volume and design of the secondary containment basin, including the dike walls and the area directly under the tank.

C. Owners and operators shall retain for three years all documentation addressing service check and equipment calibrations.

Subp. 3. **Containment area evaluation.** Owners and operators of tanks shall retain, for the life of the tank system, the following written records of all sampling and testing methods used to evaluate permeability of soil containment areas:

A. classification of soils used in containment area construction;

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B. soil descriptions and logs of each sample location;

C. a table of individual permeability tests; and

D. hydraulic conductivity of the soil expressed as centimeters per second for each sample location and for each containment area.

Subp. 4. Monitoring.

A. Owners and operators of tanks shall retain, for at least three years from the date of the activity, the written records of all periodic monitoring activities. The person performing the monitoring activity shall document the following information:

(1) the name of the person doing the monitoring;

(2) the monitoring method or methods used;

(3) the date of the monitoring; and

(4) the results of the monitoring.

B. Owners and operators shall retain, for the life of the tank, documentation of corrosion protection and internal tank inspections and a written summary of the results.

C. Owners and operators shall retain, for three years after the tank has been taken out of service, records demonstrating compliance with out-of-service tank requirements under parts 7151.8000 to 7151.8500. Records must be retained in one of the following ways:

(1) by the owners and operators who took the aboveground storage tank system out of service;

(2) by the current owners and operators of the site; or

(3) by mailing the records to the agency if they cannot be retained at the closed facility.

D. Upon agency request, owners and operators of tanks shall make data available to the agency for viewing and copying.

Subp. 5. Tank inspection. Owners and operators of tanks shall retain, for the life of the tank system, the written records of all internal and external tank inspections.

7151.7500 RELEASES.

Subpart 1. Release investigation. An owner or operator shall immediately investigate a suspected release.

Subp. 2. Assessment of secondary containment area following release. The owner or operator shall assess for damage any secondary containment area where there was a release of a stored substance from an aboveground storage tank into a secondary containment area. The owner or operator shall repair the secondary containment area pursuant to part 7151.5400 or 7151.6400, as applicable, prior to continued substance storage.

WITHDRAWAL FROM SERVICE OF ABOVEGROUND STORAGE TANK SYSTEMS

7151.8100 REQUIREMENT.

Parts 7151.8100 to 7151.8500 address procedures for aboveground storage tank system's out-of-service status, reactivation, and contamination analysis.

7151.8200 OUT-OF-SERVICE ABOVEGROUND STORAGE TANK SYSTEMS.

Subpart 1. Application. Except as otherwise provided in subpart 3, if a substance is not introduced to or removed from an aboveground storage tank system for one year or more, the owner or operator shall:

A. maintain the operation and maintenance requirements of parts 7151.7100 to 7151.7600; or

B. declare the tank system as inactive and taken out of service or removed.

Subp. 2. Out of service. The owner or operator of an aboveground storage tank system taken out of service shall:

A. remove all substances from the aboveground storage tank, connected piping, and appurtenances;

B. secure the aboveground storage tank to prevent unauthorized entrance or tampering, by:

(1) securely bolting and locking all manways and valves; and

(2) capping or plugging fill lines, gauge openings, or pump lines;

C. thoroughly clean the interior of the tank and all associated piping of all sludge, solids, and residuals;

D. dispose tank bottom sludges in accordance with applicable state or federal requirements;

E. render the tank sufficiently free of vapors to avoid formation of an explosive atmosphere and vent the tank; and

F. clearly label the exterior of an out-of-service tank with the words "Out of Service," and the date the tank was taken out of service.

7151.8300 REACTIVATING OUT-OF-SERVICE ABOVEGROUND STORAGE TANK SYSTEMS.

The owner or operator shall, prior to placing an inactive aboveground storage tank system back into service, thoroughly inspect and test the aboveground storage tank system pursuant to part 7151.5200, subpart 3.

7151.8400 CONTAMINATION DETERMINATION.

Subpart 1. **Application.** Except as otherwise provided in subpart 2, owners and operators shall sample for contamination when removing a tank and determine, through laboratory analysis, the extent of contamination. In selecting sample types, sample locations, and measurement methods, owners and operators shall consider:

A. the method of closure;

B. the nature of the stored substance;

C. the type of secondary containment;

D. the depth to groundwater;

E. areas having the greatest potential for contamination; and

F. other factors necessary for identifying the presence of a release.

Subp. 2. **Exclusions.** The following aboveground storage tank systems are excluded from the requirements of this part:

A. a tank storing other regulated substances; and

B. a tank, which has been removed, that exclusively contained number 6 grade fuel oil.

7151.8500 CONTAMINATION DETERMINATION FOR PREVIOUSLY CLOSED ABOVEGROUND STORAGE TANK SYSTEMS.

If the commissioner determines a release from an aboveground storage tank system taken out of service before the effective date of this chapter poses a current or potential threat to human health or the environment, the commissioner shall direct the owner and operator to assess the extent of the contamination and close the aboveground storage tank system pursuant to this part.

MISCELLANEOUS

7151.9100 INADEQUATE SAFEGUARDS.

The owner or operator shall immediately remove a substance from an aboveground storage tank failing to meet the requirements of this chapter. The owner or operator shall refrain from further use of the aboveground storage tank until the tank or tank system complies with all applicable requirements of this chapter.

7151.9200 PROCEDURAL RULES AND APPEALS.

A request for a hearing, an appeal, or other procedural matter not specifically provided for in this chapter is governed by rules of procedure, chapter 7000; the rules of the Office of Administrative Hearings, chapter 1400; and other applicable laws.

7151.9300 VARIANCES.

Any person who applies for a variance from any requirement of this chapter shall comply with part 7000.7000. An application for a variance must be acted on by the agency pursuant to part 7000.7000 and *Minnesota Statutes*, section 116.07, subdivision 5. However, no variance may be granted that would result in noncompliance with applicable federal rules and regulations for aboveground storage tanks.

7151.9400 ALTERNATIVE DESIGN OR OPERATING PRACTICE.

Subpart 1. **General.** An owner or operator may submit a petition to the commissioner for approval to use an alternative design or operating practice in lieu of the requirements of this chapter.

Subp. 2. **Petition.**

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Proposed Rules

A. Each petition for approval to use an alternative design or operating practice must include:

- (1) the petitioner's name and address;
- (2) a statement of the petitioner's interest in the proposed action;
- (3) a full description of the proposed method, including all procedural steps and equipment used in the method;
- (4) comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods in this chapter;
- (5) an assessment of any factors which may interfere with, or limit the use of, the proposed method; and
- (6) a description of the quality control procedures necessary to ensure the efficacy of the proposed method.

B. After receiving a petition for approval to use an alternative design or operating practice, the commissioner shall request any additional information on the proposed method which the commissioner reasonably requires to evaluate the method.

Subp. 3. Procedure for petition review. The commissioner's determination to approve or deny an alternative design or operating practice petition shall be based on a demonstration by the petitioner that the alternative design or operating practice, together with location characteristics, will prevent migration of stored liquid substances into surface water and groundwater as effectively as the requirements of this chapter and will not endanger human health or the environment.

A. In approving or denying the petition, the commissioner shall consider:

- (1) the nature, toxicity, viscosity, and quantity of the product;
- (2) the technical feasibility of the proposed alternative design and operating practice;
- (3) the hydrogeologic setting of the facility, including the thickness of soils present between the tank system and groundwater;
- (4) factors that would influence the quality and mobility of the stored liquid substance and the potential for it to migrate to surface water or groundwater; and
- (5) any other factor necessary to determine equivalent protection.

Subp. 4. Compliance. The owner or operator shall comply with the approval of petition for alternative design or operating practice and all terms and conditions imposed on the approval of petition for alternative design or operating practice.

7151.9500 RELEASE REPORTING.

Nothing in this chapter shall relieve an owner or operator from compliance with any state, federal, or local duty to report.

7151.9600 PREEMPTION.

Subpart 1. General. This chapter shall be in addition to the standards imposed by any other regulations applying to aboveground storage tanks and shall supersede any conflicting provisions.

Subp. 2. Permit preemption. This chapter supersedes all terms and conditions of permits issued to tank owners and operators pursuant to chapter 7100.

REPEALER. Minnesota Rules, parts 7100.0010; 7100.0020; 7100.0030; 7100.0040; 7100.0050; 7100.0060; 7100.0070; 7100.0080; and 7100.0090, are repealed.

INCORPORATIONS BY REFERENCE

Part 7001.4210: American Petroleum Institute (API), 1220 L Street Northwest, Washington, DC 20005: 650, Welded Steel Tanks for Oil Storage, Ninth Edition (1993); 651, Cathodic Protection of Aboveground Petroleum Storage Tanks, First Edition (1991); 652, Lining of Aboveground Petroleum Storage Tank Bottoms, First Edition (1991); and 653, Tank Inspection, Repair, Alteration and Reconstruction, Second Edition (1995). Available at the address shown and the Minitex interlibrary loan system.

Part 7151.2100: American National Standards Institute (ANSI), 1430 Broadway, New York, New York 10018: B31.3, Process Piping (1996); B31.4, Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols (1992); B16, Standards for Valves; and B36, Pipe Material Standards. American Petroleum Institute (API), 1220 L Street Northwest, Washington, DC 20005: 620, Design and Construction of Large, Welded, Low-Pressure Storage Tanks, Ninth Edition (1996); 650, Welded Steel Tanks for Oil Storage, Ninth Edition (1993); 651, Cathodic Protection of Aboveground Petroleum Storage Tanks, First Edition (1991); 652, Lining of Aboveground Petroleum Storage Tank Bottoms, First Edition (1991); 653, Tank Inspection, Repair, Alteration, and Reconstruction, Second Edition (1995); 1631, Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks, Third Edition (1992); 1632, Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, Third Edition (1996); and 2015, Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and

Managing Tank Entry from Decommissioning Through Recommissioning, Fifth Edition (1994). American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19429-2959: D1785-96, Specifications for Poly (Vinyl Chloride) (PVC) Plastic Pipe, Schedules 40, 80, and 120 (1997); ES40-94, Alternative Procedures for the Assessment of Buried Steel Tanks Prior to the Addition of Cathodic Protection (1997); and Applicable Standard Practices and Test Methods for Evaluating Soil Permeability Analysis and Sampling. National Association of Corrosion Engineers (NACE), Publication Department, P.O. Box 218340, Houston, Texas 77218: RP-01-69, Control of External Corrosion on Underground or Submerged Metallic Piping Systems (1996); and RP-02-85, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection (1995). National Leak Prevention Association (NLPA), 7685 Fields Ertel Road, Cincinnati, OH 45241: 631, Spill Prevention, Minimum 10-year Life Extension of Existing Steel Underground Storage Tanks by Lining Without the Addition of Cathodic Protection, Second Addition (1988); and 632, Internal Inspection of Steel Tanks for Upgrading With Cathodic Protection Without Internal Lining (1989). Steel Tank Institute, 570 Oakwood Road, Lake Zurich, IL 60047: #F941-97, Standard for Fireguard® Thermally Insulated Aboveground Storage Tanks (1997); R942-97, Lightweight Double-Wall Steel Aboveground Storage Tanks (1997); #F921-97, Standard for Aboveground Tanks with Integral Secondary Containment (1997); #F911-93, Standard for Diked Aboveground Steel Tanks (1993); R931-93, Double Wall AST Installation and Testing Instructions (1993); R892-91, Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems (1991); R893-89, Recommended Practice for External Corrosion Protection of Shop Fabricated Aboveground Tank Floors (1989). Underwriters Laboratory, Inc. (UL), 333 Pfingsten Road, Northbrook, Illinois 60062: 109, Tube Fittings for Flammable and Combustible Fluids, Refrigeration Service and Marine Use (1993); 142, Steel Aboveground Tanks for Flammable and Combustible Liquids (1993); 567, Pipe Connectors for Petroleum Products and LP-Gas (1996); 971, Nonmetallic Underground Pipe for Flammable Liquids (1995); and 2085, Insulated Aboveground Tanks for Flammable and Combustible Liquids (1994). Available at the addresses shown and the Minitex interlibrary loan system.

Minnesota Pollution Control Agency

Proposed Permanent Rules Relating to Air Emission Permits

DUAL NOTICE: Notice of Intent to Adopt Rules 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

Proposed Amendments to Air Quality Rules, Chapter 7007 to Implement the Federal Rules Governing the Preconstruction Review Requirements for Certain Major Hazardous Air Pollutant Sources.

Introduction. The Minnesota Pollution Control Agency (MPCA) intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, §§ 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules within 30 days or by 4:30 p.m. on May 13, 1998, a public hearing will be held in the MPCA Boardroom, 520 Lafayette Road North, St. Paul, Minnesota 55155-4197, starting at 9:00 a.m. on May 28, 1998 and continuing until all public testimony is heard. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after May 13, 1998 and before May 28, 1998.

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

Onsoon Berglund
Air Quality Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194
(612) 296-7595
FAX (612) 297-7709
Internet: onsoon.berglund@pca.state.mn.us

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

Subject of Rule and Statutory Authority. The Minnesota Pollution Control Agency (MPCA) is proposing amendments to *Minnesota Rules* Chapter 7007 to implement federal rules governing preconstruction review requirements for certain major hazardous air pollutant (HAP) sources. Section 112(g)(2)(B) of Title III of the 1990 Clean Air Act Amendments requires the U.S. Environmental Protection Agency (EPA) to develop technology based standards for constructed or reconstructed major HAP sources which are not already subject to a promulgated maximum achievable control technology (MACT) standard. To be classified as a major HAP source, a source must have the potential to emit ten tons per year of any individual HAP, or 25 tons per year of any combination of HAPs listed in section 112(b) of the Clean Air Act Amendments.

The promulgation of any MACT standard is a time consuming process. Therefore the Section 112(g)(2)(B) rule requirement was placed in the Clean Air Act Amendments to fill the regulatory gap to control air toxics emissions proactively during construction or reconstruction of major HAP emitting sources for which a MACT standard has not yet been promulgated. This preconstruction requirement is especially important to those regulatory agencies operating without a state air toxics rule, such as the MPCA.

The statutory authority to adopt the rule is *Minnesota Statutes* § 116.07, subd. 4. A copy of the proposed rule is published immediately after this notice.

Comments. You have until 4:30 p.m. on May 13, 1998, 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 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. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rule must also be made during this comment period.

Request for 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 May 13, 1998. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rule to which you object or state that you oppose the entire rule. Any request that does not comply with these requirements is not valid and cannot be counted by the MPCA for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rule.

Withdrawal of Requests. If 25 or more persons submit a written request for hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the MPCA must give written notice of this to all persons who requested a hearing, explain the actions the MPCA took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the MPCA will follow the procedures in *Minnesota Statutes*, §§ 14.131 to 14.20.

Accommodation. If you need an accommodation to make this hearing accessible, please contact the MPCA contact person at the address or telephone number listed above.

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 be supported by data and views submitted to the MPCA or presented at the hearing and the adopted rule may not be substantially different than this proposed rule. 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 May 28, 1998, will be canceled if the MPCA does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the MPCA will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the MPCA contact person after May 13, 1998 (date comment period ends) 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*, §§ 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. An Administrative Law Judge is assigned to conduct the hearing. The judge can be reached at:

The Honorable Allen E. Giles
Administrative Law Judge
Office of Administrative Hearings
100 Washington Square, Suite 1700
100 Washington Avenue South
Minneapolis, Minnesota 55401-2138
(612) 349-2543
FAX (612) 349-2665
Internet: allen.giles@state.mn.us

Hearing Procedure. If a hearing is held, you and all interested 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 before the close of the hearing record. All evidence presented should relate to the proposed rule. You may also submit written material 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. Following the comment period, there is a five-working-day response period during which the MPCA and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments 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. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules* 1400.2000 to 1400.2240, and *Minnesota Statutes* §§ 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

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

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the MPCA contact person. This statement contains a summary of the justification for the proposed rule, including a description of who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule. The statement may also be reviewed and copies obtained at the cost of reproduction from either the MPCA or the Office of Administrative Hearing.

Consideration of Economic Factors. *Minnesota Statutes* § 116.07, subd. 6 requires the MPCA to give due consideration to economic factors in exercising its powers. Because the MPCA is amending the state rules to conform to the preconstruction review requirements in the existing federal regulations, the state rules proposed in this rulemaking do not impose any additional costs on Minnesota businesses that are not already imposed as a matter of federal law upon Minnesota businesses. This rule, therefore, does not have any economic impact on its own.

Additional information regarding the MPCA's consideration of economic factors is discussed in greater detail in Section V. and Section VI., Items B, C and E in the statement of need and reasonableness.

Impact on Farming Operations. *Minnesota Statutes* § 14.111 requires that if an agency adopts or repeals rules that affect farming operations, the agency must provide a copy of the proposed rule change to the Commissioner of Agriculture, no later than 30 days prior to publication of the proposed rule in the *State Register*. The proposed rules do not affect farming operations.

Review by the Commissioner of Transportation. *Minnesota Statutes* § 174.05 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. The requirements of *Minnesota Statutes* § 174.05 are not applicable.

Departmental Charges Imposed by the Rule. *Minnesota Statutes* § 16A.1285 is inapplicable because the proposed rules do not impose any departmental charges or fees.

Lobbyist Registration. *Minnesota Statutes* Chapter 10A, requires each lobbyist to register with the Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: First Floor South, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 612/296-5148 or 1-800-657-3889

Request to Have MPCA Board Make Decision on Rule if No Hearing is Required. If a hearing is required, the MPCA Board will make the final decision on whether to adopt the rule. However, even if no hearing is required, you may submit a request to the MPCA Commissioner or an MPCA Board member to have the MPCA Board make the decision on whether to adopt the proposed rule. Your request must be in writing, must state to whom it is directed and must be received by the MPCA contact person by 4:30 p.m. on May 13, 1998. Under *Minnesota Statutes* § 116.02, where a hearing is not required the MPCA Board will only make the decision on the rule if the MPCA Commissioner grants your request or if an MPCA Board member makes a timely request that the decision be made by the MPCA Board.

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

Adoption Procedure if No Hearing. If no hearing is required, and if the decision is not required to be made by the MPCA Board, the MPCA Commissioner may adopt the rule after the end of the comment period. The rule and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rule is submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rule, or want to register with the MPCA to receive notice of future rule proceedings, submit your request to the MPCA 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 ask to be notified of the date when the judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. After the report is issued, the MPCA Board will make the final decision on whether to adopt the rule. You may also ask to be notified of the date on which the MPCA adopts the rule and files it with the Secretary of State, and can make this request at the hearing or in writing to the MPCA contact person stated above.

Order. I order that the rulemaking hearing be held at the date, time and location listed above.

Peder A. Larson
Commissioner

7007.0050 SCOPE.

Parts 7007.0100 to 7007.1850 apply to the issuance of permits to construct, modify, reconstruct, or operate emissions units, emission facilities, or stationary sources that emit any air pollutant, and to the revocation, reissuance, or amendment of those permits. Parts 7007.0100 to 7007.1850 apply to permits issued to stationary sources requiring permits under federal law at *Code of Federal Regulations*, title 40, part 70, as amended (Operating Permit Program), or under part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements in Nonattainment Areas) of the act, or under section 112(g)(2)(B) of the act (hazardous air pollutants), and to stationary sources requiring permits solely under state law. Sources proposing construction or modifications subject to parts C and D of the act are subject to the permitting requirements of part 7007.3000, (incorporating by reference the provisions of *Code of Federal Regulations*, title 40, section 52.21), or parts 7007.4000 to 7007.4040 in addition to parts 7007.0100 to 7007.1850. Sources proposing construction or reconstruction subject to section 112(g)(2)(B) of the act are subject to the requirements of part 7007.3010, incorporating by reference the provisions of *Code of Federal Regulations*, title 40, sections 63.40 to 63.44, in addition to parts 7007.0100 to 7007.1850.

7007.0100 DEFINITIONS.

[For text of subs 1 to 6, see M.R.]

Subp. 7. **Applicable requirement.** "Applicable requirement" means all the following as they apply to emissions units in a stationary source (including requirements that have been promulgated or approved by the EPA or the agency through rulemaking at the time of issuance but have future effective compliance dates):

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

B. any preconstruction review requirement of regulations promulgated under title I of the act, including part C (Prevention of Significant Deterioration of Air Quality) or, part D (Plan Requirements for Nonattainment Areas), or section 112(g)(2)(B) (construction or reconstruction of major source of hazardous air pollutants) and the emission facility offset rule in parts 7007.4000 to 7007.4030, and any term or condition of any preconstruction permit issued pursuant to those regulations or parts 7007.4000 to 7007.4030;

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

[For text of subs 8 to 18a, see M.R.]

Subp. 19. **Regulated air pollutant.** "Regulated air pollutant" means the following:

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

E. any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the act (Hazardous Air Pollutants), including sections 112(g)(2)(B) (construction or reconstruction of major source of hazardous air pollutants), (Modifications), 112(j) (Equivalent Emission Limitation by Permit), and 112(r) (Prevention of Accidental Releases), including the following:

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

(2) any pollutant for which the requirements of section 112(g)(2)(B) (construction or reconstruction of a major source of hazardous air pollutants) of the act have been met, but only with respect to the individual source subject to the section 112(g)(2)(B) requirement.

[For text of subs 20 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:

A. any condition based on a requirement of a new source review program under part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) or a preconstruction review program under section 112(g)(2)(B) (construction or reconstruction of a major source of hazardous air pollutants) of the act and implementing state rules or federal regulations;

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

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) or a preconstruction review program under section 112(g)(2)(B) of the act or implementing state rules or federal regulations; and

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

Subp. 26. **Title I modification.** “Title I modification” means any change that constitutes ~~a modification under any provision of title I of the act, including any of the following:~~

A. Construction or reconstruction of a major hazardous air pollutant source as defined in Code of Federal Regulations, title 40, section 63.41, as amended, or any other rules adopted by the administrator under section 112(g)(2)(B) of the act.

B. A new source review modification: major modification as defined in *Code of Federal Regulations*, title 40, section 52.21(b)(2) or 51.165(a)(1)(v), as amended, or any other rules adopted by the administrator under part C or D of the act.

~~B. C.~~ A new source performance standards modification: any modification as defined in *Code of Federal Regulations*, title 40, section 60.14, as amended, or any other rules adopted by the administrator under section 111 of the act.

~~C. D.~~ A hazardous air pollutant modification: any modification as defined in *Code of Federal Regulations*, title 40, section 61.15, as amended, or any other rules adopted by the administrator under section 112 of the act.

E. Any other change that constitutes a modification under any provision of title I of the act.

[For text of subs 27 and 28, see M.R.]

7007.0500 CONTENT OF PERMIT APPLICATION.

Subpart 1. Standard application form and required information.

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

D. Applicants for permits subject to preconstruction requirements under section 112(g)(2)(B) (construction or reconstruction of major source of hazardous air pollutants) of the act shall also comply with the application requirements of part 7007.3010, incorporating by reference the provisions of Code of Federal Regulations, title 40, sections 63.40 to 63.44.

E. An applicant is not required to show that its emissions do not cause a violation of ambient air quality standards, unless the agency notifies the applicant that such information is required, or unless the source is required to make such a showing under the preconstruction review requirements of part 7007.3000 or parts 7007.4000 to 7007.4030.

~~E. E.~~ This part describes the standard information that will be required in a permit application. It does not limit the agency’s statutory authority for requiring information in addition to that which is specifically listed.

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

[For text of items A 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, recordkeeping, and test methods. The applicant shall identify in the description of compliance status any past modifications at the stationary source for which preconstruction review was required under section 112(g)(2)(B) (construction or reconstruction of major source of hazardous air pollutants) of the act and parts C and D of the act but was not done.

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated “all new material.” ADOPTED RULES SECTION — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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Proposed Rules

[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.]

7007.0750 APPLICATION PRIORITY AND ISSUANCE TIMELINES.

[For text of subps 1 to 7, see M.R.]

Subp. 8. Two-stage issuance of permits subject to section 112(g)(2)(B) requirements.

A. If a permit or permit amendment is subject to the requirements of section 112(g)(2)(B) of the act, the agency shall send the permit to the permittee after all requirements of the section 112(g)(2)(B) program have been satisfied. The agency shall at the same time notify the permittee in writing that those permit conditions required by the section 112(g)(2)(B) program and designated as such by the agency in the permit or amendment, and only those conditions, shall be considered issued.

B. The agency shall issue the remaining permit conditions (those not issued under item A) after the Environmental Protection Agency's 45-day review period described in part 7007.0950, and in compliance with all other applicable provisions of parts 7007.0100 to 7007.1850. If there is no change to the remaining permit conditions, the agency shall issue the remaining permit conditions by means of notifying the permittee in writing that the remaining permit conditions of the permit previously sent under item A shall be considered issued.

C. The permittee may begin actual construction and operation of a stationary source or modification upon issuance of the conditions under item A to the extent authorized by those conditions.

7007.1200 CALCULATING EMISSION CHANGES FOR PERMIT AMENDMENTS.

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

Subp. 2. Calculation methods to determine if the proposed change is a title I modification. To determine if a modification is a title I modification, the applicable federal calculation method must be used. To determine the applicable methods to calculate emission changes for a title I modification, the permittee must refer to the federal regulations listed in part 7007.0100, subpart 26. Parts 7011.0060 to 7011.0080 may be used in this calculation if the stationary source is in compliance with parts 7011.0060 to 7011.0080, except that control efficiencies for control equipment with hoods under part 7011.0070 cannot be used. A change that would not be considered to increase emissions using the calculation method in subpart 3 may nonetheless be considered a title I modification, particularly under the calculation method required by part C (prevention of significant deterioration of air quality) ~~and~~, part D (plan requirements in nonattainment areas), and section 112(g)(2)(B) (construction or reconstruction of a major source of hazardous air pollutants) of the act.

[For text of subp 3, 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 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:

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

D. any amendment authorizing a title I modification, which includes construction or reconstruction of a major source of hazardous air pollutants under section 112(g)(2)(B) of the act; and

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

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

7007.3010 CONSTRUCTION OR RECONSTRUCTION OF A MAJOR SOURCE OF HAZARDOUS AIR POLLUTANTS UNDER SECTION 112(g)(2)(B) OF THE ACT.

Any person who constructs or reconstructs a major hazardous air pollutant source as defined in Code of Regulations, title 40, section 63.41, except electric utility steam generating units, stationary sources in deleted source categories under section 112(C)(9) of the act, and research and development activities, must meet the requirements of Code of Federal Regulations, title 40, part 63, subpart B, sections 63.30 to 63.44, as amended, entitled "Requirements for Control Technology," which is adopted and incorporated by reference, except sections 63.42(a) and 63.42(b) are not included.

All applications and other information required pursuant to Code of Federal Regulations, title 40, part 63, subpart B, sections 63.40 to 63.44, from emissions units, emission facilities, and stationary sources located in Minnesota shall be submitted to the commissioner.

Office of the Governor**Emergency Executive Order #98-02: Providing for Assistance to Officials in Brown and Nicollet Counties**

I, ARNE H. CARLSON, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Emergency Executive Order:

WHEREAS, on March 29, 1998, a powerful storm with a mix of tornadoes, heavy rain and hail ripped through much of south-central Minnesota; and

WHEREAS, the storm caused widespread evacuations and extensive property damage to homes, businesses and utilities; uprooted trees; blocked roads; power outages and downed telephone lines in Brown and Nicollet Counties; and

WHEREAS, the cities and counties do not have adequate local resources for providing security, clearing debris, restoring power and reopening streets; and

WHEREAS, the Brown and Nicollet County sheriffs request assistance in providing security and clearing debris;

NOW, THEREFORE, I hereby order that:

1. The Adjutant General of Minnesota order to state active duty on March 29, 1998, in the service of the State, such personnel and equipment of the military forces of the State as required, and for such a period of time as necessary to provide requested support to Brown, Nicollet and other affected counties.
2. The cost of subsistence, transportation, fuel, pay and allowances of said individuals shall be defrayed from the general fund of the State, as provided for in *Minnesota Statutes* 1996, Sections 192.49, subd. 1; 192.51 and 192.52.

Pursuant to *Minnesota Statutes* 1996, section 4.035, subd. 2, this Order shall be effective immediately, and shall remain in effect until such date as elements of the military forces of the State are no longer required.

IN TESTIMONY WHEREOF, I have set my hand this thirty-first day of March 1998.

Arne H. Carlson
Governor

Filed According to Law:
Joan Anderson Growe
Secretary of State

Office of the Governor**Emergency Executive Order #98-03: Declaring a State of Emergency in the State of Minnesota**

I, ARNE H. CARLSON, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Emergency Executive Order:

WHEREAS, on March 29, 1998, severe thunderstorms accompanied by tornadoes have devastated southern Minnesota; and

WHEREAS, these events have inflicted widespread and considerable damage to the public infrastructure as well as to homes, farms and businesses; and

WHEREAS, there is a threat to public safety for citizens in the counties of Blue Earth, Brown, LeSueur, Nicollet and Rice;

NOW, THEREFORE, I hereby declare that:

A State of Emergency exists in the State of Minnesota and do direct the Division of Emergency Management, in conjunction with the Federal Emergency Management Agency and other state and federal agencies, to determine the need for supplementary disaster aid and to coordinate the provision of any such assistance as necessary under existing state and federal authority.

Pursuant to *Minnesota Statutes* 1996, section 4.035, subd. 2, this Order is effective immediately and shall remain in effect until rescinded by proper authority or it expires in accordance with *Minnesota Statutes* 1996, section 4.035, subd. 3.

IN TESTIMONY WHEREOF, I have set my hand this thirty-first day of March 1998.

Arne H. Carlson
Governor

Filed According to Law:
Joan Anderson Growe
Secretary of State

Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and mat-

Board on Aging

Notice of Change of Meeting Date of the Minnesota Board on Aging

NOTICE IS HEREBY GIVEN that the June 19, 1998 meeting of the Minnesota Board on Aging has been changed to June 12, 1998. The meeting will be held at 9:00 a.m., at 444 Lafayette Road, Human Services Building, Rooms 2 A/B, St. Paul, Minnesota.

For additional information please call 612-296-2770 or 1-800-882-6262.

Department of Transportation

Petition of Chippewa County for a Variance from State Aid Requirements for DIAGONAL PARKING LANE WIDTH

NOTICE IS HEREBY GIVEN that the Chippewa County Board has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to a proposed reconstruction project on County State Aid Highway No. 9, from the junction of Trunk Highway Nos. 7 and 59, to Main Street in the City of Watson, Minnesota.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9961 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit 45 degree diagonal parking on both sides of County State Aid Highway No. 9, from the junction of Trunk Highway Nos. 7 and 59, to Main Street in the City of Watson with traffic isle widths of 3.5 meters, in lieu of the required 4.0 meter traffic isle width.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 3 April 1998

Patrick B. Murphy
Division Director
State Aid for Local Transportation

Department of Transportation

Petition of the Dayton City Council for a Variance from State Aid Requirements for EXTENDING THE DATE FOR THE REQUEST OF MAINTENANCE REQUESTS

NOTICE IS HEREBY GIVEN that the Dayton City Council has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to the allocation of maintenance of urban municipalities.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.1400, Subp.3 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to increase the 1998 Maintenance Allocation amount to 25% of the total allocation, and to permit the extension of the date maintenance funds may be requested, in lieu of the required date of submittal of December 16, 1997, adopted November 11, 1995.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 3 April 1998

Patrick B. Murphy
Division Director
State Aid for Local Transportation

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan 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 and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Health

Disease Prevention and Control

Notice of Availability of Funds for HIV-Related Services in Rural Minnesota

Notice of availability of Ryan White CARE Act, Title II, funds for HIV-related services in rural Minnesota including, (1) primary health care, and (2) culturally appropriate services.

The Minnesota Department of Health (MDH) requests proposals from private or non-profit service providers who are interested in providing primary health care and culturally appropriate services to people with HIV.

The purpose of the funding is to increase the capacity of regionally specific primary health care and for culturally appropriate services for specific rural Minnesota populations affected by HIV which may have limited access to a particular service due to cultural or geographic barriers.

Up to \$25,000 is available to fund each type of service. The grant contract period is established for nine months, July 15, 1998 to March 31, 1999. Continuation or expansion funding will be dependent upon availability of funds to MDH. Successful applicants will be able to begin their project by July 15, 1998.

A Request for Proposal packet can be obtained from:

Kathy Mueller
Minnesota Department of Health
AIDS/STD Prevention Services Section
717 Delaware Street Southeast
P.O. Box 9441
Minneapolis, MN 55440-9441
(612) 623-5282

Letters of Intent are due by Friday, May 1, 1998 at 4:00 p.m. Proposals are due by Tuesday, May 16, 1998 at 4:00 p.m. Submit letters of intent and proposals to the above address.

Department of Human Services

HIV/AIDS Programs Office

Request for Proposals to Provide Dental Services for Persons with HIV

The Minnesota Department of Human Services is soliciting proposals from qualified dental provider networks to provide dental services for low income persons living with HIV disease. The goal of this grant is to conveniently provide the greatest number of eligible individuals with dental services in the most cost effective manner. The respondents must be able to provide these services on a statewide basis. The benefit set covered under this grant is the same as that for the Medical Assistance program.

This Request for Proposals does not obligate the State to complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

The Department has estimated that the cost of this contract will not exceed \$60,000.00 all proposals must be submitted no later than 5 p.m., May 7, 1998. For a copy of a more detailed explanation of this request for proposals, please contact:

Lori Lippert
HIV/AIDS Programs Office
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3853
(612) 297-3344

Professional, Technical & Consulting Contracts

Department of Public Safety

Minnesota Auto Theft Prevention Program

Grant Availability for Local Government Units and Businesses for Auto Theft Prevention Programs

The Minnesota Auto Theft Prevention Program Board announces the availability of over \$350,000.00 in grant funds still accessible for the July 1, 1998 through June 30, 1999 grant period. Applications will be accepted from State, County, Local Police Departments, Governmental Agencies, Prosecutors, Judiciary, Businesses, Community and Neighborhood Organizations. This reimbursement grant program must be for projects dedicated to the area of auto theft. Grant application packets may be obtained by contacting Dennis Roske at the Auto Theft Prevention Office at (612/405-6153 or 405-6155). To be considered, applications must be received in the MATPP office in Mendota Heights by 4:30 p.m. on June 1, 1998.

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, and final submission date of completed contract proposal.

In accordance with *Minnesota Rules* Part 1230.1910, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of up to 6% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (612) 296-2600 or [TTY (612) 297-5353 and ask for 296-2600].

Department of Administration

Communications.Media - PrintComm

Request for Information on Printing Management Software

The Department of Administration, Communications.Media - PrintComm is considering the purchase of a new Printing Management Software package.

Description of PrintComm

PrintComm is the State of Minnesota's in-house print shop. There is no state use law hence PrintComm operates in an environment where it must compete with private sector printers. PrintComm serves two distinct market segments. The first is 'traditional' printing. PrintComm handles about 4000 jobs a year, using offset lithography. These are one, two, or three color (spot color) printing. The other market segment served is 'quick printing'. In this segment PrintComm produces about 10,000 jobs annually using xerographic technology. PrintComm offers this service in three different locations. PrintComm has about 50 employees. Production operations are generally 24 hours a day while customer service operates 12 hours a day. Our current Printing Management Software is PROFIT.

RFI Contents:

Company Name

Complete home office address

E-mail address

Web url

Company rep or salesperson we will be working with and phone number

Description of rep or salesperson's background/experience

- complete description of your software modules and how they integrate with each other
- list of basic hardware requirements
- narrative description of how you transition a customer from their current Printing Management Software to yours
- if and if so how you capture existing data on a customer's system and move it to yours
- total number of current installations in the U.S.

Professional, Technical & Consulting Contracts

- total number of installations for the last three calendar years (ending 1997)
- total number of installations for 'in-plant' operations (public or private)
- financial statements for your last three fiscal years

Vendors responding to this request must meet certain criteria. Those who respond but who cannot meet all the criteria will NOT be considered.

1. Year 2000 compliant - vendors are required to submit, as part of their RFI, certification that all modules of their software are compliant. As part of the certification, describe the testing process your product went through.
2. We are considering only software packages that operations on standard IBM PC's and Novell LAN topology using WIN 95.
3. A easy to use and comprehensive estimating system including:
 - a. Ability to create job tickets from estimates or from scratch
 - b. Ability to create tables
 - c. Ability to estimate at least 3 quantities at one time
 - d. Ability to make changes to estimates at stage of production, without starting the estimate over
 - e. Ability to calculate total at point
 - f. Ability to recall, a minimum of the previous 12 months, of estimating history and the ability to recall such estimates by estimate number and customer number
 - g. Ability to create links from estimates to job costing (estimated costs appear line item by line item next to the job costing information) and linked to the job ticket so that the estimate number prints on the job ticket
 - h. Easy to create job tickets
 - i. Easy to create and customize quote letters
4. PC and windows based running on standard PC's (no specialized equipment)
5. Minimum 5 X 7 technical support
6. Inventory module
7. Scheduling module
8. Management reporting module with customer report generator
9. Order entry module
10. Dynamic or real time data
 - collection immediate corrections from all work stations
 - 'easy to use'
 - averages production data over each shift
11. Job costing module with the ability to view WIP jobs and print out WIP reports
12. Receivable module
13. On site training program
14. E.O.M. continuity
15. Single entry
16. Current and easily accessible help

Send responses to:

State of Minnesota
Department of Administration
Communications.Media
117 University Avenue E.
St. Paul, Minnesota 55155

Attn: Berry Conway

All Proposals are due by May 15, 1998.

Professional, Technical & Consulting Contracts

Department of Health

Division of Family Health

Minnesota Children with Special Health Needs

Consultant Contracts Available for Medical and Related Services for Children with Special Health Care Needs

Openings exist at clinics for:

1. Board certified or approved physicians to provide medical examinations;
2. Board certified dentists and dental specialists to provide dental examinations;
3. Registered/certified public health or pediatric nurses to provide nursing services;
4. Licensed psychologists to provide psychological assessments;
5. Licensed social workers to provide social work consultation;
6. Certified audiologists to provide audiological examinations;
7. Registered occupational therapists to provide occupational therapy assessments;
8. Certified speech pathologists to provide speech assessments;
9. Registered physical therapists to provide physical therapy assessments;
10. Registered dietitians to provide nutritional counseling;
11. Licensed educational consultants to provide educational assessments;
12. Technicians to provide examinations/assessments.

Qualified, interested persons should contact Mary Wanninger, Minnesota Children with Special Health Needs, 717 Delaware Street S.E., P.O. Box 9441, Minneapolis, MN 55440-9441. Phone 612/623-5162 by May 4, 1998.

A total of \$265,000 for the FY year of 1999 has been budgeted to fund these positions. Funding for individual positions varies by category and position.

Dated: 31 March 1998

Department of Human Services

Notice of Intent to Implement DHS Fee for Service Integrated Billing System and Request for Information

1. Introduction

The State of Minnesota, Department of Human Services (DHS), intends to initiate a project to implement an Integrated Fee for Service Billing System (hereafter "Project") for all state operated health care services.

DHS intends to enhance its billing practices by moving from an all inclusive per diem rate to a "fee for service" billing system. The Project DHS intends to initiate and implement will lead to the generation of "fee for service" bills similar to those generated by most private sector providers. To that end DHS is interested in software programs that can be merged with existing infrastructure to enhance receivable management and reportability. Dollar volume generated is currently in excess of \$145 million per year.

2. Purpose of Notice of Intent to Implement and Request for Information

The purpose of this Notice is to assist DHS assess its needs by obtaining information about existing and potential system products. Furthermore, it is DHS's hope that this process will assist vendors in determining whether this Project is something that they are interested in and capable of performing.

DHS anticipates that there are vendors who have existing billing systems or prototypes or system integration services that would be of interest to DHS. To assist vendors in assessing their potential involvement in the Project, a Project Summary section is included in this notice.

3. Request for Information (RFI) Process

DHS is interested in receiving information from any vendor regarding existing billing systems and recommended health care

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billing standards. DHS intends to use the information it receives to help it formulate a Request for Proposals (RFP) for the Project. Vendors are encouraged to communicate information about any solution or matter they believe may be relevant to the Project, including but not limited to existing systems, integration issues, combinations of proprietary or custom software, and work break-down modules that may be deployed. Vendors are free to convey information in any format that they believe would be helpful to DHS. Vendors who are interested in providing information to DHS about their products and services or who may have other input or recommendations about any aspect of the Project must notify DHS of their intent to participate in the RFI process by notifying Larry Houff by facsimile or U.S. mail no later than 4:00 p.m. on April 27, 1998 at the following address:

Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3824
Fax 612/297-3030

Upon the closing of the RFI notification process, DHS will schedule an individual interview with each vendor that responded in a timely manner. Interviews will be conducted at DHS's central office at 444 Lafayette Road, St. Paul, Mn., during the week of May 11-15, 1998. Vendors participating in the interview process must submit written materials for DHS's consideration at least one week prior to their interview. Vendors are free to conduct demonstrations of their products as part of the interview process, and those who wish to do so will be given additional time during the interviews. Vendors may provide presentations via video conferencing or through a combination of modem and demonstration. Vendors who wish to submit written materials but who do not desire to participate in the interview process are free to do so, provided all written materials are submitted no later than May 8, 1998. All written materials received from vendors in response to this RFI will be considered public information pursuant to *Minnesota Statutes* Chapter 13.

Participation in the RFI process is not a prerequisite to submitting a proposal in response to any Project RFP that may be issued upon the completion of this process. Vendors are responsible for all costs associated with the preparation and presentation of materials in response to this RFI. Vendors must not communicate with any DHS staff concerning this RFI except as provided for in this document. Any questions, concerns or other communications regarding this RFI must be addressed to:

Larry Houff
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3824
Phone 612/296-4889
Fax 612/297-3030

Although DHS intends to use the information it obtains from this RFI to develop an RFP for this Project, which is tentatively scheduled to be released in June, 1998, DHS does not guarantee that any RFP or procurement will be forthcoming, or that any vendor responding to this RFI will be awarded a contract to perform work on the Project. DHS reserves the right to waive minor irregularities in vendor responses to this RFI at its sole discretion.

4. Project Summary

Functionally, the Department of Human Services currently is implementing a new Clinical Information System (CIS) which will provide demographics, admission, discharge, transfers, case mix, physician contacts and diagnosis coding. The types of application that will need to be implemented will include the interface with the CIS. A second interface will be needed to integrate the billing software with the State of Minnesota's current Accounts Receivable System. All state operated facilities will use the new integrated billing system.

With this background in mind, the Project (new system) must have the following elements:

- **4.1 Operating system**

Must be able to operate under the Microsoft Windows 95 and Microsoft NT.

- **4.2 Network optimization**

Network accessible Microsoft Windows NT.

- **4.3 Database structure**

Software operates under a Relational Database management format.

- **4.4 Operating diversity**

Operate multiple sites with multiple programs such as inpatient, outpatient, and nursing home within one company.

- **4.5 Billing optimization**

Room charges automatically computed and updated with each census change.

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- **4.6 Rate optimization**

Automatic rate adjustment: Retro-rate adjustments done because of date rate tables. Retroactive adjustments due to changes in payer, census or personal liability changes.

- **4.7 Open item**

The ability to post payments to specific dates of service.

- **4.8 Claim submission**

Multiple insurance carriers per patient.

Electronic claim submission.

Automatic secondary/tertiary insurance billing.

Four Diagnosis per procedure coding.

Complete or partial resubmission of rejected claim files.

Simultaneous laser printing of claim forms.

- **4.9 Billing formats**

UB-92, HCFA 1500, ADA, RSI, editor lets you examine and make changes to the claims before they are printed or transmitted. Flexibility to generate alternative forms is desirable.

- **4.10 Point and Click**

Mouse support for point and click operation.

- **4.11 Electronic transfer**

Electronic transfer of third party claims and electronic receipt posting of remittance advices.

- **4.12 Security**

Should provide security that is easily understood and administrated.

- **4.13 Cost estimates**

Vendors should provide information about the approximate costs of the products and services they are presenting as well as the anticipated maintenance costs and the warranties. Such cost information shall not be considered nor does it constitute a proposal, and vendors will not be accountable for such information in any subsequent proposal submitted. Estimates are intended for planning purposes only.

- **4.14 Year 2000 Compliance**

The vendor should comment on the Year 2000 compliance of all recommended components.

- **4.15 Scalability**

The system must be highly scalable so that it will be able to address not only the current business requirements, but will be able to respond to emerging requirements in the department. Those emerging requirements dictate that the system also be flexible to meet the diverse needs from site to site within DHS.

- **4.16 Flexibility**

Since the requirements and preferences of each facility will vary from site to site and among programs, the system should be open enough to accommodate the differing requirements.

- **5. Current Architecture**

Through its Reimbursement Division, DHS currently uses one AS400, IBM mainframe, IBM compatible PCs, and Network servers in each of the sites operating under the Windows NT platform to format billing and receipting activities for the per diem based billing at the state operated facilities. The AS400 also handles a number of stand alone database applications to supply management information regarding the individual revenue based businesses at the facilities. The Reimbursement Division currently utilizes Ethernet and token ring network devices along with TCP/IP under a WAN environment. Unique ID and password security is assigned by the system administrator.

The CIS will employ a client-server architecture storing data under Microsoft SQL Server installed on a Windows NT platform. ODBC standard can be used to read and write to the CIS tables. Each facility has a server with its own data, but each evening all facilities aggregate their data to a Central Repository which can be accessed for billing data and information. The Repository is also on a NT server with data in Microsoft SQL Server database.

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The State of Minnesota currently has established an Account Receivable account system to report all receivables owed to the state in specific formats. In order for the AR to flow from the AR billing package a CITA interface file would need to be created. This format would consist of two parts— a fixed format area and a variable format area that depends on the record type and the transaction type. Complete specification are available upon request.

Scope of activity:

Eight inpatient facilities with 160 plus physicians and 2085 beds serving mental health, chemically dependent, developmentally disabled, nursing facility, and traumatic brain injury clients. Outpatient services, group home, day training and habilitation, and crisis services are also provided by the network.

It is expected that the fully integrated establishment, billing, receipting, and accounting system for all state operated services be provided in a timely and cost effective manner, as well as being compatible with the expanding service delivery networks.

Department of Human Services

St. Peter Regional Treatment Center

Notice of Request for a Proposal for Psychiatric Services

NOTICE IS HEREBY GIVEN that the St. Peter Regional Treatment Center, Residential Facilities Administration, Department of Human Services, is seeking services which are to be performed as requested by the Administration of the St. Peter Regional Treatment Center. The following contract will be written for the period July 1, 1998 through June 30, 1999.

1. Psychiatric services needed to serve the needs of the clients at St. Peter Regional Treatment Center.

A Request for Proposal may be obtained by calling or writing:

Cindy Zahratka, Contract Coordinator
St. Peter Regional Treatment Center
100 Freeman Drive
St. Peter, MN 56082
Phone: (507) 931-7715

Proposal responses must be submitted no later than 4:00 p.m. on May 4th, 1998. This solicitation does not obligate the State to enter into and complete the contract, and the State reserves the right to cancel the solicitation if it is considered to be in it's best interest.

Department of Human Services

Families with Children Division

Child Support Enforcement Division

Notice of Request for Proposals to Develop Training and Provide Initial Training for Financial and Child Support Workers on the Issue of Domestic Violence and Sexual Assault

The Minnesota Department of Human Services, Families with Children Division and Child Support Enforcement Division (the State) is seeking proposals from qualified contractors to develop and provide statewide training for county financial and child support workers on the issue of domestic violence and sexual assault. **The closing date for proposal submission is no later than 4:00 p.m., on May 4, 1998.**

In conjunction with the public notice of this contract, notice of this project will be provided to the Human Resources offices of all *Minnesota Statutes* 15.091 agencies and the Higher Education Board. In compliance with *Minnesota Statutes* 16B.167, the availability of this contracting opportunity is being offered to state employees. Responses of any state employees along with other responses to this Request for Proposal (RFP) shall be evaluated. This notice or the RFP does not obligate the State to complete the proposed project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

A copy of the complete RFP may be obtained by contacting Diane Calkin at: (612) 297-5748; fax: (612) 297-4450; or by writing to:

Attn: Diane Calkin

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Minnesota Department of Human Services
Child Support Enforcement Division
444 Lafayette Road
St. Paul, MN 55155-3846

The closing date for proposal submission is no later than 4:00 p.m. on May 4, 1998. No faxes or other electronically transmitted proposals will be accepted.

Department of Natural Resources

Division of Fish and Wildlife

Notice of Request for Proposals for Fisheries Region 2 MinnAqua Educator

NOTICE IS HEREBY GIVEN that the Department of Natural Resources (DNR), through its Division of Fish and Wildlife, requests proposals to provide coordination and implementation of authorized MinnAqua programming in DNR Fisheries Region 2. This includes the counties of Koochiching, Itasca, St. Louis, Carlton, Lake, and Cook.

It is the goal of this project to increase the public's awareness of aquatic resource education and foster greater knowledge, appreciation, enjoyment, and utilization of Minnesota's lakes, ponds, streams, rivers, and wetlands.

Organizations involved in similar activities are encouraged to consider cost sharing an educational position focusing on aquatic resources.

The contractor will provide the following services on a yearly basis:

1. Coordinate, organize and implement 60 MinnAqua authorized programs in DNR Region 2.
2. Service requests for MinnAqua materials as needed.
3. Participate in MinnAqua and DNR Fisheries training sessions and meetings.
4. Coordinate with other educational agencies to promote joint programming opportunities.
5. Identify needs for program development and adaptation for use in Region 2.

The DNR has estimated that the cost of this contract should not exceed \$75,000. This proposal does not obligate the agency to spend the estimated dollar amount.

The contract will begin September 1, 1998, and will be completed August 31, 2003.

Call or write for the full Request for Proposal which will be sent free of charge to interested vendors. Please contact:

Linda Erickson-Eastwood, MinnAqua Coordinator
Minnesota Department of Natural Resources
500 Lafayette Road, Box 12
St Paul, MN 55155 - 4012
Phone (612) 297-4919
FAX (612) 297-4916

Other department personnel are NOT allowed to discuss the Request for Proposal with anyone, including responders, before the proposal submission deadline.

In accordance with *Minnesota Rules*, part 1230.1810, subpart B, and *Minnesota Rules*, part 1230.1830, 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, and certified Economically Disadvantaged Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a 4% preference in the evaluation of their proposal. For information regarding certification, contact the Materials Management Helpline at 612.296.2600 TTY 612.282.5799.

All proposals must be received or post-marked not later than 4:30 on Friday, May 8, 1998.

Dated: 30 March 1998

Gail Lewellan
Asst. Commissioner/Human Relations and Legal Affairs
Department of Natural Resources

Office of the Secretary of State

Request for Information on Implementing a System of Authenticating, Certifying and Maintaining a Repository of Certification Authorities for Digital Signatures as the Legal Equivalent of a Handwritten Signature on Paper

Background

In 1997, the Minnesota Legislature adopted the Minnesota Electronic Authentication Act, *Minnesota Statutes* chapter 325K (see www.revisor.leg.state.mn.us/st97/325K/). According to the terms of this act, authentication of an electronic message by a digital signature will be the legal equivalent of a handwritten signature on paper if a licensed certification authority is used.

The Office of the Secretary of State has been given the responsibility to license certification authorities and recognize repositories according to *Minnesota Statutes* chapter 325K. Amendments to chapter 325K enacted in 1998 (see Senate File 2068 at www.revisor.leg.state.mn.us) also makes the Secretary the certification authority for all applicants for licensure as a certification authority and would permit the Secretary to make certification authority services available to other governmental agencies. In addition, the Secretary will need to develop a repository to make information about certification authorities, certificates and their status available to those using digital signature technology.

Purpose of this Request

The purpose of this Request for Information is to gather information about possible ways to implement this legislation, the cost of doing so and to assist in the preparation of specifications for a Request for Proposal.

To better help parties respond to this Request for Information, the Office projects that initially there will be less than 25 applicants for licensure that will need to have certificates from the Secretary. We are unable to anticipate the volume of subscribers that the licensed certification authorities will serve. As other governmental agencies choose to use the certification authority services of the Secretary, it is projected that 10,000 certificates will be issued to government employees and active at any one time.

The Secretary has not yet decided whether to create a certification authority and repository or to outsource these functions. Therefore, the information requested has been divided into two sections: where the company provides certification authority/repository software and where the company provides certification authority/repository services. Please respond to the general questions as well as the questions for the specific solution your company has to offer. You are welcome to respond to both sets of questions if you have solutions that fit both requests.

General Questions to be Answered by All

- I. Tell us about your company including your experience implementing the proposed solution and your financial stability.
- II. Identify the critical success factors the Secretary must address to be successful in this endeavor. In other words, what must happen for the Secretary to succeed?
- III. Describe your company's vision for future development and/or services.
- IV. What is the average frequency of software enhancements/major software releases?
- V. Describe your support services, including help desk, problem reporting and escalation process.
- VI. Identify the type of available documentation (installation, operations and user guide) and cost.
- VII. Does a user group exist? If so, describe.
- VIII. Describe the available training including location, frequency, duration, types of attendees and cost.
- IX. Describe the recommended implementation plan and include how much time will it take.
- X. What reports of a statistical or other nature are available that document the availability, usage and performance of the software? Provide report samples.
- XI. Identify three (3) references and provide contact name, company, address, telephone number, email address and length of time as a customer of your company.

Questions for Vendors Proposing Certification Authority/Repository Software Solution

- A. Describe the functions and features of the software that is available from your company.
- B. Is the software compliant with the most current version of X.509?
- C. Is the software Year 2000 compliant? The State's Year 2000 warranty requirements appear at <http://www.state.mn.us/ebranch/admin/ipo/warranty.html>.

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- D. Does the software comply with the Americans with Disabilities Act? Describe the way in which it complies.
- E. Is the software able to be effectively controlled by nonvisual means (see section 27 of SF 3354 at www.leg.state.mn.us/leg/legis.htm)? Describe how this works.
- F. Does the software use an X.500 directory? What is the process and cost of initializing the directory?
- G. What is the process and cost of initializing the directory from an existing X.500 directory?
- H. What does the software cost? Are there license fees, user fees and/or maintenance charges? What installation and implementation charges exist? What ongoing fees are there? What other fees are there? Include the amount for each.
- I. Does the software support the operation of more than one registration authority?
- J. What hardware and software are needed to support the software?
- K. What is the minimum hardware and software configuration required to support the software?
- L. Does the software run on a Windows NT operating system? What other operating systems does it run on?
- M. What type of environment and how much physical space is needed for the hardware?
- N. Describe the telecommunications requirements and options that are available.
- O. Please provide a diagram of the system architecture. Security features should be noted where they happen but need not be described in detail.
- P. Is the database scaleable? Describe how this works.
- Q. Are there limitations in the software such as the number of users that can be accommodated or the number of records that can be stored? What are they?
- R. Does the software meet the Common Criteria (CC) Protection Profile (PP) for Commercial Security 2 (CS2) standard developed by the National Institute of Standards and Technology (NIST) (<http://csrc.nist.gov/nistpubs/cc/pp/pplist.htm/#cs2>)? Describe how this compliance is achieved.
- S. What security options are available to support the software? What is the additional cost for these options?
- T. What are the projected costs of creating a *certification authority*?
- U. What are the projected costs of operating a certification authority 24 hours per day, 7 days per week?
- V. What are the projected costs of maintaining a certification authority?
- W. What is the cost of creating a *repository* as described in chapter 325K?
- X. What are the projected costs of operating a repository 24 hours per day, 7 days per week?
- Y. What is the cost of maintaining a repository?
- Z. Are the databases mirrored?
- AA. What backup provisions are recommended?
- BB. What recordkeeping, data storage and data retention functions are supported by the software?
- CC. How should disaster recovery be accomplished?
- DD. What qualifications and numbers of personnel are required for the Secretary to implement the software?
- EE. What level of expertise is available from your company to implement the software? What is the hourly rate for these services?

Questions for Vendors Proposing a Certification Authority/Repository Services Solution

- 1) Describe the functions and features of the services that are available from your company.
- 2) Are the services compliant with the most recent version of X.509?
- 3) Are the services Year 2000 compliant? The State's Year 2000 warranty requirements appear at <http://www.state.mn.us/ebranch/admin/ipo/warranty.html>.
- 4) Do the services comply with the Americans with Disabilities Act? Describe the way in which they comply.
- 5) Are the services able to meet the requirements of section 27 of SF 3354 (www.leg.state.mn.us/leg/legis.htm) that mandates effective control of software by non-visual means? Describe how this works.
- 6) Does the service use an X.500 directory? What is the process and cost of initializing the directory? What, if any, part of the cost is assessed to the Secretary?

Professional, Technical & Consulting Contracts

- 7) What is the process and cost of initializing the directory from an existing X.500 directory? What, if any, part of the cost is assessed to the Secretary?
- 8) What do the services cost? Are there license fees, user fees and/or maintenance charges? Are there one-time setup fees? Are there ongoing fees? What other fees are there? Include the amount for each the portion, if any to be assessed to the Secretary.
- 9) Are multiple registration authorities available?
- 10) What hardware and software does the Secretary need to use in support of the services?
- 11) What is the minimum hardware and software configuration required to use the services?
- 12) Are the services compatible with the Windows NT operating system? What other operating systems does it run on?
- 13) How will the Secretary communicate information about licenses, suspensions, revocations and other information to the service? At what cost?
- 14) Describe the telecommunications requirements and options for accessing the services.
- 15) Are the services scaleable? Describe available volume discounts.
- 16) Do the services meet the Common Criteria (CC) Protection Profile (PP) for Commercial Security 2 (CS2) standard developed by the National Institute of Standards and Technology (NIST) (<http://csrc.nist.gov/nistpubs/cc/pp/pplist.htm/#cs2>)? Describe how this compliance is achieved.
- 17) What security options are available to support the services? What is the additional cost for these options?
- 18) Are there one-time costs to the Secretary when your company creates the certification authority? What are they?
- 19) Are there costs to the Secretary when your company operates the *certification authority* services 24 hours per day, 7 days per week? What are they?
- 20) Are there ongoing costs to the Secretary when your company maintains the certification authority? What are they?
- 21) Are there one-time costs to the Secretary when your company creates a *repository* as described in chapter 325K? What are they?
- 22) Are there on-going costs to the Secretary when your company maintains a repository? What are they?
- 23) Are there costs to the Secretary when your company operates the repository 24 hours per day, 7 days per week? What are they?
- 24) Are the databases mirrored?
- 25) What backup provisions are provided?
- 26) What recordkeeping, data storage and data retention functions are supported by the services? At what cost?
- 27) What fault tolerance and redundancy exist to ensure service availability?
- 28) What disaster recovery provisions are provided as part of the services? If disaster recovery is not part of the services provided, what is available and how much does it cost?
- 29) What commitment of time and personnel will be required from the Secretary to implement the services? What qualifications will the personnel retained by the Secretary need to have?
- 30) What are the charges to the customer to (a) obtain a certificate? (b) verify a certificate? (c) check the repository? and (d) how are these charges collected?

Instructions to Vendors

It is expected that respondents to this request will familiarize themselves with *Minnesota Statutes* chapter 325K (www.revisor.leg.state.mn.us/st97/325K/). In presenting your response, please restate the question before providing your answer. Please submit 5 copies of your response.

All responses to this Request for Information are public according to *Minnesota Statutes* section 13.03 unless the data provided qualifies for a specific classification under chapter 13. For example, if the criteria for trade secret or security data is met, the data will be held as nonpublic data as required by the classification. If you submit data you believe is qualified for a specific classification, it must clearly be identified by you as such. If you have any concern about whether data you submit will be considered public, do not submit it but rather generally describe the information in your response to this Request.

If additional information is needed to respond to this Request for Information, questions should be directed to Katie Engler at 180 State Office Building, 100 Constitution Avenue, St. Paul, MN 55155-1299 or (612) 297-5163(voice) or (612) 296-9073(fax) or katherine.a.engler@state.mn.us.

Non-State Public Bids, Contracts & Grants

The deadline for submitting a Response to this Request for Information is Monday, May 4, 1998 at 4:00 PM (CST). Responses may be directed to Ms. Engler at one of the mailing address listed above or may be faxed or hand delivered to Ms. Engler at Room 174 State Office Building, 100 Constitution Avenue, St. Paul, MN, 55155-1299. Electronic mail responses will not be accepted due to possible difficulties opening electronic mail attachments.

Department of Transportation

Notice of Request for Professional Services to Assist in Training for, and Design and Implementation of, an Activity Based Costing Project in Maintenance Operations

The Minnesota Department of Transportation (Mn/DOT) is seeking one or more firms to assist in the training for, and design and implementation of, an Activity Based Costing project in its Maintenance operations. Components of the contract include:

1. Training for use of NetProphet using training formats designed by Mn/DOT;
2. Assistance in working with operating units to develop schematic diagrams, coordinate data source identification, act as technical resource for model design questions; and
3. Assistance in developing a roll-up process for independent field operations models with the central office.

The department is seeking responses to parts 1, 2 and 3 separately and as an entirety. The department reserves the right to award all or part of the contract to anyone vendor or to award more than one part to any specific vendor.

This proposal does not obligate the state to complete the proposed project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Requests for the complete Request for Proposal (RFP), inquiries, and responses should be made only to:

B. James Berg
Office of Strategic Initiatives M.S. 340
117 University Avenue
St. Paul, Minnesota 55155
(612) 282-2275

Responses should be delivered to B. James Berg by (3:00 P.M. CDT) May 1, 1998. Responses received after that date shall not be considered.

Non-State Public Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

University of Minnesota

Notice of Bid Information Service (BIS) Available for All Potential Vendors

The University of Minnesota offers 24 hour/day, 7 day/week access to all Requests for Bids/Proposals through its fax back Bid Information Service (BIS). Subscriptions to BIS are \$75/per fiscal year (not prorated). Call 612-625-5534 for information or visit our web site at <http://purchserv.finop.umn.edu>. Choose BID information Service.

Requests for Bids/Proposals are available to the public at no charge each business day from 8:00 a.m. - 4:30 p.m. in Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Mpls, MN 55454.