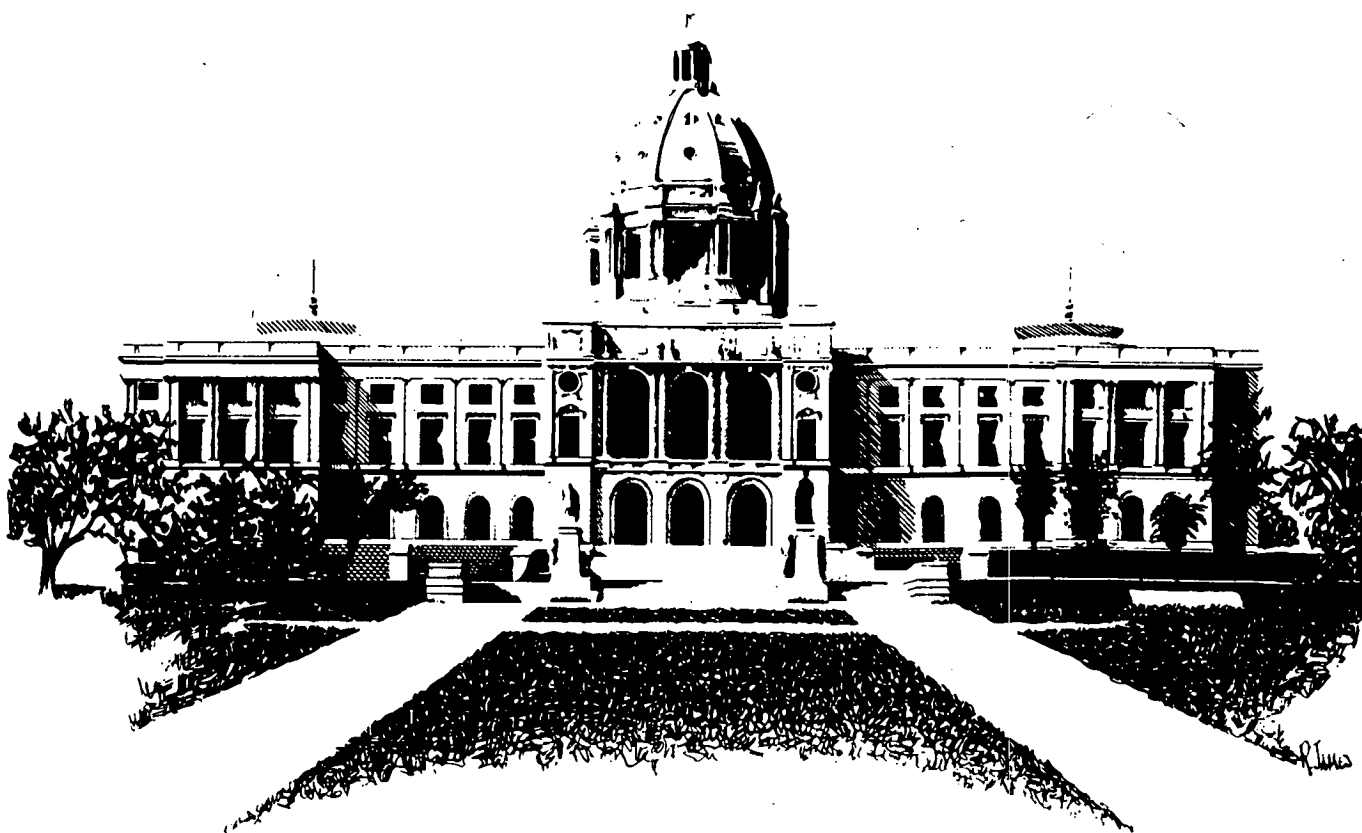


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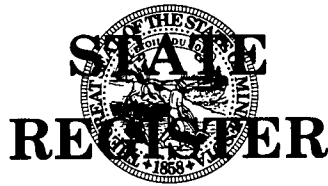
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March 5, 1984

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Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 8			
37	Monday Feb 27	Monday Mar 5	Monday Mar 12
38	Monday Mar 5	Monday Mar 12	Monday Mar 19
39	Monday Mar 12	Monday Mar 19	Monday Mar 26
40	Monday Mar 19	Monday Mar 26	Monday Apr 2

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

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

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The **PROPOSED RULES** section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The **ADOPTED RULES** section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

ALL ADOPTED RULES and **ADOPTED AMENDMENTS TO EXISTING RULES** published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in spring of 1984. In the **MCAR AMENDMENT AND ADDITIONS** listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the *1982 Reprint* due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the **MCAR AMENDMENTS AND ADDITIONS** list on the following schedule:

Issues 1-13, inclusive
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issue 27-38, inclusive

Issue 39, cumulative for 1-39
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EXECUTIVE ORDERS

Emergency Executive Order No. 84-4

Providing for Assistance to Officials of Polk and Renville Counties

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, hereby issue this Executive Order:

WHEREAS, the Sheriffs of Polk and Renville Counties requested assistance in rescuing stranded travelers; and

WHEREAS, extreme weather conditions prevented county officials from rescue of stranded travelers with county vehicles and equipment;

NOW, THEREFORE, I Order:

1. A state of emergency is hereby declared to exist in the counties of Polk and Renville.

2. The Adjutant General of Minnesota shall order to active duty on and after February 4, 1984, in the service of the State, such elements of the military forces of the State as are necessary to protect the health and safety of our citizens. These forces shall be utilized for such period of time as is necessary to successfully achieve those purposes.

3. The costs of subsistence, transportation, fuel, and pay and allowances of said individuals in the military forces of the State shall be defrayed from the General Fund of the State as provided for by Minnesota Statutes, Section 192.49; Subdivision 1, Section 192.51; and Section 192.52. This emergency Executive Order, which is issued for the health and safety of

EXECUTIVE ORDERS

the citizens of Polk and Renville Counties, shall be effective retroactive to February 4, 1984, and shall remain in force until such date as the emergency conditions are relieved.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 9th day of February, 1984.



PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
 2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
 3. of the manner in which persons shall request a hearing on the proposed rules;
- and
4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven 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 §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Agriculture Food Inspection Division

Notice of Withdrawal of Proposed Rules Governing Grading and Candling of Eggs

Notice is hereby given that the rules proposed and published at *State Register*, Volume 8, Number 27, pages 1561 and 1562 are withdrawn.

Department of Agriculture Food Inspection Division

Proposed Rules Governing Grading and Candling of Eggs

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Agriculture has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.21-14.28 (1982).

PROPOSED RULES

Persons interested in these rules shall have 30 days to submit comment on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes, Sections 14.11-14.20 (1982). If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486.

Authority to adopt these rules is contained in Minnesota Statutes, Sections 29.23 and 29.27. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Mr. Heil.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Mr. Heil.

The Commissioner is authorized by Minnesota Statutes Sections 29.23 and 29.27 (1980) to adopt federal standards for quality, grades and weight for Minnesota eggs moving in interstate commerce, as well as to establish requirements for candling, grading, cleaning, purchasing, and selling eggs for the purpose of preserving and protecting the public health. The proposed amendments to these rules, the adoption of the federal definition of dirty, will finalize and put in place the federal standards adopted by the department's promulgation of 3 MCAR §§ 1.0388-1.0404.

The proposed amendments are intended to achieve total consistency with the federal standards as adopted by Minnesota.

The proposed amendments, if adopted, would effectuate these federal standards.

The proposed rules will impact and benefit small business as defined in Laws of Minnesota 1983, chapter 188, section 1, because the enforcement of the federal standard for "dirty" will result in a greater number of eggs being rejected, but at the same time will expand the available market for producers and processors by enabling interstate shipments.

Please be advised that Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, Section 10A.01, subdivision 11 (Supp. 1979) as any individual:

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, St. Paul, MN 55155, (612) 296-5615.

One free copy of this Notice and the proposed rules are available and may be obtained by contacting Mr. Heil.

February 17, 1984

Jim Nichols
Commissioner of Agriculture

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

Rules as Proposed

3 MCAR § 1.0389 Definitions.

A.-F. [Unchanged.]

G. ~~Dirty.~~ ~~“Dirty”~~ Dirty. “Dirty means ~~eggs~~ an egg that has an unbroken shell with adhering dirt or foreign material ~~or~~, prominent stains, or moderate stains covering more than ~~one-fourth~~ 1/32 of the shell surface if localized or 1/16 of the shell surface if scattered.

H.-M. [Unchanged.]

3 MCAR § 1.0400 Labeling.

Any dealer exposing or offering eggs for sale to a consumer must give notice of the grade of eggs in the manner set out in this rule.

If eggs are exposed or offered for sale in cartons, bags, or other containers, the cartons, bags, or containers must be plainly and conspicuously printed in letters not smaller than one-quarter inch in height, or plainly and conspicuously stamped or marked in letters not smaller than one-half inch in height with the exact grade and size. If eggs are offered or exposed for sale in bulk, there must be a placard among or adjacent to the eggs which states the grade and size of the eggs and is in letters not smaller than one-half inch in height. Grade designations may not be abbreviated. All containers must also include the name and address of the producer, processor, or distributor. In the case of the processor or distributor, the words “packed for” or “distributed by” or some equivalent phrasing ~~should~~ must be used.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under § 14.18.

Department of Agriculture Dairy Industry Division

Adoption of a Rule Governing Dairy Inspection Fees

The rule proposed and published at *State Register*, Volume 8, Number 20, pages 1185-1186, November 14, 1983 (8 S.R. 1185) is adopted as proposed.

Department of Commerce

Adoption of Rules Relating to Variable Life Insurance

The rules proposed and published at *State Register*, Volume 8, Number 24, pages 1374-1387, December 12, 1983 (8 S.R. 1374) are adopted as proposed.

Department of Labor and Industry Occupational Safety and Health Division

Adoption of Occupational Safety and Health Standards Implementing the Employee Right-to-Know Act of 1983

SUMMARY: The Minnesota Occupational Safety and Health Division (Minnesota OSHA) is hereby adopting an Occupational Safety and Health Standard implementing the Employee Right-to-Know Act of 1983. The standard requires employers to survey their work sites to determine if they are using hazardous substances or if they have harmful physical agents. There is also a requirement that hospitals and clinics determine which infectious agents their employees may be exposed to. If there are hazardous substances, harmful physical agents, or infectious agents, the employer must provide written information and training which describes the appropriate methods for working with those substances or agents. There are also labeling requirements for containers of hazardous substances or work areas where harmful physical agents may be present.

Certain employers are exempt from the requirements of these standards. For instance, most small businesses are exempt, farms are treated differently than other employers, and waste service employers must develop their own training program. There are also exemptions for substances and agents that are being handled by technically qualified individuals (TQI) and there are exemptions for nine special classifications of hazardous substances.

In a later rules promulgation activity, procedures for dealing with trade secrets will be developed. At the same time, rules which provide employees with a conditional right to refuse to work will be promulgated.

Written information and training for new employees, or employees who are assigned to work with new hazardous substances, harmful physical agents, or infectious agents will be required on March 15, 1984. The training and written information required for employees who have been exposed to the substances or agents prior to January 1, 1984, and who will continue to be routinely exposed to those substances or agents, must be available on July 1, 1984.

Further information on this standard can be obtained from Ms. Patricia Lorentz, Management Analyst, Minnesota OSHA, 444 Lafayette Road, St. Paul, MN 55101; (612) 297-3254.

TABLE OF CONTENTS: This document describing the Occupational Safety and Health Standard implementing the Right-to-Know Act of 1983 is organized as follows:

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- Overview
- Analysis of Issues
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 - B. Scope
 - C. Definitions
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 - E. Harmful Physical Agents
 - F. Infectious Agents
 - G. Training
 - H. Availability of Information
 - I. Technically Qualified Individuals
 - J. Labeling
- Final Standard

STATUTORY AUTHORITY: Minnesota Statutes § 182.655, subdivision 1 (1982), provides general authority for the Commissioner to adopt OSHA standards which are exempt from the Administrative Procedure Act. The Employee Right-to-Know act specifically authorizes the Commissioner to: (a) determine what constitutes a "hazardous substance";

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

(b) determine what constitutes a "harmful physical agent"; (c) set standards to determine whether a person is a "technically qualified individual"; (d) determine whether certain enumerated things may be excluded from the definitions of hazardous substance or harmful physical agent; (e) set criteria for safe exposure to hazardous substances and harmful physical agents; (f) develop a program for training employees who are routinely exposed to infectious agents; and (g) prescribe the use of labels or appropriate warnings for containers containing hazardous substances or harmful physical agents, *et al.*

Pursuant to the requirements of 1983 Laws, Chapter 316, § 13, the Commissioner of the Minnesota Department of Health approved the training program developed by the Commissioner of Labor and Industry regarding infectious agents on December 13, 1983.

BACKGROUND AND PROCEDURAL HISTORY: The Employee Right-to-Know Act of 1983 was passed by the Minnesota Legislature in May, 1983. It was blended, section by section, into Chapter 182 of the Minnesota Statutes which is the Occupational Safety and Health Act of 1973. The Minnesota Department of Labor and Industry developed this standard which is intended to implement the Right-to-Know Act. It will be enforced by the Occupational Safety and Health Division as part of the Minnesota OSHA Program. The OSHA Program in Minnesota is funded 50 percent with legislative funds and 50 percent with Federal OSHA funds and, therefore, must be approved and monitored by Federal OSHA. Continuation of Federal OSHA funds will be based on their approval and their determination that the Minnesota Program is at least as effective as the Federal Program.

To assure maximum public participation in the promulgation of this standard, Minnesota OSHA chose to use a task force to develop the proposed standard. A twelve member task force consisting of four representatives from labor, four representatives from industry, and four public experts was assembled to discuss the hazardous substance and harmful physical agent portion of the statute. A ten member task force consisting of three employee representatives, three employer representatives, one representative of physicians, and three public experts was assembled to discuss the infectious agents portion of the act. Five meetings of each task force were held with lengthy discussions of all portions of the act and progressive drafts of a proposed standard being prepared. Although there was not unanimous agreement to the final draft, the general consensus of the task force was that the proposed standard was a reasonable interpretation of the statute and that the needs of the interested parties were reasonably met.

Pursuant to Minnesota Statute § 182.655, subdivision 2, the task force draft standard was published in the *State Register*, Vol. 8, No. 15, Pages 622 through 646, on October 10, 1983. This Notice of Intent to Promulgate a Standard and Request for Public Comment resulted in numerous written responses discussing essentially all portions of the proposed standard and a number of requests for public hearing. Therefore, a public hearing was scheduled for December 15, 1983. Notice of that hearing was provided to all parties who responded to the Request for Comment, parties who have requested notice of all OSHA rule making and standard setting procedures, and in the *State Register* on November 28, 1983.

The public hearing was held on December 15, 1983 before Peter Erickson, Hearing Examiner with the Office of Administrative Hearings. The procedure during the hearing was for Minnesota OSHA to present the proposed standard, one section at a time, with an opportunity for public comment after the presentation of each section. The hearing record remained open until December 30, 1983, for the receipt of comments and statements. The record of hearing was certified to the Commissioner of Labor and Industry by the hearing examiner on January 30, 1984. In summary: the hearing record consisted of the statute, the proposed standards (with modifications), the legal notices developing the hearing process, minutes of the task force's activities, related standards and documents supporting the technical development of the standard, all written comments received during the comment period, at the hearing, or during the fifteen day period after the hearing when the record was kept open, the transcript of the hearing, and a report including the recommendations and findings of the hearing examiner.

OVERVIEW: The Right-to-Know Standard, as it was proposed, was intended to be a working document that could be used by the employee in the work site, the employer, and by the OSHA enforcement staff. In order to assure that the standard would stand alone without requiring cross-references to the underlying statute, significant portions of the statute were repeated in the standard. This is especially true in the definitions section.

The standard includes lists of hazardous substances, harmful physical agents, and infectious agents. There are approximately 700 substances on the hazardous substance list. If the employer determines, during the plant survey, that substances used in the workplace are on the hazardous substance list, he must obtain written information and establish a training program for the employees. The employees can use the hazardous substance list to determine if materials they are working with are controlled by the Right-to-Know Act. The harmful physical agents list has four agents. The same procedures of surveying, providing information, and providing training apply to harmful physical agents. Hospitals and clinics must conduct a similar survey for infectious agents and provide a training program for their employees who are exposed to those agents. A list of approximately 70 infectious agents is included in the standard.

There are sections in the standard which provide guidelines for establishing the training programs for hazardous substances, harmful physical agents, and infectious agents. The standard also describes the type of written information that must be

available and provides criteria for determining if some personnel are technically qualified individuals and, therefore, not covered by certain provisions of the Right-to-Know Act. Details of the hazardous substance container labeling requirements and guidelines for labeling a section of the workplace where harmful physical agents may be present are included in the standard.

Certain portions of the standard have purposely been prepared as a performance standard rather than a specification standard. The concept allows the employer the flexibility of determining how best to comply with the standard instead of just following specifications that are included in the standard. This approach is especially true in the training, availability of information, technically qualified individuals, and labeling sections.

ANALYSIS OF ISSUES: In the following discussions, we have summarized the reasons for presenting the standard as it was originally proposed. We have then summarized the major issues raised by participants during the rule making procedure. We have analyzed the arguments presented by interested parties and have made changes in some portions of the standard where it seemed appropriate.

A. OVERALL STANDARD: The proposed Right-to-Know Standard was prepared to respond to the specific requirements of the Minnesota Employee Right-to-Know Act of 1983. Bethlehem Steel Corporation requested that the Department of Labor and Industry await the promulgation of the Federal OSHA Hazard Communication Standard before proceeding with this standard. Federal OSHA did, in fact, adopt a hazard communication standard on November 25, 1983. The Federal standard requires manufacturers and chemical companies to furnish Material Safety Data Sheets to purchasers of their products, it requires employers to provide information to their employees and train them, and employees must have access to written records. The Federal list of hazardous substances is similar to the hazardous substances list included in this Minnesota standard. However, the Federal standard has no coverage for harmful physical agents or infectious agents. It applies only to employers in the manufacturing classification of industries and there are no provisions for an employee's right to refuse to work. The effective date for labeling and furnishing of Material Safety Data Sheets is November, 1985 and the effective date for employee training is May, 1986. Clearly, the Federal Hazard Communication Standard does not meet the intent of the Minnesota Right-to-Know Act.

Jim Thill, on behalf of the Metalcasters of Minnesota asked that the effective dates of the Right-to-Know Act be delayed 60 to 90 days. He argued that employers would need time to acquire Material Safety Data Sheets, prepare a training program, and furnish the training to the employees. The statute is very clear. Requirements for written information in the work site and training of new employees go into effect on January 1, 1984; other requirements of the Act do not go into effect until July 1, 1984. In effect, the January 1 dates have been delayed to March 15, 1984 which is the effective date of this standard because the Department of Labor and industry could not draft a standard and accomplish the steps necessary to proceed through the public hearing process by the legislated effective date of January 1, 1984. The July 1 date must remain as legislated.

B. SCOPE: The Minnesota OSHA program applies to all places of employment with one or more employees except Federal employers or places of employment under the exclusive jurisdiction of the Federal government. However, several exceptions to that coverage were included in the Right-to-Know Act. Briefly, certain technically qualified individuals are exempt from some provisions; farm employees, if there are ten or fewer employees, need only be furnished label information from hazardous substance containers; farm employers, if there are more than ten employees, will have to comply with a farm oriented training program to be developed by the Commissioner; small businesses are exempt from hazardous substance and harmful physical agents provisions of the chapter; hospitals and clinics, in addition to other requirements of the standards, must also comply with the infectious agents portion of the chapter; and waste service employers must develop a training program and train their employees in accordance with that plan.

A number of interested parties (Minnegasco, NSP, Minnesota Hospital Association, Henkel, Minnesota Department of Education, Minnesota Association of Commerce and Industry, City of St. Paul, and FMC Corporation) suggested that the technically qualified individual (TQI) concept should apply in other laboratory and industrial settings; not just research labs and health care facilities. Arguments were made that many facilities have employees with a baccalaureate degree who are certainly as well qualified as those who are included in the TQI definition, and that those employees should be available to provide the training to other employees. We in Minnesota OSHA agree with those arguments. However, in Section 3 of the statute, there is a reference indicating that a quality control analysis lab in a manufacturing industry cannot have TQIs which leads us to believe that the statute intended the TQI concept to apply only to research laboratories. We would certainly agree that well qualified

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individuals who presently work in industrial or school facilities could, and should, be used as trainers for other employees. The training that would have to be provided to those individuals would be minimal and might only consist of self-study.

The small business exemption is based on a definition of small businesses as taken directly from Minnesota Statute, Chapter 645. As such, it only applies to "profit" organizations. This discrepancy was pointed out by several parties but since it is specifically covered in the statute, it must remain as included in the standard.

The National Electrical Contractors discussed the problem of who would be responsible for providing information and training to employees who are sent to another employer's place of business for short-term construction work. Under the Minnesota OSHA Law, employers are responsible for the safety and health of their employees. It appears that the NEC representative answered his own question when he suggested that the building owner should have the necessary information readily available and should let the subcontractor know of the existence of those things at the particular site.

The original statement about hospitals and clinics under the SCOPE portion of the standard misled several interested parties. Therefore, the new statement shown below was inserted as MCAR 1.7201 D.

D. Hospitals and clinics. Hospitals and clinics that meet the definition of a small business are exempt from provisions of this chapter relative to hazardous substances and harmful physical agents but must comply with the infectious agents provisions of this chapter. The infectious agents provisions apply only to hospitals and clinics.

Also, the original proposed standard referred to a class of employers as waste haulers which did not properly describe the intent of the statute. Section 11 in the statute refers to an "employer who is in the business of providing a service of collection, processing, or disposal of waste . . .". The standard was, therefore, revised to "waste service employers" instead of waste haulers. This classification will include waste collection employers, landfill operators, employers involved in the cleanup of waste sites, government agencies involved in the monitoring of waste sites cleanup, etc.

Minnegasco suggested that the quantity of hazardous waste generated by an employer would be a better method of exemption than is the small business criterion. Again, the statute is clear on exempting small businesses and the use of quantity of waste generated as a criterion would require complex records which could only be generated by the employer or obtained from some other governmental agency.

C. DEFINITIONS: The definitions that are necessary for clarifying and understanding the intent of this standard are included in the standard itself. Major definitions such as harmful physical agent, hazardous substance, infectious agent, manufacturer, and technically qualified individual are directly from Section 2 of the Right-to-Know Statute. Other definitions were taken directly from other Minnesota Statutes to the extent possible.

It was critical to define a research laboratory since the statute in Section 2 allows an exemption for technically qualified individuals in a research laboratory. The task force reviewed the statute and determined that a research laboratory could, and should, include one that is in an industrial setting as well as in the health care facilities. It was also determined that a research laboratory should include a pilot plant where a product is moved from research to actual production. However, it is essential that this laboratory concept should not be expanded to include the production facility. It was also clear to the task force that this exemption should not include personnel working in a quality control laboratory.

Another essential definition is "routinely exposed" since that concept is used throughout the statute and the standard as the basis for defining those employees that are covered by the act. Responses to the proposed standard indicated very clearly that the definition of "routinely exposed" was not adequate. There were questions about whether an employee is routinely exposed if there is a substance in the workplace even though it may be far away from the employee's work location, whether a potential emergency constitutes a routine exposure, and if an employee is routinely exposed just because they briefly pass through a work location where a hazardous substance or infectious agent is used or exists. The definition was revised on the day of the public hearing to:

"Routinely exposed means a reasonable potential for exposure exists during the normal course of assigned work. It includes the exposure of an employee to a hazardous substance when assigned to work in an area where a hazardous substance has been spilled. It does not include a simple walk through of an area where a hazardous substance, harmful physical agent, or infectious agent is present or an assignment to work in an area where a container of a hazardous substance is present but there is no actual exposure unless a spill should occur."

Minnesota OSHA believes that an employee who actually handles the substance or agent is routinely exposed, two employees working alongside of each other with different substances are each routinely exposed to both hazardous substances, and an employee who just walks through the plant will not be routinely exposed to hazardous substances that are present in the workplace. MPIRG preferred the original definition arguing that there were possible conditions where a simple walk through could be a significant exposure. We agree with that possibility but believe that exposures such as that could, and should, be handled by citing the employer and requiring that the exposure levels be reduced to an acceptable level.

A "health care facility" was originally defined as a hospital, clinic, or physicians office. A number of respondents (Minnesota

Hospital Association, Minnesota Association of Health Care Facilities, Employee Benefit Administration Company, and the Metropolitan Medical Center) indicated that nursing homes were also health care facilities. A review of Minnesota Statute 144.50 verified those comments and also suggested that a physicians office is included in the definition of a clinic. Therefore, a health care facility is now defined as a hospital, clinic, or nursing home. It must be understood that the TQI criteria with respect to hazardous substances and harmful physical agents concept can be established in any health care facility, but the need for infectious agent information and training (and therefore the establishment of TQI with respect to infectious agents if it is appropriate) only applies in hospitals and clinics.

Northern States Power requested that the definition of research laboratories should be extended to include an analytical laboratory whose primary functions are analysis for regulatory compliance with environmental, industrial, safety and industrial hygiene requirements; and analytical testing to meet operational specifications. It does not seem appropriate to revise a definition which must apply to all employers in the state of Minnesota to meet the needs of an individual employer. Instead, that employer should request a variance to apply in their specific situation.

Several employers suggested that there should be better definition of some of the basic terms in the statute. Specific reference was to "significant risk", "imminent danger", or "serious physical harm". Imminent danger and serious physical harm are terms from the original OSHA statute that have been used in enforcement of Minnesota OSHA for about ten years and have presented no significant problem. It is felt that "significant risk", as used in the statute and standard, will also be understandable by employers and field enforcement personnel.

A process container was defined as a container an employer uses to take up to a one day supply of a hazardous substance out of the storage room and into the work room. The process container must be labeled with the name of its contents. Henkel Corporation interpreted the process container definition as applying to a mixer in their laboratories. That interpretation is not correct and the laboratory mixer would not have to be labeled as a container. MPIRG felt that the process containers should be labeled to the full extent of the requirements for the hazardous substance container. The task force arrived at this process container concept with reduced labeling requirements because it was felt that the container would only be used for well-known substances in the particular workplace. Therefore, the employees will know that there is a storage room and backup information available in that storage room.

The original definitions referred to a data sheet as a vehicle which communicates information. Several respondents felt the data sheet should be called a "document" and that change has been made.

D. HAZARDOUS SUBSTANCES: A review of the Right-to-Know Statute furnished some guidelines for Minnesota OSHA to follow in preparing the hazardous substance list. First, the statute required that the OSHA "Z" list must be included in the hazardous substances list. The second criterion furnished in the statute is that we should review ANSI standard Z129.1 for guidelines. Thirdly, the statute suggests that the Commissioner should review any other available scientific or medical evidence which indicates a chemical or substance or mixture of chemicals and substances is hazardous.

With those criteria in mind, the Occupational Health Section in the Health Department and the Occupational Safety and Health Division of the Department of Labor and Industry prepared recommendations for the task force to review and consider. The first possibility was the American Conference of Governmental Industrial Hygienist (ACGIH) list of threshold limit values. That list is updated annually and accepted throughout the free world as the standard that should be met in the workplace. The second list presented to the task force was an existing compilation of hazardous substances that is used by the Department of Health, Industrial Hygiene staff. That list consists of the OSHA "Z" list, the most current ACGIH TLV list, the substances for which the Federal National Institute for Occupational Safety and Health (NIOSH) has published criteria documents, proposed Federal OSHA standards, the American Industrial Hygiene Association workplace environment exposure level guides (WEELS), and a few substances from the Ontario Ministry of Labor.

The third possible consideration was the California list of hazardous substances compiled by the state standard setting board for the California employee Right-to-Know Act. A fourth possibility for the NIOSH list is described as the NIOSH Registry of Toxic Effects of Chemical Substances; a list updated frequently which currently contains about 61,000 substances.

During the research that was done by the Minnesota Health Department, the National Toxicology Program Annual Report on Carcinogens and the International Agency for Research on Cancer Monographs (IARC) were determined to be useable lists of cancer causing agents.

The hazardous substance task force recognized that the list of substances could range anywhere from the minimum "Z" list

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of 408 substances to the NIOSH registry which contains about 61,000 substances. The task force felt that the list would be most effective and useful to employers, employees, and OSHA if it were kept at a manageable number. There was unanimous agreement on the task force that the 1983 TLV list should be included in the Minnesota hazardous substance list. The task force also felt that the additional substances covered by NIOSH criteria documents, the OSHA proposed standards, and the AIHA WEELS should be included.

The task force discussed at length which carcinogens, teratogens, mutagens, and reproductive toxic agents should be included. The task force noted that many of the workplace carcinogens are included in the OSHA "Z" list and the ACGIH TLV list and therefore did not include the IARC list as part of the proposed hazardous substance list.

A number of questions were raised in the task force concerning the inclusion of nuisance particulates, sometimes called inert dust, and simple asphyxiant gases from the TLV list in these regulations. The nuisance particulates were grouped under the title of Dust — Inert or Nuisance. The designation "dust" indicates that there is a hazard in high concentrations because the material overwhelms the respiratory defense mechanisms. Similarly, asphyxiant gases have been grouped under the title of "Gases", which may displace the air in a confined space, resulting in insufficient oxygen to support life. Many of the simple asphyxiant gases also present an explosion hazard.

The final list proposed in these standards includes 689 hazardous substances from the five sources which we have described: the OSHA "Z" list, the ACGIH TLV list, the AIHA WEELS, the OSHA proposed standards, and the NIOSH criteria documents.

NSP and FMC suggested that Minnesota OSHA should adopt a specific list such as the ACGIH TLV list with a clause indicating that the latest version would always automatically be adopted. Minnesota OSHA believes that to be an unsatisfactory concept since it, in effect, is adopting the future work of some agency and does not allow adequate public participation.

The Minnesota Association of Health Care Facilities furnished a list of sixteen substances that were on the proposed list and suggested they be removed. They are:

-acetone	-iodine
acetylsalicylic acid	-isopropyl alcohol
-ammonia	-mercury
-carbon dioxide	-paraffin
-chlorine	-propane
-ethyl alcohol	-sulfuric acid
-formaldehyde	-talc
-hydrogen peroxide	-turpentine

Most of these substances are on the OSHA "Z" list, and it is a statutory requirement that they be listed. Another employer suggested that PCB's should be removed from the list. Again, PCB's are on the OSHA "Z" list and must stay on the right-to-know hazardous substance list.

The Distilled Spirits Council of the United States, Inc. asked that an exemption to the act or standards be included for ethyl alcohol (beverage alcohol). We do not agree that beverage alcohol should be removed from the hazardous substance list or be exempted at all stages because it may be a hazardous substance in the manufacturing or bottling facilities.

Several employers suggested that the hazardous substance list should incorporate the related Chemical Abstract Services (CAS) numbers which would enhance informational searches. Those CAS numbers have now been extracted from the literature and added to the final standard where they are available.

A number of spelling corrections have been made in the final list. In addition, Trifluoromonobromomethane was added as a cross-reference substance since the "mono" spelling appears in the list. Also, Quinoline was deleted since there is no reference to this substance in the reference lists from which this composite list was generated.

Several employers (NSP, FMC, Minnegasco, Sperry, Burlington-Northern, and the St. Paul Companies) have suggested that the Department should establish minimum exposure levels that must be exceeded before a substance may be classified as hazardous and training would be required. Some have suggested that 10 percent of the permissible exposure level (PEL) would be appropriate; at least one other employer has indicated that training should be required only "when the exposure level can be reasonably expected to approximate or exceed the permissible exposure limit."

Because this argument cuts to the very heart of the right-to-know concept, it is important that we understand the reasons why minimum exposure levels were not included in the list of hazardous substances. First of all, including minimum exposure levels would significantly increase the burden on many employers. Employers would find themselves conducting extensive testing to determine and to document whether their exposure levels exceeded the threshold, spending resources on testing that the legislature has decided could better be allocated to training.

Second, no employer can guarantee that exposure levels will always remain below the stated exposure levels in all situations. Employees have a need to know, not only about substances that are presently posing a hazard to them in the workplace, but also about substances that are present that might be dangerous under different circumstances.

Third, section 6 of the Right-to-Know Act and the hazardous substances standard already contain nine exemptions to the definition that are designed to allay the fear of the employers that they will have to train their employees about substances such as the carbon dioxide people exhale. In particular, exemption #9, which excludes "any substance, mixture or product if present in a physical state, volume, or mixture concentration for which there is no valid and substantial evidence that a significant risk to human health may occur from exposure," indicates that the Legislature wanted exceptions to the general training requirement to be considered on a case-by-case basis. Moreover, the training requirement is already limited by the statute to those situations where employees are "routinely exposed" to the listed substances.

Further, it is clear from the legislative history of the Right-to-Know Act that there was no intention to include a minimum exposure level before the Right-to-Know provisions would be effective. The original legislative proposal was to have the NIOSH Registry listing of approximately 61,000 substances be the list of hazardous substances. There is no indication in that document of a permissible exposure level. It was only after very lengthy discussions by legislative study groups and subcommittees that the legislation included provisions for having the Commissioner of Labor and Industry generate the hazardous substance list.

The Minnesota OSHA Act includes a general duty clause which requires that employers furnish safe and healthful working conditions for their employees. A similar clause has been included with the lists of hazardous substances and infectious agents.

Several employers objected to the language in 8 MCAR § 1.7203 which acknowledges that the hazardous substance list will not always be current and which requires employers to "exercise reasonable diligence in evaluating their workplace for the presence of other hazardous substances and assure that employees are provided with the rights stated in [the Right-to-Know standards]." The employers argued and the hearing examiner agreed, that this provision was too vague to be enforceable. In other words, that the words of the standard are not "sufficiently specific to provide fair warning." Thompson v. City of Minneapolis, 300 N.W. 2d 763, 768 (Minn. 1980).

To clarify the intent of the standard and to alleviate the concern of the employers and the hearing examiner, we have added the term "recognized" to the standard so that it will now read: "Employers shall exercise reasonable diligence in evaluating their workplace for the presence of other recognized hazardous substances. . . . By adding the word "recognized", we intend to adopt the meaning of that term as it is used in the "general duty" clause of the Occupational Safety and Health Act, which requires employers to "furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees." 29 U.S.C. § 654 (a) (1) (1976); Minnesota Statute § 182.653, subdivision 2 (1982). The term "recognized" received its most concise definition in a floor speech by Representative Daniels, one of the authors of the original bill:

"A recognized hazard is a condition that is known to be hazardous, and is known not necessarily by each and every employer but is known taking into account the standard of knowledge in the industry. In other words, whether or not a hazard is "recognized" is a matter for objective determination; it does not depend on whether the particular employer is aware of it."

116 Cong. Rec. (Part 28) 38377 (1970). In other words, we intend the standard to be the common knowledge of safety and industrial hygiene experts who are familiar with the circumstances of the industry in question. See National Realty & Construction Co. v. OSHRC, 489 F.2d 1257 (D.C.Cir. 1973).

Consequently, we believe the standard is now specific enough to pass the vagueness test. If a substance not on the list is generally understood by safety and industrial hygiene experts to meet the general definition of "hazardous substance" in section 2 of the Right-to-Know Act and 8 MCAR § 1.7202G, employers are obligated to make reasonable efforts to familiarize themselves with that information and to communicate that knowledge to their employees. We believe such a standard gives fair warning to employers.

The Right-to-Know Statute, in Section 6, exempted six categories of substances from classification as hazardous substances. These included products for personal consumption, consumer products when used in the usual consumer method, hazardous substances in a solid form, substances that are chemically or physically bound, products sold in retail establishments, and waste material controlled by the Resource Conservation and Recovery Act. The statute further provided three other categories of exemptions which the Commissioner could include in the standard if it seemed appropriate. The task force reviewed those

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additional three possible exemptions and included them in the proposed standard. After a lengthy discussion by the task force, a significant change was made in the ninth exemption to assure that it could not be improperly interpreted. The word "mixture" was added between "or" and "concentration", so this could not be interpreted as a low concentration of air contamination. The ninth exemption now reads:

9. Any substance, mixture, or product if present in a physical state, volume, or mixture concentration for which there is no valid and substantial evidence that a significant risk to human health may occur from exposure.

David Volker, from the Employee Benefit Administration Company, suggested that the consumer products exemption should not be included. He argued that home products could be used for long durations in an industrial setting and would make them considerably more hazardous than the product is to the general public. We believe the wording of the exemption prohibits an employer from allowing that type of exposure. In addition, the first six exemptions are statutory requirements.

MPIRG also questioned who had the authority to make the initial determination of whether an exemption applies. Their argument was that an employer could make that determination and place the burden of opposing that decision on the employees. That is the correct analysis. The protection that the employee has is to file a complaint with Minnesota OSHA which will result in a determination by a field investigator.

MPIRG objected to the inclusion of the ninth exemption which is the "common sense" exemption. They feel employers may use this exemption to allow the use of hazardous substances at an exposure level which may be hazardous. The task force anticipated this possibility, but believed the actual language included in exemption nine is clear enough to assure that it will only apply to small quantities or greatly diluted concentrations.

Several "housekeeping" changes were made to the proposed standard on the day of the public hearing. They are:

In the original proposed standard, a portion of the statutory language was omitted from the third exemption. The correct version should read:

3. Any article, including but not limited to, an item of equipment or hardware which contains a hazardous substance if the substance is present in . . .

The original intent of the task force and of the original proposed standard was to have the lists updated every two years. Incorrect language which was included in the first proposal has been revised so the updating statement reads:

Updating List. The list of hazardous substances shall be updated by the Commissioner at least every two years.

A definition of "Fume" has been added to the hazardous substances list.

E. HARMFUL PHYSICAL AGENTS: The task force approached the question of establishing a list of harmful physical agents much as it did the hazardous substances. The major reference that was used for consideration was the 1983 Threshold Limit Values for Physical Agents published by the ACGIH. That list contains seven physical agent TLV's and has two additional TLV's where the ACGIH has an intent to include them.

During the legislative process, during the task force activity, and in the responses to the proposed standard, it was indicated that "harmful physical agents do not fit into the Right-to-Know Act concept." Arguments were made that harmful physical agents are not manufactured, labeling of a work area is not what was intended by the Right-to-Know Act, and Material Safety Data Sheets are not available for harmful physical agents. The legislature heard all of those arguments and still retained specific requirements for harmful physical agents in the legislation. However, the original draft of the Right-to-Know Act included harmful physical agents such as physical stress, noise, heat, cold, vibration, repetitive motion, ionizing and non-ionizing radiation, hypobaric pressure, and hyperbaric pressure. During the legislative process, that list of harmful physical agents was reduced to a specific requirement for ionizing and non-ionizing radiation and any other harmful physical agents for which the Department of Labor and Industry has a specific standard. The resulting list then of heat, noise, non-ionizing radiation and ionizing radiation is felt to be the appropriate listing of harmful physical agents to be treated by the Right-to-Know Act.

In the case of these Harmful Physical Agents, the task force recommended that there must be a reasonably foreseeable potential for exposure to one or more of these physical agents at a level which may be expected to approximate or exceed the permissible exposure limit before the employer must provide training to routinely exposed employees. It is reasonable to impose that restriction because there are only four agents on this list, the statute requires the Commissioner to have a standard in place before an agent can appear on this list, and because harmful physical agents do not exactly fit into the right-to-know concept.

Several employers argued that ionizing and non-ionizing radiation is too broad of a term for the Right-to-Know standard. They suggested that there is radiation from fluorescent lights, from the sun, from electronic equipment, etc. Those statements are true. However, the clause which requires that the routine exposure level must approximate or exceed the permissible exposure limit or applicable action level protects the employers from that problem. The levels of radiation which are allowable and the frequency ranges are described in the OSHA radiation standards included in CFR 1910.96 and 1910.97.

Several "housekeeping" corrections were suggested when the proposed standard was published for public comment. They are:

Section 1.7204(A)—we added the statement "or the applicable action level" because there is an action level included in the noise standard.

1.7204(B)—was changed to read "Updating list. The list of harmful physical agents shall be updated by the Commissioner at least every two years".

1.7204(C)—the Atomic Energy Commission was changed to the Nuclear Regulatory Commission, which is the correct name of that agency.

F. INFECTIOUS AGENTS: The infectious agents list presented in the proposed standard was recommended by the hospital task force. The task force used the following reference materials:

1. **Control of Communicable Disease in Man**, the American Public Health Association publication, Benenson, Editor, 1980.
2. **Isolation Techniques for Use in Hospitals**, the U.S. Public Health Service, Centers for Disease Control, 1975. (This has been updated to 1983 as a reference).
3. **Biosafety in Microbiological and Biological Laboratories**, Draft, Centers for Disease Control, 1983.
4. **Classification of Microorganisms on the Basis of Hazard**, Appendix B-1, National Institute of Health, 1982.
5. **Reportable Diseases list**, Minnesota Department of Health, 1983.
6. **Diagnostic Microbiology** Bailey and Scott's: 6th Edition; Finegold, Martin, and Scott.

Following review of those references and discussions in the task force meetings, a composite list of infectious agents was prepared. The list was then edited to delete parasites, rickettsia, and agents that are not communicable through direct person-to-person contact. Experts from the Mayo Clinic, the Minnesota Health Department, and the University of Minnesota were used in this editing.

The task force members were pleased with the overall consensus of the experts and were confident that the list of 27 bacterial, 32 viral, and 6 fungal agents is a satisfactory workable list of infectious agents.

Several employers (Minnesota Waste Association, Minnesota State Pharmaceutical Association, and the Employee Benefit Administration Company) recognized that there are infectious agents in some places of employment other than hospitals and clinics. They further suggested that there are infectious agents other than viruses, fungi and bacterial agents. We agree with those suggestions, but believe the statute restricts the infectious agents portion of the Right-to-Know Act to hospitals and clinics, and to viruses, fungi and bacterial agents.

During the final review of the proposed standard, the task force suggested removing borrelia and bartonella from the list because they are vector-borne and not person-to-person spread. Those changes have been made.

Dr. Frank S. Rhame, who is a professor in the University of Minnesota Department of Medicine and a nationally recognized expert on infectious diseases, submitted a lengthy response to the proposed standard. He was very specific in his critique of the infectious agents list. Several members of the hospital task force reviewed Dr. Rhame's response and conducted additional research in the areas he discussed. A number of suggested corrections was extracted and is presented below. These corrections can mostly be classified as "housekeeping". Items B1 and B2 were originally discussed by the task force and with Dr. Rhame's help can now be properly classified and should be added to the list. Dr. Rhame's suggestions have been incorporated into the list.

A. The following spelling corrections should be made:

- | | |
|------------------------|----------------------------------|
| 1. <i>S. pyrogenes</i> | should be <i>S. pyogenes</i> |
| 2. Corona virus | should be Coronavirus |
| 3. Varicella zoster | should be Varicella-zoster virus |
| 4. Cytomegalo virus | should be Cytomegalovirus |
| 5. Jacob-Creutzfeldt | should be Creutzfeldt-Jakob |
| 6. Polio virus | should be Polioviruses |

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- 7. Pox virus should be Poxviruses
- 8. Rota virus should be Rotaviruses

B. The following additions should be made:

- 1. Add "Norwalk agent" to the virus list. This is a newly recognized communicable virus.
- 2. Add "chlamydia" to the bacteria list. This was previously misclassified by the task force.
- 3. Mycoplasma should say "Mycoplasma pneumoniae". This addition of a species name eliminates other noncommunicable species.

C. The following deletions should be made:

- 1. For Legionella (note spelling), delete the species "pneumophila" because other species have been recognized.
- 2. For Pseudomonas, delete the species "pseudomondesi" to recognize other species as well.
- 3. For Yersinia, delete the species "pestis" so other species are recognized.
- 4. For Echoviruses, (note spelling), delete "all types" because it is redundant.
- 5. For Adenoviruses, delete "human—all types" because it is redundant.
- 6. For Herpes Viruses, Simplex, delete "II" so that type I can also be recognized.
- 7. For enteropathogenic Escherichia coli, delete "serotypes" because serotyping is not readily available anymore and no longer determines communicability.
- 8. "Hantan" should be deleted completely because it is already included under hemorrhagic fever agents.
- 9. "Lymphogranuloma venereum agent" should be deleted completely because it is included as a Chlamydia, which was reclassified as a bacteria.

D. The following miscellaneous changes should be made.

- 1. For Pasteurella, add "see Yersinia". This will cross-reference the agent to its new name.
- 2. "Simian virus" should be deleted, renamed "Herpesvirus simiae" and reinserted with the new name under Herpes viruses as the fifth subtype.

Again, there were several "housekeeping" changes that were pointed out in the interested party responses. They are:

The heading for MCAR 1.7205

INFECTIOUS AGENTS—should have added to it "(HOSPITALS AND CLINICS)" to further clarify the intent of having infectious agents apply only in these places of employment.

MCAR 1.7205(C)—should read "Updating list. This list of infectious agents shall be updated by the Commissioner at least every two years".

Reference A—1.7205(C) should be "Guidelines for Isolation Precautions in Hospitals, Centers for Disease Control, 1983.

Reference B—1.7205(C) should be dated 1982 instead of 1978.

G. TRAINING: The Right-to-Know Statute and Standard require that training be given to employees who are routinely exposed to a hazardous substance, harmful physical agent, or infectious agent. The training program established by these standards is performance oriented; in other words, the employer can establish a program which meets their needs and fulfills the statutory requirements. For instance, a program that concentrates on specific exposure hazards may best serve the needs of a small employer with only a few hazardous substance exposures; a generic program covering the hazards of a broad class of solvents may serve another employer best; or a program that discusses the hazards of a complete production operation may be more effective in the case of a large employer with numerous exposures. In any event, Material Safety Data Sheets must be available in the workplace and available for the employee's review.

The standard also provides some specific requirements which are directly related to the statute. The training must be provided before an employee is exposed, additional training must be provided if a new substance or agent is introduced, and there must be annual updates of the training. The training must be done on company time and at company expense and records must be maintained and retained for a five-year period.

A specific training program for employees exposed to infectious agents was developed by the task force. Again, the training program is performance oriented so the employer can, within statutory boundaries, select what is best for their facility. The statute requires that three specific items be addressed in the training program—the name of the infectious agent to which the employee is routinely exposed must be furnished, proper techniques for the employee to avoid self-contamination shall be addressed, and symptoms and effects of contamination must be covered.

In order to define the infectious agents that are in the workplace, the employer would be expected to exercise reasonable diligence in determining which infectious agents are present. Training would not be required on the entire infectious agents list for every employee, but only on those to which the employee is routinely exposed.

The task force felt that employees could best protect themselves by understanding the infectious disease process, i.e., the process known as the chain of infection. Here, employees would learn the various ways an infectious agent could cause disease, and also learn the various ways that the disease process could be interrupted. Explanation of the disease process includes the natural habitat of agents, their growth requirements, how they are most often transferred between people, and why they may or may not cause illness once they enter the next person. After employees have this background information, they should be taught further self-protection through aseptic techniques, isolation techniques, and other infection prevention and control techniques that are consistent with good patient care.

The task force suggested that special training should be provided to special groups, i.e., employees with compromised immune systems or pregnant employees. It further suggested the presentation of information on recommended immunization practices for self-protection.

Regarding the required training on the symptoms and effects of contamination, the task force discussed how these could vary depending on the type of exposure, dose, mode of transmission, site of exposure, and individual's resistance or immunity characteristics. Since medical students spend years learning these very interactions as part of the preparation for practicing medicine, the task force decided that the most workable solution was to guarantee employees access to that information. The standard, therefore, requires employers to have available current updated medical information, and to train employees on how to use that information.

The standard, as it was proposed, is misleading in Section 1.7206A(5) (c). The intent of this section is to require training for employees if the routine exposure to a hazardous substance, harmful physical agent, or infectious agent will continue. It is not intended to have an employer review past exposure of their employees and furnish information or training on that past exposure. Therefore, we have revised this section to read:

c. All employees who have been routinely exposed to a hazardous substance, harmful physical agent, or infectious agent prior to January 1, 1984; and who will continue to be routinely exposed to those substances or agents; must be provided with training with respect to those substances and agents by July 1, 1984.

Jeanne Pfeiffer, representing the Hennepin County Medical Center, suggested that specific language be added to the training program with respect to infectious agents requiring that "several examples of agents typical to the work environment" should be covered. That approach is contrary to the intent of the standard which is to allow the employer to determine the best method of training. It also could restrict, to several, the number of agents which must be covered when it may be necessary to provide training on every agent. We do not feel that change should be made.

Northern States Power, in their testimony at the public hearing, suggested that a clause should be added saying "training shall include provision of Material Safety Data Sheets or similar documents to employees on all hazardous substances". We feel this clause could be misunderstood to mean that the training requirements could be met by just providing a copy of the Material Safety Data Sheet to the employee. We do not feel that it is an adequate training program. The Material Safety Data Sheet, in our opinion, must be explained to the employee.

NSP and the Minnesota Health Department feel that the routes of entry for hazardous substances into the employee's system must be explained as part of the training program for hazardous substances. Section 1.7206B (3), which is in the proposed standard and was taken directly from the Right-to-Know statute, is somewhat imprecise. Furthermore, the "route of entry" information is included on the Material Safety Data Sheet. Therefore, 1.7206B(3) has been revised to read:

"3. The known acute and chronic effects of exposure at hazardous levels (including routes of entry):"

Ms. Pfeiffer also suggested that "references may include text books, infection control personnel, or designated human resource, and/or a medical library". We believe that suggestion is true, but do not feel that it is necessary to state it in the standard.

Several employers suggested that there be a requirement to provide training in languages other than English if it was appropriate. We agree that there may be times when that is necessary, or at least that there be an interpreter, so Sections 1.7206B and C have been revised to require that the training be presented in a manner which can be reasonably understood by the employees.

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The Minnesota Plant Food and Chemicals Association suggested that they, as a trade association representing many similar businesses, would not be able to request certification of an existing training program. It is a legitimate request that an association, on behalf of the employers they represent, can register a program. Therefore, Section 1.7206A(6) was revised to read:

6. The commissioner may, upon request of an employer or an employer's representative, certify an existing training program as complying with this chapter.

The Minnesota Plant Food and Chemicals Association and the 3M Company also requested that programs automatically be certified if the Commissioner fails to respond within a certain time period after a request for certification was made by an employer. It is felt that a clause such as this would result in arguments such as how a request was made but it was lost in the mail, etc. It also appears that this type of language should be done as a rule instead of a standard. Therefore, the clause will not be added to this standard.

In its original proposed version, there was a statement requiring that training be provided before an employee is exposed and a statement requiring that training be provided within 24 hours after exposure. Clearly, the intent of the training standard is to provide training to an employee prior to their exposure. We have, therefore, revised Section 1.7206A(5)(b) to read:

b. Additional training must be provided to an employee prior to the time the employee may be routinely exposed to any additional hazardous substances, harmful physical agents, or infectious agents.

The Minneapolis Electric Steel Castings Company suggested that a standard should be adopted which includes the requirement that employees must sign statements that they have received training. The statute, in Section 14, provides that the employer has the right to request that employees sign statements. We believe Section 14, combined with the standards developed in Section 1.7206, make adequate provisions for the employer and OSHA to determine that appropriate training has been given and a requirement that the employee must sign a statement could be construed as a request for waiver of rights.

Several employers questioned whether annual training was really required by the statutes. Their argument was that the word "update" is used in the statute and "update" would only apply if new information were available. Minnesota OSHA, and the task forces, felt that the intent of the legislation was to require annual training even if the work procedures remain the same and the substances being used are unchanged.

H. AVAILABILITY OF INFORMATION: This section of the standard presents the requirements for the written information that must be available for each hazardous substance or harmful physical agent to which employees may be routinely exposed. In summary, it refers to the specific statutory requirements and describes how that information can be presented in written form. Generally, the written form will be a properly completed Federal OSHA Form 20 which is known as a Material Safety Data Sheet. The statute requires that Material Safety Data Sheets be provided by the manufacturer of the hazardous substance. Material Safety Data Sheets can be prepared on a mixture under certain conditions but must list the hazardous substances that are present in quantities above one percent (1%) by weight. The standard further allows the employer to store the Material Safety Data Sheet information electronically so long as that information can be made available in hard copy to the employee within 24 hours after they request it.

The Minnesota Association of Commerce and Industry (MACI) argued that the legislature intended for employees to have access to written information but would not necessarily be able to obtain a copy of the written information. MACI felt the purpose of this was to prevent outdated or erroneous information from getting into circulation. Minnesota OSHA does not believe the legislature intended for employees to be prevented from getting copies of the information. In fact, we believe the intent was that they would be furnished the information. However, the question has already been resolved since OSHA standard 1910.20 which has been in existence and adopted by Minnesota OSHA since 1980 requires that Material Safety Data Sheets or similar information be furnished to the employee in response to an employee's request. We do not believe it is appropriate to alter the proposed standard.

Minnesota Plant Food and Chemicals Association asked that manufacturers who furnish substances or agents to employers who are not covered by the Right-to-Know Act should be exempted from providing the written information. We do not feel it is necessary to specifically address this question in the standard since there will be no enforcement activity in those exempted places of employment.

Minnegasco suggested that the complete responsibility for assuring the availability of a Material Safety Data Sheet should be transferred to the manufacturer. In other words, if the manufacturer does not furnish adequate information or does not have a Material Safety Data Sheet available, the employer would not have to make it available. We do not agree that is a reasonable approach since the employer can insist on a Material Safety Data Sheet with the product, or they can refuse to purchase it. In addition, alternate sources of obtaining Material Safety Data Sheets may be sought or the employers can prepare the necessary information themselves.

The Southern Minnesota Regional Legal Services, Inc., which provides legal service to migrants, requested that written

information be prepared in other languages. Minnesota OSHA feels this requirement would have an effect on interstate commerce and would not be acceptable to Federal OSHA who monitors the State Program. The training programs really correct this deficiency since they must be conducted in a language which is understood by the trainee, or there must be an interpreter available.

The Minnesota Nurses Association requested that a special standard be adopted which requires Material Safety Data Sheets to be accessible in the immediate area or areas in which there is a hazardous substance, harmful physical agent, or infectious agent. They based their request on the nurses having 24 hour responsibility for care and are, therefore, unable to leave their immediate work settings to gather information. Minnesota OSHA agrees with the statements made by the Minnesota Nurses Association and feels it would be more convenient if the information was available in every work area of the hospital. However, that would require duplicate libraries. Undoubtedly, there are many other work environments where these same work requirements are imposed on the employees. It is felt, especially in the hospital setting, that there will be at least two persons in the work area so one of them could go to a central library to get the necessary information. However, to assure that the employees will always have access to the necessary information, the word "readily" has been added to 1.7206D(5) so it reads:

5. How to gain access to further information and reference materials that must be made readily available in the workplace including the location, contents, and availability of pertinent materials that explain symptoms and effects of each infectious agent.

In the original proposal, under the section discussing mixtures, there is a reference to one percent (1%). That one percent could be determined on a weight basis or on a volume basis. We intended it to be by weight so modifications have been made in the standard in Section 1.7207A(3). In that same section, we added "substances and mixtures that are exempt from this requirement as described in Section 8 MCAR 1.7203B" which is the earlier section that has nine exemptions for hazardous substances.

I. TECHNICALLY QUALIFIED INDIVIDUALS: The Right-to-Know Statute clearly anticipates that there are some employees in Minnesota who are technically qualified individuals (TQI) who should be exempt from certain provisions of the Right-to-Know Act. Therefore, the statute in Section 4 mandates the Commissioner to establish criteria for determining whether or not a person is technically qualified.

There are two types of TQI in this standard. The first is a TQI with respect to hazardous substances and harmful physical agents. This TQI concept can only be applied in research laboratories, medical related laboratories, or a health care facility. The other TQI is with respect to infectious agents. This classification can only be used in hospitals or clinics.

In the hazardous substances task force activity, the first matter that had to be resolved was the meaning of research laboratory. The task force reviewed the legislation which indicates that a quality control laboratory would not be included. They also reviewed the general definition of an industrial research laboratory and the Environmental Protection Agency definition of a research laboratory. The final definition that resulted is that a research laboratory is one where experimental work is done to develop new products and would also include a pilot plant facility where the manufacturing process is further developed.

In order to arrive at criteria that could be used to determine who would be a TQI, the task force discussed the value of educational background, work experience, the Environmental Protection Agency's definition of a TQI, the value of apprenticeship programs, the value of being able to read and understand a Material Safety Data Sheet, and the value of having access to reference materials. In summary, the task force felt that education, work experience, ability to read and understand a Material Safety Data Sheet, and access to reference materials were all essential criteria for determining that a person is a TQI.

There was no attempt to relate the equivalence of actual work experience to the value of a four-year baccalaureate degree. However, it was felt that direct hands-on experience on a continuous basis is certainly one way to obtain training on how to safely deal with hazardous substances or harmful physical agents. The final resolution was that two years of experience or a baccalaureate degree along with the ability to understand the Material Safety Data Sheets and have access to appropriate reference material would establish a person as a TQI. The baccalaureate degree, to meet the requirements for an industrial research laboratory TQI, must be in engineering, math, physics, chemistry, or some closely related field. To meet the requirements in the medical laboratory or health care facility setting, the degree must be in medical technology, biology, microbiology, chemistry, or some closely related field. The two-years work experience requirement will only be satisfied if the work was in an actual setting similar to the employee's present assignment.

The hospital task force considered criteria such as educational background, work experience, other ongoing training

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requirements, licensing, hospital's accreditation requirements, potential work assignments, salary levels, and employee self-determination of that TQI status. This task force also felt that education and work experience were very important. Again, there was no attempt to make a direct connection between the actual years of work experience and the amount of education. However, the task force did recognize that direct work in a hospital or clinic and the relationship to other professionals would be very educational.

The final resolution of the hospital task force was to classify all employees who must be licensed or who possess a baccalaureate degree in a medical field as a technically qualified individual with a few modifications as described below.

The first modification is that licensed practical nurses have considerably less actual classroom exposure to background information on infectious agents than do other licensed medical professionals. Therefore, the LPN's were excluded from the TQI classification.

Further discussions by the task force members pointed out that no matter how educated employees are, there is a need for ongoing infectious agents training; a point which was never resolved. However, it did suggest that all employees should be provided with infectious agents training at least once. Therefore, a clause was added to the criteria requiring that employees in a hospital or clinic could only be classified as TQI's after they have one year of work experience. (The task force did not feel that dentists, osteopaths, and physicians should be delayed from the TQI classification for one year).

Some employees will want to be classified as TQI's even though they do not exactly meet the TQI criteria. The reasons may be for recognition of specialty training, professional appearance, hireability, or personal reasons. Therefore, provisions have been included in this standard for those employees to register their qualifications with the Commissioner and request TQI status.

As discussed earlier, under the definitions section, a number of employers suggested that the technically qualified individual concept should be extended to other areas as well as in a general industry research laboratory. We agree that there are technically qualified individuals in other areas, but the statute does not allow that type of expansion.

MPiRG suggested that the baccalaureate degree field that would be allowed should be defined more precisely. Minnesota OSHA feels that, in keeping with the performance oriented standard, the employer should decide if the field of study is closely related to the technical field described. An attempt by Minnesota OSHA to define these fields would either be so lengthy to include them all or some field would be missed which would create more confusion than to leave the decision up to the employer and employee.

MPiRG also suggested that all non-degreed technically qualified individuals should be trained at least once. Minnesota OSHA believes this is contrary to the intent of the TQI concept. The task force also felt that a technician with two years of directly related work experience would not need specific training.

The Oil, Chemical, and Atomic workers suggested that all TQI's must have "at least a minor college concentration in health care, public health, health and safety, or equivalent health-related subject". The task force discussed the value of a college degree as one of the criteria for becoming a TQI as well as the value of work experience. They felt that both are important, but either a degree or two years of work experience should qualify a person as a TQI. The Minnesota Nurses Association suggested that four years of work experience with hazardous substances or harmful physical agents would be better than two years. The two-year criteria was established after lengthy discussion by the task force members and appears to be adequate for TQI classification.

The original proposed standard led some people to believe that even non-technical personnel in a laboratory environment could be classified as a TQI. The intent was to restrict classification to only technical persons. Therefore, sections 1.7208A (1) and 1.7208B (1) have been modified to refer to a technician.

The Minnesota Nurses Association felt that TQI status should be restricted to "those who have the authority to identify or diagnose, i.e. chiropractor, dentist, optometrist, osteopath, physician, podiatrist, and veterinarian". We believe their restriction to these classes of employees is higher than the legislature intended.

The Minnesota Nurses Association suggested that a standard be included which would require that "training should not be denied to any person who makes a request for training" even though that person may be a technically qualified individual. From a safety and health viewpoint, Minnesota OSHA feels that the training would be valuable. The Hearing Examiner reviewed the statute and the proposed standard and analyzed the testimony that was given at the hearing. He wrote:

"Opponents of this standard argue that because the employer shall determine who is to be classified as a TQI, this decision may be made arbitrarily, especially in light of the fact that the standard does not designate that the "baccalaureate degree . . . in a technical field" have any relationship to the hazardous substance(s) or harmful physical agent(s) on the job site. At the hearing, the Department stated that if an employee designated by his/her employer as a TQI does not think that the designation is appropriate, he/she could grieve that decision to the Department. However, no such procedure is set out in the standard. The language merely states that the employer "shall . . . determine which employees are to be classified as technically qualified

individuals." If adopted, this standard would have the force and effect of law, binding the Department as well as the affected public."

Secondly, it is argued that if an employee does request classification as a TQI and that status is granted, the rule mandates that that status be permanent, regardless of varied later job responsibilities of the employee. Consequently, an employer would benefit from the initial registration of an employee as a TQI and could later reassign him/her to other job functions without the requirement of any training.

Lastly, one group of professional employees specifically enumerated as a TQI, registered nurses, argues that they do not have the training to understand the health risks associated with exposure to each hazardous substance, harmful physical agent, or infectious agent at the time of exposure. This argument was documented by the personal experiences of registered nurses and the course work included in a registered nurses' educational program. The Department seemed to support this position at the hearing as it testified that the purpose of the one-year work experience criteria is to assure that all employees, except the dentists, osteopaths and physicians, will receive the infectious agents training at least once. However, this would not include annual update sessions or cover the professional employee whose job duties are changed in succeeding years.

As set forth above, the statutory criteria for a TQI require that such an individual understand at the time of exposure health risks and necessary safety precautions based upon professional or technical education, training or experience. The legislation sought to be implemented herein is the Employee Right-to-Know Act. To allow an employer to impute the requisite understanding because general TQI criteria are met: to make an employee's TQI classification permanent regardless of later job duties; or to classify an entire group of employees as TQI's regardless of varied experience, training or job positions, is inconsistent with the intent of the statute. The Hearing Examiner does agree that the criteria set forth in § 1.7208 may furnish an adequate basis for TQI classification. However, because of the factors set forth above, that imposed classification should not be absolutely binding on an employee who in fact does not have the required understanding of exposure hazards. Consequently, the Hearing Examiner suggests that this inconsistency can be corrected by amending § 1.7201 A, by adding the following sentence:

"However, any technically qualified individual may elect to be covered by the training provisions contained in § 1.7206 as if he/she were not so classified".

While the Hearing Examiner's suggestion that technically qualified individuals should be able to compel their employers to provide the training required by Section 1.7206 has merit from a policy perspective, we do not believe the Right-to-Know Act gives us the statutory authority to require employers to train TQI's. Sections 9, 10 and 13 require employers to train only employees who are routinely exposed to hazardous substances, harmful physical agents, or infectious agents. By definition, though, the terms "hazardous substance", "harmful physical agent", and "infectious agent" cannot include any substance or agent handled by a TQI (Right-to-Know Act, Sections 2, 3 and 13). Consequently, the statutory scheme contemplates that no TQI may be considered an employee routinely exposed to a hazardous substance, harmful physical agent or infectious agent, with the accompanying right to training and the right to refuse to work under certain circumstances if the training is not provided. As a result, we conclude that we cannot compel employers to train TQI's upon request until the legislature expressly authorizes us to do so.

The Minnesota Nurses Association also recommended that it should be the responsibility of the employee to determine if they are TQI's. Minnesota OSHA feels the employer is in a better position to review the criteria, gather information from the employee, and make the determination as to the TQI status. Also, if the decision is not correctly made, Minnesota OSHA can issue a citation to the employer. On the other hand, citations under the OSHA program are never issued to the employee.

The Minnesota State Pharmaceutical Association requested that pharmacists also be excluded from the one year actual work experience in a hospital or clinic before they are technically qualified individuals. Minnesota OSHA does not feel it is appropriate to exclude them. Dentists, osteopaths, and physicians were exempted because of their obvious extensive educational training. Pharmacists typically have baccalaureate degrees as do many of the other hospital and clinic workers.

The Minnesota Licensed Practical Nurses Association suggested that licensed practical nurses are just as qualified as registered nurses and requested that they be included in the TQI status with respect to infectious agents. Minnesota OSHA does not agree. We feel that the criteria established by the task force, based on the differences in the curricula and the differences in the length of study required, is a better basis for separating these two classes of personnel. The LPN Association requested that, if the criteria would not be changed, a clause should be added prohibiting the use of this criteria in establishing employment practices. They suggested:

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"These standards may not be implemented or interpreted in any manner which would result in loss of jobs, functions, duties, or responsibilities by any individual or group of employees covered by the provisions of the Employee Right-to-Know Act."

This is not a matter that can be addressed in a safety standard and, therefore, it will not be included. The Minnesota OSHA rule on Discrimination protects employees from being discriminated against because they exercised their OSHA rights.

The Minnesota Hospital Association suggested that the TQI's, with respect to hazardous substances or harmful physical agents in a laboratory environment, should be extended to include "a technical degree from an accredited institution specifically related to the job function and hazardous substances (or harmful physical agents) associated with the job". Minnesota OSHA does not agree that the criteria should be extended to these associate-of-arts or two-year degrees. The task force discussed this concept and felt strongly that a BS degree or two years of work experience is the minimum criterion that should be established.

The section of the standard which allows employees to register their qualifications and request TQI status (1.7208D) was interpreted by some respondents to indicate that any employee, no matter where they work, could request TQI status. The intent of this section was to allow employees who work in an area where TQI classification is allowed, but who do not exactly meet the criteria, to request TQI classification. It was not intended to expand the TQI classification to laboratory or work facilities other than the research lab, medical lab, or health care facilities. Therefore, a clause was inserted that this registration is only available to employees who are employed in a research, medical research, medical diagnostic or medical education laboratory, health care facility, clinic associated with a laboratory or health care facility, or in a pharmacy registered and licensed under Minnesota Statutes, Chapter 151. In that same section, there has been a change requiring the Commissioner to notify the employee in writing if their request for classification as TQI has been denied.

A number of respondents suggested that the possession of a baccalaureate degree or registration as a medical professional does not, in itself, assure that employees will know how to deal with every hazardous substance, harmful agent, or infectious agent. It was suggested to be especially true with the high rate of introduction of new chemicals into the workplace and with new infectious agents that employees are exposed to from time-to-time. Minnesota OSHA agrees there is truth in that analysis. However, the legislative intent was to exclude some class of TQI's from coverage under the Right-to-Know Act. We believe the criteria that is established in the standard is a reasonable interpretation of the statute as it presently exists.

J. LABELING: Section 19 of the statute suggests that labels on hazardous substance containers shall provide substantially the same precautionary information as the Material Safety Data Sheet. The legislature was advised and anticipated that it would be very difficult to obtain all of that information on container labels. Therefore, the statute allows the use of a Material Safety Data Sheet in the immediate vicinity of the container to meet the labeling requirements.

As allowed in Section 19, the standards also accept several other labeling methods as compliance with the Employee Right-to-Know Act. The Federal Insecticide, Fungicide, and Rodenticide Act labels or the Federal Hazardous Substances Act labels will be satisfactory. Also, it is not necessary to relabel drugs in a health care facility if they are labeled in accordance with the Federal Food and Drug Administration. The container labeling requirements do not apply to pipelines in refineries or cross-country pipelines, nor do they apply to hazardous substances that are transported in bulk if those are labeled in accordance with the DOT standard.

Process containers, which contain no more than one day's supply of hazardous substance, can be labeled adequately with just the name of the hazardous substance it contains. Immediate use containers need not be labeled.

Equipment or a work area that generates harmful physical agents at a level approximating the permissible exposure level shall be labeled or signs shall be used in the work area. Seven specific items, taken directly from the statute, must be included.

Provisions are made in the standard for certification of an existing labeling program if it complies with the Employee Right-to-Know Act. Northern States Power Company suggested that a reorganization would be appropriate for this labeling section of the standard. The first portion refers to hazardous substances and the second portion refers to physical agents. No significant change in the technical content was incorporated, but the reorganization recommended by NSP is included in the revised standard.

Several respondents suggested that labeling in accordance with ANSI or DOT requirements should meet the intent of the Right-to-Know Act. That proposal is not new. The same concept was discussed at length by the task force. The ANSI and DOT requirements sometimes use single words indicating the hazard associated with the substance or use coded references to tables which will indicate the degree of the hazard. The intent of the Right-to-Know legislation was to have labeling information on the container which can easily be read and understood by the employee. Therefore, the task force did not accept those labeling methods.

The proposed standard accepted labeling in compliance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as meeting the requirements of the Employee Right-to-Know Act. Several interested parties endorsed that plan indicating that extra labeling requirements would affect interstate commerce, most of these products are shipped into the state instead of being manufactured in Minnesota, users of the product will recognize and understand the FIFRA labeling, and it would be convenient to accept FIFRA labeling.

In a line-by-line comparison of the FIFRA labeling requirements and the Right-to-Know labeling requirements, the Southern Minnesota Regional Legal Services, Inc. indicates several differences between the Right-to-Know requirements and the FIFRA labels. FIFRA labels sometimes use a signal word which does not completely describe the hazard, methods of safe use and exposure are not included on the FIFRA label, the FIFRA label will not always include data on procedures for cleanup, and the telephone number of the manufacturer will not be included. These differences are not really significant but they do have an impact on interstate commerce which is prohibited by M.S. 182.655, subdivision 12 and which will not be allowed by Federal OSHA when approving the Minnesota OSHA program. Therefore, FIFRA labeling will be allowed for Right-to-Know compliance.

There are provisions in the labeling standards allowing the Commissioner to certify an existing labeling program as complying with the Right-to-Know Act. The 3M Company asked that the program automatically be certified if the Commissioner fails to reply to an employer request within a certain period of time. As discussed earlier in the training program section: this is a subject for "rules" and will not be included here.

The original proposed standard had a very brief statement indicating that a Material Safety Data Sheet in the vicinity of the hazardous substance container would meet the labeling requirements. The statutory language from Section 19 has been repeated in the standard since there were several questions asked about the proposed standard.

In Section 1.7209 the original proposed standard referred to the threshold limit value which is incorrect. The correct reference should be to the permissible exposure limit or applicable action level as shown in the revised standard.

Final Standard: The Employee Right-to-Know Standard, as adopted, is printed here in its entirety. These standards will be incorporated into the Minnesota Occupational Safety and Health Rules.

Standards as Adopted

Chapter Sixteen: Employee Right-to-Know Standards

8 MCAR § 1.7200 Purpose. The standards in this chapter implement the provisions of the Employee Right-to-Know Act of 1983. These standards require employers to evaluate their workplaces for the existence of hazardous substances, harmful physical agents, and infectious agents and to provide training and information to those employees covered under this Act who are routinely exposed to those substances and agents.

8 MCAR § 1.7201 Scope. The provisions in this chapter apply to all employers and employees in Minnesota with the following exceptions:

A. Technically qualified individuals. Certain technically qualified individuals in a research laboratory or in a hospital or clinic who meet the criteria defined in 8 MCAR § 1.7208 are exempt from the provisions of this chapter.

B. Farms. Farming operations employing ten or fewer employees are exempt from all provisions of this chapter except that label information must be furnished to employees or their representative. Farming operations employing more than ten employees or that operate a temporary labor camp will be required to comply with training requirements developed by the commissioner specifically for farming operations.

C. Small Businesses. Small businesses are exempt from the provisions of this chapter relative to hazardous substances and harmful physical agents.

D. Hospitals and clinics. Hospitals and clinics that meet the definition of a small business are exempt from the provisions of this chapter relative to hazardous substances and harmful physical agents but must comply with the infectious agents provisions of this chapter. The infectious agents provisions apply only to hospitals and clinics.

E. Waste Service Employers. Employers that provide a service of collecting, processing, or disposing of waste regulated under the federal Resource Conservation and Recovery Act are exempt from the hazardous substances and harmful physical agents training and information requirements of this chapter. These employers, even though they may be small businesses, must develop and implement a training program for their employees and have that program approved by the commissioner.

8 MCAR § 1.7202 Definitions.

A. Applicability. For purposes of 8 MCAR §§ 1.7200-1.7219 the following terms have the meanings given them.

B. "Commissioner" means the Commissioner of the Department of Labor and Industry.

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ADOPTED RULES

C. "Data sheet" means a document (such as a material safety data sheet, operation standard, placard or display device) used by an employer to communicate to an employee the information required under Minnesota Statutes section 182.653, subdivisions 4b, 4c and 4e.

D. "Department" means the Department of Labor and Industry.

E. "Display device" means a video screen or video display terminal that is part of electronic data processing equipment.

F. "Harmful physical agent" means a physical agent determined by the commissioner as part of the standard for that agent to present a significant risk to worker health or safety or imminent danger of death or serious physical harm to an employee.

Harmful physical agent does not include an agent being developed or utilized by a technically qualified individual in a research, medical research, medical diagnostic or medical educational laboratory or in a health care facility or in a clinic associated with the laboratory or health care facility, or in a pharmacy registered and licensed under Minnesota Statutes chapter 151. This exemption does not include a physical agent utilized in a laboratory that primarily provides a quality control analysis for a manufacturing process. This exemption applies only to technically qualified individuals and not to persons working in the same work area who are not technically qualified individuals.

G. "Hazardous substance" means a chemical or substance, or mixture of chemicals or substances, which:

1. is regulated by the Federal Occupational Safety and Health Administration under Title 29 of the Code of Federal Regulations, Part 1910, Subpart Z;

2. is either toxic or highly toxic; an irritant; corrosive; a strong oxidizer; a strong sensitizer; combustible; either flammable or extremely flammable; dangerously reactive; pyrophoric; pressure-generating; a compressed gas; a carcinogen; a teratogen; a mutagen; a reproductive toxic agent; or that otherwise, according to generally accepted documented medical or scientific evidence, may cause substantial acute or chronic personal injury or illness during or as a direct result of any customary or reasonably foreseeable accidental or intentional exposure to the chemical or substance; or

3. is determined by the commissioner as part of the standard for the chemical or substance or mixture of chemicals and substances to present a significant risk to worker health and safety or imminent danger of death or serious physical harm to an employee as a result of foreseeable use, handling, accidental spill, exposure, or contamination.

Hazardous substance does not include a substance being developed or handled by a technically qualified individual in a research, medical research, medical diagnostic or medical educational laboratory or in a health care facility or in a clinic associated with the laboratory or health care facility, or in a pharmacy registered or licensed under Minnesota Statutes chapter 151. This exemption applies only to technically qualified individuals and not to persons working in the same work area who are not technically qualified individuals.

H. "Health care facility" means a clinic, hospital or nursing home.

I. "Impurity" means a hazardous substance which is unintentionally present with another substance or mixture.

J. "Immediate-use container" means a container into which substances are transferred from labeled containers and which is intended only for the immediate use of the employee who performs the transfer, or a test tube, beaker, vial or similar container which is routinely used and reused.

K. "Infectious agent" means a communicable bacterium, virus or fungus determined by the commissioner by rule, with approval of the commissioner of health, which according to documented medical or scientific evidence causes substantial acute or chronic illness or permanent disability as a foreseeable and direct result of any routine exposure to the infectious agent.

Infectious agent does not include an agent in or on the body of a patient before diagnosis. Infectious agent does not include an agent being developed or regularly utilized by a technically qualified individual in a research, medical research, medical diagnostic or medical educational laboratory or in a health care facility or in a clinic associated with a laboratory or health care facility, or in a pharmacy registered and licensed under Minnesota Statutes chapter 151. This exemption does not include an infectious agent utilized in a laboratory that primarily provides a quality control analysis for a manufacturing process.

L. "Manufacturer" means anyone who produces, synthesizes, extracts, or otherwise makes, processes, blends, packages or repackages a hazardous substance or harmful physical agent. The term manufacturer also includes anyone who imports into this state or distributes within this state a hazardous substance or harmful physical agent. It does not include anyone whose primary business concerning the hazardous substance or harmful physical agent is in retail sales to the public.

M. "Material safety data sheet" means any data sheet which contains information required under Minnesota Statutes section 182.653, subdivisions 4b, 4c, and 4e regarding the physical, chemical, and hazardous properties of a substance or mixture. The OSHA Form 20 is one example of a material safety data sheet.

N. "Mixture" means any combination of two or more chemical substances that do not react with each other, but at least one

of which is a hazardous substance. Mixtures may be considered as a single hazardous substance if the technical data provided for the mixture as a whole is as effective in protecting employee health as data on each of the individual components would be.

O. "Process container" means a container into which a substance is transferred from a labeled container which is used to contain no more than the quantity needed for one day's process in the workplace.

P. "Research laboratory" means a medical, educational, industrial or manufacturing workplace, or portion of such a workplace, engaged in the development of materials, products, or substances through experimentation, testing or analysis. Research laboratory includes pilot plant operations performed as research and development functions including tests of physical, chemical, production and performance characteristics.

Q. "Routinely exposed" means a reasonable potential for exposure exists during the normal course of assigned work. It includes the exposure of an employee to a hazardous substance when assigned to work in an area where a hazardous substance has been spilled. It does not include a simple walk-through of an area where a hazardous substance, harmful physical agent, or infectious agent is present or an assignment to work in an area where a container of a hazardous substance is present but there is no actual exposure unless a spill should occur.

R. "Small business" means a business entity organized for profit, including any individual, partnership, corporation, joint venture, association or cooperative which has 20 or fewer full-time employees, or equivalent full-time employees (part-time employees' work time combined to total 2,000 hours or the equivalent of one full-time employee) during the preceding fiscal year or not more than \$1,000,000 in annual gross revenues in the preceding fiscal year, and which is not an affiliate or subsidiary of a business having more than 20 full-time, or equivalent full-time, employees and more than \$1,000,000 in annual gross revenues.

S. "Technically qualified individual" means a person in a research, medical research, medical diagnostic or medical educational laboratory or in a health care facility or in a clinic associated with the laboratory or health care facility, or in a pharmacy registered and licensed under Minnesota Statutes, chapter 151, who, because of professional or technical education, training or experience, understands, prior to the time of exposure, the health risks and the necessary safety precautions associated with each hazardous substance, harmful physical agent, infectious agent or mixture handled or utilized by the person.

8 MCAR § 1.7203 Hazardous substances.

A. General. The commissioner has determined that the list of hazardous substances in paragraph D. shall be covered by the provisions of this chapter. The Hazardous Substance List includes the majority of hazardous substances that will be encountered in Minnesota; it does not include all hazardous substances and will not always be current. Employers shall exercise reasonable diligence in evaluating their workplace for the presence of other recognized hazardous substances and assure that employees are provided with the rights stated in 8 MCAR §§ 1.7200-1.7209.

B. Exemptions. Substances or mixtures within the following categories are exempt from coverage under this standard:

1. Products intended for personal consumption by employees in the workplace;
2. Consumer products packaged for distribution to, and used by, the general public, including any product used by an employer or the employer's employees in the same form, concentration, and manner as it is sold to consumers, and to the employer's knowledge, employee exposure is not significantly greater than the consumer exposure occurring during principal consumer use of the product;
3. Any article, including but not limited to, an item of equipment or hardware, which contains a hazardous substance, if the substance is present in a solid form which does not create a health hazard as a result of being handled by the employee;
4. Any hazardous substance that is bound and not released under normal conditions of work or in a reasonably foreseeable occurrence resulting from workplace operations;
5. Products sold or used in retail food sale establishments and all other retail trade establishments, exclusive of processing and repair work areas;
6. Any waste material regulated pursuant to the Federal Resource Conservation and Recovery Act, P.L. 94-580, but only with respect to any employer in a business which provides a service of collection, processing or disposal of such waste;

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ADOPTED RULES

7. Waste products labeled pursuant to the Resource Conservation and Recovery Act. If hazardous substances make up the waste product, the employer must assure that mixing of incompatible substances does not occur:

8. Any substance received by an employer in a sealed package and subsequently sold or transferred in that package, if the seal remains intact while the substance is in the employer's workplace:

9. Any substance, mixture, or product if present in a physical state, volume, or mixture concentration for which there is no valid and substantial evidence that a significant risk to human health may occur from exposure.

C. Updating list. The list of hazardous substances shall be updated by the commissioner at least every two years.

D. List of hazardous substances. The following list of hazardous substances is coded to designate the reference document which contains occupational exposure information concerning the particular substance:

"A"—American Conference of Governmental Industrial Hygienists (ACGIH): "Threshold Limits Values for Chemical Substances and Physical Agents in the Work Environment with Intended Changes for 1983-4;" available from: ACGIH, 6500 Glenway Avenue, Building D-5, Cincinnati, Ohio 45211 (513) 661-7881.

"I"—American Industrial Hygiene Association (AIHA): "Workplace Environmental Exposure Level Guides" 1983; available from: AIHA, 475 Wolf Ledges Parkway, Akron, Ohio 44311-1087; (216) 762-7294.

"N"—National Institute for Occupational Safety and Health (NIOSH): "Recommendations for Occupational Health Standards;" available from: NIOSH, Publications Dissemination Office, 4676 Columbia Parkway, Cincinnati, Ohio 45226. General information: (513) 684-8235.

"O"—Occupational Safety and Health Administration (OSHA): Safety and Health Standards, 29 Code of Federal Regulations, Part 1910, Subpart Z, "Toxic and Hazardous Substances, 1983." General information: Minnesota Occupational Safety and Health Division, Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101; (612) 296-2116.

"S"—Occupational Safety and Health Administration "proposed standards."

"*"—An asterisk denotes substances which are regulated by OSHA as carcinogens, or which have been categorized by the ACGIH as either "human carcinogens" or "suspect of carcinogenic potential for man."

"Dust"—If the substance poses an airborne particulate exposure hazard, the substance is followed by the word, "dust."

"Fume"—Small solid particles formed by the condensation of vapors of solid materials.

"Gases"—Refers to displacement of air asphyxiation hazard.

"Skin"—If a potential for absorption from skin contact merits special consideration, the word, "skin" follows the substance name.

(number)—The number in parentheses following each substance is the American Chemical Society's Chemical Abstract Service (CAS) number for that substance.

α = Alpha

β = Beta

List of Hazardous Substances

Abate (see Temephos)	
Acetaldehyde (75-07-0)	AO
Acetic acid (64-19-7)	AO
Acetic anhydride (108-24-7)	AO
Acetone (67-64-1)	AON
Acetone cyanohydrin (75-86-5)	N
Acetonitrile-skin (75-05-8)	ANO
*2-Acetylaminofluorene	O
Acetylene (74-86-2)	AN
Acetylene dichloride (see 1,2-Dichloroethylene)	
Acetylene tetrabromide (79-27-6)	AO
Acetylsalicylic acid (Aspirin) (50-78-2)	A
Acrolein (107-02-8)	AO
Acrylamide-skin (79-06-1)	ANO
Acrylic acid (79-10-7)	A

ADOPTED RULES

*Acrylonitrile-skin (107-13-1)	ANO
Aldrin-skin (309-00-2)	AN
Allyl alcohol-skin (107-18-6)	AO
Allyl chloride (107-05-1)	ANO
Allylglycidyl ether (AGE)-skin (106-92-3)	ANO
Allyl propyl disulfide (2179-59-1)	AO
Aluminum pyro powders (7429-90-5)	A
Aluminum welding fumes (7429-90-5)	A
Aluminum, soluble salts (7429-90-5)	A
Aluminum, alkyls (7429-90-5)	A
Aminobiphenyl (see 4-Aminodiphenyl)	
*4-Aminodiphenyl-skin (92-67-1)	AO
2-Aminopyridine (504-29-0)	AO
*Amitrol (61-82-5)	A
Ammonia (7664-41-7)	ANOS
Ammonium chloride, fume (12125-02-9)	A
Ammonium sulfamate (7773-06-0)	O
Amosite (see Asbestos)	
n-Amyl acetate (628-63-7)	O
sec-Amyl acetate (626-38-0)	O
Aniline & homologues-skin (62-53-3)	O
Anisidine (o-p isomers)-skin (29191-52-4)	AO
Antimony & compounds, as Sb (7440-36-0)	ANO
*Antimony trioxide, handling & use, as Sb production (1309-64-4)	A
ANTU (α -Naphthyl thiourea) (86-88-4)	AO
*Arsenic & soluble compounds as As, organic compounds as As (7440-38-2)	ANO
*Arsenic trioxide production (1327-53-3)	A
Arsine (7784-42-1)	AO
*Asbestos (1332-21-4)	AO
Asphalt (petroleum) fumes (8052-42-4)	AN
Atrazine (1912-24-9)	A
Azinphos-methyl-skin (86-50-0)	AO
Barium, soluble compounds, as Ba (7440-39-3)	AO
Baygon (Propoxur) (114-26-1)	A
Baytex (see Fenthion)	
Benomyl (17804-35-2)	A
*Benzene (71-43-2)	ANO
Benzenethiol (108-98-5)	N
*Benzidine-skin (92-87-5)	AO
p-Benzoquinone (see Quinone)	
Benzoyl peroxide (94-36-0)	ANO
*Benzo (a) pyrene (50-32-8)	A
Benzyl chloride (100-44-7)	ANO
*Beryllium (and compounds) (7440-41-7)	ANMO
Biphenyl (Diphenyl) (92-52-4)	AO
Bischloromethyl ether (BCME) (542-88-1)	AO
Bismuth telluride (1304-82-1)	A
Bismuth telluride; Se-doped	A
Borates, tetra, sodium salts (1303-96-4)	A
Boron oxide (1303-86-2)	AO
Boron tribromide (10294-33-4)	A

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Boron trifluoride (7637-07-2)	ANO
Bromacil (314-40-9)	A
Bromine (7726-95-6)	AO
Bromine pentafluoride (7789-30-2)	A
Bromochloromethane (see Chlorobromomethane)	
Bromoform-skin (75-25-2)	AO
Bromotrifluoromethane (see Trifluorobromomethane)	
*Butadiene (1,3-Butadiene) (106-99-0)	AO
Butane (106-97-8)	A
Butanethiol (see Butyl mercaptan)	
2-Butanone (see Methyl Ethyl Ketone (MEK))	
2-Butoxy ethanol-skin (111-76-2)	AO
n-Butyl acetate (123-86-4)	AO
sec-Butyl acetate (105-46-4)	AO
tert-Butyl acetate (540-88-5)	AO
n-Butyl acrylate (141-32-2)	A
n-Butyl alcohol-skin (71-36-3)	AO
sec-Butyl alcohol (78-92-2)	O
tert-Butyl alcohol (75-65-0)	O
Butylamine-skin (109-73-9)	AO
Butyl cellosolve (see 2-Butoxy ethanol)	
tert-Butyl chromate, as CrO ₃ -skin (1189-85-1)	AO
n-Butyl glycidyl ether (BGE) (2426-08-6)	AO
n-Butyl lactate (138-22-7)	A
Butyl mercaptan (109-79-5)	ANO
o-sec-Butyl phenol-skin (89-72-5)	A
p-tert-Butyl toluene (98-51-1)	AO
n-Butyronitrile (109-74-0)	N
Cadmium (7440-43-9) & its compounds (as Cd)	N
Cadmium (7440-43-9), dust & salts (as Cd), fume	ANO
Cadmium oxide (1306-19-0), fume (as Cd)	ANO
*Cadmium oxide production (as Cd)	A
Calcium cyanamide (156-62-7)	A
Calcium hydroxide (1305-62-0)	A
Calcium oxide (1305-78-8)	AO
Camphor, synthetic (76-22-2)	AO
Caprolactam, dust & vapor (105-60-2)	A
Captan (133-06-2)	A
Carbaryl (Sevin [®]) (63-25-2)	ANO
Carbofuran (Furadan) (1563-66-2)	A
Carbon black (1333-86-4)	ANO
Carbon dioxide (124-38-9)	ANO
Carbon disulfide-skin (75-15-0)	ANO
Carbon monoxide (630-08-0)	ANO
Carbon tetrabromide (558-13-4)	A
*Carbon tetrachloride-skin (56-23-5)	ANO
Carbonyl fluoride (353-50-4)	A
Catechol (Pyrocatechol) (120-80-9)	A
Cellosolve acetate (see 2-Ethoxyethyl acetate)	
Cesium hydroxide (21351-79-1)	A
Chlordane-skin (57-74-9)	AO
Chlordecone (KEPONE) (143-50-0)	N
Chlorinated camphene (Toxaphene)-skin (8001-35-2)	AO
Chlorinated diphenyl oxide (55720-99-5)	AO
Chlorine (7782-50-5)	ANO
Chlorine dioxide (10049-04-4)	AO

ADOPTED RULES

Chlorine trifluoride (7790-91-2)	AO
Chloroacetaldehyde (107-20-0)	AO
α -Chloroacetophenone (Phenacylchloride) (532-27-4)	AO
Chloroacetyl chloride (79-04-9)	A
Chlorobenzene (Monochlorobenzene) (108-90-7)	AO
o-Chlorobenzylidene malononitrile (OCBM)-skin (2698-41-1)	AO
Chlorobromomethane (74-97-5)	AO
2-Chloro-1,3-butadiene (see β -Chloroprene)	
Chlorodifluoromethane (75-45-6)	A
Chlorodiphenyl-skin (see PCB)	AO
42% Chlorine (53449-21-9)	
54% Chlorine (11097-69-1)	
1-Chloro-2,3-epoxypropane (see Epichlorohydrin)	
2-Chloroethanol (see Ethylene chlorohydrin)	
Chloroethylene (see Vinyl chloride)	
*Chloroform (67-66-3)	ANO
bis (2-Chloroisopropyl) ether	I
*bis-Chloromethyl ether (BCME) (542-88-1)	AO
*Chloromethyl methyl ether (see Methyl chloromethyl ether)	
1-Chloro-1-nitropropane (600-25-9)	AO
Chloropentafluoroethane (76-15-3)	A
Chloropicrin (Trichloronitromethane) (76-06-2)	AO
β -Chloroprene-skin (126-99-8)	ANO
o-Chlorostyrene (1331-28-8)	A
o-Chlorotoluene-skin (95-49-8)	A
2-Chloro-6-trichloromethyl pyridine (N-Serve)	A
Chloropyrifos-skin (2921-88-2)	A
Chromates (see Chromic acid)	
*Chromates of lead and zinc, as Cr.	A
Chromic acid and Chromates	NO
*Chromite ore processing (Chromate), as Cr	A
Chromium metal (7440-47-3)	AO
Chromium (II) compounds, as Cr	A
Chromium (III) compounds, as Cr	A
*Chromium (VI) compounds as Cr (water soluble)	A
Chromium (VI) compounds	AN
Chromium (VI) compounds, (certain water insoluble ones)	AN
Chromium, soluble chromic, chromous salts, as Cr	AO
Chromyl chloride (14977-61-8)	A
*Chrysene (218-01-9)	AN
Clopidol (2971-90-6)	A
Coal, dust	O
*Coal tar pitch volatiles, as benzene solubles (8007-45-2)	ANO
Cobalt (as Co metal), dust & fume (7440-48-4)	ANO
*Coke oven emissions	NO
Copper dust & mists, as Cu (7440-50-8)	AO
Copper fume (7440-50-8)	AO
Cotton dust, raw	ANO
Crag ^K herbicide (see Sodium-2,4-dichloro-p-nenoxyethyl sulfate)	
Cresol, all isomers-skin (1319-77-3)	ANO
Crotonaldehyde (123-73-9)	AO

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Cruformate (299-86-5)	A
Cumene-skin (98-82-8)	AO
Cyanamide (420-04-2)	A
Cyanides, as Cn-skin (151-50-8; 143-33-9)	AO
Cyanogen (460-19-5)	A
Cyanogen chloride (506-77-4)	A
Cyclohexane (110-82-7)	AO
Cyclohexanethiol (1569-69-3)	N
Cyclohexanol (108-93-0)	AO
Cyclohexanone (108-94-1)	ANO
Cyclohexene (110-83-8)	AO
Cyclohexylamine-skin (108-91-8)	A
Cyclonite-skin (121-82-4)	A
Cyclopentadiene (542-92-7)	AO
Cyclopentane (287-92-3)	A
Cyhexatin (13121-70-5)	A
2,4-D (2,4-Dichlorophenoxyacetic acid) (94-75-7)	AO
DDT (Dichlorodiphenyltrichloro ethane)-skin (50-29-3)	ANO
DDVP (see Dichlorvos)	
Decaborane-skin (17702-41-9)	AO
Decabromodiphenyloxide	I
Demeton-skin (8065-48-3)	AO
Diacetone alcohol (4-Hydroxy-4-methyl-2-pentanone) (123-42-2)	ANO
1,2-Diaminoethane (see Ethylenediamine)	
Diatomaceous earth, uncalcined, dust	A
Diazinon-skin (333-41-5)	A
Diazomethane (334-88-3)	AO
Diborane (19287-45-7)	AO
*DBCP (1,2-Dibromochloropropane) (96-12-8)	NO
1,2-Dibromoethane (see Ethylene dibromide)	
Dibrom (Dimethyl-1,2-dibromo-2-dichloroethyl phosphate)	A
2-N-Dibutylaminoethanol-skin (102-81-8)	A
Dibutyl phosphate (107-66-4)	AO
Dibutyl phthalate (84-74-2)	AO
Dichloroacetylene (7572-29-4)	A
o-Dichlorobenzene (95-50-1)	AO
p-Dichlorobenzene (106-46-7)	AO
*3,3'-Dichlorobenzidine (and salts)-skin (91-94-11)	AO
Dichlorodifluoromethane (75-71-8)	AO
1,3-Dichloro-5,5-dimethyl hydantoin (118-52-5)	AO
1,1-Dichloroethane (75-34-3)	AO
1,2-Dichloroethane (see Ethylene dichloride)	
1,1-Dichloroethylene (see Vinylidene chloride)	
1,2-Dichloroethylene (540-59-0)	AO
Dichloroethyl ether-skin (111-44-4)	AO
Dichlorofluoromethane (75-43-4)	A
Dichloromethane (see Methylene chloride)	
Dichloromonofluoromethane	O
1,1-Dichloro-1-nitroethane (594-72-9)	AO
1,2-Dichloropropane (see Propylene dichloride)	
Dichloropropene-skin (542-75-6)	A
2,2-Dichloropionic acid (75-99-0)	A
Dichlorotetrafluoroethane (Fluorocarbon 114) (76-14-2)	AO
Dichlorvos (DDVP)-skin (62-73-7)	AO
Dicrotophos-skin (141-66-2)	A
Dicyclohexylmethane-4,4'-diisocyanate (5124-30-1)	N
Dicyclopentadiene (77-73-6)	A

Dicyclopentadienyl iron (102-54-5)	A
Dieldrin-skin (60-57-1)	ANO
Diethanolamine (111-42-2)	A
Diethylamine (109-89-7)	AO
Diethylamino ethanol-skin (100-37-8)	AO
Diethylene dioxide (see Dioxane)	
Diethylene triamine-skin (111-40-0)	A
Diethyl ether (see Ethyl ether)	
Diethyl ketone (96-22-0)	A
Diethyl phthalate (84-66-2)	A
Diffuorodibromomethane (FREON 12B2) (75-61-6)	AO
Diglycidyl ether (DGE) (2238-07-5)	ANO
Dihydroxybenzene (see Hydroquinone)	
Diisobutyl ketone (108-83-8)	ANO
Diisobutylene	IN
Diisocyanates (not including those listed separately)	N
Diisopropylamine-skin (108-18-9)	NO
Dimethoxymethane (see Methylal)	
Dimethyl acetamide-skin (127-19-5)	AO
Dimethylamine (124-40-3)	AO
*4-Dimethylaminoazobenzene	O
Dimethylaminobenzene (see Xylidene)	
Dimethylaniline (N,N-Dimethylaniline)-skin (121-69-7)	AO
Dimethylbenzene (see Xylene)	
*Dimethyl carbamyl chloride (79-44-7)	A
Dimethyl-1,2-dibromo-2-dichloroethyl phosphate (see Dibrom ^K)	
Dimethyl ether	I
Dimethyl formamide-skin (68-12-2)	AO
2,6-Dimethyl-4-heptanone (see Diisobutyl ketone)	
*1,1-Dimethylhydrazine-skin (57-14-7)	ANO
Dimethyl phthalate (131-11-3)	AO
*Dimethyl sulfate-skin (77-78-1)	AO
Dimethyl terephthalate	I
Dinitolmide (148-01-6)	A
Dinitrobenzene, all isomers-skin (528-29-0)	AO
Dinitro-o-cresol (DNOC)-skin (534-52-1)	ANO
3,5-Dinitro-o-toluidine (Zonalene) (148-01-6)	A
Dinitrotoluene-skin (121-14-2)	AO
Dioxane (Diethylene dioxide)-skin (123-91-1)	ANO
Dioxathion (Delanov)-skin (78-34-2)	A
Diphenyl (see Biphenyl)	
Diphenylamine (122-39-4)	A
Diphenyl ether (see Phenyl ether)	
Diphenylmethane diisocyanate (see Methylene bisphenyl isocyanate (MDI))	
Dipropylene glycol methyl ether (34590-94-8)	AO
Dipropyl ketone (4-Heptanone) (123-19-3)	A
Diquat (85-00-7)	A
Di-sec-octyl phthalate (di(2-Ethylhexyl)phthalate) (117-81-7)	AO
Disulfiram (97-77-8)	A
Disulfoton (Disyston) (298-04-4)	A
2,6-Di-tert-Butyl-p-cresol (128-37-0)	A

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ADOPTED RULES

Diuron (330-54-1).....	A
Divinyl benzene (108-57-6).....	A
Dust, Inert or Nuisance ¹	A
Including:	
α-Alumina (Al ₂ O ₃).....	Plaster of Paris
Aluminum, metal & oxide.....	Portland Cement
Calcium carbonate.....	Rouge
Calcium silicate.....	Silicon
Cellulose (paper fiber).....	Silicon Carbide
Emery.....	Starch
Glycerin Mist.....	Sucrose
Graphite (synthetic).....	Titanium Dioxide
Gypsum.....	Vegetable oil mists
Kaolin.....	(except castor,
Limestone.....	cashew nut,
Magnesite.....	or similar
Marble.....	irritant oils)
Mineral Wool Fiber.....	Zinc Stearate
Pentaerthritol.....	Zinc Oxide Dust
Perlite.....	
Dyfonate-skin (944-22-9).....	A
Endosulfan (Thiodan)-skin (115-29-7).....	A
Endrin-skin (72-20-8).....	AO
Epichlorohydrin-skin (106-89-8).....	NO
EPN-skin (2104-64-5).....	AO
1,2-Epoxy propane (see Propylene oxide).....	
2,3-Epoxy-1-propanol (see Glycidol).....	
Ethanethiol (see Ethyl mercaptan).....	
Ethanolamine (141-43-5).....	A
Ethion-skin (563-12-2).....	A
2-Ethoxyethanol-skin (110-80-5).....	AO
2-Ethoxyethyl acetate-skin (111-15-9).....	AO
Ethyl acetate (141-78-6).....	AO
Ethyl acrylate-skin (140-88-5).....	AO
Ethyl alcohol (Ethanol) (64-17-5).....	AO
Ethylamine (75-04-7).....	AO
Ethyl amyl ketone (5-Methyl-3-Heptanone) (41-85-5).....	AO
Ethyl benzene (100-41-4).....	AO
Ethyl bromide (74-96-4).....	AO
Ethyl butyl ketone (3-Heptanone) (106-35-4).....	AO
Ethyl chloride (75-00-3).....	AO
Ethylene chlorohydrin-skin (107-07-3).....	AO
Ethylene diamine (107-15-3).....	AO
*Ethylene dibromide-skin (106-93-4).....	ANO
Ethylene dichloride (1,2-Dichloroethane) (107-06-2).....	ANO
Ethylene glycol (107-21-1), particulate & vapor.....	A
Ethylene glycol dinitrate (EGDN)-skin (628-96-6).....	ANO
Ethylene glycol methyl ether acetate-skin (110-49-6).....	AO
*Ethyleneimine-skin (151-56-4).....	AO
*Ethylene oxide (75-21-8).....	ANOS
Ethyl ether (60-29-7).....	AO
Ethylidene norbornene (16219-75-3).....	A
Ethyl mercaptan (75-08-1).....	ANO
Ethyl methacrylate.....	
N-Ethyl morpholine-skin (100-74-3).....	AO
Ethyl silicate (78-10-4).....	AO

¹ When toxic impurities are not present, e.g., quartz less than 1%

ADOPTED RULES

Fensulfothion (Dasanit) (115-90-2)	A
Fenthion (55-38-9)	A
Ferbam (14484-64-1)	AO
Ferrovandium (12604-58-9)	AO
Fibrous glass dust (see Glass)	
Fluoride, as F, as dust (16984-48-8)	ANO
Fluorine (7782-41-4)	AO
Fluorocarbon 11 (see Trichlorofluoromethane)	
Fluorocarbon 12 (see Dichlorodifluoromethane)	
Fluorocarbon 13b1 (See Trifluoromonobromomethane)	
Fluorocarbon 21 (see Dichlorofluoromethane)	
Fluorocarbon 22 (see Chlorodifluoromethane)	
Fluorocarbon 31 (see Chlorofluoromethane)	
Fluorocarbon 112 (see 1,1,1,2-Tetrachloro-2,2-difluoroethane)	
Fluorocarbon 113 (see Trichlorotrifluoroethane)	
Fluorocarbon 114 (see Dichlorotetrafluoroethane)	
Fluorocarbon 115 (see Chloropentafluoroethane)	
Fluorocarbon 124 (see Chlorotetrafluoroethane)	
Fluorocarbon 132b (see Dichlorodifluoroethane)	
Fluorocarbon 133a (see Chlorotrifluoroethane)	
Fluorocarbon 141b (see Dichlorofluoroethane)	
Fluorocarbon 142b (see Chlorodifluoroethane)	
Fluorocarbon 152a (see Difluoroethane)	
Fluorocarbon C-318 (see Octafluorocyclobutane)	
Fluorotrichloromethane (see Trichlorofluoromethane)	
Fonofos-skin (944-22-9)	AO
*Formaldehyde (50-00-0)	ANO
Formamide (75-12-7)	A
Formic acid (64-18-6)	AO
Furfural-skin (98-01-1)	A
Furfuryl alcohol-skin (98-00-0)	AN
Gases, Simple Asphyxiants	A
Including: Acetylene	
Argon	Helium
Ethane	Hydrogen
Ethylene	Methane
	Neon
	Propane
	Propylene
Gasoline (8006-61-9)	A
Germanium tetrahydride (7782-65-2)	A
Glass, fibrous or dust	N
Glutaraldehyde (111-30-8)	A
Glycidol (2,3-Epoxy-1-propanol) (556-52-5)	AO
Glycol ethers	
Glycol monoethyl ether (see 2-Ethoxyethanol)	
Glycolonitrile (107-16-4)	N
Graphite, natural, dust (7782-42-5)	AO
Guthion (see Azinphos-methyl)	
Hafnium (7440-58-6)	AO
Halothane (151-67-7)	AN
Halowax (see Hexachloronaphthalene)	
Heptachlor-skin (76-44-8)	AO
Heptane (n-Heptane) (142-82-5)	ANO

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3-Heptanone (see Ethyl butyl ketone)	
*Hexachlorobutadiene (76-68-3)	A
Hexachlorocyclopentadiene (77-47-4)	A
Hexachloroethane (67-72-1)	AO
Hexachloronaphthalene (Halowax 1014)-skin (1335-87-1)	AO
Hexadiene	I
Hexafluoroacetone (684-16-2)	A
*Hexamethyl phosphoramidate-skin (680-31-9)	A
Hexamethylene diisocyanate (822-06-0)	N
Hexane (n-Hexane) (110-54-3)	ANO
Hexane, other isomers (107-83-5; 107-83-2)	A
Hexanediol diacrylate	I
1-Hexanethiol (111-31-9)	N
2-Hexanone (Methyl n-butyl ketone) (591-78-6)	O
Hexone (Methyl isobutyl ketone) (108-10-1)	O
sec-Hexyl acetate (142-92-7)	AO
Hexylene glycol (107-41-5)	A
*Hydrazine-skin (302-01-2)	ANO
Hydrogenated terphenyls (92-94-4)	A
Hydrogen bromide (10035-10-6)	AO
Hydrogen chloride (7647-01-0)	AO
Hydrogen cyanide-skin (74-90-8)	AO
Hydrogen fluoride (7664-39-3), as F	ANO
Hydrogen peroxide (7722-84-1)	A
Hydrogen peroxide (90%) (7722-84-1)	O
Hydrogen selenide (7783-07-5)	AO
Hydrogen sulfide (7783-06-4)	ANO
Hydroquinone (123-31-9)	ANO
2-Hydroxypropyl acrylate-skin (999-61-1)	A
Indene (95-13-6)	A
Indium (95-13-6) & compounds, as In	A
Inert or Nuisance Dusts (see Dust)	
Iodine (7553-56-2)	AO
Iodoform (75-47-8)	A
Iron oxide fume (Fe_2O_3) (1309-37-1), as Fe	AO
Iron pentacarbonyl (13463-40-6), as Fe	A
Iron salts, soluble, as Fe	A
Isoamyl acetate (123-92-2)	AO
Isoamyl alcohol (123-51-3)	AO
Isobutyl acetate (110-19-0)	AO
Isobutyl alcohol (78-83-1)	AO
Isobutyronitrile (78-82-0)	N
Isooctyl alcohol (26952-21-6)	A
Isophorone (78-59-1)	ANO
Isophorone diisocyanate-skin	AN
Isopropoxyethanol (109-59-1)	A
Isopropyl acetate (108-21-4)	AO
Isopropyl acetone (see Methyl isobutyl ketone)	
Isopropyl alcohol (67-63-0)	ANO
Isopropylamine (75-31-0)	A
N-Isopropylaniline-skin (643-28-7)	A
Isopropyl ether (108-20-3)	AO
Isopropyl glycidyl ether (IGE) (4016-14-2)	ANO
Kepone (see Chlordecone)	
Ketene (463-51-4)	AO
Lead (7439-92-1), inorganic fumes & dusts, as Pb	ANO
Lead arsenate (10102-48-4), as $\text{Pb}_3(\text{AsO}_4)_2$	A

ADOPTED RULES

Lead chromate (Cr) (18454-12-1)	A
Lindane-skin (58-89-9)	AO
Lithium hydride (7580-67-8)	AO
L.P.G. (Liquified Petroleum Gas)	AO
Magnesium oxide fume (1309-48-4)	AO
Malathion-skin (121-75-5)	ANO
Maleic anhydride (108-31-6)	AO
Malononitrile (109-77-3)	N
Manganese (7439-96-5)	O
Manganese & compounds, as Mn, dust & fume (7439-96-5)	A
Manganese cyclopentadienyltricarbonyl 12079-65-1, as Mn-skin	A
Manganese tetroxide	A
Mercaptoacetic acid (see Thioglycolic acid)	
Mercury, as Hg-skin (7439-97-6)	AN
Mesityl oxide (141-79-7)	ANO
Methacrylic acid (79-41-4)	A
Methanethiol (see Methyl mercaptan)	
Methomyl (Lannate)-skin (16752-77-5)	A
Methoxychlor (72-43-5)	AO
2-Methoxyethanol (Methyl cellosolve)-skin (109-86-4)	AO
2-Methoxyethyl acetate-skin (110-49-6)	A
4-Methoxyphenol (150-76-5)	A
Methyl acetate (79-20-9)	AO
Methyl acetylene (Propyne) (74-99-7)	AO
Methyl acetylene-propadiene mixture (MAPP)	AO
Methyl acrylate-skin (96-33-3)	AO
Methyl acrylonitrile-skin (126-98-7)	A
Methylal (Dimethoxy methane) (109-87-5)	AO
Methyl alcohol (Methanol)-skin (67-56-1)	ANO
Methyl amine (74-89-5)	AO
Methyl amyl alcohol (see Methyl isobutyl carbinol)-skin	
Methyl n-amyl ketone (2-Heptanone) (110-43-0)	ANO
N-Methyl aniline-skin (100-61-8)	A
Methyl bromide-skin (74-83-9)	AO
Methyl-n-butyl ketone (591-78-6)	ANO
Methyl cellosolve-skin	O
Methyl cellosolve acetate (Ethylene glycol monomethyl ether acetate)-skin (110-49-6)	AO
ether acetate)-skin (110-49-6)	AO
Methyl chloride (74-87-3)	AO
Methyl chloroform (1,1-Trichloroethane) (71-55-6)	ANO
*Methyl chloromethyl ether (107-30-2)	AO
Methyl-2-cyano acrylate (137-05-3)	A
Methyl cyclohexane (108-87-2)	AO
Methyl cyclohexanol (25639-42-3)	AO
o-Methyl cyclohexanone-skin (583-60-8)	AO
Methyl cyclopentadienyl manganese tricarbonyl, as Mn-Skin	A
(12108-13-3)	
Methyl demeton-skin (8022-00-2)	A
Methylene bisphenyl isocyanate (MDI) (101-68-8)	ANO
Methylene chloride (75-09-2)	ANO
*4,4'-Methylene bis(2-Chloroaniline) (MOCA)-skin (101-14-4)	AN

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Methylene bis (4-Cyclohexylisocyanate) (5124-30-1)	A
4,4-Methylenedianiline-skin (101-77-9)	A
Methyl ethyl ketone (MEK) (78-93-3)	ANO
Methyl ethyl ketone peroxide (1338-23-4)	AO
Methyl formate (107-31-3)	AO
5-Methyl-3-heptanone (see Ethyl amyl ketone)	
*Methyl hydrazine-skin (60-34-4)	ANO
*Methyl iodide-skin (74-88-4)	AO
Methyl isoamyl ketone (110-12-3)	A
Methyl isobutyl carbinol-skin (105-30-6)	AO
Methyl isobutyl ketone (Hexone) (108-10-1)	ANO
Methyl isocyanate-skin (624-83-9)	AO
Methyl isopropyl ketone (563-80-4)	A
Methyl mercaptan (74-93-1)	ANO
Methyl methacrylate (80-62-6)	AO
Methyl parathion-skin (298-00-0)	AN
Methyl n-propyl ketone (107-87-9)	ANO
Methyl silicate (681-84-5)	A
α-Methyl styrene (98-83-9)	AO
Mevinphos (PHOSDRIN®)-skin (7786-34-7)	A
Mica, dust	AO
Molybdenum (7439-98-7), as Mo, soluble/insoluble compounds	AO
Monocrotophos (Azodrin) (6923-22-4)	A
Monomethyl aniline-skin (100-61-8)	AO
Monomethyl hydrazine-skin	
Morpholine-skin (110-91-8)	AO
Naled (300-76-5)	A
Naphtha (Coal Tar) MX8030-31-7)	O
Naphtha (Varnish Makers & Painters or VM&P Naphtha)	A
Naphtha (Rubber Solvent)	A
Naphthalene (91-20-3)	AO
Naphthalene diisocyanate (25551-28-4)	N
*α-Naphthylamine (91-59-8)	O
*β-Naphthylamine (91-59-8)	A
α-Naphthylthiourea (see ANTU)	
Nickel carbonyl (13463-39-3), as Ni	ANO
Nickel (7440-02-0), metal, and compounds, as Ni	ANO
*Nickel sulfide roasting, fume, & dust, as Ni	A
Nicotine-skin (54-11-5)	AO
Nitrapyrin (1929-82-4)	A
Nitric acid (7697-37-2)	ANO
Nitric oxide (10102-43-9)	AO
p-Nitroaniline-skin (100-01-6)	AO
*4-Nitrobiphenyl (see *4-Nitrodiphenyl)	
Nitrobenzene-skin	AO
p-Nitrochlorobenzene-skin (100-00-5)	AO
Nitrochloromethane (see Chloropicrin)	
*4-Nitrodiphenyl (92-93-3)	AO
Nitroethane (79-24-3)	AO
Nitrogen dioxide (10102-44-0)	ANO
Nitrogen trifluoride (7783-54-2)	AO
Nitroglycerin (NG)-skin (55-63-0)	ANO
Nitromethane (75-52-5)	AO
1-Nitropropane (108-03-2)	AO
*2-Nitropropane (79-46-9)	AO
*N-Nitrosodimethylamine (Dimethylnitrosoamine)-skin (62-75-9)	AO
Nitrotoluene-skin (99-08-1)	AO

ADOPTED RULES

Nitrous oxide (10024-97-2)	N
Nonane (111-84-2)	A
Nuisance Dust (see Dust)	
Octachloronaphthalene-skin (2234-13-1)	AO
Octane (111-65-9)	ANO
Oil mist, mineral	AO
Organic arsenic compounds, as As	O
Organo (alkyl) mercury	O
Organotin compounds	NO
Osmium tetroxide (20816-12-0), as Os	AO
Oxalic acid (144-62-7)	AO
Oxygen difluoride (7783-41-7)	AO
Ozone (10028-15-6)	AO
PCB (see Chlorodiphenyl)	
Paraffin wax fume (8002-74-2)	A
Paraquat-skin (1910-42-5)	AO
Parathion-skin (56-38-2)	ANO
Particulate polycyclic aromatic hydrocarbons (PPAH) (see Coal tar pitch volatiles)	
Pentaborane (19624-22-7)	AO
Pentachloronaphthalene (1321-64-8)	AO
Pentachlorophenol-skin (87-86-5)	AO
Pentaerythritol triacrylate	I
Pentane (109-66-0)	ANO
2-Pentanone (see Methyl propyl ketone)	
Perchloroethylene (Tetrachloroethylene)-skin (127-18-4)	ANO
Perchloromethyl mercaptan (594-42-3)	AO
Perchloryl fluoride (7616-94-6)	AO
Petroleum Distillates (Naphtha)	O
Phenol-skin (108-95-2)	ANO
Phenothiazine-skin (92-84-2)	A
*N-Phenyl-beta-naphthylamine (135-88-6)	A
p-Phenylene diamine-skin (106-50-3)	AO
Phenyl ether (101-84-8)	AO
Phenyl ether-biphenyl mixture, vapor	O
Phenylethylene (see Styrene, monomer)	
Phenyl glycidyl ether (PGE) (122-60-1)	NO
*Phenylhydrazine-skin (100-63-0)	ANO
Phenyl mercaptan (108-98-5)	A
Phenylphosphine (638-21-1)	A
Phorate (Thimet)-skin (298-02-2)	A
Phosdrin (Mevinphos)-skin (7786-34-7)	AO
Phosgene (Carbonyl chloride) (75-44-5)	NO
Phosphamidon (13171-21-6)	O
Phosphine (3803-51-2)	AO
Phosphoric acid (7664-38-2)	AO
Phosphorus (yellow) (7723-14-0)	AO
Phosphorus oxychloride (10026-13-8)	A
Phosphorus pentachloride (10026-13-8)	AO
Phosphorus pentasulfide (1314-80-3)	AO
Phosphorus trichloride (7719-12-2)	AO
Phthalic anhydride (85-44-9)	AO

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m-Phthalodinitrile (626-17-5)	A
Picloram (Tordon) (1918-02-1)	A
Picric acid (2,4,6-Trinitrophenol)-skin (88-89-1)	AO
Pindone (2-Pivaloyl-a.3-indandione) (83-26-1)	A
Piperazine dihydrochloride (142-64-3)	A
Piperidine	I
Pival ^R (Pindone) (83-26-1)	AO
Platinum (Metal) (7440-06-4)	A
Platinum (7440-06-04), soluble salts, as Pt	AO
Polychlorobiphenyls (PCBs) (see Chlorodiphenyls)	
Polyethylene glycol, particulate	I
Polypropylene glycol, particulate	I
Polytetrafluoroethylene (TEFLON) decomposition products	A
Potassium bromate	AI
Potassium hydroxide (1310-58-3)	A
Propane (74-98-6)	AO
*Propane sultone (1120-71-4)	A
1-Propanethiol (see Propyl mercaptan)	
Propargyl alcohol-skin (107-19-7)	A
*β-Propiolactone (57-57-8)	AO
Propionic acid (79-09-4)	A
Propoxur (see BAYGON ^R)	
n-Propyl acetate (109-60-4)	AO
n-Propyl alcohol-skin (71-23-8)	AO
n-Propyl mercaptan (107-03-9)	NO
n-Propyl nitrate (627-13-4)	AO
Propylene dichloride (1,2-Dichloro propane) (78-87-5)	AO
Propylene glycol dinitrate (PGDN)-skin (6423-43-4)	A
Propylene glycol monomethyl ether (107-98-2)	A
*Propyleneimine-skin (75-55-8)	AO
Propylene oxide (75-56-9)	AO
Propyne (74-99-7)	AO
Pseudocumene (see 1,2,4-Trimethyl benzene)	
Pyrethrum (8003-34-7)	AO
Pyridine (110-86-1)	AO
Pyrocatechol (Catechol) (120-80-9)	A
Quinone (106-51-4)	AO
RDX (Cyclonite)-skin (121-82-4)	A
Resorcinol (108-46-3)	A
Rhodium (7440-16-6)	AO
Ronnel (299-84-3)	AO
Rosin core solder pyrolysis products, as Formaldehyde	A
Rotenone (Commercial) (83-79-4)	AO
Rubber solvent (Naphtha)	AO
Selenium compounds (7782-49-2), as Se	AO
Selenium hexafluoride (7783-79-1), as Se	AO
Sesone (136-78-7)	A
Sevin (63-25-2)	AO
Silane (see Silicon tetrahydride)	
Silica (SiO ₂) (7631-86-9)	ANO
Silicon tetrahydride (7803-62-5)	A
Silver (7440-22-4), metal & soluble compounds, as Ag	AO
Soapstone, dust	AO
Sodium azide (26628-22-8)	A
Sodium bisulfite (7631-90-5)	A
Sodium 2,4-dichlorophenoxyethyl sulfate (CRAG) (136-78-7)	AO
Sodium fluoroacetate (1080)-skin (62-74-8)	AO

ADOPTED RULES

Sodium hydroxide (1310-73-2)	ANO
Sodium metabisulfite (7681-57-4)	A
Stibine (7803-52-3)	AO
Stoddard solvent (8052-41-3)	ANO
Strychnine (57-24-9)	AO
Styrene, monomer (100-42-5)	AO
Subtilisins (1395-21-7) (Proteolytic enzymes as 100% pure crystalline enzyme)	A
Succinonitrile (110-61-2)	N
Sulfotep-skin (3689-24-5)	A
Sulfur dioxide (7446-09-5)	ANO
Sulfur hexafluoride (2551-62-4)	AO
Sulfuric acid (7664-93-9)	ANO
Sulfur monochloride (10025-67-9)	AO
Sulfur pentafluoride (Dimer) (5714-22-7)	AO
Sulfur tetrafluoride (7783-60-0)	A
Sulfuryl fluoride (2699-79-8)	AO
Systox-skin (8065-48-3)	AO
2,4,5-T (2,4,5-Trichlorophenoxyacetic acid) (93-76-5)	AO
Talc (Nonasbestiform, resp. & fibrous) (14807-96-6)	AO
Tantalum (7440-25-7)	AO
TEDP (Tetraethyldithionopyrophosphate)-skin (13494-80-9)	AO
Teflon decomposition products	A
Tellurium & compounds (13494-80-9), as Te	AO
Tellurium hexafluoride (7783-80-4), as Te	AO
Temephos (3383-96-8)	A
TEPP-skin (107-49-3)	AO
Terphenyls (92-94-4)	A
1,1,1,2-Tetrachloro-2,2-difluoroethane (Fluorocarbon 112a) (76-11-9)	AO
1,1,2,2-Tetrachloro-1,2-difluoroethane (Fluorocarbon 112) (76-12-0)	AO
1,1,2,2-Tetrachloroethane-skin (79-34-5)	ANO
Tetrachloroethylene (see Perchloroethylene)	
Tetrachloromethane (see Carbon tetrachloride)	
Tetrachloronaphthalene-skin (1335-88-2)	AO
Tetraethyl lead, as Pb-skin (78-00-2)	AO
Tetraethylene glycol diacrylate	I
Tetrahydrofuran (109-99-9)	AO
Tetramethyl lead, as Pb-skin (75-74-1)	AO
Tetramethyl succinonitrile-skin (3333-52-6)	ANO
Tetranitromethane (509-14-8)	AO
Tetrasodium pyrophosphate (7722-88-5)	A
Tetryl (2,4,6-Trinitrophenylmethylnitramine)-skin (479-45-8)	AO
Thallium (7440-28-0)	AO
4,4'-Thiobis (6-tert butyl-m-cresol) (96-69-5)	A
Thioglycolic acid (68-11-1)	A
Thiols (N-alkyl mercaptans)	N
Thiram (Tetramethyl thiuram disulfide) (137-26-8)	AO
Tin (Metal) (7440-31-5)	AO
Tin oxide, dust	A
*o-Tolidine (119-93-7)	AN
Toluene (Toluol) (108-88-3)	ANO
Toluene-2,4-diisocyanate (TDI) (584-84-9)	ANO

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ADOPTED RULES

p-Toluenesulfonyl chloride (98-59-9)	I
*o-Toluidine-skin (95-53-4)	ANO
Toxaphene (see Chlorinated camphene)	
Tremolite (see Talc, fibrous)	
Tributyl phosphate (126-73-8)	AO
Trichloroacetic acid (76-03-9)	A
1,2,4-Trichlorobenzene (120-82-1)	A
1,1,1-Trichloroethane (see Methyl chloroform)	
1,1,2-Trichloroethane-skin (79-00-5)	AO
Trichloroethylene (79-01-6)	ANO
Trichlorofluoromethane (Fluorocarbon 11) (75-69-4)	A
Trichloromethane (see Chloroform)	
Trichloronaphthalene (Halowax) (1321-65-9)	AO
Trichloronitromethane (see Chloropicrin)	
1,2,3-Trichloropropane (96-18-4)	AO
1,1,2-Trichloro-1,2,2-trifluoroethane (Fluorocarbon 113) (76-13-1)	AO
Tricyclohexyltin hydroxide (Cyhexatin) (13121-70-5)	A
Triethylamine (121-44-8)	AO
Triethylene glycol diacrylate	I
Trifluorobromomethane (Fluorocarbon 13B1) (75-63-8)	AO
Trifluoromonobromomethane (Fluorocarbon 13B1, see Trifluorobromomethane)	
Trimellitic anhydride (552-30-7)	A
Trimethyl amine (75-50-3)	AI
Trimethyl benzene (25551-13-7)	A
Trimethyl phosphite (121-45-9)	A
Trimethylol propane triacrylate	I
Trimethylol propane trimethacrylate	I
2,4,6-Trinitrophenol (see Picric acid)	
2,4,6-Trinitrophenylmethyl nitramine (see Tetryl)	
2,4,6-Trinitrotoluene (TNT)-skin (118-96-7)	AO
Triorthocresyl phosphate (TOCP) (78-30-8)	AO
Triphenyl amine (603-34-9)	A
Triphenyl phosphate (115-86-6)	AO
Trisodium phosphate (7601-54-9)	I
Tungsten & compounds (7440-33-7), as W	AN
Turpentine (8006-64-2)	AO
Uranium, natural compounds, as U, soluble & insoluble (7440-61-1)	AO
Valeraldehyde (110-62-3)	A
Vanadium, dust & fume (1314-62-1)	ANO
Vinyl acetate (108-05-4)	AN
Vinyl benzene (see Styrene)	
*Vinyl bromide (593-60-2)	A
*Vinyl chloride (75-01-4)	ANO
Vinyl cyanide (see Acrylonitrile)	
*Vinyl cyclohexene dioxide (106-87-6)	A
Vinyl halides	N
Vinylidene chloride (1,1-Dichloroethylene) (75-35-4)	A
Vinyl toluene (25013-15-4)	AO
VM&P naphtha (8030-30-6)	A
Warfarin (81-81-2)	AO
Welding fumes	A
Wood dust	A
certain hardwoods—(as beech & oak)	
softwood	
Xylene (o-m-p-isomers) (1330-20-7)	ANO
m-Xylene α,α' -diamine (MXDA, meta-meta-xylenediamine) (1477-55-0)	A
Xylidene-skin (1300-73-8)	AO

Zinc chloride fume (7646-85-7)	AO
Zinc chromate (13530-65-9), as Cr	A
Zinc oxide fume (1314-13-2)	ANO
Zirconium compounds (7440-67-2), as Zr	AO

8 MCAR § 1.7204 Harmful physical agents.

A. General. The commissioner has determined that the list of harmful physical agents in paragraph C. shall be covered by the provisions of this chapter. The Harmful Physical Agents List includes the majority of physical agents that may be encountered in Minnesota. Where there is a reasonably foreseeable potential for exposure to one or more of these physical agents at a level which may be expected to approximate or exceed the permissible exposure limit or the applicable action level the employer must provide training to employees as required in 8 MCAR § 1.7206.

B. Updating list. The list of harmful physical agents shall be updated by the commissioner at least every two years.

C. Harmful physical agents list.

1. Heat.

2. Noise.

3. Ionizing radiation. Any employer who possesses or uses by-product material, source material, or special nuclear material, as defined in the Atomic Energy Act of 1954 as amended, under a license issued by the Nuclear Regulatory Commission shall be deemed to be in compliance with the harmful physical agent provisions of the Employee Right-to-Know Act of 1983.

4. Non-ionizing radiation.

8 MCAR § 1.7205 Infectious agents (hospitals and clinics).

A. General. The commissioner has determined that the list of infectious agents in paragraph C. of this section shall be covered by the provisions of this chapter. This list includes the majority of known communicable infectious agents which may be encountered in Minnesota. The list does not include all infectious agents nor will the list always be current. Employers must exercise reasonable diligence in evaluating their workplace for the presence of other recognized infectious agents and assure that employees are provided with the rights stated in 8 MCAR §§ 1.7200-1.7209. Training must be provided to employees on only those infectious agents to which employees may be routinely exposed; training need not be provided on all infectious agents on the list.

B. Updating list. The list of infectious agents shall be updated by the commissioner at least every two years.

C. List of infectious agents. The following list of infectious agents is coded to designate a reference document which contains information concerning the particular agent:

"A"—Guidelines for Isolation Precautions in Hospitals. Centers for Disease Control, 1983.

"B"—Diagnostic Microbiology. Bailey and Scott's. Sixth Edition, 1982.

"C"—Control of Communicable Disease in Man. Abram S. Benenson. Editor: American Public Health Association, 1981.

"D"—Biosafety in Microbiological and Biomedical Laboratories. Centers for Disease Control, March 1983 Draft.

"M"—Reportable Disease List. Minnesota Department of Health. Revised 1983.

"O"—Classification of Micro-organisms on the Basis of Hazard. Appendix B-1. Centers for Disease Control and National Institute of Health, 1982.

1. Bacterial Agents:

Bacillus anthracis	ABCDM
Bordetella	ABCM
Brucella	ABCDM
Campylobacter	ABCDM
Chlamydia	C

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ADOPTED RULES

Corynebacterium diptheriae	ABCDM
enteropathogenic Escherichia coli	ACM
Francisella tularensis	BCD
Haemophilus influenzae	ABCM
Klebsiella pneumoniae	ABCM
Legionella	ACD
Leptospira interrogans	ABCDM
Listeria monocytogenes	C
Moraxella	C
Mycobacteria	ABCDM
Mycoplasma pneumoniae	ABC
Neisseria gonorrhoeae, N. meningitidis	ABCDM
Pasteurella (see Yersinia)	ACM
Pseudomonas	ABCD
Salmonella	ABCDM
Shigella	ACDM
Staphylococcus aureus	ABCM
Streptococcus pneumoniae, S. pyogenes, S. group A	ABCM
Treponema	BC
Vibrio cholerae, V. fetus, V. parahaemolyticus	ABCM
Yersinia	ACDM

2. Viral Agents:

Adenoviruses	AC
AIDS agent	
Arboviruses	C
California virus	
Western equine encephalitis virus	
St. Louis encephalitis virus	
Eastern equine encephalitis virus	
Arenaviruses:	ACDM
Lassa Fever virus	
Coronavirus	C
Coxsackie A and B viruses	ABC
Creutzfeldt-Jakob virus	ACD
Dengue virus	CD
Ebola fever virus	AC
Echoviruses	ABC
Hemorrhagic fever agents	C
Hepatitis—types A, B, non-A/non-B, unspecified	ACDM
Herpes Viruses:	ACD
Simplex virus	
Varicella-zoster virus	
Cytomegalovirus	
Herpes virus simiae	
Epstein-Barr virus	
Influenza viruses	AC
Kuru	ACD
Lymphocytic choriomeningitis virus	CD
Marburg virus	AC
Measles virus	ACM
Mumps virus	ACM
Norwalk agent	C
Parainfluenza virus	C
Polioviruses	ABCDM
Poxviruses	CD
Rabies virus	ACDM

Respiratory syncytial virus	AC
Rhinoviruses	C
Rotaviruses	C
Rubella virus	ACM
Variola (Smallpox)	ACM
Yellow fever virus	ACM

3. Fungal Agents:*

Blastomyces dermatitidis	ACD
Coccidioides immitis	ABCD
Histoplasma capsulatum	ABCD
Mucoraceae	C
Paracoccidioides brasiliensis	C
Sporothrix schenckii	ACD

* Laboratory risk only—no risk to patient-care personnel

8 MCAR § 1.7206 Training.

A. General. The following requirements apply to training programs provided to employees concerning hazardous substances, harmful physical agents, and infectious agents.

1. Training shall be made available by, and at the cost of, the employer.
2. Records of training provided under the requirements of this chapter must be maintained by the employer, retained for five years, and made available, upon request, for review by employees and representatives of the Occupational Safety and Health Division.
3. Information and training programs may relate to specific exposure hazards; the common hazards of a broad class of hazardous substances, harmful physical agents, and infectious agents; or to the hazards of a complete production operation, whichever is more effective. Specific information on individual hazardous substances or mixtures, harmful physical agents, and infectious agents must be available in writing for employees' use.
4. Access to a display device shall constitute compliance with the requirement for a written copy of required information which shall be readily accessible in the area or areas in which the hazardous substance, harmful physical agent or infectious agent is used or handled, provided that a hard copy printout is available to the employee requesting it within 24 hours excluding non-workdays.
5. Frequency of training.
 - a. Training must be provided to an employee prior to initial assignment to a workplace where the employee may be routinely exposed to a hazardous substance, harmful physical agent, or infectious agent.
 - b. Additional training must be provided to an employee prior to the time the employee may be routinely exposed to any additional hazardous substances, harmful physical agents, or infectious agents.
 - c. All employees who have been routinely exposed to a hazardous substance, harmful physical agent, or infectious agent prior to January 1, 1984, and who will continue to be routinely exposed to those substances or agents, must be provided with training with respect to those substances and agents by July 1, 1984.
 - d. Training updates must be repeated at intervals of not greater than one year. Training updates may be brief summaries of information included in previous training sessions.
6. The commissioner may, upon request of an employer or an employer's representative, certify an existing training program as complying with this chapter.
7. The employer shall maintain current information for training or information requests by employees.

B. Training program for hazardous substances. Training for employees who may be routinely exposed to hazardous substances shall be provided in a manner which can be reasonably understood by the employees and must include the following:

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1. The name or names of the substance including any generic or chemical name, trade name, and commonly used name;
2. The level, if any and if known, at which exposure to the substance has been restricted according to standards adopted by the commissioner, or, if no standard has been adopted, according to guidelines established by competent professional groups which have conducted research to determine the hazardous properties of potentially hazardous substances;
3. The known acute and chronic effects of exposure at hazardous levels (including routes of entry);
4. The known symptoms of the effects;
5. Any potential for flammability, explosion, or reactivity of the substance;
6. Appropriate emergency treatment;
7. The known proper conditions for use of and exposure to the substance;
8. Procedures for cleanup of leaks and spills;
9. The name, phone number and address of a manufacturer of the hazardous substance; and
10. A written copy of all of the above information which shall be readily accessible in the area or areas in which the hazardous substance is used or handled.

C. Training program for harmful physical agents. The training program for employees who may be routinely exposed to harmful physical agents at a level which may be expected to approximate or exceed the permissible exposure limit or applicable action levels shall be provided in a manner which can be reasonably understood by the employees and shall include the information required by the standard for that physical agent as determined by the commissioner including the following:

1. The name or names of the physical agent including any commonly used synonym;
2. The level, if any and if known, at which exposure to the physical agent has been restricted according to standards adopted by the commissioner, or, if no standard has been adopted, according to guidelines established by competent professional groups which have conducted research to determine the hazardous properties of potentially harmful physical agents;
3. The known acute and chronic effects of exposure at hazardous levels;
4. The known symptoms of the effects;
5. Appropriate emergency treatment;
6. The known proper conditions for use of and/or exposure to the physical agent;
7. The name, phone number and address, if appropriate, of a manufacturer of the harmful physical agent; and
8. A written copy of all of the above information which shall be readily accessible in the area or areas in which the harmful physical agent is present and where the employees may be exposed to the agent through use, handling or otherwise.

D. Training program for infectious agents. Training for employees who are routinely exposed to infectious agents shall be provided in a manner which can be reasonably understood by the employees and must include the following:

1. Chain of infection, or infectious disease process, including:
 - a. Agents.
 - b. Reservoirs.
 - c. Modes of escape from reservoir.
 - d. Modes of transmission.
 - e. Modes of entry into host.
 - f. Host susceptibility.
2. Proper techniques for the employee to avoid self-contamination consistent with good patient care. Specific agents may be grouped to facilitate training;
3. Hazards to special at-risk employee groups as information is available;
4. Recommended immunization practices; and
5. How to gain access to further information and reference materials that must be made available in the workplace including the location, contents, and availability of pertinent materials that explain symptoms and effects of each infectious agent.

8 MCAR § 1.7207 Availability of information.**A. Data sheets.**

1. A written document containing the information required in the training programs described in 8 MCAR § 1.7206 B and C shall be available for each hazardous substance or harmful physical agent to which employees who are not technically qualified individuals are routinely exposed.

2. A material safety data sheet may be prepared on an entire product mixture if hazard test information exists on the mixture itself or adequate information exists to form a valid judgment of the hazardous properties of the mixture itself and the manufacturer indicates that the conclusions drawn are from some source other than direct testing on the mixture. Information on the mixture will be as effective in protecting employee health as information on the ingredients, and the hazardous substances in the mixture are identified together with the information on the mixture.

3. All components that are hazardous substances and are present in quantities above one percent (1%) by weight in a mixture must be listed on the material safety data sheet or equivalent data sheet. Whenever valid evidence indicates that a substance or components of a mixture are hazardous at concentrations less than one percent (1%) by weight, these ingredients must be listed and the required hazard information provided on manufacturer's labels and data sheets. Substances and mixtures that are exempt from this requirement are described in section 8 MCAR 1.7203B.

4. Impurities known to be present and in quantities below one percent (1%) by weight are exempt from the listing requirements on labels and data sheets unless known to the manufacturer to contribute substantially to the hazard of the mixture.

5. Provision of a properly completed federal OSHA Form 20, "Material Safety Data Sheet," shall be prima facie proof of compliance with the information requirements of a data sheet or the requirements under Minnesota Statutes section 182.653, subdivisions 4b, 4c, and 4e.

6. Any person subject to the provisions of this chapter shall be released from the obligation to provide a specific employer who purchases a hazardous substance with a material safety data sheet if that person has previously provided the specific purchaser with the most recent version of the material safety data sheet.

7. In a research laboratory, a material safety data sheet must be available for each hazardous substance used to produce a new mixture until the manufacturer is able to determine the data sheet information for the new mixture.

B. Alternative data sheet. In lieu of a written document as required by this section, access to a display device shall constitute compliance if the information is readily accessible in the area or areas in which the hazardous substance is used or handled and a printout of the information is available to the employee requesting it within 24 hours, excluding non-workdays.

8 MCAR § 1.7208 Criteria for technically qualified individuals.

A. Hazardous substances. In a research, medical research, medical diagnostic or medical educational laboratory, health care facility, clinic associated with a laboratory or health care facility, or in a pharmacy registered and licensed under Minnesota Statutes chapter 151, it shall be the responsibility of the employer to determine which employees are to be classified as technically qualified individuals. The minimum criteria to be used as guidelines include:

1. A Baccalaureate Degree (or higher) with a major in a technical field from an accredited institution or a technician with at least two years' actual experience working with hazardous substances in a research, medical research, medical diagnostic or medical educational laboratory, health care facility, clinic associated with a laboratory or health care facility, or in a pharmacy registered and licensed under Minnesota Statutes chapter 151; and

2. The ability to understand the meaning of the entries on a data sheet; and

3. Access to reference materials on the hazardous substances handled in the employee's workplace.

B. Harmful physical agents. In a research, medical research, medical diagnostic or medical educational laboratory, health care facility, clinic associated with a laboratory or health care facility, or in a pharmacy registered and licensed under Minnesota Statutes chapter 151, it shall be the responsibility of the employer to determine which employees are to be classified as technically qualified individuals. The minimum criteria to be used as guidelines include:

1. A Baccalaureate Degree (or higher) with a major in a technical field from an accredited institution or a technician with

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ADOPTED RULES

at least two years' actual experience working with harmful physical agents in a research, medical research, medical diagnostic or medical educational laboratory, health care facility, clinic associated with a laboratory or health care facility, or in a pharmacy registered and licensed under Minnesota Statutes chapter 151; and

2. The ability to understand the meaning of the entries on a data sheet; and

3. Access to reference materials on the harmful physical agents pertinent to the employee's workplace.

C. Infectious agents. To qualify as a technically qualified individual with respect to infectious agents in a hospital or clinic, an employee shall meet the following criteria:

1. Possession of a mandatory Minnesota State License as Chiropractor, Dentist, Optometrist, Osteopath, Pharmacist, Physician, Podiatrist, Veterinarian, or Registered Nurse (Licensed Practical Nurses are excluded); or possession of a Baccalaureate Degree (or higher) from an accredited institution in a medical or allied health profession; and

2. With the exception of Dentists, Osteopaths and Physicians, at least one year of actual work experience after January 1, 1984 in a hospital or clinic; and

3. Access to reference texts or resource materials on the communicable infectious agents to which the employee may be routinely exposed in the workplace.

D. Registration of qualifications. Employees in a research, medical research, medical diagnostic or medical educational laboratory, health care facility, clinic associated with a laboratory or health care facility, or in a pharmacy registered and licensed under Minnesota Statutes chapter 151, who believe they have qualifications (experience, education and specific training with respect to hazardous substances, harmful physical agents or infectious agents) equivalent to those described in Paragraphs A.1., B.1., or C.1. may register those qualifications with the commissioner and request technically qualified individual status. If granted, the registration shall be permanent. If denied, the commissioner shall indicate the reason for denial in writing. An employee may reapply after six months.

8 MCAR § 1.7209 Labeling.

A. Hazardous substances.

1. Original shipping containers. Original shipping containers containing a hazardous substance shall be labeled. The label shall provide substantially the same precautionary information as required under the training and information requirements in Minnesota Statutes section 182.653, subdivisions 4b, 4c, and 4e; that is, to list the generic names of the components which contribute substantially to the hazards of the substance or mixture and provide precautionary data sheet information on those components. A label may be a coded reference to an appropriate and accessible data sheet containing information required under Minnesota Statutes section 182.653, subdivisions 4b, 4c and 4e. When appropriate, a current data sheet may be affixed to or posted in accessible close proximity to a container containing a hazardous substance or a harmful physical agent in satisfaction of these labeling requirements.

2. Labeling in compliance with the Federal Insecticide, Fungicide and Rodenticide Act or the Federal Hazardous Substances Act shall meet the requirements of the Employee Right-to-Know Act of 1983.

3. Drugs used in a health care facility, and labeled in accordance with the requirements of the Federal Food and Drug Administration, shall be deemed to be in compliance with the Employee Right-to-Know Act of 1983.

4. These container labeling requirements do not apply to pipelines in refineries or inter-state or intra-state pipelines whose employees have been trained in accordance with the Employee Right-to-Know Act of 1983.

5. Hazardous substances transported in bulk shall be labeled in accordance with applicable labeling requirements of the American National Standards Institute (ANSI) or the Federal Department of Transportation Standard for Transportation of Hazardous Substances (49 CFR Part 172, Subparts D, E and F).

6. Process containers. Process containers shall be either labeled or coded with the names of the hazardous substances they contain. Immediate-use containers need not be labeled.

B. Harmful physical agents.

1. Label content. Equipment or a work area that specifically generates harmful physical agents at a level which may be expected to approximate or exceed the permissible exposure limit or applicable action level shall be labeled. The label shall include:

a. The name or names of the physical agent including any commonly used synonym;

b. The level, if any and if known, at which exposure to the physical agent has been restricted according to standards adopted by the commissioner, or, if no standard has been adopted, according to guidelines established by competent professional groups which have conducted research to determine the hazardous properties of potentially harmful physical agents;

- c. The known acute and chronic effects of exposure at hazardous levels;
- d. The known symptoms of the effects;
- e. Appropriate emergency treatment;
- f. The known proper conditions for use of and/or exposure to the physical agent; and
- g. The name, phone number and address, if appropriate, of a manufacturer of the harmful physical agent.

C. Certification of existing program. The commissioner may, upon the request of an employer or manufacturer, certify an existing labeling program as complying with the Employee Right-to-Know Act of 1983.

Steve Keefe
Commissioner of Labor and Industry

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OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

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

Department of Commerce

Outside Opinion Sought Regarding Proposed Amendments to Rules Relating to Group Insurance Coverage Replacement Including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate amendments to rules governing group insurance coverage replacement. Promulgation of these amendments is authorized by Minnesota Statutes, section 60A.082.

Outside opinion is also being solicited as to how these amendments to rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these amendments. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Judith Hale, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-3976.

All statements of information and comment shall be accepted until April 4, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the amendments to rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Outside Opinion Sought Regarding Proposed Rules Relating to Workers' Compensation Self-Insurance Including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing workers' compensation self-insurance. Promulgation of these rules is authorized by Minnesota Statutes, section 176.181, subd. 2.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: John Klein, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-3238.

All statements of information and comment shall be accepted until April 4, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Education Operations Division

Public Meeting Notice, Special Education Advisory Council

The meeting of the Minnesota Special Education Advisory Council scheduled for March 8 & 9 has been cancelled. The next SEAC meeting is scheduled for April 23 & 24 at 9:00 a.m. at the Sheraton-Midway Hotel in St. Paul. Agenda topics include: Review of Program Guidelines for Hearing Impaired, Visually Handicapped, and Physically and Other Health Impaired; Child Count Data; Update on Effectiveness/Evaluation Grants; Transition to Work Project and the Comprehensive System of Personnel Development (CSPD).

For additional information contact Barbara S. Burke, Special Education Section, at (612) 296-8588.

Department of Finance

Notice of Maximum Interest Rate for Municipal Obligations

Pursuant to Laws of Minnesota 1982, Chapter 523, Commissioner of Finance, Gordon M. Donhowe, announced today that the maximum interest rate for municipal obligations in the month of March will be eleven (11) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to twelve (12) percent per annum.

For further information contact:

Peter Sausen, Director
Debt Management
State of Minnesota
Department of Finance
(612) 296-8372

Department of Health Emergency Medical Services Section

Emergency Medical Services Licensure Application

As of March 5, 1984, a complete application for a scheduled advanced life support transportation service was submitted by Health Resource Assistance Corporation, dba Midwest Olsen Med-Kab, Inc., to operate a scheduled service from a base of operation at 2900 Pleasant Ave. S., Minneapolis, Minnesota.

This notice is given pursuant to Minnesota Statutes 1979, Section 144.802, which requires in part that the Commissioner of Health shall publish the notice in the *State Register* at the applicant's expense; and in a newspaper in the municipality in which the service will be provided.

Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the Metropolitan Health Board, 300 Metro Square Building, 7th and Robert, St. Paul, MN 55101, Attn: Tom Chapel, 612/291-6357. The comments must reach the Health Board before April 5, 1984, or be submitted at the public hearing.

After a public hearing has been held, the Health Board shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Health Board shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the recommendation to the Commissioner of Health, the Commissioner shall grant or deny the license to this applicant.

Department of Health Health Systems Division

Outside Opinions Sought Concerning a Request for a Waiver of HMO Statutes and Rules by Senior Health Plan

Notice is hereby given that the Department of Health is seeking opinions and comments pertaining to a request by Senior Health Plan for waiver of HMO statutes and rules regarding coverage of outpatient prescription drugs. Such waivers are authorized for demonstrative projects by Minn. Stat. § 62D.30.

The request submitted by Senior Health Plan is available for inspection during normal business hours at the following location:

HMO Unit
Room 216
Minnesota Department of Health
Minneapolis, Minnesota 55440

Comments on the application must be received at the HMO Unit by March 15, 1984.

OFFICIAL NOTICES

Pollution Control Agency Hazardous Waste Permit Program

Notice of Solicitation for Public Notice Mailing List

The Minnesota Pollution Control Agency (MPCA) receives permit applications for hazardous waste storage and treatment facilities in Minnesota. Federal hazardous waste regulations and proposed MPCA hazardous waste rules require the MPCA to provide public notice of the MPCA's intent to issue or deny a facility permit.

Public notices of proposed permit actions will be published in at least one newspaper and broadcast over a radio station in the geographical area of the facility. In addition, the MPCA is soliciting environmental groups, industry and other representatives, community clubs, other organizations and individuals who wish to be included on a public notice mailing list to receive notice of proposed permit actions.

Individuals or organization representatives wishing to be placed on the list must notify the MPCA in writing, specifying the county(ies) in the state and the types and/or name(s) of facilities (treatment, disposal and/or storage) of interest or concern. Requests should be addressed to:

Diane Moore
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: 612/296-7332

Department of Public Welfare Support Services

Outside Opinion Sought Concerning Proposed Permanent Rules Governing the Determination of Welfare Payment Rates for Residential Facilities for the Mentally Retarded Participating in the Medical Assistance Program

Notice is hereby given that the Minnesota Department of Public Welfare plans to promulgate permanent rules 12 MCAR §§ 2.05331-2.05315 governing the determination of welfare payment rates for intermediate care facilities for the mentally retarded (ICF/MR) participating in the Medical Assistance program. These rules will replace temporary rules 12 MCAR §§ 2.05301-2.05315.

Authority for these rules is contained in Minnesota Statutes, section 256.B.04.

All interested or affected persons or groups are required to participate.

Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Management Support and Planning Section
Department of Public Welfare
4th Floor, Centennial Building
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at 612/297-3583.

Any written material received by the Department shall become part of the rule record submitted to the Attorney General for review.

Comments will be accepted until further notice.

Department of Public Welfare Support Services Bureau

Outside Opinion Sought Concerning Proposed Permanent Rules Governing the Determination of Welfare Per Diem Rates for Nursing Homes Under the Title XIX Program

Notice is hereby given that the Minnesota Department of Public Welfare is considering permanent rules 12 MCAR §§ 2.05001-2.05016, the determination of welfare per diem rates for nursing homes under the Title XIX Program. The determination will be based upon costs reported to the department in accordance with the requirements of Minnesota Statutes, sections 256B.41, 256B.421, 256B.421, 256B.47, 256B.48, 256B.50, and 256B.433.

Authority for this rule is contained in Minnesota Statutes, section 256B.502.

All interested or affected persons or groups are requested to participate.

Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Management Support and Planning Section
Department of Public Welfare
4th Floor, Centennial Building
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at 612/297-3583.

Any written material received by the Department shall become part of the rule record submitted to the Attorney General for review.

Comments will be accepted until further notice.

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is March 27, 1984.

ADVISORY COMMITTEE ON TECHNOLOGY IN EDUCATION has 1 vacancy open immediately for a representative of higher education. Members shall be knowledgeable about the use of technology in elementary and secondary education. The committee encourages school districts to develop and adopt as part of their education policies written technology utilization plans. Members are appointed by the Governor. For specific information contact the Advisory Committee on Technology in Education, c/o Roberta Schneider, 130 Capitol, St. Paul 55155; (612) 296-0057.

DEPARTMENT OF ECONOMIC SECURITY ADVISORY COUNCIL has 2 vacancies open immediately for 1 business member and 1 public member. The council aids the commissioner by formulating policies and discussing problems relating to the administration of the Minnesota employment services law. Members are appointed by the Commissioner of the Department of Economic Security. Monthly meetings are held; members receive \$35 per diem plus expenses. Minorities and women are encouraged to apply. For further information, contact James L. Haynes, 320 Bremer Tower, 7th and Minnesota, St. Paul 55105; (612) 297-2809.

BOARD OF PUBLIC DEFENSE has 2 vacancies open immediately, 1 for an attorney and 1 for a county court judge. The board appoints state and district public defenders. All members shall demonstrate and the council shall work to maintain a high quality legal defense system for those unable to obtain adequate representation. Members are appointed by the Governor. Members are compensated for expenses. For specific information, contact the Board of Public Defense, Office of the State Public Defender, Law School, University of Minnesota, Mpls. 55455; (612) 373-5725.

ADVISORY TASK FORCE FOR MEDICAL SERVICES REVIEW BOARD has 6 to 12 vacancies open for members. The task force shall assist the Workers' Compensation Medical Services Review Board in developing rules and procedures for a medical monitoring system which will monitor both medical fees and clinical outcomes and will assist in examining workers' compensation cases to possibly discover providers whose fees are excessive or whose clinical results are substandard.

OFFICIAL NOTICES

Members must represent a broad cross section of consumers and allied health care professions *not* represented on the Medical Services Review Board. Members are appointed by the Commissioner of Labor and Industry. Meetings are from 5-20 hours per month at the Space Center. For specific information contact Cynthia Thompson, Advisory Task Force for Medical Services Review Board, Dept. of Labor and Industry, Space Center, 444 Lafayette Road, St. Paul 55101; (612) 297-3467.

RIGHT-TO-KNOW FARM PLAN ADVISORY TASK FORCE has 6 vacancies open immediately for 3 members representing agricultural employers and 3 members representing agricultural employees. The task force assists the Commissioner of Labor and Industry in developing a training program for farmers concerning the hazardous substances and harmful physical agents to which their employees are routinely exposed. Members are appointed by the Commissioner of Labor and Industry. For specific information contact Elaine Failor, Dept. of Labor and Industry, Space Center, 444 Lafayette Road, St. Paul 55101; (612) 297-4794.

Department of Transportation Technical Services Division

Appointment and Scheduled Meeting of a State Aid Standards Variance Committee

Notice is hereby given that the Commissioner of Transportation has appointed a State Aid Standards Variance Committee who will conduct a meeting on Friday, March 9, 1984, at 9:30 A.M. in Room 410A, State Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This notice is given pursuant to Minnesota Statute § 471.705.

The purpose of the open meeting is to investigate and determine recommendation(s) for variances from minimum State Aid roadway standards as governed by MCAR § 1.5032 M.4.b., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978), as amended.

The agenda will be limited to these questions:

1. Petition of the County of Cottonwood for a variance from standards for Street Width on CSAH 13 (13th Street) from River Road to Fourth Avenue in Windom.
2. Petition of the County of Clay for a variance from standards for bridge width on CSAH 22 over the Red River of the North approximately 4.0 miles North of Moorhead.

The cities and counties listed above are requested to follow the following time schedule when appearing before the Variance Committee:

12:10 P.M.—Cottonwood County

12:30 P.M.—Clay County

February 27, 1984

Richard P. Braun
Commissioner

Department of Transportation

Petition of the City of St. Paul for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of St. Paul made a written request to the Commissioner of Transportation for a variance from minimum street width standards for a resurfacing project on Lexington Parkway from West Seventh Street to St. Clair Avenue.

The request is for a variance from 14 MCAR § 1.5032, H., 1., c., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit street widths of 40 and 44 feet instead of the required 48 and 72 feet with parking on both sides.

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.

February 29, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of the City of St. Paul for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of St. Paul has made a written request to the Commissioner of Transportation for a variance from minimum street width standards for a resurfacing project on Fairview Avenue from Montreal Avenue to St. Clair Avenue.

The request is for a variance from 14 MCAR § 1.5032, H., 1., c., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit street widths of 40 and 56 feet instead of the required 72 feet with parking on both sides.

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.

February 29, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of the City of St. Paul for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of St. Paul has made a written request to the Commissioner of Transportation for a variance from minimum street width standards for a resurfacing project on Kellogg Boulevard from West Seventh Street to Robert Street.

The request is for a variance from 14 MCAR § 1.5032, H., 1., c., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a street width of 56 feet instead of the required 72 feet with parking on both sides. Also, to permit 98 and 104 feet with a 22-foot median instead of the required 104 feet with a 4-foot median.

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.

February 29, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of the City of St. Paul for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of St. Paul has made a written request to the Commissioner of Transportation for a variance from minimum street width standards for a resurfacing project on Seventh Street from Mendota Street to Johnson Parkway.

The request is for a variance from 14 MCAR § 1.5032, H., 1., c., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit street widths of 40 and 46 feet instead of the required 72 feet with parking on both sides.

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.

February 29, 1984

Richard P. Braun
Commissioner of Transportation

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers at the indicated phone numbers as soon as possible. If the specific buyer is not available, contact Barbara Jolly or Harvey Leach at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Contract #	Item	Ordering Division	Delivery Point	Estimated Dollars	Contact Person
79-500-A	Aggregates—Golden Valley	Transportation	Golden Valley	Contact buyer	Jim Kinzie 296-3778
Contract	Janitorial Service Contract	Transportation	Winona	Contact buyer	Kim Kinzie 296-3778
29-000-	Food Equipment	DNR Itasca State Park	Lake Itasca	Contact buyer	Cy 296-2621
31676-77					
07-500-29251	Microwave Comm. Equip.	Various	Various	Contact buyer	Dale 296-3773
07-500-28116	Purchase of photocopy Machine	Economic Security	State Patrol	Contact buyer	Doug 296-3775
79-700-B	Plant Mix Bituminous	Transportation	Mankato	Contact buyer	Jim Kinzie, 296-3778
29-002-09217	4 Wheel Loader & Crawler Tractor	Various	Various	Contact buyer	Dale, 296-3773
29-003-07179	Used Truck	Natural Resources	Grand Rapids	Contact buyer	Dale, 296-3773
02-443-43412	Steel Shelving	Records Mgmt.	St. Paul	Contact buyer	Maurie, 296-3772
Contract	Cont. Data Processing Forms	Various	Various	830,000.00-850,000.00	Bernadette, 296-2546
27-157-39602	Offset Duplicator	Inver Hills Comm. College	Inver Grove Hgts.	Contact buyer	Bernadette, 296-2546
29-008-32847	Shoes & Boots	Natural Resources	St. Paul	Contact buyer	Alice, 296-2360
79-000-40845	Steel Wheeled Rollers	Transportation	Various	Contact buyer	Dale, 296-3773
79-350-B	Plant Mix Bituminous	Transportation	St. Cloud	Contact buyer	Jim Kinzie, 296-3778
79-500-RM	Ready Mix Concrete	Transportation	Golden Valley	Contact buyer	Jim Kinzie, 296-3778
79-000-41334	Used Truck	Transportation	St. Paul	Contact buyer	Dale, 296-3773
79-900-B	Hot Mix Bituminous	Transportation	N. St. Paul	Contact buyer	Jim Kinzie 296-3778
79-900-02634	Lease of Weather Radio System	Transportation	N. St. Paul	Contact buyer	Don, 296-3777
Contract	Remfg Gasoline Engines	Transportation & Mn State Prison	Various	2,200.00-3,000.00	Harvey, 296-3779
07-500-29250	Antennas	Transportation	Various	Contact buyer	Don, 296-3777
79-000-41354	Radio Alarm & Control System	Transportation	Golden Valley	Contact buyer	Don, 296-3777
79-000-41338	Traffic Counters	Transportation	St. Paul	Contact buyer	Jim Kinzie, 296-3778
79-000-41337	Traffic Recorders	Transportation	St. Paul	Contact buyer	Jim Kinzie, 296-3778
79-900-A	Aggregates—No. St. Paul	Transportation	N. St. Paul	Contact buyer	Jim Kinzie, 296-3778
79-000-41262	Barrister Word Processing System	Transportation	St. Paul	Contact buyer	Bernadette, 296-2546
Sch-92BG	Super Unleaded with 10% Ethanol (Bulk Gasohol—Windom)	Various	Various	Contact buyer	Ed, 296-3770

Contract #	Item	Ordering Division	Delivery Point	Estimated Dollars	Contact Person
775492 27-146-42230	Worthington CC Gen. Catalog 1984-86	Worthington Community College	Worthington	Contact buyer	Art. 296-3742
775585 55000-87514	Household Report Form	Public Welfare	St. Paul	Contact buyer	Art. 296-3742
775609 67-620-09241	IC-437	Revenue	St. Paul	Contact buyer	Art. 296-3742
Contract	Binding Library & Reference books, Periodicals, Newspapers, & Paperback books	State & Comm. Colleges	Same	60,000.00- 80,000.00	Art. 296-3742

Department of Energy and Economic Development

Request for Professional Energy/Economic Development Planning Services

The Minnesota Department of Energy and Economic Development is requesting proposals from qualified individuals or organizations interested in assisting the Department with the development of future programs and policies. The Department of Energy and Economic Development is in the process of establishing programs and policies that will guide its activities during the next five years. In doing so, it must evaluate numerous energy and economic development proposals as to how they will impact the entire state. Proposals that will provide the most benefit for the people of Minnesota and its business community must be fully developed and implemented. The Department's goal is to adopt policies and programs that will direct the Minnesota economy toward one of self-sufficiency—an economy that is no longer dependent upon other states and nations for its energy resources and investment dollars. The Department will actively seek the assistance of Minnesota communities and the Minnesota private sector in attaining this goal of self-sufficiency.

In its effort to evaluate potential policies and programs, the Department is interested in securing the services of an individual or organization knowledgeable in the areas of energy and economic development. The contractor will work directly with the Commissioner of Energy and Economic Development and various departmental directors and program coordinators within the Department. The individual will review various energy and economic development proposals, analyze the potential impact of those programs and recommend and refine those proposals worthy of further consideration by the department. The contractor will also work directly with the staff members of the various community-oriented programs of the Department to determine the most effective means of obtaining the maximum amount of community involvement in the Department's future activities.

Interested individuals must have a minimum of five years experience in the areas of energy planning, economic development or a related field. Such experience must include the development and implementation of an integrated economic development and energy plan on the local, state or national level. Desirable skills include those that can promote the relationship between community-based energy and economic development strategies and the development of a self-reliant Minnesota economy. Individuals and organizations must describe in writing their past experience in this area, including a detailed description of economic development plans or programs in which they participated.

This six-month contract with the Department of Energy and Economic Development will require approximately 40 hours of work per month. The total value of the contract will range from \$12,000 to \$20,000.

Interested individuals must send a letter of interest, a resume and a description of their background in the area of energy/economic development to Marcia Keller, Minnesota Department of Energy and Economic Development, 980 American Center Building, St. Paul, MN 55101. Deadline for submission of proposals is March 23, 1984.

Metropolitan Council

Request for Proposal: Sanitary Landfill Expansion Review

The Metropolitan Council solicits proposals for entering into a contract for evaluation of hydrogeologic conditions of a proposed sanitary landfill expansion. Three copies of the proposal should be submitted to the Metropolitan Council, Suite 300, Seventh and Robert Sts., St. Paul, Minnesota 55101. Attention: Paul Smith.

The Council, by this Request for Proposal, does not promise to accept the lowest, or any other, proposal and specifically reserves the right to reject any or all proposals, to waive any formal proposal requirements, to investigate the qualifications and experience of any proposer, to reject any provision in any proposal, to obtain new proposals, or to proceed to do the work

STATE CONTRACTS

otherwise. All proposals received on or before 4 p.m., March 30, 1984 will be considered by the Council. In the event a proposal is accepted, the Council will notify the successful proposer in writing within 30 days following its consideration of the proposal.

The Metropolitan Council hereby notifies all bidders that businesses owned and controlled by minorities or women will be afforded maximum feasible opportunity to submit bids and/or proposals and will not be subjected to discrimination on the basis of race, color, sex, age, religion, ancestry, handicap, public assistance status, marital status, national origin, or political affiliation.

Copies of the Request for Proposal can be obtained by contacting Mr. Paul Smith at (612) 291-6408.

Minneapolis Community College

Bids Sought for Marketing/Promotion Campaign

Minneapolis Community College is seeking bids for a marketing project starting March 19th, 1984-September 28th, 1984. The project will consist of planning a marketing campaign, preparing both internal and external promotional materials for recruiting activities, also layout and design of a joint schedule between MCC/Vocational Education problems. This project will not exceed \$18,000.00. For further information contact Nick J. Maras, College Relations Office, Minneapolis, Community College, 1501 Hennepin Avenue, Minneapolis, MN 55403, (612) 341-7023. Sealed bids must be received by March 14, 1984.

SUPREME COURT

Decisions of the Court of Appeals Filed Wednesday, February 22, 1984

Compiled by Wayne O. Tschimperle, Clerk

C0-83-1471 Melvin E. Evans, Respondent v. Gordon L. Blesi, Appellant, and Blesi-Evans Co. Hennepin County.

Evidence sustained trial court's findings that partner in closely held corporation breached his fiduciary duty to co-partner by manner in which he obtained co-partner's resignation.

Post-appeal order is null and void because the perfecting of appeal divested the district court of jurisdiction.

Trial court made appropriate findings and a new trial is not required.

The reduction of punitive damages to one-half was an appropriate means of dealing with any prejudicial effect of improper attorney conduct on the proceedings.

Affirmed in part, reversed in part, remanded to set up mechanism for a buyout of corporation. Parker, J.

CX-83-1803 State of Minnesota, Appellant v. Joseph G. Schmieg, Respondent. Carver County.

State, in pretrial appeal pursuant to Minn. R. Crim. P. 28.04 from order suppressing evidence in a criminal case, must demonstrate clearly and unequivocally that the order appealed from will have a critical impact on the outcome of the trial; *held*, state has failed to establish that suppression order will have a critical impact on the outcome of the trial and therefore we do not reach the issue raised by the appeal.

Affirmed. Foley, J.

C1-83-1155 Easy Street West, Relator v. Commissioner of Economic Security, Respondent. Department of Economic Security.

Where a new employer purchased substantially all the physical assets of a bar, but did not acquire, maintain or continue any of the employees, management, clientele or good will of the prior owner, employer's use of the acquired assets in the same line of business at the same location does not result in its inheriting the unfavorable unemployment compensation experience rating of the prior owner.

Reversed. Wozniak, J.

CX-83-1705 Michael Polk, Appellant v. Mutual Service Life Insurance Company, et al., Respondent. Goodhue County.

Where employment contract provides for termination at will by either party, and also termination for cause by the employer, employer may terminate under "at will" provision even if cause is present.

Where Agent's contract provided for termination benefits only if agent signed a non-compete agreement upon leaving company, summary judgment was appropriate where there was no dispute that the agent refused to sign and actively solicited insurance company's policy holders.

Affirmed. Sedgwick, J.

MEMORANDUM OPINION AND ORDER

CX-84-46 Glenn S. Parson, et al., Respondents v. Helen Argue, Appellant. Chisago County.

The order of the trial court denying appellant's motion for amended findings of fact, conclusions of law, judgment or new trial dated December 2, 1983 is non-appealable. This appeal, not being from the judgment itself, is dismissed.

Popovich, Chief J.

Decisions of the Supreme Court Filed Friday, February 24, 1984

Compiled by Wayne O. Tschimperle, Clerk

C4-83-159 In the Matter of the Welfare of M.D.S. State of Minnesota, Respondent, v. M.D.S., Appellant. District Court, Hennepin County.

1. Subjective intent of police officers to detain or not to detain defendant is irrelevant in determining if an arrest occurred. The test is whether a reasonable person would have believed there was no choice but to accompany the police officers.
2. Defendant's return trip to the station was made voluntarily and her second statement was given independently of the original trip to the police station. She voluntarily, knowingly, and intelligently waived her right to silence and her right to an attorney. Therefore, her second statement was clearly admissible at trial under the fourth and fifth amendments.
3. The indication by the police officers that cooperation would be beneficial did not constitute coercion or a promise of immunity.
4. An aider and adviser to a felony murder need not have pulled the trigger. Defendant was present at the offense. She directed her companions to the victim's home and told one of them to shoot at the windows. She also helped conceal the weapon. These activities are not mere inaction but are sufficient evidence of intent to aid and advise in the intentional criminal damage to property which resulted in the victim's death.
5. Statements of defendant were sufficiently corroborated by attendant acts and circumstances to be deemed trustworthy and admissible.

Affirmed. Amdahl, C. J.

C9-83-1145 State of Minnesota, Respondent, v. Stephen Edward Gooler, Appellant. District Court, Anoka County.

Record on sentencing appeal fails to support durational departure.

Affirmed as modified. Amdahl, C. J.

C2-82-1610 State of Minnesota, Respondent, v. Bob Roberts, d.b.a. Bob Roberts Trucking, Petitioner. District Court, Redwood County.

Where all grain shipped by appellant from Revere Elevator to the river terminal was the initial leg of interstate commerce and appellant had an interstate permit, appellant did not violate Minn. Stat. § 221.021 (1980).

Reversed. Peterson, J.

C0-82-536 State of Minnesota, Respondent, v. Isaac Brown, Appellant. District Court, Hennepin County.

1-3. Trial court did not err in admitting into evidence defendant's voluntary statement made to the police on April 7, 1981, and his confession made to the police on August 28, 1981, and in refusing to allow the testimony of defendant's psychiatric expert witness, offered solely for the purpose of determining defendant's specific intent.

4. The first-degree murder for the intentional killing of a peace officer statute, Minn. Stat. § 609.185(4) (1982), does not violate the equal protection clause. U.S.Const.amend.XIV.

Affirmed. Peterson, J.

SUPREME COURT

C5-82-1536 State of Minnesota ex rel. Richard L. Dreyer, Appellant, v. Board of Education of Independent School District No. 542, Battle Lake, Minnesota, Respondent. District Court, Otter Tail County.

1. In the unique circumstances of this case, involving a technical unrequested leave of absence proceeding, where as a practical matter the principal did not leave employment because a full-time teaching position vacancy had occurred, so that the issue was whether the principal should have been offered a combined elementary principal and teacher position, it would have been appropriate for the hearing examiner to take evidence and make findings and conclusions regarding such issue.

2. Appellant's claim for reimbursement of his costs, disbursements, and reasonable attorney fees under Minn. Stat. § 549.21 (1982) is denied.

Reversed and remanded with directions. Peterson, J.

C6-83-356 Cloquet Education Association, Appellant, v. Independent School District No. 84, Cloquet, Minnesota, Respondent. District Court, Carlton County.

The parties' dispute over a specific provision in their master contract relating to hours of service constitutes a grievance subject to mandatory arbitration.

Reversed and remanded. Todd, J.

Concurring Specially: Peterson, J., Simonett, J., and Kelley, J.

C8-83-763 Darlene A. Orman, petitioner, Appellant, v. Timothy John Orman, Respondent. District Court, Hennepin County.

The original Consumer Price Index of the United States Department of Labor is an appropriate means of automatically adjusting support payments in a decree of divorce.

Reversed and remanded. Todd, J.

C5-83-929 Shirley Noland, Appellant, v. Thomas E. Freeman, M.D. and Lakes Medical Center, P.A., Respondents. District Court, Clay County.

Reversed. Todd, J.

C2-83-452 Fred J. Valentine, Appellant, v. Conticommodity SVS, Inc., a Delaware corporation, Jean M. Melgaard and Roy Abbott, Respondents. District Court, Hennepin County.

Under the particular facts of this case, defendant is estopped from asserting the parties' agreement to arbitrate as a bar to judicial action.

Reversed and remanded. Todd, J.

C5-82-1231 State of Minnesota, Respondent, v. Wornice Lloyd, Appellant. District Court, Hennepin County.

1. The evidence was sufficient to support defendant's first-degree murder conviction under Minn. Stat. § 609.185(1).

2. The trial court did not abuse its discretion by ruling that defendant's prior conviction was admissible for impeachment purposes.

3. The trial court did not abuse its discretion by denying defendant's pretrial motion for a continuance.

Affirmed. Scott, J.

C9-83-206 Judith A. McCarthy, now Judith A. Mundt, petitioner, Respondent, v. Robert J. McCarthy, Appellant. District Court, Ramsey County.

The district court's order continuing appellant father's support obligation is affirmed.

Affirmed. Simonett, J.

C0-83-563, C2-83-564 Reinhard J. Schnurrer, Respondent (C0-83-563), Relator (C2-83-564), v. Hoerner-Waldorf and Insurance Company of North America, Relators (C0-83-563), Respondents (C2-83-564), Hoerner-Waldorf and Liberty Mutual Insurance Company, Respondents. Workers' Compensation Court of Appeals.

1. The evidence compels a finding that employee sustained Gillette-type injuries in his employment as a paper baler.

2. A determination of the time by which Gillette-type injuries occurred should be based on all the evidence bearing on the issue.

Reversed and remanded. Kelley, J.

STATE OF MINNESOTA
State Register and Public Documents Division
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FOR LEGISLATIVE NEWS

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Briefly/Preview—Senate news and committee calendar, published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Session Monthly—House committees, committee assignments of individual representatives, news on committee meetings and action. House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN. (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

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