

## CHAPTER 326B

### CONSTRUCTION CODES AND LICENSING

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**326B.01 DEFINITIONS.**

Subdivision 1. **Scope.** The definitions in this section apply to this chapter.

Subd. 2. **ASME.** "ASME" means the American Society of Mechanical Engineers.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of labor and industry or a duly designated representative of the commissioner who is either an employee of the Department of Labor and Industry or a person working under contract with the department.

Subd. 4. **Department.** "Department" means the Department of Labor and Industry.

Subd. 5. **Day.** "Day" means calendar day unless otherwise provided.

Subd. 6. **Individual.** "Individual" means a human being.

Subd. 7. **Person.** "Person" means any individual, limited liability company, corporation, partnership, incorporated or unincorporated association, sole proprietorship, joint stock company, or any other legal or commercial entity.

**History:** 2007 c 140 art 2 s 2

**326B.02 POWERS.**

Subdivision 1. **Transfer of responsibilities.** The responsibilities of the commissioner of administration relating to the State Building Code, sections 16B.59 to 16B.76; construction of low-cost manufactured home park storm shelters, section 327.205; manufactured homes, sections 327.31 to 327.36 and 327B.01 to 327B.12; and statutory warranties in connection with the sale of dwellings and home improvement work, chapter 327A, are transferred under section 15.039 to the commissioner of labor and industry as amended and recodified in this chapter. The responsibilities of the commissioner of health relating to the State Plumbing Code and licensing, sections 16B.61, 144.99 to 144.993, and 326.37 to 326.45, and water conditioning contractors and installers, sections 326.57 to 326.65, are transferred under section 15.039 to the commissioner of labor and industry as amended and recodified in this chapter except for responsibilities transferred to the Plumbing Board as expressly provided in this chapter. The responsibilities of the commissioner of commerce relating to residential contractors, residential remodelers, residential roofers, manufactured home installers, and the contractor's recovery fund under sections 45.027 to 45.23 and 326.83 to 326.992 are transferred under section 15.039 to the commissioner of labor and industry as amended and recodified in this chapter. The responsibilities of the Board of Electricity relating to the State Electrical Code and licensing, sections 16B.61 and 326.241 to 326.248, are transferred under section 15.039 to the commissioner of labor and industry as amended and recodified in this chapter except for responsibilities transferred to the Board of Electricity as expressly provided in this chapter.

Subd. 2. **Transfer of authority.** The commissioner of administration may not use the

authority under section 16B.37 to modify the transfers of authority to the Plumbing Board, the Board of Electricity, or the Board of High Pressure Piping Systems under this chapter.

Subd. 3. **Definition of responsibilities.** For purposes of subdivision 1, responsibilities include powers, duties, rights, obligations, and other authority imposed by law.

Subd. 4. **State fire marshal cooperation.** The state fire marshal shall work with the commissioner to improve the delivery of services to the public through the coordination of services and utilization of technology.

Subd. 5. **General rulemaking authority.** The commissioner may, under the rulemaking provisions of chapter 14 and as otherwise provided by this chapter, adopt, amend, suspend, and repeal rules relating to the commissioner's responsibilities under this chapter, except for rules for which the rulemaking authority is expressly transferred to the Plumbing Board, the Board of Electricity, or the Board of High Pressure Piping Systems.

Subd. 6. **State Fire Code rulemaking authority.** The commissioner of labor and industry, consistent with the recommendations of the state fire marshal, shall adopt a State Fire Code and make amendments thereto in accordance with the Administrative Procedure Act in chapter 14. The code and its amendments shall conform insofar as practicable to model fire codes generally accepted and in use throughout the United States, with consideration given to existing statewide specialty codes presently in use in the state of Minnesota. Statewide specialty codes and model codes with necessary modifications may be adopted by reference in accordance with section 14.07, subdivision 4.

**History:** 1974 c 550 s 1; 1978 c 777 s 1; 1981 c 106 s 1; 1982 c 424 s 114,130; 1984 c 544 s 89; 1984 c 654 art 5 s 58; 1984 c 658 s 3; 1985 c 248 s 70; 1986 c 444; 1Sp1986 c 3 art 4 s 10; 1987 c 201 s 1-3; 1987 c 333 s 22; 1990 c 388 s 1; 1991 c 149 s 3; 1991 c 235 art 3 s 2; 1992 c 513 art 9 s 33; 1992 c 597 s 16; 1993 c 327 s 16; 2002 c 220 art 7 s 13; 2005 c 136 art 9 s 4,14; 2006 c 260 art 3 s 19; 2007 c 140 art 2 s 1,3; art 3 s 6; art 4 s 61; art 7 s 13; art 13 s 4; 2008 c 337 s 4,64

#### **326B.04 DEPOSIT OF MONEY.**

Subdivision 1. **Construction code fund.** There is created in the state treasury a construction code fund as a special revenue fund for the purpose of administering this chapter, sections 327.31 to 327.36, and chapter 327B. All money collected under those sections, except penalties, is credited to the construction code fund unless otherwise specifically designated by law. Any interest or profit accruing from investment of these sums is credited to the construction code fund. All money collected in the construction code fund is appropriated to the commissioner of labor and industry to administer and enforce the provisions of the laws identified in this section.

Unless otherwise provided by law, all penalties assessed under this chapter, section 327.35, and chapter 327B are credited to the assigned risk safety account established by section 79.253.

Subd. 2. **Deposits.** All remaining balances as of June 30, 2007, in the state government special revenue fund and special revenue fund accounts maintained for the Building Codes and Standards Division, Board of Electricity, and plumbing and engineering unit are transferred to the construction code fund. Unless otherwise specifically designated by law: (1) all money collected under sections 144.122, paragraph (f); 181.723; 326B.101 to 326B.194; 326B.197; 326B.32 to 326B.399; 326B.43 to 326B.49; 326B.52 to 326B.59; 326B.802 to 326B.885; 326B.90 to 326B.998; 327.31 to 327.36; and 327B.01 to 327B.12, except penalties, is credited to the construction code fund; (2) all fees collected under section 45.23 in connection with continuing education for residential contractors, residential remodelers, and residential roofers are credited to the construction code fund; and (3) all penalties assessed under the sections set forth in clauses (1) and (2) and all penalties assessed under sections 144.99 to 144.993 in connection with any violation of sections 326B.43 to 326B.49 or 326B.52 to 326B.59 or the rules adopted under those sections are credited to the assigned risk safety account established by section 79.253.

**History:** 2007 c 135 art 3 s 28; 2007 c 140 art 2 s 4; art 4 s 61; art 6 s 15; art 7 s 13; art 8 s 30; art 13 s 4; 2008 c 337 s 64

### **326B.06 BONDS.**

Bonds issued under this chapter are not state bonds or contracts for purposes of sections 8.05 and 16C.05, subdivision 2.

**History:** 2007 c 140 art 2 s 5

### **326B.07 CONSTRUCTION CODES ADVISORY COUNCIL.**

Subdivision 1. **Membership.** (a) The Construction Codes Advisory Council consists of the following members:

- (1) the commissioner or the commissioner's designee representing the department's Construction Codes and Licensing Division;
- (2) the commissioner of public safety or the commissioner of public safety's designee representing the Department of Public Safety's State Fire Marshal Division;
- (3) one member, appointed by the commissioner, engaged in each of the following occupations or industries:
  - (i) certified building officials;
  - (ii) fire chiefs or fire marshals;
  - (iii) licensed architects;
  - (iv) licensed professional engineers;
  - (v) commercial building owners and managers;

- (vi) the licensed residential building industry;
- (vii) the commercial building industry;
- (viii) the heating and ventilation industry;
- (ix) a member of the Plumbing Board;
- (x) a member of the Board of Electricity;
- (xi) a member of the Board of High Pressure Piping Systems;
- (xii) the boiler industry;
- (xiii) the manufactured housing industry;
- (xiv) public utility suppliers;
- (xv) the Minnesota Building and Construction Trades Council; and
- (xvi) local units of government.

(b) The commissioner or the commissioner's designee representing the department's Construction Codes and Licensing Division shall serve as chair of the advisory council. For members who are not state officials or employees, compensation and removal of members of the advisory council are governed by section 15.059. The terms of the members of the advisory council shall be four years. The terms of eight of the appointed members shall be coterminous with the governor and the terms of the remaining nine appointed members shall end on the first Monday in January one year after the terms of the other appointed members expire. An appointed member may be reappointed. Each council member shall appoint an alternate to serve in their absence. The committee is not subject to the expiration provision of section 15.059, subdivision 5.

Subd. 2. **Duties of council.** The council shall review laws, codes, rules, standards, and licensing requirements relating to building construction and may:

- (1) recommend ways to eliminate inconsistencies, to streamline construction regulation and construction procedures, and to improve procedures within and among jurisdictions;
- (2) review and comment on current and proposed laws and rules to promote coordination and consistency;
- (3) advise agencies on possible changes in rules to make them easier to understand and apply; and
- (4) promote the coordination, within each jurisdiction, of the administration and enforcement of construction codes.

The council shall meet a minimum of four times each year. The council shall report its findings and recommendations to the commissioner. The council shall recommend changes in laws or rules governing building construction. The council shall establish subcommittees to

facilitate its work. If the council establishes subcommittees, it shall include in their memberships representation from entities and organizations expressing an interest in membership. The commissioner shall maintain a list of interested entities and organizations.

Subd. 3. **Agency cooperation.** State agencies and local governmental units shall cooperate with the council and, so far as possible, provide information or assistance to it upon its request. The commissioner shall provide necessary staff and administrative support to the council.

**History:** 2007 c 140 art 4 s 27,61; art 13 s 4; 2008 c 337 s 64

### **326B.075 COMMISSIONER NOT SUBJECT TO SUBPOENA.**

The commissioner shall not be subject to subpoena for purposes of providing expert testimony, except in an enforcement proceeding brought by the commissioner.

**History:** 2007 c 140 art 2 s 6

## **ENFORCEMENT**

### **326B.081 DEFINITIONS.**

Subdivision 1. **Application.** For purposes of sections 326B.081 to 326B.085, the terms defined in this section have the meanings given them.

Subd. 2. **Administrative order.** "Administrative order" means an order issued under section 326B.082, subdivision 7.

Subd. 3. **Applicable law.** "Applicable law" means the provisions of sections 327.31 to 327.36 and this chapter, and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted, issued, or enforced by the department under sections 327.31 to 327.36 or this chapter.

Subd. 4. **Document or documents.** "Document" or "documents" includes papers; books; records; memoranda; data; contracts; drawings; graphs; charts; photographs; digital, video, and audio recordings; records; accounts; files; statements; letters; e-mails; invoices; bills; notes; and calendars maintained in any form or manner.

Subd. 5. **Final.** "Final" when used to describe any order issued under section 326B.082 means that:

(1) no request for hearing in connection with the order was filed in the manner and within the time provided by section 326B.082;

(2) all requests for hearing have been withdrawn;

(3) an agreement that resolves the order has been signed by all the parties; or

(4) after the filing of a request for hearing, an order has been issued by the commissioner, the Court of Appeals, or the Supreme Court, and all appeals have been pursued or forgone.

Subd. 6. **Licensing order.** "Licensing order" means an order issued under section 326B.082, subdivision 12, paragraph (a).

Subd. 7. **Minimum qualifications.** "Minimum qualifications" means the educational, experience, fee, examination, application, and other eligibility requirements that an applicant must meet in order to obtain a license, registration, certificate, or permit under the applicable law. For an applicant that is not an individual, the minimum qualifications include the requirement that an employee or other individual associated with the applicant hold a license.

Subd. 8. **Stop order.** "Stop order" means an order issued under section 326B.082, subdivision 10.

**History:** 2007 c 140 art 3 s 1

### **326B.082 ENFORCEMENT.**

Subdivision 1. **Remedies available.** The commissioner may enforce all applicable law under this section. The commissioner may use any enforcement provision in this section, including the assessment of monetary penalties, against a person required to have a license, registration, certificate, or permit under the applicable law based on conduct that would provide grounds for action against a licensee, registrant, certificate holder, or permit holder under the applicable law. The use of an enforcement provision in this section shall not preclude the use of any other enforcement provision in this section or otherwise provided by law.

Subd. 2. **Access to information and property; subpoenas.** (a) In order to carry out the purposes of the applicable law, the commissioner may:

(1) administer oaths and affirmations, certify official acts, interview, question, take oral or written statements, and take depositions;

(2) request, examine, take possession of, test, sample, measure, photograph, record, and copy any documents, apparatus, devices, equipment, or materials;

(3) at a time and place indicated by the commissioner, request persons to appear before the commissioner to give testimony and produce documents, apparatus, devices, equipment, or materials;

(4) issue subpoenas to compel persons to appear before the commissioner to give testimony and produce documents, apparatus, devices, equipment, or materials; and

(5) with or without notice, enter without delay upon any property, public or private, for the purpose of taking any action authorized under this subdivision or the applicable law, including obtaining information, remedying violations, or conducting surveys, inspections, or investigations.



(b) Persons requested by the commissioner to give testimony or produce documents, apparatus, devices, equipment, or materials shall respond within the time and in the manner specified by the commissioner. If no time to respond is specified in the request, then a response shall be submitted within 30 days of the commissioner's service of the request.

(c) Upon the refusal or anticipated refusal of a property owner, lessee, property owner's representative, or lessee's representative to permit the commissioner's entry onto property as provided in paragraph (a), the commissioner may apply for an administrative inspection order in the Ramsey County District Court or, at the commissioner's discretion, in the district court in the county in which the property is located. The commissioner may anticipate that a property owner or lessee will refuse entry if the property owner, lessee, property owner's representative, or lessee's representative has refused to permit entry on a prior occasion or has informed the commissioner that entry will be refused. Upon showing of administrative probable cause by the commissioner, the district court shall issue an administrative inspection order that compels the property owner or lessee to permit the commissioner to enter the property for the purposes specified in paragraph (a).

(d) Upon the application of the commissioner, a district court shall treat the failure of any person to obey a subpoena lawfully issued by the commissioner under this subdivision as a contempt of court.

Subd. 3. **Service.** Unless otherwise specified, service of a document on a person under this section or section 326B.083 may be by mail, by personal service, or in accordance with any consent to service filed with the commissioner. Service by mail shall be accomplished in the manner provided in Minnesota Rules, part 1400.5550, subpart 2. Personal service shall be accomplished in the manner provided in Minnesota Rules, part 1400.5550, subpart 3.

Subd. 4. **Fax transmission.** When this section or section 326B.083 permits a request for reconsideration or request for hearing to be served by fax on the commissioner, the fax shall not exceed 15 pages in length. The request shall be considered timely served if the fax is received by the commissioner, at the fax number identified by the commissioner in the order or notice of violation, no later than 4:30 p.m. central time on the last day permitted for faxing the request. Where the quality or authenticity of the faxed request is at issue, the commissioner may require the original request to be filed. Where the commissioner has not identified quality or authenticity of the faxed request as an issue and the request has been faxed in accordance with this subdivision, the person faxing the request does not need to file the original request with the commissioner.

Subd. 5. **Time computation.** In computing any period of time prescribed or allowed by this section, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the next day which is not a Saturday, Sunday, or legal holiday.

Subd. 6. **Notices of violation.** (a) The commissioner may issue a notice of violation to any person who the commissioner determines has committed a violation of the applicable law. The notice of violation must state a summary of the facts that constitute the violation and the applicable law violated. The notice of violation may require the person to correct the violation. If correction is required, the notice of violation must state the deadline by which the violation must be corrected.

(b) The commissioner shall issue the notice of violation by:

(1) serving the notice of violation on the property owner or on the person who committed the violation; or

(2) posting the notice of violation at the location where the violation occurred.

(c) If the person to whom the commissioner has issued the notice of violation believes the notice was issued in error, then the person may request reconsideration of the parts of the notice that the person believes are in error. The request for reconsideration must be in writing and must be served on or faxed to the commissioner at the address or fax number specified in the notice of violation by the tenth day after the commissioner issued the notice of violation. The date on which a request for reconsideration is served by mail shall be the postmark date on the envelope in which the request for reconsideration is mailed. If the person does not serve or fax a written request for reconsideration or if the person's written request for reconsideration is not served on or faxed to the commissioner by the tenth day after the commissioner issued the notice of violation, the notice of violation shall become a final order of the commissioner and will not be subject to review by any court or agency. The request for reconsideration must:

(1) specify which parts of the notice of violation the person believes are in error;

(2) explain why the person believes the parts are in error; and

(3) provide documentation to support the request for reconsideration.

The commissioner shall respond in writing to requests for reconsideration made under this paragraph within 15 days after receiving the request. A request for reconsideration does not stay a requirement to correct a violation as set forth in the notice of violation. After reviewing the request for reconsideration, the commissioner may affirm, modify, or rescind the notice of violation. The commissioner's response to a request for reconsideration is final and shall not be reviewed by any court or agency.

Subd. 7. **Administrative orders; correction; assessment of monetary penalties.** (a) The commissioner may issue an administrative order to any person who the commissioner determines has committed a violation of the applicable law. The commissioner shall issue the administrative order by serving the administrative order on the person. The administrative order may require the person to correct the violation, may require the person to cease and desist from committing the violation, and may assess monetary penalties. The commissioner shall follow the procedures in

section 326B.083 when issuing administrative orders. Except as provided in paragraph (b), the commissioner may issue to each person a monetary penalty of up to \$10,000 for each violation of applicable law committed by the person. The commissioner may order that part or all of the monetary penalty will be forgiven if the person to whom the order is issued demonstrates to the commissioner by the 31st day after the order is issued that the person has corrected the violation or has developed a correction plan acceptable to the commissioner.

(b) The commissioner may issue an administrative order for failure to correct a violation by the deadline stated in a final administrative order issued under paragraph (a). Each day after the deadline during which the violation remains uncorrected is a separate violation for purposes of calculating the maximum monetary penalty amount.

(c) Upon the application of the commissioner, a district court shall find the failure of any person to correct a violation as required by a final administrative order issued by the commissioner under this subdivision as a contempt of court.

Subd. 8. **Hearings related to administrative orders.** (a) Within 30 days after the commissioner issues an administrative order or within 20 days after the commissioner issues the notice under section 326B.083, subdivision 3, paragraph (b), clause (3), the person to whom the administrative order or notice is issued may request an expedited hearing to review the commissioner's order or notice. The request for hearing must be in writing and must be served on or faxed to the commissioner at the address or fax number specified in the order or notice. If the person does not request a hearing or if the person's written request for hearing is not served on or faxed to the commissioner by the 30th day after the commissioner issues the administrative order or the 20th day after the commissioner issues the notice under section 326B.083, subdivision 3, paragraph (b), clause (3), the order will become a final order of the commissioner and will not be subject to review by any court or agency. The date on which a request for hearing is served by mail shall be the postmark date on the envelope in which the request for hearing is mailed. The hearing request must specifically state the reasons for seeking review of the order or notice. The person to whom the order or notice is issued and the commissioner are the parties to the expedited hearing. The commissioner must notify the person to whom the order or notice is issued of the time and place of the hearing at least 15 days before the hearing. The expedited hearing must be held within 45 days after a request for hearing has been received by the commissioner unless the parties agree to a later date.

(b) Parties may submit written arguments if permitted by the administrative law judge. All written arguments must be submitted within ten days following the completion of the hearing or the receipt of any late-filed exhibits that the parties and the administrative law judge have agreed should be received into the record, whichever is later. The hearing shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this subdivision. The Office of

Administrative Hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making findings of fact, conclusions of law, and a recommended order to the commissioner within 30 days following the completion of the hearing, the receipt of late-filed exhibits, or the submission of written arguments, whichever is later.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner may add to the amount of the penalty the costs charged to the department by the Office of Administrative Hearings for the hearing.

(e) If a hearing has been held, the commissioner shall not issue a final order until at least five days after the date of the administrative law judge's report. Any person aggrieved by the administrative law judge's report may, within those five days, serve written comments to the commissioner on the report and the commissioner shall consider and enter the comments in the record. The commissioner's final order shall comply with sections 14.61, subdivision 2, and 14.62, subdivisions 1 and 2a, and may be appealed in the manner provided in sections 14.63 to 14.69.

Subd. 9. **Injunctive relief.** In addition to any other remedy provided by law, the commissioner may bring an action for injunctive relief in the Ramsey County District Court or, at the commissioner's discretion, in the district court in the county in which the commissioner has determined a violation of the applicable law has occurred or is about to occur to enjoin the violation. A temporary restraining order and other injunctive relief shall be granted by the district court if the court determines that a person has engaged in or is about to engage in an act, conduct, or practice constituting a violation of the applicable law. The commissioner shall not be required to show irreparable harm.

Subd. 10. **Stop orders.** (a) If the commissioner determines based on an inspection or investigation that a person has violated or is about to violate the applicable law, the commissioner may issue to the person a stop order requiring the person to cease and desist from committing the violation.

(b) If the commissioner determines that a condition exists on real property that violates the applicable law, the commissioner may issue a stop order to the owner or lessee of the real property to cease and desist from committing the violation and to correct the condition that is in violation.

(c) The commissioner shall issue the stop work order by:

- (1) serving the order on the person who has committed or is about to commit the violation;
- (2) posting the order at the location where the violation was committed or is about to be committed or at the location where the violating condition exists; or

(3) serving the order on any owner or lessee of the real property where the violating condition exists.

(d) A stop order shall:

(1) describe the act, conduct, or practice committed or about to be committed, or the condition, and include a reference to the applicable law that the act, conduct, practice, or condition violates or would violate; and

(2) provide notice that any person aggrieved by the stop order may request a hearing as provided in paragraph (e).

(e) Within 30 days after the commissioner issues a stop order, any person aggrieved by the order may request an expedited hearing to review the commissioner's action. The request for hearing must be made in writing and must be served on or faxed to the commissioner at the address or fax number specified in the order. If the person does not request a hearing or if the person's written request for hearing is not served on or faxed to the commissioner on or before the 30th day after the commissioner issued the stop order, the order will become a final order of the commissioner and will not be subject to review by any court or agency. The date on which a request for hearing is served by mail is the postmark date on the envelope in which the request for hearing is mailed. The hearing request must specifically state the reasons for seeking review of the order. The person who requested the hearing and the commissioner are the parties to the expedited hearing. The hearing shall be commenced within ten days after the commissioner receives the request for hearing. The hearing shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this subdivision. The administrative law judge shall issue a report containing findings of fact, conclusions of law, and a recommended order within ten days after the completion of the hearing, the receipt of late-filed exhibits, or the submission of written arguments, whichever is later. Any party aggrieved by the administrative law judge's report shall have five days after the date of the administrative law judge's report to submit written exceptions and argument to the commissioner that the commissioner shall consider and enter in the record. Within 15 days after receiving the administrative law judge's report, the commissioner shall issue an order vacating, modifying, or making permanent the stop order. The commissioner and the person requesting the hearing may by agreement lengthen any time periods described in this paragraph. The Office of Administrative Hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this subdivision.

(f) A stop order issued under this subdivision shall be in effect until it is modified or vacated by the commissioner or an appellate court. The administrative hearing provided by this subdivision and any appellate judicial review as provided in chapter 14 shall constitute the exclusive remedy for any person aggrieved by a stop order.

(g) Upon the application of the commissioner, a district court shall find the failure of any person to comply with a final stop order lawfully issued by the commissioner under this subdivision as a contempt of court.

Subd. 11. **Licensing orders; grounds; reapplication.** (a) The commissioner may deny an application for a permit, license, registration, or certificate if the applicant does not meet or fails to maintain the minimum qualifications for holding the permit, license, registration, or certificate, or has any unresolved violations or unpaid fees or monetary penalties related to the activity for which the permit, license, registration, or certificate has been applied for or was issued.

(b) The commissioner may deny, suspend, limit, place conditions on, or revoke a person's permit, license, registration, or certificate, or censure the person holding the permit, license, registration, or certificate, if the commissioner finds that the person:

(1) committed one or more violations of the applicable law;

(2) submitted false or misleading information to the state in connection with activities for which the permit, license, registration, or certificate was issued, or in connection with the application for the permit, license, registration, or certificate;

(3) allowed the alteration or use of the person's own permit, license, registration, or certificate by another person;

(4) within the previous five years, was convicted of a crime in connection with activities for which the permit, license, registration, or certificate was issued;

(5) violated a final administrative order issued under subdivision 7 or a final stop order issued under subdivision 10, or injunctive relief issued under subdivision 9;

(6) failed to cooperate with a commissioner's request to give testimony, to produce documents, things, apparatus, devices, equipment, or materials, or to access property under subdivision 2;

(7) retaliated in any manner against any employee or person who is questioned by, cooperates with, or provides information to the commissioner or an employee or agent authorized by the commissioner who seeks access to property or things under subdivision 2;

(8) engaged in any fraudulent, deceptive, or dishonest act or practice; or

(9) performed work in connection with the permit, license, registration, or certificate or conducted the person's affairs in a manner that demonstrates incompetence, untrustworthiness, or financial irresponsibility.

(c) If the commissioner revokes or denies a person's permit, license, registration, or certificate under paragraph (b), the person is prohibited from reapplying for the same type of permit, license, registration, or certificate for at least two years after the effective date of the

revocation or denial. The commissioner may, as a condition of reapplication, require the person to obtain a bond or comply with additional reasonable conditions the commissioner considers necessary to protect the public.

(d) If a permit, license, registration, or certificate expires, or is surrendered, withdrawn, or terminated, or otherwise becomes ineffective, the commissioner may institute a proceeding under this subdivision within two years after the permit, license, registration, or certificate was last effective and enter a revocation or suspension order as of the last date on which the permit, license, registration, or certificate was in effect.

**Subd. 12. Issuance of licensing orders; hearings related to licensing orders.** (a) If the commissioner determines that a permit, license, registration, or certificate should be conditioned, limited, suspended, revoked, or denied under subdivision 11, or that the permit holder, licensee, registrant, or certificate holder should be censured under subdivision 11, then the commissioner shall issue to the person an order denying, conditioning, limiting, suspending, or revoking the person's permit, license, registration, or certificate, or censuring the permit holder, licensee, registrant, or certificate holder.

(b) Any order issued under paragraph (a) may include an assessment of monetary penalties and may require the person to cease and desist from committing the violation or committing the act, conduct, or practice set out in subdivision 11, paragraph (b). The monetary penalty may be up to \$10,000 for each violation or act, conduct, or practice committed by the person. The procedures in section 326B.083 must be followed when issuing orders under paragraph (a).

(c) The permit holder, licensee, registrant, certificate holder, or applicant to whom the commissioner issues an order under paragraph (a) shall have 30 days after service of the order to request a hearing. The request for hearing must be in writing and must be served on or faxed to the commissioner at the address or fax number specified in the order by the 30th day after service of the order. If the person does not request a hearing or if the person's written request for hearing is not served on or faxed to the commissioner by the 30th day after service of the order, the order shall become a final order of the commissioner and will not be subject to review by any court or agency. The date on which a request for hearing is served by mail shall be the postmark date on the envelope in which the request for hearing is mailed. If the person submits to the commissioner a timely request for hearing, the order is stayed unless the commissioner summarily suspends the license, registration, certificate, or permit under subdivision 13, and a contested case hearing shall be held in accordance with chapter 14.

**Subd. 13. Summary suspension.** In any case where the commissioner has issued an order to revoke, suspend, or deny a license, registration, certificate, or permit under subdivisions 11, paragraph (b), and 12, the commissioner may summarily suspend the person's permit, license, registration, or certificate before the order becomes final. The commissioner shall issue a

summary suspension order when the safety of life or property is threatened or to prevent the commission of fraudulent, deceptive, untrustworthy, or dishonest acts against the public. The summary suspension shall not affect the deadline for submitting a request for hearing under subdivision 12. If the commissioner summarily suspends a person's permit, license, registration, or certificate, a timely request for hearing submitted under subdivision 12 shall also be considered a timely request for hearing on continuation of the summary suspension. If the commissioner summarily suspends a person's permit, license, registration, or certificate under this subdivision and the person submits a timely request for a hearing, then a hearing on continuation of the summary suspension must be held within ten days after the commissioner receives the request for hearing unless the parties agree to a later date.

Subd. 14. **Plan for assessing penalties.** The commissioner may prepare a plan for assessing penalties in orders issued under subdivision 7 or 12. The commissioner shall provide a 30-day period for public comment on any such plan. Penalties assessed by the commissioner in accordance with the plan shall be presumed reasonable.

Subd. 15. **Effect on other laws.** Nothing in this section shall be construed to limit the application of other state or federal laws, including specifically but not exclusively section 270C.72, that require suspension of, revocation of, denial of, or refusal to renew a permit, license, registration, or certificate issued by the commissioner.

Subd. 16. **Misdemeanor penalties.** Except as otherwise provided by law, a person who violates an applicable law is guilty of a misdemeanor.

Subd. 17. **Revocation and suspension of license.** If a person fails to pay a penalty owed under this section or section 326B.083, the commissioner may revoke, suspend, or deny any or all licenses, permits, certificates, and registrations issued by the department.

**History:** 2007 c 140 art 3 s 2; 2008 c 337 s 42-46; 2009 c 86 art 1 s 58

### **326B.083 AMOUNT OF PENALTY; CONTENTS OF ADMINISTRATIVE AND LICENSING ORDERS.**

Subdivision 1. **Amount of penalty; considerations.** In determining the amount of a penalty assessed under section 326B.082, subdivision 7 or 12, the commissioner shall consider the factors described in section 14.045, subdivision 3.

Subd. 2. **Contents of administrative order and licensing order.** (a) An administrative order and a licensing order must include:

- (1) a summary of the facts that constitute the violation or violations;
- (2) a reference to the applicable law that has been violated; and
- (3) a statement of the person's right to request a hearing.



(b) An administrative order may include a requirement that the violation be corrected. If the order includes a requirement that the violation be corrected, then the order must include, in addition to any statements required under paragraphs (a) and (c), the deadline by which the violation must be corrected.

(c) An administrative order or a licensing order may assess monetary penalties. If the order assesses monetary penalties, then the order must include, in addition to any statements required under paragraphs (a) and (b):

(1) a statement of the amount of the monetary penalty imposed;

(2) a statement that, when the order becomes final, the commissioner may file and enforce the unpaid portion of a penalty as a judgment in district court without further notice or additional proceedings; and

(3) if the order is an administrative order, a statement of the amount of the penalty, if any, that will be forgiven if the person who is subject to the order demonstrates to the commissioner by the 31st day after the order is served that the person has corrected the violation or has developed a correction plan acceptable to the commissioner.

Subd. 3. **Penalty.** (a) If an administrative order includes a penalty assessment, then the penalty is due and payable on the date the administrative order becomes final unless some or all of the penalty is forgivable. If a licensing order includes a penalty assessment, then the penalty is due and payable on the date the licensing order becomes final.

(b) This paragraph applies if an administrative order includes a penalty assessment and all or a portion of the penalty is forgivable.

(1) If any portion of the penalty is not forgivable, that portion of the penalty is due and payable ten days after the date the administrative order becomes final.

(2) The commissioner shall forgive the forgivable portion of the penalty if the commissioner determines that the violation has been corrected within the time set by the order or the person to whom the order was issued has developed a correction plan acceptable to the commissioner within the time set by the order.

(3) If the commissioner determines that the person to whom the order was issued has failed to correct the violation within the time set by the order or has failed to develop a correction plan acceptable to the commissioner within the time set by the order, then the forgivable portion of the penalty is due and payable 20 days after the commissioner serves notice of the determination on the person or on the date the administrative order becomes final, whichever is later.

(c) This paragraph applies if an administrative order or a licensing order includes a penalty assessment and if the person subject to the order has requested a hearing. The administrative law judge may not recommend a change in the amount of the penalty if the penalty was assessed in

accordance with a plan prepared under section 326B.082, subdivision 14. If the commissioner has not prepared a plan under section 326B.082, subdivision 14, then the administrative law judge may not recommend a change in the amount of the penalty unless the administrative law judge determines that, based on the factors in section 14.045, subdivision 3, the amount of the penalty is unreasonable.

(d) The assessment of a penalty does not preclude the use of other enforcement provisions, under which penalties are not assessed, in connection with the violation for which the penalty was assessed.

**History:** 2007 c 140 art 3 s 3; 2008 c 337 s 47

### **326B.084 FALSE INFORMATION.**

A person subject to any of the requirements in the applicable law may not make a false material statement, representation, or certification in; omit material information from; or alter, conceal, or fail to file or maintain a notice, application, record, report, plan, or other document required under the applicable law.

**History:** 2007 c 140 art 3 s 4

### **326B.085 RECOVERY OF LITIGATION COSTS AND EXPENSES.**

In any action brought by the commissioner for enforcement of an order issued under section 326B.082 for injunctive relief, or to compel performance pursuant to the applicable law, if the state finally prevails, the state, in addition to other penalties provided by law, may be allowed an amount determined by the court to be the reasonable value of all or part of the litigation expenses incurred by the state. In determining the amount of the litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

**History:** 2007 c 140 art 3 s 5

## **STATE BUILDING CODE**

### **326B.101 POLICY AND PURPOSE.**

The State Building Code governs the construction, reconstruction, alteration, and repair of buildings and other structures to which the code is applicable. The commissioner shall administer and amend a state code of building construction which will provide basic and uniform performance standards, establish reasonable safeguards for health, safety, welfare, comfort, and security of the residents of this state and provide for the use of modern methods, devices, materials, and techniques which will in part tend to lower construction costs. The construction

of buildings should be permitted at the least possible cost consistent with recognized standards of health and safety.

**History:** 1984 c 544 s 64; 1995 c 254 art 2 s 1; 2007 c 140 art 4 s 61; art 13 s 4

### **326B.103 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 326B.101 to 326B.194, the terms defined in this section have the meanings given them.

Subd. 2. **Administrative authority.** "Administrative authority" means a municipality's governing body or their assigned administrative authority.

Subd. 3. **Agricultural building.** "Agricultural building" means a structure on agricultural land as defined in section 273.13, subdivision 23, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the owner, lessee, and sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.

Subd. 4. **City.** "City" means a home rule charter or statutory city.

Subd. 5. **Code.** "Code" means the State Building Code adopted by the commissioner of labor and industry in consultation with each industry board and the Construction Codes Advisory Council in accordance with sections 326B.101 to 326B.194.

Subd. 6. **Designate.** "Designate" means the formal designation by a municipality's administrative authority of a certified building official accepting responsibility for code administration.

Subd. 7. **Equivalent protection.** "Equivalent protection" means a measure other than a code requirement that provides essentially the same protection that would be provided by a code requirement.

Subd. 8. **Historic building.** "Historic building" means a state-owned building that is on the National Register of Historic Places.

Subd. 9. **Municipality.** "Municipality" means a city, county, or town, the University of Minnesota, or the state for public buildings and state licensed facilities.

Subd. 10. **Person with a disability.** "Person with a disability" or "persons with disabilities" includes people who have a vision disability, a hearing disability, a disability of coordination, a disability of aging, or any other disability that significantly reduces mobility, flexibility, coordination, or perceptiveness.

Subd. 11. **Public building.** "Public building" means a building and its grounds the cost of which is paid for by the state or a state agency regardless of its cost, and a school district building

project the cost of which is \$100,000 or more.

Subd. 12. **Remodeling.** "Remodeling" means deliberate reconstruction of an existing public building in whole or in part in order to bring it into conformity with present uses of the structure and to which other rules on the upgrading of health and safety provisions are applicable.

Subd. 13. **State licensed facility.** "State licensed facility" means a building and its grounds that are licensed by the state as a hospital, nursing home, supervised living facility, free-standing outpatient surgical center, correctional facility, boarding care home, or residential hospice.

**History:** 1984 c 544 s 65; 1Sp1985 c 14 art 4 s 3; 1987 c 387 s 1,2; 1989 c 329 art 5 s 1; 1990 c 458 s 1; 1990 c 572 s 10,11; 1994 c 634 art 2 s 1,2; 1995 c 254 art 2 s 2,3; 1Sp2001 c 10 art 2 s 26-28; 2005 c 56 s 1; 2007 c 140 art 4 s 2-5,61; art 13 s 4

### **326B.106 GENERAL POWERS OF COMMISSIONER OF LABOR AND INDUSTRY.**

Subdivision 1. **Adoption of code.** Subject to sections 326B.101 to 326B.194, the commissioner shall by rule and in consultation with the Construction Codes Advisory Council establish a code of standards for the construction, reconstruction, alteration, and repair of buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety, including design and construction standards regarding heat loss control, illumination, and climate control. The code must also include duties and responsibilities for code administration, including procedures for administrative action, penalties, and suspension and revocation of certification. The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States, including a code for building conservation. In the preparation of the code, consideration must be given to the existing statewide specialty codes presently in use in the state. Model codes with necessary modifications and statewide specialty codes may be adopted by reference. The code must be based on the application of scientific principles, approved tests, and professional judgment. To the extent possible, the code must be adopted in terms of desired results instead of the means of achieving those results, avoiding wherever possible the incorporation of specifications of particular methods or materials. To that end the code must encourage the use of new methods and new materials. Except as otherwise provided in sections 326B.101 to 326B.194, the commissioner shall administer and enforce the provisions of those sections.

The commissioner shall develop rules addressing the plan review fee assessed to similar buildings without significant modifications including provisions for use of building systems as specified in the industrial/modular program specified in section 326B.194. Additional plan review fees associated with similar plans must be based on costs commensurate with the direct and indirect costs of the service.

Subd. 2. **Administration by commissioner.** The commissioner shall administer and

enforce the State Building Code as a municipality with respect to public buildings and state licensed facilities in the state. The commissioner shall establish appropriate permit, plan review, inspection fees, and surcharges for public buildings and state licensed facilities.

Municipalities other than the state having an agreement with the commissioner for code administration and enforcement service for public buildings and state licensed facilities shall charge their customary fees, including surcharge, to be paid directly to the jurisdiction by the applicant seeking authorization to construct a public building or a state licensed facility. The commissioner shall sign an agreement with a municipality other than the state for plan review, code administration, and code enforcement service for public buildings and state licensed facilities in the jurisdiction if the building officials of the municipality meet the requirements of section 326B.133 and wish to provide those services and if the commissioner determines that the municipality has enough adequately trained and qualified building inspectors to provide those services for the construction project.

The commissioner may direct the state building official to assist a community that has been affected by a natural disaster with building evaluation and other activities related to building codes.

Administration and enforcement in a municipality under this section must apply any optional provisions of the State Building Code adopted by the municipality. A municipality adopting any optional code provision shall notify the state building official within 30 days of its adoption.

The commissioner shall administer and enforce the provisions of the code relating to elevators statewide, except as provided for under section 326B.184, subdivision 4.

**Subd. 3. Enforcement by certain bodies.** Under the direction and supervision of the commissioner, the provisions of the code relating to electrical installations, plumbing, boilers, high pressure steam piping and appurtenances, and ammonia refrigeration piping shall be enforced by the Department of Labor and Industry. Fees for inspections conducted by the commissioner shall be paid in accordance with the rules of the department. Under direction of the commissioner of public safety, the state fire marshal shall enforce the State Fire Code as provided in chapter 299F. The commissioner shall adopt amendments to the mechanical code portion of the State Building Code to implement standards for process piping.

**Subd. 4. Special requirements.** (a) **Space for commuter vans.** The code must require that any parking ramp or other parking facility constructed in accordance with the code include an appropriate number of spaces suitable for the parking of motor vehicles having a capacity of seven to 16 persons and which are principally used to provide prearranged commuter transportation of employees to or from their place of employment or to or from a transit stop authorized by a local transit authority.

(b) **Smoke detection devices.** The code must require that all dwellings, lodging houses, apartment houses, and hotels as defined in section 299F.362 comply with the provisions of section 299F.362.

(c) **Doors in nursing homes and hospitals.** The State Building Code may not require that each door entering a sleeping or patient's room from a corridor in a nursing home or hospital with an approved complete standard automatic fire extinguishing system be constructed or maintained as self-closing or automatically closing.

(d) **Child care facilities in churches; ground level exit.** A licensed day care center serving fewer than 30 preschool age persons and which is located in a belowground space in a church building is exempt from the State Building Code requirement for a ground level exit when the center has more than two stairways to the ground level and its exit.

(e) **Family and group family day care.** Until the legislature enacts legislation specifying appropriate standards, the definition of dwellings constructed in accordance with the International Residential Code as adopted as part of the State Building Code applies to family and group family day care homes licensed by the Department of Human Services under Minnesota Rules, chapter 9502.

(f) **Enclosed stairways.** No provision of the code or any appendix chapter of the code may require stairways of existing multiple dwelling buildings of two stories or less to be enclosed.

(g) **Double cylinder dead bolt locks.** No provision of the code or appendix chapter of the code may prohibit double cylinder dead bolt locks in existing single-family homes, townhouses, and first floor duplexes used exclusively as a residential dwelling. Any recommendation or promotion of double cylinder dead bolt locks must include a warning about their potential fire danger and procedures to minimize the danger.

(h) **Relocated residential buildings.** A residential building relocated within or into a political subdivision of the state need not comply with the State Energy Code or section 326B.439 provided that, where available, an energy audit is conducted on the relocated building.

(i) **Automatic garage door opening systems.** The code must require all residential buildings as defined in section 325F.82 to comply with the provisions of sections 325F.82 and 325F.83.

(j) **Exit sign illumination.** For a new building on which construction is begun on or after October 1, 1993, or an existing building on which remodeling affecting 50 percent or more of the enclosed space is begun on or after October 1, 1993, the code must prohibit the use of internally illuminated exit signs whose electrical consumption during nonemergency operation exceeds 20 watts of resistive power. All other requirements in the code for exit signs must be complied with.

(k) **Exterior wood decks, patios, and balconies.** The code must permit the decking surface and upper portions of exterior wood decks, patios, and balconies to be constructed of (1) heartwood from species of wood having natural resistance to decay or termites, including redwood and cedars, (2) grades of lumber which contain sapwood from species of wood having natural resistance to decay or termites, including redwood and cedars, or (3) treated wood. The species and grades of wood products used to construct the decking surface and upper portions of exterior decks, patios, and balconies must be made available to the building official on request before final construction approval.

(l) **Bioprocess piping and equipment.** No permit fee for bioprocess piping may be imposed by municipalities under the State Building Code, except as required under section 326B.92 subdivision 1. Permits for bioprocess piping shall be according to section 326B.92 administered by the Department of Labor and Industry. All data regarding the material production processes, including the bioprocess system's structural design and layout, are nonpublic data as provided by section 13.7911.

(m) **Use of ungraded lumber.** The code must allow the use of ungraded lumber in geographic areas of the state where the code did not generally apply as of April 1, 2008, to the same extent that ungraded lumber could be used in that area before April 1, 2008.

Subd. 5. **Recycling space.** The code must require suitable space for the separation, collection, and temporary storage of recyclable materials within or adjacent to new or significantly remodeled structures that contain 1,000 square feet or more. Residential structures with fewer than four dwelling units are exempt from this subdivision.

Subd. 6. **Radon code.** The commissioner of labor and industry shall adopt rules for radon control as part of the State Building Code for all new residential buildings. These rules shall incorporate the radon control methods found in the International Residential Code appendix as the model language, with necessary amendments to coordinate with the other adopted construction codes in Minnesota.

Subd. 7. **Window fall prevention device code.** The commissioner of labor and industry shall adopt rules for window fall prevention devices as part of the State Building Code. Window fall prevention devices include, but are not limited to, safety screens, hardware, guards, and other devices that comply with the standards established by the commissioner of labor and industry. The rules shall require compliance with standards for window fall prevention devices developed by ASTM International, contained in the International Building Code as the model language with amendments deemed necessary to coordinate with the other adopted building codes in Minnesota. The rules shall establish a scope that includes the applicable building occupancies, and the types, locations, and sizes of windows that will require the installation of fall devices. The rules will be effective July 1, 2009. The commissioner shall report to the legislature on the status of the

rulemaking on or before February 15, 2008.

Subd. 8. **Review of plans for public buildings and state licensed facilities.** Construction or remodeling may not begin on any public building or state licensed facility until the plans and specifications have been approved by the commissioner or municipality under contractual agreement pursuant to subdivision 2. The plans and specifications must be submitted for review, and within 30 days after receipt of the plans and specifications, the commissioner or municipality under contractual agreement shall notify the submitting authority of any corrections.

Subd. 9. **Accessibility.** (a) **Public buildings.** The code must provide for making public buildings constructed or remodeled after July 1, 1963, accessible to and usable by persons with disabilities, although this does not require the remodeling of public buildings solely to provide accessibility and usability to persons with disabilities when remodeling would not otherwise be undertaken.

(b) **Leased space.** No agency of the state may lease space for agency operations in a non-state-owned building unless the building satisfies the requirements of the State Building Code for accessibility by persons with disabilities, or is eligible to display the state symbol of accessibility. This limitation applies to leases of 30 days or more for space of at least 1,000 square feet.

(c) **Meetings or conferences.** Meetings or conferences for the public or for state employees which are sponsored in whole or in part by a state agency must be held in buildings that meet the State Building Code requirements relating to accessibility for persons with disabilities. This subdivision does not apply to any classes, seminars, or training programs offered by the Minnesota State Colleges and Universities or the University of Minnesota. Meetings or conferences intended for specific individuals none of whom need the accessibility features for persons with disabilities specified in the State Building Code need not comply with this subdivision unless a person with a disability gives reasonable advance notice of an intent to attend the meeting or conference. When sign language interpreters will be provided, meetings or conference sites must be chosen which allow hearing impaired participants to see their signing clearly.

(d) **Exemptions.** The commissioner may grant an exemption from the requirements of paragraphs (b) and (c) in advance if an agency has demonstrated that reasonable efforts were made to secure facilities which complied with those requirements and if the selected facilities are the best available for access for persons with disabilities. Exemptions shall be granted using criteria developed by the commissioner in consultation with the Council on Disability.

(e) **Symbol indicating access.** The wheelchair symbol adopted by Rehabilitation International's Eleventh World Congress is the state symbol indicating buildings, facilities, and grounds which are accessible to and usable by persons with disabilities. In the interests of uniformity, this symbol is the sole symbol for display in or on all public or private buildings,



facilities, and grounds which qualify for its use. The secretary of state shall obtain the symbol and keep it on file. No building, facility, or grounds may display the symbol unless it is in compliance with the rules adopted by the commissioner under subdivision 1. Before any rules are proposed for adoption under this paragraph, the commissioner shall consult with the Council on Disability. Rules adopted under this paragraph must be enforced in the same way as other accessibility rules of the State Building Code.

(f) **Municipal enforcement.** Municipalities which have not adopted the State Building Code may enforce the building code requirements for persons with disabilities by either entering into a joint powers agreement for enforcement with another municipality which has adopted the State Building Code; or contracting for enforcement with an individual certified under section 326B.133, subdivision 3, to enforce the State Building Code.

Subd. 10. **Energy efficiency.** The code must provide for building new low-income housing in accordance with energy efficiency standards adopted under subdivision 1. For purposes of this subdivision, low-income housing means residential housing built for low-income persons and families under a program of a housing and redevelopment authority, the Minnesota Housing Finance Agency, or another entity receiving money from the state to construct such housing.

Subd. 11. **Access for the hearing-impaired.** All rooms in the State Office Building and in the Capitol that are used by the house of representatives or the senate for legislative hearings, and the public galleries overlooking the house of representatives and senate chambers, must be fitted with assistive listening devices for the hearing-impaired. Each hearing room and the public galleries must have a sufficient number of receivers available so that hearing-impaired members of the public may participate in the committee hearings and public sessions of the house of representatives and senate.

Subd. 12. **Separate metering for electric service.** The standards concerning heat loss, illumination, and climate control adopted pursuant to subdivision 1, shall require that electrical service to individual dwelling units in buildings containing two or more units be separately metered, with individual metering readily accessible to the individual occupants. The standards authorized by this subdivision shall only apply to buildings constructed after the effective date of the amended standards. Buildings intended for occupancy primarily by persons who are 62 years of age or older or disabled, or which contain a majority of units not equipped with complete kitchen facilities, shall be exempt from the provisions of this subdivision.

**History:** 1977 c 381 s 18; 1978 c 786 s 2,3; Ex1979 c 2 s 29-31; 1980 c 579 s 9; 1981 c 85 s 5; 1981 c 255 s 2,5; 1981 c 356 s 154-158,248; 1981 c 365 s 9; 1982 c 424 s 23-25,130; 1983 c 301 s 125,126; 1984 c 544 s 66; 1984 c 595 s 1-5; 1984 c 640 s 32; 1984 c 655 art 2 s 13 subd 1; 1984 c 658 s 1; 1985 c 194 s 30; 1985 c 248 s 70; 1986 c 444; 1Sp1986 c 3 art 4 s 2; 1987 c 258 s 12; 1987 c 291 s 192,196; 1987 c 312 art 1 s 10 subd 1; 1987 c 354 s 8; 1987 c 387 s 3; 1988 c

608 s 1; 1988 c 685 s 2; 1989 c 82 s 1; 1989 c 209 art 2 s 1; 1989 c 246 s 2; 1989 c 335 art 1 s 65; 1990 c 414 s 1; 1991 c 104 s 1; 1991 c 134 s 1; 1991 c 149 s 2; 1991 c 235 art 3 s 1; 1991 c 240 s 1; 1991 c 337 s 4; 1992 c 597 s 1; 1993 c 327 s 1; 1994 c 480 s 6; 1994 c 567 s 1; 1994 c 634 art 2 s 3,4; 1995 c 100 s 1; 1995 c 166 s 1,2,17; 1995 c 213 art 1 s 1; 1995 c 233 art 2 s 56; 1995 c 254 art 2 s 4-6; 1Sp1995 c 3 art 16 s 13; 1996 c 395 s 18; 1997 c 183 art 3 s 27; 1999 c 135 s 1,2; 1999 c 185 s 1; 2000 c 297 s 1,3; 2001 c 7 s 10; 2001 c 207 s 1,2; 1Sp2001 c 10 art 2 s 29; 1Sp2003 c 8 art 1 s 5; 2005 c 56 s 1; 2005 c 97 art 4 s 6; 2005 c 136 art 9 s 14; 2006 c 241 s 2,3; 2007 c 40 s 1; 2007 c 135 art 2 s 2; 2007 c 140 art 4 s 6, 61; art 10 s 11; art 13 s 4; 2007 c 147 art 16 s 1; 2008 c 322 s 1; 2008 c 337 s 64

### **326B.109 RESTROOM FACILITIES.**

Subdivision 1. **Definition.** For purposes of this section, "place of public accommodation" means a publicly or privately owned sports or entertainment arena, stadium, theater, community or convention hall, special event center, amusement facility, or special event center in a public park, that is designed for occupancy by 200 or more people.

Subd. 2. **Application.** This section applies only to a place of public accommodation for which construction, or alterations exceeding 50 percent of the estimated replacement value of the existing facility, begins after July 1, 1995.

Subd. 3. **Ratio.** In a place of public accommodation subject to this section, the ratio of water closets for women to the total of water closets and urinals provided for men must be at least three to two, unless there are two or fewer fixtures for men.

Subd. 4. **Rules.** The commissioner shall adopt rules to implement this section. The rules may provide for a greater ratio of women's to men's facilities for certain types of occupancies than is required in subdivision 3, and may apply the required ratios to categories of occupancies other than those defined as places of public accommodation under subdivision 1.

**History:** 1994 c 632 art 3 s 34; 2007 c 140 art 4 s 7,61; art 13 s 4

### **326B.112 BLEACHER SAFETY.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Place of public accommodation" means a public or privately owned sports or entertainment arena, gymnasium, auditorium, stadium, hall, special event center in a public park, or other facility for public assembly.

(c) "Bleacher" refers to any tiered or stepped seating facility, whether temporary or permanent, used in a place of public accommodation for the seating of its occupants.

Subd. 2. **Application.** All places of public accommodation must comply with the provisions

of this section.

Subd. 3. **Safety requirements.** In places of public accommodation using bleacher seating, all bleachers or bleacher open spaces over 55 inches above grade or the floor below, and all bleacher guardrails if any part of the guardrail is over 30 inches above grade or the floor below must conform to the following safety requirements:

(1) the open space between bleacher footboards, seats, and guardrails must not exceed four inches, unless approved safety nets are installed, except that retractable bleachers already in place as of January 1, 2001, may have open spaces not exceeding nine inches and any bleachers owned by the University of Minnesota, the Minnesota State Colleges and Universities, or a private college or university may have open spaces not exceeding nine inches;

(2) bleachers must have vertical perimeter guardrails with no more than four-inch rail spacing between vertical rails or other approved guardrails that address climbability and are designed to prevent accidents; and

(3) the state building official shall determine whether the safety nets and guardrail climbability meet the requirements of the alternate design section of the State Building Code. All new bleachers manufactured, installed, sold, or distributed after January 1, 2001, must comply with the State Building Code in effect and this subdivision.

Subd. 4. **Enforcement.** (a) A statutory or home rule charter city that does not have in effect an ordinance adopting the State Building Code is responsible for enforcement in the city of the code's requirements for bleacher safety. In all other areas where there is no ordinance in effect adopting the State Building Code, the county is responsible for enforcement of the code's requirements for bleacher safety.

(b) Municipalities that have not adopted the code may enforce the code requirements for bleacher safety by either entering into a joint powers agreement for enforcement with another municipality that has adopted the code or contracting for enforcement with a qualified and certified building official or state licensed design professional to enforce the code.

(c) Municipalities, school districts, organizations, individuals, and other persons operating or owning places of public accommodation with bleachers that are subject to the safety requirements in subdivision 3 shall provide a signed certification of compliance to the commissioner by January 1, 2002. For bleachers subject to the exception in subdivision 3, clause (1), entities covered by this paragraph must have on file a bleacher safety management plan and amortization schedule. The certification shall be prepared by a qualified and certified building official or state licensed design professional and shall certify that the bleachers have been inspected and are in compliance with the requirements of this section and are structurally sound.

For bleachers owned by a school district or nonpublic school, the person the district or nonpublic school designates to be responsible for buildings and grounds may make the certification.

Subd. 5. **Noncomplying bleachers prohibited.** The commissioner, in addition to other remedies provided for violations of this chapter, shall forbid use of bleachers not in compliance with this section.

Subd. 6. **Periodic inspections.** Bleacher footboards and guardrails must be reinspected at least every five years and a structural inspection must be made at least every ten years. Inspections may be completed in the same manner as provided in subdivision 4. This section does not preclude a municipal authority from establishing additional reinspections under the State Building Code.

**History:** 1999 c 250 art 1 s 62; 2000 c 417 s 1,2; 2000 c 492 art 1 s 35,36; 1Sp2001 c 6 art 4 s 1; 2007 c 140 art 4 s 61; art 13 s 4; 2008 c 322 s 2

### **326B.115 ENERGY CODE RULES REMAIN IN EFFECT.**

(a) Notwithstanding Laws 1999, chapter 135, section 9, Minnesota Rules, chapter 7670, does not expire on April 15, 2000, but remains in effect for residential buildings not covered by Minnesota Rules, chapter 7676. The provisions of Minnesota Rules, chapter 7670, that apply to category 1 buildings govern new, detached single one- and two-family R-3 occupancy residential buildings. All new, detached single one- and two-family R-3 occupancy buildings subject to Minnesota Rules, chapter 7670, submitting an application for a building permit after April 14, 2000, must meet the requirements for category 1 buildings, as set out in Minnesota Rules, chapter 7670.

(b) As an alternative to compliance with paragraph (a), compliance with Minnesota Rules, chapters 7672 and 7674, is optional for a contractor or owner.

(c) This section expires when the commissioner adopts a new energy code in accordance with Laws 2002, chapter 317, section 4.

**History:** 2000 c 407 s 1; 2002 c 317 s 1; 2007 c 140 art 4 s 8,61; art 13 s 4

### **326B.118 ENERGY CODE.**

Notwithstanding section 326B.115, the commissioner, in consultation with the Construction Codes Advisory Council, shall explore and review the availability and appropriateness of any model energy codes related to the construction of single one- and two-family residential buildings. In consultation with the council, the commissioner shall take steps to adopt the chosen code with all necessary and appropriate amendments.

The commissioner may not adopt all or part of a model energy code relating to the construction of residential buildings without research and analysis that addresses, at a minimum, air quality, building durability, moisture, enforcement, enforceability cost benefit, and liability.

The research and analysis must be completed in cooperation with practitioners in residential construction and building science and an affirmative recommendation by the Construction Codes Advisory Council.

**History:** 2002 c 317 s 3; 2007 c 140 art 4 s 9,61; art 13 s 4

### **326B.121 STATE BUILDING CODE; APPLICATION AND ENFORCEMENT.**

Subdivision 1. **Application.** The State Building Code is the standard that applies statewide for the construction, reconstruction, alteration, and repair of buildings and other structures of the type governed by the code. The State Building Code supersedes the building code of any municipality. The State Building Code does not apply to agricultural buildings except with respect to state inspections required or rulemaking authorized by sections 103F.141; 216C.19, subdivision 9; and 326B.36.

Subd. 2. **Municipal enforcement.** (a) If, as of January 1, 2008, a municipality has in effect an ordinance adopting the State Building Code, that municipality must continue to administer and enforce the State Building Code within its jurisdiction. The municipality is prohibited from repealing its ordinance adopting the State Building Code. This paragraph does not apply to municipalities with a population of less than 2,500 according to the last federal census that are located outside of a metropolitan county, as defined in section 473.121, subdivision 4.

(b) If a municipality is not required by paragraph (a) to administer and enforce the State Building Code, the municipality may choose to administer and enforce the State Building Code within its jurisdiction by adopting the code by ordinance.

(c) A municipality must not by ordinance, or through development agreement, require building code provisions regulating components or systems of any structure that are different from any provision of the State Building Code. A municipality may, with the approval of the state building official, adopt an ordinance that is more restrictive than the State Building Code where geological conditions warrant a more restrictive ordinance. A municipality may appeal the disapproval of a more restrictive ordinance to the commissioner. An appeal under this subdivision is subject to the schedule, fee, procedures, cost provisions, and appeal rights set out in section 326B.139.

(d) A city may by ordinance and with permission of the township board extend the administration and enforcement of the code to contiguous unincorporated territory not more than two miles distant from its corporate limits in any direction if the code is not already administered and enforced in the territory. Where two or more noncontiguous cities, which have elected to administer and enforce the code, have boundaries less than four miles apart, each is authorized to enforce the code on its side of a line equidistant between them. Once enforcement authority is extended extraterritorially by ordinance, the authority may continue to be exercised in the

designated territory even though another city less than four miles distant later elects to enforce the code. After the extension, the city may enforce the code in the designated area to the same extent as if the property were situated within its corporate limits. Enforcement of the code in an extended area outside a city's corporate limits includes all rules, laws, and ordinances associated with administration of the code.

(e) A city cannot commence administration and enforcement of the code outside of its jurisdiction until it has provided written notice to the commissioner, the county auditor, and the town clerk of each town in which it intends to administer and enforce the code. A public hearing on the proposed administration and enforcement must be held not less than 30 days after the notice has been provided. Administration and enforcement of the code by the city outside of its jurisdiction commences on a date determined by the city that is no less than 90 days nor more than one year after the public hearing.

(f) A municipality may enforce the State Building Code by any means that are convenient and lawful, including entering into contracts with other municipalities under section 471.59 and with qualified individuals. The other municipalities or qualified individuals may be reimbursed by retention or remission of some or all of the building permit fee collected or by other means. If a municipality has no qualified employees of the municipality or other municipalities or qualified individuals available to carry out inspection and enforcement, the commissioner shall train and designate individuals available to carry out inspection and enforcement. The commissioner may be reimbursed for the inspection by retention or remission of some or all of the building permit fee collected or by other means.

(g) Nothing in this subdivision prohibits a municipality from adopting ordinances relating to zoning, subdivision, or planning unless the ordinance conflicts with a provision of the State Building Code that regulates components or systems of any structure.

Subd. 3. **Enforcement by state building official.** If the commissioner determines that a municipality that has adopted the State Building Code is not properly administering and enforcing the code, or if the commissioner determines that any municipality that is required by subdivision 2 to enforce any provision of the State Building Code is not properly enforcing that provision, the commissioner may have the administration and enforcement in the involved municipality undertaken by the state building official or by another building official certified by the state. The commissioner shall notify the affected municipality in writing immediately upon making the determination, and the municipality may challenge the determination as a contested case before the commissioner pursuant to the Administrative Procedure Act. In carrying out administration and enforcement under this subdivision, the commissioner shall apply any optional provision of the State Building Code adopted by the municipality. A municipality adopting any optional code provision shall notify the state building official within 30 days of its adoption. The commissioner

shall determine appropriate fees to be charged for the administration and enforcement service rendered. Any cost to the state arising from the state administration and enforcement of the State Building Code shall be borne by the subject municipality where a fee has been collected by the municipality.

**History:** 1984 c 544 s 67; 1987 c 312 art 1 s 10 subd 1; 1990 c 391 art 8 s 2; 1994 c 634 art 2 s 5,10; 1999 c 135 s 3; 2001 c 207 s 3; 1Sp2003 c 8 art 1 s 6; 2007 c 140 art 4 s 61; art 5 s 32; art 13 s 4; 2008 c 322 s 3; 2009 c 86 art 1 s 59

### **326B.124 EXEMPTIONS.**

The commissioner may exempt a part of a historic building occupied by the state from the state or another building, fire, safety, or other code if the exemption is necessary to preserve the historic or esthetic character of the building or to prevent theft, vandalism, terrorism, or another crime. When the commissioner grants an exemption, the commissioner shall consider providing equivalent protection. A certificate of occupancy may not be denied because of an exemption under this section.

**History:** 1990 c 572 s 12; 2007 c 140 art 4 s 61; art 13 s 4

### **326B.127 STATE BUILDING OFFICIAL.**

Subdivision 1. **Appointment.** The commissioner shall appoint a state building official who under the direction and supervision of the commissioner shall administer the code.

Subd. 2. **Qualifications.** To be eligible for appointment as state building official an individual must be competent in the field of administration and shall have the experience in building design, construction, and supervision which the commissioner considers necessary.

Subd. 3. **Powers and duties.** The state building official may, with the approval of the commissioner, employ personnel necessary to carry out the inspector's function under sections 326B.101 to 326B.194. The state building official shall distribute without charge a printed or electronic version of the code to each municipality within the state. A printed or electronic version of the code shall be made available to municipalities and interested parties for a fee prescribed by the commissioner. The state building official shall perform other duties in administering the code assigned by the commissioner.

Subd. 4. **Accessibility specialists.** The state building official shall, with the approval of the commissioner, assign three department employees to assist municipalities in complying with section 326B.106, subdivision 9.

Subd. 5. **Interpretative authority.** To achieve uniform and consistent application of the State Building Code, the commissioner has final interpretative authority applicable to all codes adopted as part of the State Building Code except for the Plumbing Code and the Electrical

Code. A final interpretative committee composed of seven members, consisting of three building officials, two inspectors from the affected field, and two construction industry representatives, shall review requests for final interpretations relating to that field for which the commissioner has final interpretative authority. The Plumbing Board has final interpretative authority applicable to the State Plumbing Code and shall review requests for final interpretation made to the board that relate to the State Plumbing Code. The Board of Electricity has final interpretative authority applicable to the State Electrical Code and shall review requests for final interpretation made to the board that relate to the State Electrical Code. The Board of High Pressure Piping Systems has final interpretative authority applicable to the State High Pressure Piping Code and shall review requests for final interpretation made to the board that relate to the State High Pressure Piping Code. Except for requests for final interpretations that relate to the State Plumbing Code, the State Electrical Code, and the State High Pressure Piping Code, requests for final interpretation must come from a local or state level building code board of appeals. The commissioner must establish procedures for membership of the final interpretative committees. The appropriate committee shall review the request and make a recommendation to the commissioner for the final interpretation within 30 days of the request. The commissioner must issue a final interpretation within ten business days after the receipt of the recommendation from the final interpretive committee. The Plumbing Board, the Board of Electricity, or the Board of High Pressure Piping Systems shall review a request and issue a final interpretation within 30 days of the request. Any person aggrieved by a final interpretation may appeal the interpretation within 30 days of its issuance by the commissioner or the board in accordance with chapter 14. The final interpretation must be published within ten business days of its issuance and made available to the public. Municipal building officials shall administer all final interpretations issued by the commissioner, the Plumbing Board, the Board of Electricity, or the Board of High Pressure Piping Systems until the final interpretations are considered by the commissioner, the Plumbing Board, the Board of Electricity, or the Board of High Pressure Piping Systems for adoption as part of the State Building Code, State Plumbing Code, State Electrical Code, and the State High Pressure Piping Code.

**History:** 1984 c 544 s 68; 1986 c 444; 1991 c 345 art 1 s 66; 1994 c 634 art 2 s 10; 1995 c 254 art 2 s 7; 2001 c 207 s 4; 2007 c 135 art 3 s 1; 2007 c 140 art 4 s 10,61; art 13 s 4

### **326B.13 APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.**

Subdivision 1. **Applicability.** Subject to this section, the adoption of the code and amendment is subject to the Administrative Procedure Act.

Subd. 2. **Distribution of incorporations by reference.** The commissioner need not publish or distribute those parts of the code which are adopted by reference pursuant to section 14.07, subdivision 4.

Subd. 3. **Filing.** The commissioner shall file one copy of the complete code with the



secretary of state, except that all standards referred to in any model or statewide specialty code or any of the modifications of a code need not be filed. All standards referred to in the code must be kept on file and available for inspection in the office of the commissioner.

Subd. 4. **Hearings.** The commissioner shall hold all state hearings and make all determinations regarding any subject matter dealt with in the code including those in which another state agency proposes to adopt or amend rules which are incorporated by reference into the code or whenever the commissioner proposes to incorporate those rules into the State Building Code. In no event may a state agency subsequently authorized to adopt rules involving State Building Code subject matter proceed to adopt the rules without prior consultation with the commissioner.

Subd. 5. **Proposed amendments; hearings.** Any interested person may propose amendments to the code which may be either applicable to all municipalities or, where it is alleged and established that conditions exist within a municipality which are not generally found within other municipalities, amendments may be restricted in application to that municipality. Notice of public hearings on proposed amendments shall be given to the governing bodies of all municipalities in addition to those persons entitled to notice under the Administrative Procedure Act.

Subd. 6. **Adoption.** The commissioner shall approve any proposed amendments deemed by the commissioner to be reasonable in conformity with the policy and purpose of the code and justified under the particular circumstances involved. Upon adoption, a copy of each amendment must be distributed to the governing bodies of all affected municipalities.

Subd. 7. **Investigation and research.** With the approval of the commissioner the state building official shall investigate or provide for investigations, or may accept authenticated reports from authoritative sources, concerning new materials or modes of construction intended for use in the construction of buildings or structures, and shall propose amendments to the code setting forth the conditions under which the new materials or modes may be used.

Subd. 8. **Effective date of rules.** A rule to adopt or amend the State Building Code is effective 180 days after the filing of the rule with the secretary of state under section 14.16 or 14.26. The rule may provide for a later effective date. The rule may provide for an earlier effective date if the commissioner or board proposing the rule finds that an earlier effective date is necessary to protect public health and safety after considering, among other things, the need for time for training of individuals to comply with and enforce the rule.

**History:** 1984 c 544 s 69; 1985 c 248 s 8; 1986 c 444; 1987 c 312 art 1 s 10 subd 1; 1994 c 634 art 2 s 10; 1999 c 135 s 4; 2007 c 140 art 4 s 11,61; art 13 s 4; 2008 c 337 s 1

**326B.133 BUILDING OFFICIALS.**

Subdivision 1. **Designation.** Each municipality shall designate a building official to administer the code. A municipality may designate no more than one building official responsible for code administration defined by each certification category established in rule. Two or more municipalities may combine in the designation of a building official for the purpose of administering the provisions of the code within their communities. In those municipalities for which no building officials have been designated, the state building official may use whichever state employees are necessary to perform the duties of the building official until the municipality makes a temporary or permanent designation. All costs incurred by virtue of these services rendered by state employees must be borne by the involved municipality and receipts arising from these services must be paid to the commissioner.

Subd. 2. **Qualifications.** A building official, to be eligible for designation, must be certified and have the experience in design, construction, and supervision which the commissioner deems necessary and must be generally informed on the quality and strength of building materials, accepted building construction requirements, and the nature of equipment and needs conducive to the safety, comfort, and convenience of building occupants. No person may be designated as a building official for a municipality unless the commissioner determines that the official is qualified as provided in subdivision 3.

Subd. 3. **Certification.** The commissioner shall by rule establish certification criteria as proof of qualification pursuant to subdivision 2. The commissioner may:

(1) develop and administer written and practical examinations to determine if a person is qualified pursuant to subdivision 2 to be a building official;

(2) accept documentation of successful completion of testing programs developed and administered by nationally recognized testing agencies, as proof of qualification pursuant to subdivision 2; or

(3) determine qualifications by satisfactory completion of clause (2) and a mandatory training program developed or approved by the commissioner.

Upon a determination of qualification under clause (1), (2), or (3), the commissioner shall issue a certificate to the building official stating that the official is certified. Each person applying for examination and certification pursuant to this section shall pay a nonrefundable fee of \$70. The commissioner or a designee may establish categories of certification that will recognize the varying complexities of code enforcement in the municipalities within the state. The commissioner shall provide educational programs designed to train and assist building officials in carrying out their responsibilities.

Subd. 4. **Duties.** Building officials shall, in the municipality for which they are designated,

be responsible for all aspects of code administration for which they are certified, including the issuance of all building permits and the inspection of all manufactured home installations. The commissioner may direct a municipality with a building official to perform services for another municipality, and in that event the municipality being served shall pay the municipality rendering the services the reasonable costs of the services. The costs may be subject to approval by the commissioner.

Subd. 5. **Grounds.** In addition to the grounds set forth in section 326B.082, subdivision 11, the commissioner may deny, suspend, limit, place conditions on, or revoke a certificate, or may censure an applicant or individual holding a certificate, if the applicant or individual:

(1) violates a provision of sections 326B.101 to 326B.194 or a rule adopted under those sections; or

(2) engages in fraud, deceit, or misrepresentation while performing the duties of a certified building official.

Nothing in this subdivision limits or otherwise affects the authority of a municipality to dismiss or suspend a building official at its discretion, except as otherwise provided for by law.

Subd. 6. **Action against unlicensed persons.** The commissioner may take any administrative action provided under section 326B.082, against an individual required to be certified under subdivision 3, based upon conduct that would provide grounds for action against a certificate holder under this section.

Subd. 7. **Vacancies.** In the event that a designated building official position is vacant within a municipality, that municipality shall designate a certified building official to fill the vacancy as soon as possible. The commissioner must be notified of any vacancy or designation in writing within 15 days. If the municipality fails to designate a certified building official within 15 days of the occurrence of the vacancy, the state building official may provide state employees to serve that function as provided in subdivision 1 until the municipality makes a temporary or permanent designation. Municipalities must not issue permits without a designated certified building official.

Subd. 8. **Continuing education.** Subject to sections 326B.101 to 326B.194, the commissioner may by rule establish or approve continuing education programs for certified building officials dealing with matters of building code administration, inspection, and enforcement.

Each person certified as a building official for the state must satisfactorily complete applicable educational programs established or approved by the commissioner to retain certification.

Subd. 9. **Renewal.** (a) Subject to sections 326B.101 to 326B.194, the commissioner of labor and industry may by rule adopt standards dealing with renewal requirements.

(b) If the commissioner has not issued a notice of denial of application for a certificate holder and if the certificate holder has properly and timely filed a fully completed renewal application, then the certificate holder may continue to engage in building official activities whether or not the renewed certificate has been received. Applications must be made on a form approved by the commissioner. Each application for renewal must be fully completed, and be accompanied by proof of the satisfactory completion of minimum continuing education requirements and the certification renewal fee established by the commissioner. Applications are timely if received prior to the expiration of the most recently issued certificate. An application for renewal that does not contain all of the information requested is an incomplete application and will not be accepted.

Subd. 10. **Expiration.** All certificates expire at 11:59:59 p.m. central time on the date of expiration if not properly renewed in accordance with subdivision 9, paragraph (b).

Subd. 11. **Failure to renew.** An individual who has failed to make a timely application for renewal of a certificate is not certified and must not serve as the designated building official for any municipality until a renewed certificate has been issued by the commissioner.

**History:** 1984 c 544 s 70; 1984 c 578 s 1; 1984 c 655 art 2 s 13 subd 1; 1Sp1985 c 17 s 6; 1986 c 444; 1988 c 613 s 16; 1995 c 254 art 2 s 8-11; 1998 c 359 s 11,12; 1Sp2001 c 10 art 2 s 30; 2002 c 220 art 10 s 30,31; 2007 c 135 art 2 s 3; 2007 c 140 art 4 s 61; art 13 s 4; 2008 c 337 s 63

### **326B.135 CONSTRUCTION CODE INSPECTORS.**

Subdivision 1. **Competency criteria.** The commissioner of labor and industry shall adopt rules establishing required competency criteria for individuals serving as construction code inspectors. For the purpose of this section, "construction code inspectors" means building inspectors, mechanical inspectors, plumbing inspectors, and combination inspectors under the supervision of the building official. Required competency criteria shall be relevant to the building, mechanical, and plumbing codes as adopted in Minnesota.

Subd. 2. **Continuing education.** The commissioner of labor and industry shall adopt rules establishing or approving education programs for construction inspectors related to construction inspection and administration of the State Building Code. Each construction code inspector must satisfactorily complete continuing education requirements as established in rule by the commissioner.

Subd. 3. **Exemption.** A person holding current certification as a building official under section 326B.133 is exempt from this section.

Subd. 4. **Effective date.** Effective January 1, 2008, all construction inspectors hired on or after January 1, 2008, shall, within one year of hire, be in compliance with the competency

criteria established according to subdivision 1.

**History:** 2006 c 202 s 1; 2008 c 337 s 64

### **326B.136 CERTAIN INSPECTIONS.**

The state building official may, upon an application setting forth a set of plans and specifications that will be used in more than one municipality to acquire building permits, review and approve the application for the construction or erection of any building or structure designed to provide dwelling space for no more than two families if the set of plans meets the requirements of the State Building Code. All costs incurred by the state building official by virtue of the examination of the set of plans and specifications must be paid by the applicant. A building official shall issue a building permit upon application and presentation to the official of a set of plans and specifications bearing the approval of the state building official if the requirements of all other local ordinances are satisfied.

**History:** 1984 c 544 s 71; 1986 c 444; 1994 c 634 art 2 s 6,10; 2007 c 140 art 4 s 61; art 13 s 4

### **326B.139 APPEALS.**

A person aggrieved by the final decision of any municipality as to the application of the code, including any rules adopted under sections 471.465 to 471.469, may, within 180 days of the decision, appeal to the commissioner. Appellant shall submit a nonrefundable fee of \$70, payable to the commissioner, with the request for appeal. An appeal must be heard as a contested case under chapter 14. The commissioner shall submit written findings to the parties. The party not prevailing shall pay the costs of the contested case hearing, including fees charged by the Office of Administrative Hearings and the expense of transcript preparation. Costs under this section do not include attorney fees. Any person aggrieved by a ruling of the commissioner may appeal in accordance with chapter 14. For the purpose of this section "any person aggrieved" includes the Council on Disability. No fee or costs shall be required when the council on disability is the appellant.

**History:** 1984 c 544 s 72; 1986 c 444; 1987 c 354 s 4; 1988 c 613 s 17; 1995 c 254 art 2 s 12; 2007 c 140 art 4 s 61; art 13 s 4

### **326B.142 CERTAIN PERMITS.**

Building permits or certificates of occupancy validly issued before July 1, 1972, regarding buildings or structures being constructed or altered according to the permits or certificates, are valid after that date. The construction may be completed according to the building permit, unless the building official determines that life or property is in jeopardy.

**History:** 1984 c 544 s 73; 2007 c 140 art 4 s 61; art 13 s 4

**326B.145 ANNUAL REPORT.**

Each municipality shall annually report by June 30 to the department, in a format prescribed by the department, all construction and development-related fees collected by the municipality from developers, builders, and subcontractors if the cumulative fees collected exceeded \$5,000 in the reporting year, except that, for reports due June 30, 2009, to June 30, 2013, the reporting threshold is \$10,000. The report must include:

- (1) the number and valuation of units for which fees were paid;
- (2) the amount of building permit fees, plan review fees, administrative fees, engineering fees, infrastructure fees, and other construction and development-related fees; and
- (3) the expenses associated with the municipal activities for which fees were collected.

**History:** 2001 c 207 s 6; 2003 c 6 s 1; 2007 c 140 art 4 s 61; art 13 s 4; 2009 c 152 s 4

**326B.148 SURCHARGE.**

Subdivision 1. **Computation.** To defray the costs of administering sections 326B.101 to 326B.194, a surcharge is imposed on all permits issued by municipalities in connection with the construction of or addition or alteration to buildings and equipment or appurtenances after June 30, 1971. The commissioner may use any surplus in surcharge receipts to award grants for code research and development and education.

If the fee for the permit issued is fixed in amount the surcharge is equivalent to one-half mill (.0005) of the fee or 50 cents, whichever amount is greater. For all other permits, the surcharge is as follows:

- (1) if the valuation of the structure, addition, or alteration is \$1,000,000 or less, the surcharge is equivalent to one-half mill (.0005) of the valuation of the structure, addition, or alteration;
- (2) if the valuation is greater than \$1,000,000, the surcharge is \$500 plus two-fifths mill (.0004) of the value between \$1,000,000 and \$2,000,000;
- (3) if the valuation is greater than \$2,000,000, the surcharge is \$900 plus three-tenths mill (.0003) of the value between \$2,000,000 and \$3,000,000;
- (4) if the valuation is greater than \$3,000,000, the surcharge is \$1,200 plus one-fifth mill (.0002) of the value between \$3,000,000 and \$4,000,000;
- (5) if the valuation is greater than \$4,000,000, the surcharge is \$1,400 plus one-tenth mill (.0001) of the value between \$4,000,000 and \$5,000,000; and
- (6) if the valuation exceeds \$5,000,000, the surcharge is \$1,500 plus one-twentieth mill (.00005) of the value that exceeds \$5,000,000.

Subd. 2. **Collection and reports.** All permit surcharges must be collected by each

municipality and a portion of them remitted to the state. Each municipality having a population greater than 20,000 people shall prepare and submit to the commissioner once a month a report of fees and surcharges on fees collected during the previous month but shall retain the greater of two percent or that amount collected up to \$25 to apply against the administrative expenses the municipality incurs in collecting the surcharges. All other municipalities shall submit the report and surcharges on fees once a quarter but shall retain the greater of four percent or that amount collected up to \$25 to apply against the administrative expenses the municipalities incur in collecting the surcharges. The report, which must be in a form prescribed by the commissioner, must be submitted together with a remittance covering the surcharges collected by the 15th day following the month or quarter in which the surcharges are collected.

Subd. 3. **Revenue to equal costs.** Revenue received from the surcharge imposed in subdivision 1 should approximately equal the cost, including the overhead cost, of administering sections 326B.101 to 326B.194. By November 30 each year, the commissioner must report to the commissioner of management and budget and to the legislature on changes in the surcharge imposed in subdivision 1 needed to comply with this policy. In making this report, the commissioner must assume that the services associated with administering sections 326B.101 to 326B.194 will continue to be provided at the same level provided during the fiscal year in which the report is made.

**History:** 1984 c 544 s 75; 1Sp1985 c 13 s 127; 1989 c 303 s 1; 1989 c 335 art 4 s 11; 1991 c 2 art 7 s 5; 1994 c 634 art 2 s 7; 1995 c 254 art 2 s 13; 1997 c 202 art 2 s 26; 1Sp2001 c 10 art 2 s 31; 2002 c 317 s 2; 2007 c 135 art 2 s 5; 2007 c 140 art 4 s 13,61; art 13 s 4; 2009 c 101 art 2 s 109

### **326B.151 PERMIT FEES, TO WHOM APPLICABLE.**

If a municipality is enforcing the State Building Code, the municipality's building official shall administer and enforce the State Building Code with respect to all subject structures constructed within the municipality's jurisdiction, including all buildings constructed by municipalities other than the state and the University of Minnesota. These governmental bodies shall pay the building permit fees and surcharges that the inspecting municipality customarily imposes for its administration and enforcement of the code.

**History:** 1984 c 544 s 76; 1987 c 387 s 4; 2007 c 140 art 4 s 61; art 13 s 4; 2008 c 322 s 4

### **326B.153 BUILDING PERMIT FEES.**

Subdivision 1. **Building permits.** (a) Fees for building permits submitted as required in section 326B.106 include:

(1) the fee as set forth in the fee schedule in paragraph (b) or as adopted by a municipality; and

(2) the surcharge required by section 326B.148.

(b) The total valuation and fee schedule is:

(1) \$1 to \$500, \$29.50;

(2) \$501 to \$2,000, \$28 for the first \$500 plus \$3.70 for each additional \$100 or fraction thereof, to and including \$2,000;

(3) \$2,001 to \$25,000, \$83.50 for the first \$2,000 plus \$16.55 for each additional \$1,000 or fraction thereof, to and including \$25,000;

(4) \$25,001 to \$50,000, \$464.15 for the first \$25,000 plus \$12 for each additional \$1,000 or fraction thereof, to and including \$50,000;

(5) \$50,001 to \$100,000, \$764.15 for the first \$50,000 plus \$8.45 for each additional \$1,000 or fraction thereof, to and including \$100,000;

(6) \$100,001 to \$500,000, \$1,186.65 for the first \$100,000 plus \$6.75 for each additional \$1,000 or fraction thereof, to and including \$500,000;

(7) \$500,001 to \$1,000,000, \$3,886.65 for the first \$500,000 plus \$5.50 for each additional \$1,000 or fraction thereof, to and including \$1,000,000; and

(8) \$1,000,001 and up, \$6,636.65 for the first \$1,000,000 plus \$4.50 for each additional \$1,000 or fraction thereof.

(c) Other inspections and fees are:

(1) inspections outside of normal business hours (minimum charge two hours), \$63.25 per hour;

(2) reinspection fees, \$63.25 per hour;

(3) inspections for which no fee is specifically indicated (minimum charge one-half hour), \$63.25 per hour; and

(4) additional plan review required by changes, additions, or revisions to approved plans (minimum charge one-half hour), \$63.25 per hour.

(d) If the actual hourly cost to the jurisdiction under paragraph (c) is greater than \$63.25, then the greater rate shall be paid. Hourly cost includes supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

**Subd. 2. Plan review.** Fees for the review of building plans, specifications, and related documents submitted as required by section 326B.106 must be paid based on 65 percent of the building permit fee required in subdivision 1.

**Subd. 3. Surcharge.** Surcharge fees are required for permits issued on all buildings including public buildings and state licensed facilities as required by section 326B.148.



Subd. 4. **Distribution.** (a) This subdivision establishes the fee distribution between the state and municipalities contracting for plan review and inspection of public buildings and state licensed facilities.

(b) If plan review and inspection services are provided by the state building official, all fees for those services must be remitted to the state.

(c) If plan review services are provided by the state building official and inspection services are provided by a contracting municipality:

(1) the state shall charge 75 percent of the plan review fee required by the state's fee schedule in subdivision 2; and

(2) the municipality shall charge 25 percent of the plan review fee required by the municipality's adopted fee schedule, for orientation to the plans, in addition to the permit and other customary fees charged by the municipality.

(d) If plan review and inspection services are provided by the contracting municipality, all fees for those services must be remitted to the municipality in accordance with their adopted fee schedule.

**History:** 2009 c 78 art 5 s 11

### **326B.16 ENFORCEMENT OF REQUIREMENTS FOR DISABLED PERSONS.**

A statutory or home rule charter city that does not have in effect an ordinance adopting the State Building Code is responsible for enforcement in the city of the State Building Code's requirements for disabled persons. In all other areas where there is no ordinance in effect adopting the State Building Code, the county is responsible for enforcement of the State Building Code's requirements for disabled persons.

**History:** 1998 c 359 s 14; 2005 c 56 s 1; 2007 c 140 art 4 s 16,61; art 13 s 4; 2008 c 322 s 5

## **ELEVATORS**

### **326B.163 DEFINITIONS; ELEVATORS.**

Subdivision 1. **Applicability.** For the purposes of sections 326B.106 and 326B.163 to 326B.187, the terms defined in this section shall have the meanings given them.

Subd. 2. **Passenger or freight elevator.** "Passenger or freight elevator" means all elevators except those that comply with the safety rules of the department relating to construction and installation and that have automatic operation or continuous pressure operation.

Subd. 3. **Automatic operation.** Automatic operation shall mean operation wherein the starting of the elevator car is effected in response to momentary actuation of operating devices at the landing or of operating devices in the car identified with the landings, or both, or in response

to an automatic starting mechanism and wherein the car is stopped automatically at the landings.

Subd. 4. **Continuous pressure operation.** Continuous pressure operation shall mean operation by means of buttons or switches in the car and at the landing, any one of which may be used to control the movement of the car as long as the button or switch is manually maintained in the actuating position.

Subd. 5. **Elevator.** As used in this chapter, "elevator" means moving walks and vertical transportation devices such as escalators, passenger elevators, freight elevators, dumbwaiters, hand-powered elevators, endless belt lifts, and wheelchair platform lifts. Elevator does not include:

(1) external temporary material lifts or temporary construction personnel elevators at sites of construction of new or remodeled buildings;

(2) manlifts in grain elevators and feed mills subject to installation limitations under Minnesota Rules, part 5205.0550; or

(3) platform wheelchair lifts and elevators in churches.

Subd. 6. **Municipality.** "Municipality," as used in sections 326B.163 to 326B.187, means a city, county, or town meeting the requirements of section 368.01, subdivision 1.

Subd. 7. **Elevator inspection.** "Elevator inspection" means an examination of elevator installations, repairs, alterations, removal, and construction for compliance with the State Building Code that may include witnessing tests performed on elevators by elevator personnel, performing tests on elevators, or an audit of records related to routine and periodic maintenance and testing, or any combination thereof when performed by the department or a municipality authorized to perform such inspections.

Subd. 8. **Elevator inspector.** "Elevator inspector" means an individual who meets the requirements established pursuant to section 326B.187, clause (1), who is performing elevator inspections for the department or a municipality authorized to perform such inspections.

**History:** 1955 c 561 s 1; Ex1967 c 1 s 6; 1985 c 248 s 70; 1989 c 303 s 5,6; 1995 c 166 s 5,6,17; 2007 c 140 art 4 s 17-20, 61; art 13 s 4; 2009 c 76 s 1

**NOTE:** Subdivision 5, clauses (2) and (3), as added by Laws 2009, chapter 76, section 1, expire on July 1, 2010. Laws 2009, chapter 76, section 1, the effective date.

### **326B.166 ELEVATOR INSPECTION AND REPORTING.**

Subdivision 1. **Elevator available for inspection.** A person that owns or controls a building or other structure housing an elevator that is subject to inspection by the department, shall, upon request, provide access at a reasonable hour to the elevator for purposes of inspection.

Subd. 2. **Persons required to report.** The following persons shall report the information

specified in subdivision 3 to the commissioner by January 1, 2008:

(a) any person that, between August 1, 2005, and July 31, 2007, has provided service, alteration, repair, or maintenance to any elevator located in Minnesota;

(b) any person that, between August 1, 2005, and July 31, 2007, has entered into an agreement to provide service, alteration, repair, or maintenance to any elevator located in Minnesota;

(c) any person that owns or controls an elevator located in Minnesota that, between August 1, 2005, and July 31, 2007, has not received service, alteration, repair, or maintenance on the elevator; or

(d) any person that owns or controls an elevator located in Minnesota that, between August 1, 2005, and July 31, 2007, has not entered into an agreement to receive service, alteration, repair, or maintenance on the elevator.

Subd. 3. **Elevator location, type, and installation date.** On a form prescribed by the commissioner, the persons required to report pursuant to subdivision 2 shall provide the following:

- (a) the location of each elevator;
- (b) the type of each elevator; and
- (c) the date the elevator was installed.

Subd. 4. **Definition.** As used in this section, "elevator" is as defined in section 326B.163, subdivision 5.

**History:** 1989 c 303 s 4; 1995 c 166 s 17; 2007 c 140 art 4 s 21,61; art 13 s 4

### **326B.169 ELEVATOR OPERATORS.**

The owner, manager, or lessee of any building in which there is installed a passenger or freight elevator, as hereinafter defined, shall designate a competent person or competent persons regularly to operate such elevator; provided, however, that any such owner, manager or lessee may arrange with one or more tenants of such building to designate one or more of their employees regularly to operate such elevator. No person not so designated shall operate any such elevator and no person shall employ or permit a person not so designated to operate any such elevator. The foregoing prohibitions shall not apply during any period of time when any such elevator is being constructed, installed, inspected, repaired or maintained.

**History:** 1955 c 561 s 1; 1986 c 444; 1995 c 166 s 17; 2007 c 140 art 4 s 61; art 13 s 4

### **326B.172 LICENSING AUTHORITIES.**

Any municipality may by ordinance establish a licensing authority with jurisdiction over all passenger and freight elevators within such municipality, fix the initial and renewal fee for, and

the period of duration of, licenses to operate such elevators, and setting forth the requirements for applicants for and the terms and conditions of licenses to operate such elevators.

**History:** 1955 c 561 s 2; 1973 c 123 art 5 s 7; 1995 c 166 s 7,17; 2007 c 140 art 4 s 61; art 13 s 4

### **326B.175 ELEVATORS, ENTRANCES SEALED.**

It shall be the duty of the department and the licensing authority of any municipality which adopts any such ordinance whenever it finds any such elevator under its jurisdiction in use in violation of any provision of sections 326B.163 to 326B.178 to seal the entrances of such elevator and attach a notice forbidding the use of such elevator until the provisions thereof are complied with.

**History:** 1955 c 561 s 3; Ex1967 c 1 s 6; 1973 c 123 art 5 s 7; 1995 c 166 s 8,17; 2007 c 140 art 4 s 22, 61; art 13 s 4

### **326B.178 VIOLATIONS, PENALTIES.**

Subdivision 1. **Removal of seal.** No person, firm, or corporation may remove any seal or notice forbidding the use of an elevator, except by authority of the department or the licensing authority having jurisdiction over the elevator, or operate an elevator after a notice has been attached forbidding its use, unless the notice has been removed by authority of the department or the licensing authority having jurisdiction over the elevator.

Subd. 2. **False certification.** No inspector, or other party authorized by this section or by rule to inspect elevators, may falsely certify the safety of an elevator, or grant a license or permit contrary to any provision of this chapter.

Subd. 3. **Minimum requirements.** No person, firm, or corporation may construct, install, alter, remove, or repair an elevator that does not meet the minimum requirements of this chapter, adopted rules, or national codes adopted by rule. Notwithstanding any provision of rule or national code adopted by rule to the contrary, however, a stairway chair lift that is not hardwired to the building's electrical system, but is instead plugged into an electrical outlet, may be installed in a private residence for the use of its occupants.

Subd. 4. **Penalties.** The commissioner shall administer sections 326B.163 to 326B.191. In addition to the remedies provided for violations of this chapter, the commissioner may impose a penalty of up to \$10,000 for a violation of any provision of sections 326B.163 to 326B.191.

**History:** 1955 c 561 s 4; Ex1967 c 1 s 6; 1989 c 303 s 7; 1995 c 166 s 9-11,17; 1999 c 185 s 2; 2007 c 140 art 4 s 23,24,61; art 13 s 4

**326B.181 LICENSES FOR OPERATORS.**

In the event an operator is employed to operate an automatic elevator or continuous pressure elevator as provided in sections 326B.163 to 326B.178, such operator shall be duly licensed as provided in sections 326B.163 to 326B.178.

**History:** 1955 c 561 s 5; 1995 c 166 s 17; 2007 c 140 art 4 s 61; art 13 s 4

**326B.184 FEES FOR LICENSURE AND PERMIT.**

Subdivision 1. **Permits.** No person may construct, install, alter, or remove an elevator without first filing an application for a permit with the department or a municipality authorized by subdivision 4 to inspect elevators.

Subd. 2. **Annual operating permit.** No person may operate an elevator without first obtaining an annual operating permit from the department or a municipality authorized by subdivision 4 to issue annual operating permits. A \$100 annual operating permit fee must be paid to the department for each annual operating permit issued by the department, except that the original annual operating permit must be included in the permit fee for the initial installation of the elevator. Annual operating permits must be issued at 12-month intervals from the date of the initial annual operating permit. For each subsequent year, an owner must be granted an annual operating permit for the elevator upon the owner's or owner's agent's submission of a form prescribed by the commissioner and payment of the \$100 fee. Each form must include the location of the elevator, the results of any periodic test required by the code, and any other criteria established by rule. An annual operating permit may be revoked by the commissioner upon an audit of the periodic testing results submitted with the application or a failure to comply with elevator code requirements, inspections, or any other law related to elevators.

Subd. 3. **Contractor licenses.** The commissioner may establish criteria for the qualifications of elevator contractors and issue licenses based upon proof of the applicant's qualifications.

Subd. 4. **Permissive municipal regulation.** A municipality may conduct a system of elevator inspection in conformity with this chapter, State Building Code requirements, and adopted rules that includes the inspection of elevator installation, repair, alteration, and removal, construction, routine and periodic inspection and testing of existing elevators, and the issuance of annual operating permits. The municipality shall employ inspectors meeting the minimum requirements established by Minnesota Rules to perform the inspections and to witness the tests. A municipality may establish and retain its own fees for inspection of elevators and related devices in its jurisdiction. A municipality may establish and retain its own fees for issuance of annual operating permits for elevators in its jurisdiction. A municipality may not adopt standards that do not conform to the uniform standards prescribed by the department.

If the commissioner determines that a municipality is not properly administering and enforcing the law, rules, and codes, the commissioner shall have the inspection, administration, and enforcement undertaken by a qualified inspector employed by the department.

**History:** 1989 c 303 s 8; 1995 c 166 s 12,13,17; 1997 c 206 s 9; 2007 c 140 art 4 s 25,61; art 13 s 4

### **326B.187 RULES.**

The commissioner may adopt rules for the following purposes:

(1) to establish minimum qualifications for elevator inspectors that must include possession of a current elevator constructor electrician's license issued by the department and proof of successful completion of the national elevator industry education program examination or equivalent experience;

(2) to establish minimum qualifications for limited elevator inspectors;

(3) to establish criteria for the qualifications of elevator contractors;

(4) to establish elevator standards under sections 326B.106, subdivisions 1 and 3, and 326B.13;

(5) to establish procedures for appeals of decisions of the commissioner under chapter 14 and procedures allowing the commissioner, before issuing a decision, to seek advice from the elevator trade, building owners or managers, and others knowledgeable in the installation, construction, and repair of elevators; and

(6) to establish requirements for the registration of all elevators.

**History:** 1989 c 303 s 9; 1995 c 166 s 14,17; 1996 c 305 art 3 s 1; 1999 c 250 art 3 s 3; 2007 c 140 art 4 s 26,61; art 13 s 4

### **326B.191 CONFLICT OF LAWS.**

Nothing in sections 326B.163 to 326B.191 supersedes the Minnesota Electrical Act in chapter 326.

**History:** 1995 c 166 s 15,17; 2007 c 140 art 4 s 61; art 13 s 4

## **INDUSTRIALIZED/MODULAR BUILDINGS**

### **326B.194 INTERSTATE COMPACT ON INDUSTRIALIZED/MODULAR BUILDINGS.**

The state of Minnesota ratifies and approves the following compact:

#### **INTERSTATE COMPACT ON INDUSTRIALIZED/MODULAR BUILDINGS**

#### **ARTICLE I**

#### **FINDINGS AND DECLARATIONS OF POLICY**

(1) The compacting states find that:

(a) Industrialized/modular buildings are constructed in factories in the various states and are a growing segment of the nation's affordable housing and commercial building stock.

(b) The regulation of industrialized/modular buildings varies from state to state and locality to locality, which creates confusion and burdens state and local building officials and the industrialized/modular building industry.

(c) Regulation by multiple jurisdictions imposes additional costs, which are ultimately borne by the owners and users of industrialized/modular buildings, restricts market access and discourages the development and incorporation of new technologies.

(2) It is the policy of each of the compacting states to:

(a) Provide the states which regulate the design and construction of industrialized/modular buildings with a program to coordinate and uniformly adopt and administer the states' rules and regulations for such buildings, all in a manner to assure interstate reciprocity.

(b) Provide to the United States Congress assurances that would preclude the need for a voluntary preemptive federal regulatory system for modular housing, as outlined in Section 572 of the Housing and Community Development Act of 1987, including development of model standards for modular housing construction, such that design and performance will insure quality, durability and safety; will be in accordance with life-cycle cost-effective energy conservation standards; all to promote the lowest total construction and operating costs over the life of such housing.

## ARTICLE II DEFINITIONS

As used in this compact, unless the context clearly requires otherwise:

(1) "Commission" means the Interstate Industrialized/Modular Buildings Commission.

(2) "Industrialized/modular building" means any building which is of closed construction, i.e. constructed in such a manner that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly, damage or destruction, and which is made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. "Industrialized/modular building" includes, but is not limited to, modular housing which is factory-built single-family and multifamily housing (including closed wall panelized housing) and other modular, nonresidential buildings. "Industrialized/modular building" does not include any structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974.

(3) "Interim reciprocal agreement" means a formal reciprocity agreement between a noncompacting state wherein the noncompacting state agrees that labels evidencing compliance

with the model rules and regulations for industrialized/modular buildings, as authorized in Article VIII, section (9), shall be accepted by the state and its subdivisions to permit installation and use of industrialized/modular buildings. Further, the noncompacting state agrees that by legislation or regulation, and appropriate enforcement by uniform administrative procedures, the noncompacting state requires all industrialized/modular building manufacturers within that state to comply with the model rules and regulations for industrialized/modular buildings.

(4) "State" means a state of the United States, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(5) "Uniform administrative procedures" means the procedures adopted by the commission (after consideration of any recommendations from the rules development committee) which state and local officials, and other parties, in one state, will utilize to assure state and local officials, and other parties, in other states, of the substantial compliance of industrialized/modular building construction with the construction standard of requirements of such other states; to assess the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies.

(6) "Model rules and regulations for industrialized/modular buildings" means the construction standards adopted by the commission (after consideration of any recommendations from the rules development committee) which govern the design, manufacture, handling, storage, delivery and installation of industrialized/modular buildings and building components. The construction standards and any amendments thereof shall conform insofar as practicable to model building codes and referenced standards generally accepted and in use throughout the United States.

### ARTICLE III CREATION OF COMMISSION

The compacting states hereby create the Interstate Industrialized/Modular Buildings Commission, hereinafter called commission. Said commission shall be a body corporate of each compacting state and an agency thereof. The commission shall have all the powers and duties set forth herein and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states.

### ARTICLE IV SELECTION OF COMMISSIONERS

The commission shall be selected as follows. As each state becomes a compacting state, one resident shall be appointed as commissioner. The commissioner shall be selected by the governor of the compacting state, being designated from the state agency charged with regulating industrialized/modular buildings or, if such state agency does not exist, being designated from among those building officials with the most appropriate responsibilities in the state. The



commissioner may designate another official as an alternate to act on behalf of the commissioner at commission meetings which the commissioner is unable to attend.

Each state commissioner shall be appointed, suspended, or removed and shall serve subject to and in accordance with the laws of the state which said commissioner represents; and each vacancy occurring shall be filled in accordance with the laws of the state wherein the vacancy exists.

For every three state commissioners that have been appointed in the manner described, those state commissioners shall select one additional commissioner who shall be a representative of manufacturers of residential- or commercial-use industrialized/modular buildings. For every six state commissioners that have been appointed in the manner described, the state commissioners shall select one additional commissioner who shall be a representative of consumers of industrialized/modular buildings. In the event states withdraw from the compact or, for any other reason, the number of state commissioners is reduced, the state commissioners shall remove the last added representative commissioner as necessary to maintain the ratio of state commissioners to representative commissioners described herein.

Upon a majority vote of the state commissioners, the state commissioners may remove, fill a vacancy created by, or replace any representative commissioner, provided that any replacement is made from the same representative group and the ratio described herein is maintained. Unless provided otherwise, the representative commissioners have the same authority and responsibility as the state commissioners.

In addition, the commission may have as a member one commissioner representing the United States government if federal law authorizes such representation. Such commissioner shall not vote on matters before the commission. Such commissioner shall be appointed by the President of the United States, or in such other manner as may be provided by Congress.

## ARTICLE V

### VOTING

Each commissioner (except the commissioner representing the United States government) shall be entitled to one vote on the commission. A majority of the commissioners shall constitute a quorum for the transaction of business. Any business transacted at any meeting of the commission must be by affirmative vote of a majority of the quorum present and voting.

## ARTICLE VI

### ORGANIZATION AND MANAGEMENT

The commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The commission shall also select a secretariat, which shall provide an individual who shall serve as secretary of the commission. The commission shall fix and determine the duties

and compensation of the secretariat. The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the commission.

The commission shall adopt a seal.

The commission shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations.

The commission shall establish and maintain an office at the same location as the office maintained by the secretariat for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call additional meetings and upon the request of a majority of the commissioners of three or more of the compacting states shall call an additional meeting.

The commission annually shall make the governor and legislature of each compacting state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

## ARTICLE VII COMMITTEES

The commission will establish such committees as it deems necessary, including, but not limited to, the following:

(1) An executive committee which functions when the full commission is not meeting, as provided in the bylaws of the commission. The executive committee will ensure that proper procedures are followed in implementing the commission's programs and in carrying out the activities of the compact. The executive committee shall be elected by vote of the commission. It shall be comprised of at least three and no more than nine commissioners, selected from the state commissioners and one member of the industry commissioners and one member of the consumer commissioners.

(2) A rules development committee appointed by the commission. The committee shall be consensus-based and consist of not less than seven nor more than 21 members. Committee members will include state building regulatory officials; manufacturers of industrialized/modular buildings; private, third-party inspection agencies; and consumers. This committee may recommend procedures which state and local officials, and other parties, in one state, may utilize to assure state and local officials, and other parties, in other states, of the substantial compliance of industrialized/modular building construction with the construction standard requirements of such other states; to assess the adequacy of building systems; and to verify and assure the

competency and performance of evaluation and inspection agencies. This committee may also recommend construction standards for the design, manufacture, handling, storage, delivery and installation of industrialized/modular buildings and building components. The committee will submit its recommendations to the commission, for the commission's consideration in adopting and amending the uniform administrative procedures and the model rules and regulations for industrialized/modular buildings. The committee may also review the regulatory programs of the compacting states to determine whether those programs are consistent with the uniform administrative procedures or the model rules and regulations for industrialized/modular buildings and may make recommendations concerning the states' programs to the commission. In carrying out its functions, the rules committee may conduct public hearings and otherwise solicit public input and comment.

(3) Any other advisory, coordinating or technical committees, membership on which may include private persons, public officials, associations or organizations. Such committees may consider any matter of concern to the commission.

(4) Such additional committees as the commission's bylaws may provide.

#### ARTICLE VIII

#### POWER AND AUTHORITY

In addition to the powers conferred elsewhere in this compact, the commission shall have power to:

(1) Collect, analyze and disseminate information relating to industrialized/modular buildings.

(2) Undertake studies of existing laws, codes, rules and regulations, and administrative practices of the states relating to industrialized/modular buildings.

(3) Assist and support committees and organizations which promulgate, maintain and update model codes or recommendations for uniform administrative procedures or model rules and regulations for industrialized/modular buildings.

(4) Adopt and amend uniform administrative procedures and model rules and regulations for industrialized/modular buildings.

(5) Make recommendations to compacting states for the purpose of bringing such states' laws, codes, rules and regulations and administrative practices into conformance with the uniform administrative procedures or the model rules and regulations for industrialized/modular buildings, provided that such recommendations shall be made to the appropriate state agency with due consideration for the desirability of uniformity while also giving appropriate consideration to special circumstances which may justify variations necessary to meet unique local conditions.

(6) Assist and support the compacting states with monitoring of plan review programs and inspection programs, which will assure that the compacting states have the benefit of uniform industrialized/modular building plan review and inspection programs.

(7) Assist and support organizations which train state and local government and other program personnel in the use of uniform industrialized/modular building plan review and inspection programs.

(8) Encourage and promote coordination of state regulatory action relating to manufacturers, public or private inspection programs.

(9) Create and sell labels to be affixed to industrialized/modular building units, constructed in or regulated by compacting states, where such labels will evidence compliance with the model rules and regulations for industrialized/modular buildings, enforced in accordance with the uniform administrative procedures. The commission may use receipts from the sale of labels to help defray the operating expenses of the commission.

(10) Assist and support compacting states' investigations into and resolutions of consumer complaints which relate to industrialized/modular buildings constructed in one compacting state and sited in another compacting state.

(11) Borrow, accept or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, association, person, firm or corporation.

(12) Accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same.

(13) Establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(14) Enter into contracts and agreements, including but not limited to, interim reciprocal agreements with noncompacting states.

## ARTICLE IX

### FINANCE

The commission shall submit to the governor or designated officer or officers of each compacting state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the compacting states. The

total amount of appropriations requested under any such budget shall be apportioned among the compacting states as follows: one-half in equal shares; one-fourth among the compacting states in accordance with the ratio of their populations to the total population of the compacting states, based on the last decennial federal census; and one-fourth among the compacting states in accordance with the ratio of industrialized/modular building units manufactured in each state to the total of all units manufactured in all of the compacting states.

The commission shall not pledge the credit of any compacting state. The commission may meet any of its obligations in whole or in part with funds available to it by donations, grants, or sale of labels: provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it by donations, grants or sale of labels, the commission shall not incur any obligation prior to the allotment of funds by the compacting states adequate to meet the same.

The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the compacting states and any person authorized by the commission.

Nothing contained in this article shall be construed to prevent commission compliance relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

## ARTICLE X

### ENTRY INTO FORCE AND WITHDRAWAL

This compact shall enter into force when enacted into law by any three states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all compacting states whenever there is a new enactment of the compact.

Any compacting state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a compacting state prior to the time of such withdrawal.

## ARTICLE XI

### RECIPROCITY

If the commission determines that the standards for industrialized/modular buildings prescribed by statute, rule or regulation of compacting state are at least equal to the commission's model rules and regulations for industrialized/modular buildings, and that such state standards are enforced by the compacting state in accordance with the uniform administrative procedures, industrialized/modular buildings approved by such a compacting state shall be deemed to have been approved by all the compacting states for placement in those states in accordance with procedures prescribed by the commission.

## ARTICLE XII

### EFFECT ON OTHER LAWS AND JURISDICTION

Nothing in this compact shall be construed to:

(1) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction pursuant to this compact, is expressly conferred upon another agency or body.

(2) Supersede or limit the jurisdiction of any court of the United States.

## ARTICLE XIII

### CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

**History:** 1990 c 458 s 2; 1995 c 254 art 4 s 1; 2007 c 140 art 4 s 61; art 13 s 4

### **326B.197 BOND REQUIRED FOR CERTAIN CONTRACTORS.**

(a) A person contracting to do gas, heating, ventilation, cooling, air conditioning, fuel burning, or refrigeration work must give bond to the state in the amount of \$25,000 for all work entered into within the state. The bond must be for the benefit of persons suffering financial loss by reason of the contractor's failure to comply with the requirements of the State Mechanical Code. A bond given to the state must be filed with the commissioner of labor and industry and is in lieu of all other bonds to any political subdivision required for work covered by this section. The bond must be written by a corporate surety licensed to do business in the state.

(b) The commissioner of labor and industry may charge each person giving bond under this section an annual bond filing fee of \$15.

**History:** *1Sp2003 c 1 art 2 s 83; 2007 c 135 art 4 s 9; 2007 c 140 art 4 s 28,61; art 13 s 4*

## ELECTRICAL

### 326B.31 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 326B.31 to 326B.399, the terms defined in this section have the meanings given them.

Subd. 2. **Class A electrical contractor.** "Class A electrical contractor" means a licensed contractor whose responsible licensed individual is a licensed Class A master electrician.

Subd. 3. MS 2007 Supp [Renumbered subd 10]

Subd. 4. MS 2007 Supp [Renumbered subd 24]

Subd. 5. MS 2007 Supp [Renumbered subd 28]

Subd. 6. MS 2007 Supp [Renumbered subd 30]

Subd. 7. **Class A installer.** "Class A installer" means an individual who has the necessary qualifications, training, experience, and technical knowledge to properly lay out and install electrical wiring, apparatus, and equipment for major electrical home appliances and such other electrical equipment as is determined by the commissioner pursuant to section 326B.33, subdivision 3, on the load side of the main service on farmsteads or in any town or municipality with less than 1,500 inhabitants, which is not contiguous to a city of the first class and does not contain an established business of a master electrician, and who is licensed as a Class A installer by the commissioner.

Subd. 8. **Class A journeyman electrician.** "Class A journeyman electrician" means an individual having the necessary qualifications, training, experience, and technical knowledge to perform and supervise any electrical work except for planning or laying out of electrical work, and who is licensed as a Class A journeyman electrician by the commissioner.

Subd. 9. **Class A master electrician.** "Class A master electrician" means an individual having the necessary qualifications, training, experience, and technical knowledge to perform and supervise any electrical work, and who is licensed as a Class A master electrician by the commissioner.

Subd. 10. **Class B electrical contractor.** "Class B electrical contractor" means a licensed contractor whose responsible licensed individual is a licensed Class B master electrician.

Subd. 11. **Class B installer.** "Class B installer" means an individual who has the necessary

qualifications, training, experience, and technical knowledge to properly lay out and install electrical wiring, apparatus, and equipment on center pivot irrigation booms on the load side of the main service on farmsteads, and install other electrical equipment determined by the commissioner, and who is licensed as a Class B installer by the commissioner.

Subd. 12. **Class B journeyman electrician.** "Class B journeyman electrician" means an individual having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, and supervise the installing, altering, or repairing of electrical wiring, apparatus, and equipment for single phase systems of not more than 200 ampere capacity for light, heat, power, and other purposes on any farm or in any single family dwelling located in any town or municipality which has a population of less than 2,500 inhabitants, and who is licensed as a Class B journeyman electrician by the commissioner.

Subd. 13. **Class B master electrician.** "Class B master electrician" means an individual having the necessary qualifications, training, experience, and technical knowledge to perform and supervise any electrical work for single phase systems of not over 200 ampere capacity for light, heat, power, and other purposes on any farm or in any single family dwelling located in any town or municipality which has a population of less than 2,500 inhabitants, and who is licensed as a Class B master electrician by the commissioner.

Subd. 14. **Contractor.** "Contractor" means a person who performs or offers to perform any electrical work, with or without compensation, who is licensed as a contractor by the commissioner. A contractor's license does not of itself qualify its holder to perform or supervise the electrical work authorized by holding any class of electrician's or other personal license. Contractor includes electrical contractors and technology system contractors.

Subd. 15. **Demarcation.** "Demarcation" means listed equipment as identified in Minnesota Rules, part 3800.3619, such as a transformer, uninterruptible power supply (UPS), battery, control panel, or other device that isolates technology circuits or systems from nontechnology circuits or systems, including plug or cord and plug connection.

Subd. 16. **Direct supervision.** "Direct supervision" means:

(1) an unlicensed individual is being supervised by an individual licensed to perform the electrical work being supervised;

(2) during the entire working day of the unlicensed individual, the licensed individual is physically present at the location where the unlicensed individual is performing electrical work and immediately available to the unlicensed individual;

(3) the licensed individual is physically present and immediately available to the unlicensed individual at all times for assistance and direction;



(4) electronic supervision does not meet the requirement of physically present and immediately available;

(5) the licensed individual shall review the electrical work performed by the unlicensed individual before the electrical work is operated; and

(6) the licensed individual is able to and does determine that all electrical work performed by the unlicensed individual is performed in compliance with section 326B.35.

The licensed individual is responsible for the compliance with section 326B.35 of all electrical work performed by the unlicensed individual.

Subd. 17. **Electrical work.** "Electrical work" means the installing, altering, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for electrical light, heat, power, technology circuits or systems, or other purposes. The installing, altering, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for electrical light, heat, power, technology circuits or systems, or other purposes includes, but is not limited to, the performance of any work regulated by the standards referred to in section 326B.35.

Subd. 18. **Elevator constructor.** "Elevator constructor" means an individual having the necessary qualifications, training, experience, and technical knowledge to wire for, install, maintain, and repair electrical wiring, apparatus, and equipment for elevators and escalators and who is licensed as an elevator constructor by the commissioner.

Subd. 19. **Elevator contractor.** "Elevator contractor" means a licensed contractor whose responsible licensed individual is a licensed master elevator constructor. An elevator contractor license does not itself qualify its holder to perform or supervise the electrical or elevator work authorized by holding a personal license issued by the commissioner.

Subd. 20. **Lineman.** "Lineman" means an individual having the necessary qualifications, training, experience, and technical knowledge to construct and maintain transmission and distribution systems that are or will be owned or leased by an electrical utility, and who is licensed as a lineman by the commissioner.

Subd. 21. **Maintenance electrician.** "Maintenance electrician" means an individual having the necessary qualifications, training, experience, and technical knowledge to properly maintain and repair electrical wiring, apparatus, and equipment, who is licensed as a maintenance electrician by the commissioner or who is exempt from licensing by sections 326B.32 to 326B.399.

Subd. 22. **Master elevator constructor.** "Master elevator constructor" means an individual having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation, maintenance, and repair of wiring, apparatus, and equipment for elevators and escalators and who is licensed as a master elevator constructor by the commissioner.

Subd. 23. **Owner.** An owner is an individual who physically performs electrical work on premises the individual owns and actually occupies as a residence or owns and will occupy as a residence upon completion of its construction.

Subd. 24. **Personal license.** "Personal license" means any license issued by the commissioner under section 326B.33 or the rules adopted under section 326B.33, except a contractor's license.

Subd. 25. **Power limited technician.** "Power limited technician" means an individual having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, plan, lay out, and supervise the installing, altering, and repairing of electrical wiring, apparatus, and equipment for technology circuits or systems, and who is licensed as a power limited technician by the commissioner.

Subd. 26. **Process control circuits or systems.** "Process control circuits or systems" are circuits or systems, regardless of electrical classification, that are integrated with a manufacturing, mining, energy, finishing, conveyance of equipment or product, material handling or packaging process that makes or assembles, or similar process. Process control systems does not include premises network and communication systems whose purpose or function is not dedicated to process control circuits or systems.

Subd. 27. **Residential dwelling.** A "residential dwelling" is a single dwelling unit that is contained in a one-family, two-family, or multifamily dwelling as defined in the National Electrical Code pursuant to section 326B.35. A residential dwelling includes a garage and accessory building that can only be used by the residents of the single dwelling unit.

Subd. 28. **Responsible licensed individual.** A contractor's "responsible licensed individual" means the licensed Class A master electrician, Class B master electrician, master elevator constructor, or power limited technician designated in writing by the contractor in the contractor's license application, or in another manner acceptable to the commissioner, as the individual responsible for the contractor's compliance with sections 326B.31 to 326B.399 and all rules and orders adopted or issued under these sections. The terms "licensed responsible individual" and "licensed responsible master electrician or power limited technician" are synonymous.

Subd. 29. **Technology circuits or systems.** "Technology circuits or systems" means class 2 or class 3 circuits or systems for, but not limited to, remote control, signaling, control, alarm, and audio signal, including associated components as covered by the National Electrical Code, articles 640, 645, 650, 725, 760, 770, and 780, and which are isolated from circuits or systems other than class 2 or class 3 by a demarcation and are not process control circuits or systems; antenna and communication circuits or systems as covered by chapter 8 of the National Electrical Code; and circuitry and equipment for indoor lighting and outdoor landscape lighting systems

that are supplied by the secondary circuit of an isolating power supply operating at 30 volts or less as covered by the National Electrical Code, article 411. The planning, laying out, installing, altering, and repairing of technology circuits or systems must be performed in accordance with the applicable requirements of the National Electrical Code pursuant to section 326B.35.

Subd. 30. **Technology system contractor.** "Technology system contractor" means a licensed contractor whose responsible licensed individual is a licensed power limited technician.

**History:** 2007 c 140 art 5 s 31(5872, 5887, 5887-23, 5887-30, 5887-30e) 1907 c 457 s 8; 1913 c 554 s 1; 1933 c 349 s 5; 1937 c 367 s 1,6; 1937 c 370 s 4; 1941 c 460 s 1; 1943 c 474 s 1; 1947 c 253 s 1; 1957 c 907 s 1-3; 1967 c 602 s 10-16; 1979 c 121 s 1; 1985 c 73 s 1-4; 1985 c 248 s 70; 1Sp1985 c 6 s 2; 1986 c 373 s 1,2; 1986 c 402 s 1; 1986 c 444; 1991 c 289 s 1-9; 2002 c 328 s 1-7; 2003 c 58 s 1; 2007 c 135 art 6 s 1; 2007 c 140 art 5 s 1-18,32; art 6 s 2,3; art 13 s 4; 2008 c 337 s 5,6

### **326B.32 BOARD OF ELECTRICITY.**

Subdivision 1. **Composition.** (a) The Board of Electricity shall consist of 12 members. Eleven members shall be appointed by the governor with the advice and consent of the senate and shall be voting members. Appointments of members by the governor shall be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and consent of the senate. One member shall be the commissioner of labor and industry or the commissioner's designee, who shall be a voting member. Of the 11 appointed members, the composition shall be as follows:

- (1) one member shall be an electrical inspector;
- (2) two members shall be representatives of the electrical suppliers in rural areas;
- (3) two members shall be master electricians, who shall be contractors;
- (4) two members shall be journeyman electricians;
- (5) one member shall be a registered consulting electrical engineer;
- (6) two members shall be power limited technicians, who shall be technology system contractors primarily engaged in the business of installing technology circuits or systems; and
- (7) one member shall be a public member as defined by section 214.02.

The electrical inspector shall be appointed to a term to end December 31, 2011. One of the rural electrical suppliers shall be appointed for a term to end December 31, 2011. The other rural electrical supplier shall be appointed for a term to end December 31, 2010. The consulting electrical engineer shall be appointed for a term to end December 31, 2011. One of the master electrician contractors shall be appointed for a term to end December 31, 2011. The other master

electrician contractor shall be appointed for a term to end December 31, 2010. One of the journeyman electricians shall be appointed for a term to end December 31, 2011. The other journeyman electrician shall be appointed for a term to end December 31, 2010. One of the power limited technicians shall be appointed for a term to end December 31, 2011. The other power limited technician shall be appointed for a term to end December 31, 2010. The public member shall be appointed for a term to end December 31, 2010.

(b) The consulting electrical engineer must possess a current Minnesota professional engineering license and maintain the license for the duration of the term on the board. All other appointed members, except for the public member and the representatives of electrical suppliers in rural areas, must possess a current electrical license issued by the Department of Labor and Industry and maintain that license for the duration of their terms. All appointed members must be residents of Minnesota at the time of and throughout the member's appointment. The term of any appointed member that does not maintain membership qualification status shall end on the date of the status change and the governor shall appoint a new member. It is the responsibility of the member to notify the board of their status change.

(c) For appointed members, except the initial terms designated in paragraph (a), each term shall be three years with the terms ending on December 31. Members appointed by the governor shall be limited to three consecutive terms. The governor shall, all or in part, reappoint the current members or appoint replacement members with the advice and consent of the senate. Midterm vacancies shall be filled for the remaining portion of the term. Vacancies occurring with less than six months time remaining in the term shall be filled for the existing term and the following three-year term. Members may serve until their successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

**Subd. 2. Powers; duties; administrative support.** (a) The board shall have the power to:

- (1) elect its chair, vice-chair, and secretary;
- (2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and containing other provisions as may be useful and necessary for the efficient conduct of the business of the board;
- (3) adopt the Minnesota Electrical Code, which must be the most current edition of the National Electrical Code and any amendments thereto. The board shall adopt the most current edition of the National Electrical Code and any amendments thereto pursuant to chapter 14 and as provided in subdivision 6, paragraphs (b) and (c);
- (4) review requests for final interpretations and issue final interpretations as provided in section 326B.127, subdivision 5;

(5) adopt rules that regulate the licensure or registration of electrical businesses, electrical contractors, master electricians, journeyman electricians, Class A installer, Class B installer, power limited technicians, and other persons who perform electrical work except for those individuals licensed under section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (d) and (e);

(6) adopt rules that regulate continuing education for individuals licensed or registered as electrical businesses, electrical contractors, master electricians, journeyman electricians, Class A installer, Class B installer, power limited technicians, and other persons who perform electrical work. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (d) and (e);

(7) advise the commissioner regarding educational requirements for electrical inspectors;

(8) refer complaints or other communications to the commissioner, whether oral or in writing, as provided in subdivision 8, that allege or imply a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, registration, or an offering to perform or performance of unlicensed electrical services;

(9) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;

(10) approve license reciprocity agreements;

(11) select from its members individuals to serve on any other state advisory council, board, or committee; and

(12) recommend the fees for licenses and certifications.

Except for the powers granted to the Plumbing Board, Board of Electricity, and the Board of High Pressure Piping Systems, the commissioner of labor and industry shall administer and enforce the provisions of this chapter and any rules promulgated pursuant thereto.

(b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by all of the other boards created pursuant to this chapter. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

Subd. 3. **Compensation.** (a) Members of the board may be compensated at the rate of \$55 a day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care

expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of the political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they are compensated by the state or political subdivision. However, a state or political subdivision employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) The board shall adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

Subd. 4. **Removal; vacancies.** (a) An appointed member of the board may be removed by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the governor of an appointed member missing the three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the appointed member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the governor shall, with the advice and consent of the Senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.097, subdivisions 5 and 6.

Subd. 5. **Membership vacancies within three months of appointment.** Notwithstanding any law to the contrary, when a membership on the board becomes vacant within three months after being filled through the appointments process, the governor may, upon notification to the Office of Secretary of State, choose a new member from the applications on hand and need not repeat the process.

Subd. 6. **Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that is not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Each electrical code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all of the voting members of the board shall be included in the

next electrical code rulemaking proceeding initiated by the board. If an electrical code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all of the voting members of the board, the electrical code amendment shall not be included in the next electrical code rulemaking proceeding initiated by the board.

(c) The board may reconsider electrical code amendments during an active electrical code rulemaking proceeding in which the amendment previously failed to receive a two-thirds majority vote or more of all of the voting members of the board only if new or updated information that affects the electrical code amendment is presented to the board. The board may also reconsider failed electrical code amendments in subsequent electrical code rulemaking proceedings.

(d) Each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), clauses (5) and (6), that receives an affirmative majority vote of all of the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all of the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(e) The board may reconsider proposed rules or rule amendments during an active rulemaking proceeding in which the amendment previously failed to receive an affirmative majority vote of all of the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider failed proposed rules or rule amendments in subsequent rulemaking proceedings.

Subd. 7. **Board meetings.** (a) The board shall hold meetings at such times as the board shall specify. Notice and conduct of all meetings shall be pursuant to chapter 13D and in a manner as the bylaws may provide.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. Any person monitoring the meeting electronically from a remote location may be required to pay documented costs incurred by the board as a result of the additional connection. The timing and method of providing notice is governed by section 13D.04.

Subd. 8. **Complaints.** (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether in writing or oral, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the department to provide electrical work, the performance or offering to perform electrical work requiring licensure or registration, or electrical code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.

(b) The commissioner shall advise the board of the status of the complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

Subd. 9. **Data Practices Act.** The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

Subd. 10. **Official records.** The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

**History:** 2007 c 140 art 4 s 61; art 5 s 19,32; art 13 s 4; 2008 c 337 s 7,8

### **326B.33 LICENSES.**

Subdivision 1. **Master electrician.** Except as otherwise provided by law, no individual shall



perform or supervise electrical work unless the individual is: (a) licensed by the commissioner as a master electrician; and (b)(i) the electrical work is for a licensed contractor and the individual is an employee, partner, or officer of, or is the licensed contractor, or (ii) the electrical work is performed for the individual's employer on electrical wiring, apparatus, equipment, or facilities that are owned or leased by the employer and that are located within the limits of property operated, maintained, and either owned or leased by the employer.

(1) An applicant for a Class A master electrician license shall (a) be a graduate of a four-year electrical course offered by an accredited college or university; or (b) shall have had at least one year of experience, acceptable to the commissioner, as a licensed journeyman; or (c) shall have had at least five years' experience, acceptable to the commissioner, in planning for, laying out, supervising and installing wiring, apparatus, or equipment for electrical light, heat and power.

(2) As of August 1, 1985, no new Class B master electrician licenses shall be issued. An individual who has a Class B master electrician license as of August 1, 1985, may retain and renew the license and exercise the privileges it grants, which include electrical work limited to single phase systems, not over 200 amperes in capacity, on farmsteads or single-family dwellings located in towns or municipalities with fewer than 2,500 inhabitants.

Subd. 2. **Journeyman electrician.** (a) Except as otherwise provided by law, no individual shall perform and supervise any electrical work except for planning or laying out of electrical work unless:

(1) the individual is licensed by the commissioner as a journeyman electrician; and

(2) the electrical work is:

(i) for a contractor and the individual is an employee, partner, or officer of the licensed contractor; or

(ii) performed under the supervision of a master electrician also employed by the individual's employer on electrical wiring, apparatus, equipment, or facilities that are owned or leased by the employer and that are located within the limits of property operated, maintained, and either owned or leased by the employer.

(b) An applicant for a Class A journeyman electrician license shall have had at least four years of experience, acceptable to the commissioner, in wiring for, installing, and repairing electrical wiring, apparatus, or equipment, provided however, that one year of experience credit for the successful completion of a two-year post high school electrical course approved by the commissioner may be allowed.

(c) As of August 1, 1985, no new Class B journeyman electrician licenses shall be issued. An individual who holds a Class B journeyman electrician license as of August 1, 1985, may retain and renew the license and exercise the privileges it grants, which include electrical

work limited to single phase systems, not over 200 amperes in capacity, on farmsteads or on single-family dwellings located in towns or municipalities with fewer than 2,500 inhabitants.

Subd. 3. **Class A installer.** Notwithstanding the provisions of subdivisions 1, 2, and 14, any individual holding a Class A installer license may lay out and install and supervise the laying out and installing of electrical wiring, apparatus, or equipment for major electrical home appliances on the load side of the main service on farmsteads and in any town or municipality with fewer than 1,500 inhabitants, which is not contiguous to a city of the first class and does not contain an established business of a contractor. As of December 1, 2007, no new Class A installer licenses shall be issued. An individual who holds a Class A installer license as of December 1, 2007, may retain and renew the license and exercise the privileges it grants.

Subd. 4. **Class B installer.** Notwithstanding the provisions of subdivisions 1, 2, and 14, any individual holding a Class B installer license may lay out and install electrical wiring, apparatus and equipment on center pivot irrigation booms on the load side of the main service on farmsteads, and install such other electrical equipment as is approved by the commissioner.

Subd. 5. **Coursework or experience.** An applicant for a Class A or B installer license shall have completed a post high school course in electricity approved by the commissioner or shall have had at least one year of experience, approved by the commissioner, in electrical wiring.

Subd. 6. **Bond.** Every Class A and Class B installer, as a condition of licensure, shall give bond to the state in the sum of \$1,000 conditioned upon the faithful and lawful performance of all work contracted for or entered upon by the installer within the state of Minnesota, and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. Such bond shall be in lieu of all other license bonds to any political subdivision of the state. Such bond shall be written by a corporate surety licensed to do business in the state of Minnesota.

Subd. 7. **Power limited technician.** (a) Except as otherwise provided by law, no individual shall install, alter, repair, plan, lay out, or supervise the installing, altering, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for technology circuits or systems unless:

- (1) the individual is licensed by the commissioner as a power limited technician; and
- (2) the electrical work is:

(i) for a licensed contractor and the individual is an employee, partner, or officer of, or is the licensed contractor; or

(ii) performed under the direct supervision of a master electrician or power limited technician also employed by the individual's employer on technology circuits, systems, apparatus, equipment, or facilities that are owned or leased by the employer and that are located within the limits of property operated, maintained, and either owned or leased by the employer.

(b) An applicant for a power limited technician's license shall (1) be a graduate of a four-year electrical course offered by an accredited college or university; or (2) have had at least 36 months' experience, acceptable to the commissioner, in planning for, laying out, supervising, installing, altering, and repairing wiring, apparatus, or equipment for power limited systems, provided however, that up to 12 months (2,000 hours) of experience credit for successful completion of a two-year post high school electrical course or other technical training approved by the commissioner may be allowed.

(c) Licensees must attain 16 hours of continuing education acceptable to the board every renewal period.

(d) A company holding an alarm and communication license as of June 30, 2003, may designate one individual who may obtain a power limited technician license without passing an examination administered by the commissioner by submitting an application and license fee of \$30.

(e) A person who has submitted an application by December 30, 2007, to take the power limited technician examination administered by the department is not required to meet the qualifications set forth in paragraph (b).

**Subd. 8. Elevator constructor.** (a) An individual licensed as an elevator constructor may install, maintain, and repair electrical wiring, apparatus, and equipment for elevators and escalators while in the employ of an elevator contractor or Class A electrical contractor.

(b) An applicant for an elevator constructor's license shall have at least 36 months' experience, acceptable to the commissioner, in wiring for, installing, and repairing electrical wiring, apparatus, or equipment for elevators and escalators, provided, however, that one year of experience credit for the completion of a two-year post-high school electrical course approved by the commissioner may be allowed.

**Subd. 9. Lineman.** (a) An individual licensed as a lineman may install, maintain, and repair transmission and distribution systems that are or will be owned or leased by an electric utility.

(b) An applicant for a lineman's license shall have at least 48 months' experience, acceptable to the commissioner, in wiring for, installing, and repairing electrical wiring, apparatus, or equipment for an electrical utility.

**Subd. 10. Maintenance electrician.** (a) An individual licensed as a maintenance electrician may maintain and repair electrical wiring, apparatus, and equipment while in the employ of a contractor, or as a full-time employee of a single employer while engaged in the maintenance and repair of electrical wiring, apparatus, and equipment owned or leased by the employer and located within the limits of property owned or leased by the employer.

(b) An applicant for a maintenance electrician's license shall have at least 48 months' experience, acceptable to the commissioner, in wiring for, installing, and repairing electrical wiring, apparatus, or equipment, provided, however, that one year of experience credit for the completion of a two-year post-high school electrical course approved by the commissioner may be allowed.

Subd. 11. **Master elevator constructor.** (a) An individual licensed as a master elevator constructor may, while licensed as an elevator electrical contractor or while in the employ of an elevator contractor or Class A electrical contractor, plan, lay out, supervise and install, maintain, and repair wiring, apparatus, and equipment for elevators and escalators.

(b) An applicant for a master elevator constructor's license shall have at least 60 months' experience, acceptable to the commissioner, in wiring for, installing, and repairing electrical wiring, apparatus, or equipment for elevators and escalators, provided, however, that one year of experience credit for the completion of a two-year post-high school electrical course approved by the commissioner may be allowed.

Subd. 12. **Unlicensed individuals.** (a) An unlicensed individual means an individual who has not been licensed by the department to perform specific electrical work. An unlicensed individual shall not perform electrical work required to be performed by a licensed individual unless the individual has first registered with the department as an unlicensed individual. Thereafter, an unlicensed individual shall not perform electrical work required to be performed by a licensed individual unless the work is performed under the direct supervision of an individual actually licensed to perform such work. The licensed individual and unlicensed individual must be employed by the same employer. Licensed individuals shall not permit unlicensed individuals to perform electrical work except under the direct supervision of an individual actually licensed to perform such work. Unlicensed individuals shall not supervise the performance of electrical work or make assignments of electrical work to unlicensed individuals. Except for technology circuits or systems work, licensed individuals shall supervise no more than two unlicensed individuals. For technology circuits or systems work, licensed individuals shall supervise no more than three unlicensed individuals.

(b) Notwithstanding any other provision of this section, no individual other than a master electrician or power limited technician shall plan or lay out electrical wiring, apparatus, or equipment for light, heat, power, or other purposes, except circuits or systems exempted from personal licensing by subdivision 21, paragraph (b).

(c) Contractors employing unlicensed individuals to perform electrical work shall maintain records establishing compliance with this subdivision that shall identify all unlicensed individuals performing electrical work, except for individuals working on circuits or systems exempted from

personal licensing by subdivision 21, paragraph (b), and shall permit the department to examine and copy all such records.

(d) When a licensed individual supervises the electrical work of an unlicensed individual, the licensed individual is responsible for ensuring that the electrical work complies with the Minnesota Electrical Act and all rules adopted under the act.

Subd. 13. **Registration of unlicensed individuals.** Unlicensed individuals performing electrical work for a contractor or employer shall register with the department in the manner prescribed by the commissioner. Experience credit for electrical work performed in Minnesota after January 1, 2009, by an applicant for a license identified in this section shall not be granted where the applicant has not registered with or is not licensed by the department.

Subd. 14. **Contractor's license required.** Except as otherwise provided by law, no individual other than an employee, partner, or officer of a licensed contractor, as defined by section 326B.31, subdivision 14, shall perform or offer to perform electrical work with or without compensation unless the individual obtains a contractor's license. A contractor's license does not of itself qualify its holder to perform or supervise the electrical work authorized by holding any class of personal license.

Subd. 15. **Bond required.** As a condition of licensing, each contractor shall give and maintain bond to the state in the sum of \$25,000 conditioned upon the faithful and lawful performance of all work contracted for or performed by the contractor within the state of Minnesota and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. The bond shall be filed with the commissioner and shall be in lieu of all other license bonds to any other political subdivision. Such bond shall be written by a corporate surety licensed to do business in the state of Minnesota.

Subd. 16. **Insurance required.** Each contractor shall have and maintain in effect general liability insurance, which includes premises and operations insurance and products and completed operations insurance, with limits of at least \$100,000 per occurrence, \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of at least \$50,000 or a policy with a single limit for bodily injury and property damage of \$300,000 per occurrence and \$300,000 aggregate limits. Such insurance shall be written by an insurer licensed to do business in the state of Minnesota and each contractor shall maintain on file with the commissioner a certificate evidencing such insurance which provides that such insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner of such cancellation.

Subd. 17. **Employment of master electrician or power limited technician.** (a) Each contractor must designate a responsible master electrician or power limited technician, who shall be responsible for the performance of all electrical work in accordance with the requirements of

sections 326B.31 to 326B.399 or any rule or order adopted or issued under these sections. The classes of work that a licensed contractor is authorized to perform shall be limited to the classes of work that the responsible master electrician or power limited electrician is licensed to perform.

(b) When a contractor's license is held by an individual, sole proprietorship, partnership, limited liability company, or corporation and the individual, proprietor, one of the partners, one of the members, or an officer of the corporation, respectively, is not the responsible master electrician or power limited technician, all requests for inspection shall be signed by the responsible master electrician or power limited technician. If the contractor is an individual or a sole proprietorship, the responsible licensed individual must be the individual, proprietor, or managing employee. If the contractor is a partnership, the responsible licensed individual must be a general partner or managing employee. If the licensed contractor is a limited liability company, the responsible licensed individual must be a chief manager or managing employee. If the contractor is a corporation, the responsible licensed individual must be an officer or managing employee. If the responsible licensed individual is a managing employee, the responsible licensed individual must be actively engaged in performing electrical work on behalf of the contractor, and cannot be employed in any capacity as an electrician or technician by any other contractor or employer designated in subdivision 21. An individual may be the responsible licensed individual for only one contractor or employer.

(c) All applications and renewals for contractor licenses shall include a verified statement that the applicant or licensee has complied with this subdivision.

Subd. 18. **Examination.** In addition to the other requirements described in this section and except as provided in subdivision 20, as a precondition to issuance of a personal license, each applicant must pass a written or oral examination developed and administered by the commissioner to ensure the competence of each applicant for license. An oral examination shall be administered only to an applicant who furnishes a written statement from a certified teacher or other professional, trained in the area of reading disabilities stating that the applicant has a specific reading disability which would prevent the applicant from performing satisfactorily on a written test. The oral examination shall be structured so that an applicant who passes the examination will not impair the applicant's own safety or that of others while acting as a licensed individual. No individual failing an examination may retake it for six months thereafter, but within such six months the individual may take an examination for a lesser grade of license. Any individual failing to renew a personal license for two years or more after its expiration, and any licensee whose personal license is revoked under this chapter, shall be required to retake the examination before being issued a new license. An individual whose personal license is revoked under any other chapter is not required to retake the examination before being issued a new license, unless the personal license was revoked two years or more before the commissioner received the completed application for a new license. A licensee whose personal license is suspended for any

reason is not required to retake the examination before the personal license is reinstated, unless the personal license has not been reinstated within two years after the suspension began.

An applicant for a personal license shall submit to the commissioner an application and examination fee at the time of application. Upon approval of the application, the commissioner shall schedule the applicant for the next available examination, which shall be held within 60 days. The applicant shall be allowed one opportunity to reschedule an examination without being required to submit another application and examination fee. Additionally, an applicant who fails an examination, or whose application was not approved, shall submit another application and examination fee.

**Subd. 19. License, registration, and renewal fees; expiration.** (a) Unless revoked or suspended under this chapter, all licenses issued or renewed under this section expire on the date specified in this subdivision. Master licenses expire March 1 of each odd-numbered year after issuance or renewal. Electrical contractor licenses expire March 1 of each even-numbered year after issuance or renewal. Technology system contractor licenses expire August 1 of each even-numbered year after issuance or renewal. All other personal licenses expire two years from the date of original issuance and every two years thereafter. Registrations of unlicensed individuals expire one year from the date of original issuance and every year thereafter.

(b) Fees for application and examination, and for the original issuance and each subsequent renewal, are:

(1) For each personal license application and examination: \$35;

(2) For original issuance and each subsequent renewal of:

Class A Master or master special electrician, including master elevator constructor: \$40 per year;

Class B Master: \$25 per year;

Power Limited Technician: \$15 per year;

Class A Journeyman, Class B Journeyman, Installer, Elevator Constructor, Lineman, or Maintenance Electrician other than master special electrician: \$15 per year;

Contractor: \$100 per year;

Unlicensed individual registration: \$15 per year.

(c) If any new license is issued in accordance with this subdivision for less than two years, the fee for the license shall be prorated on an annual basis.

(d) A license fee may not be refunded after a license is issued or renewed. However, if the fee paid for a license was not prorated in accordance with this subdivision, the amount of the overpayment shall be refunded.

(e) Any contractor who seeks reissuance of a license after it has been revoked or suspended under this chapter shall submit a reissuance fee of \$100 before the license is reinstated.

(f) An individual or contractor who fails to renew a license before 30 days after the expiration or registration of the license must submit a late fee equal to one year's license fee in addition to the full renewal fee. Fees for renewed licenses or registrations are not prorated. An individual or contractor that fails to renew a license or registration by the expiration date is unlicensed until the license or registration is renewed.

Subd. 20. **Reciprocity.** The commissioner may enter into reciprocity agreements for personal licenses with another state if approved by the board. Once approved by the board, the commissioner may issue a personal license without requiring the applicant to pass an examination provided the applicant:

- (a) submits an application under this section;
- (b) pays the fee required under this section; and
- (c) holds a valid comparable license in the state participating in the agreement.

Agreements are subject to the following:

(1) The parties to the agreement must administer a statewide licensing program that includes examination and qualifying experience or training comparable to Minnesota's.

(2) The experience and training requirements under which an individual applicant qualified for examination in the qualifying state must be deemed equal to or greater than required for an applicant making application in Minnesota at the time the applicant acquired the license in the qualifying state.

(3) The applicant must have acquired the license in the qualifying state through an examination deemed equivalent to the same class of license examination in Minnesota. A lesser class of license may be granted where the applicant has acquired a greater class of license in the qualifying state and the applicant otherwise meets the conditions of this subdivision.

(4) At the time of application, the applicant must hold a valid license in the qualifying state and have held the license continuously for at least one year before making application in Minnesota.

(5) An applicant is not eligible for a license under this subdivision if the applicant has failed the same or greater class of license examination in Minnesota, or if the applicant's license of the same or greater class has been revoked or suspended.

(6) An applicant who has failed to renew a personal license for two years or more after its expiration is not eligible for a license under this subdivision.

Subd. 21. **Exemptions from licensing.** (a) An individual who is a maintenance electrician



is not required to hold or obtain a license under sections 326B.31 to 326B.399 if:

(1) the individual is engaged in the maintenance and repair of electrical equipment, apparatus, and facilities that are owned or leased by the individual's employer and that are located within the limits of property operated, maintained, and either owned or leased by the individual's employer;

(2) the individual is supervised by:

(i) the responsible master electrician for a contractor who has contracted with the individual's employer to provide services for which a contractor's license is required; or

(ii) a licensed master electrician, a licensed maintenance electrician, an electrical engineer, or, if the maintenance and repair work is limited to technology circuits or systems work, a licensed power limited technician; and

(3) the individual's employer has filed with the commissioner a certificate of responsible person, signed by the responsible master electrician of the contractor, the licensed master electrician, the licensed maintenance electrician, the electrical engineer, or the licensed power limited technician, and stating that the person signing the certificate is responsible for ensuring that the maintenance and repair work performed by the employer's employees complies with the Minnesota Electrical Act and the rules adopted under that act.

(b) Employees of a licensed electrical or technology systems contractor or other employer where provided with supervision by a master electrician in accordance with subdivision 1, or power limited technician in accordance with subdivision 7, paragraph (a), clause (1), are not required to hold a license under sections 326B.31 to 326B.399 for the planning, laying out, installing, altering, and repairing of technology circuits or systems except planning, laying out, or installing:

(1) in other than residential dwellings, class 2 or class 3 remote control circuits that control circuits or systems other than class 2 or class 3, except circuits that interconnect these systems through communication, alarm, and security systems are exempted from this paragraph;

(2) class 2 or class 3 circuits in electrical cabinets, enclosures, or devices containing physically unprotected circuits other than class 2 or class 3; or

(3) technology circuits or systems in hazardous classified locations as covered by chapter 5 of the National Electrical Code.

(c) Companies and their employees that plan, lay out, install, alter, or repair class 2 and class 3 remote control wiring associated with plug or cord and plug connected appliances other than security or fire alarm systems installed in a residential dwelling are not required to hold a license under sections 326B.31 to 326B.399.

(d) Heating, ventilating, air conditioning, and refrigeration contractors and their employees are not required to hold or obtain a license under sections 326B.31 to 326B.399 when performing heating, ventilating, air conditioning, or refrigeration work as described in section 326B.38.

(e) Employees of any electrical, communications, or railway utility, cable communications company as defined in section 238.02, or a telephone company as defined under section 237.01 or its employees, or of any independent contractor performing work on behalf of any such utility, cable communications company, or telephone company, shall not be required to hold a license under sections 326B.31 to 326B.399:

(1) while performing work on installations, materials, or equipment which are owned or leased, and operated and maintained by such utility, cable communications company, or telephone company in the exercise of its utility, antenna, or telephone function, and which

(i) are used exclusively for the generation, transformation, distribution, transmission, or metering of electric current, or the operation of railway signals, or the transmission of intelligence and do not have as a principal function the consumption or use of electric current or provided service by or for the benefit of any person other than such utility, cable communications company, or telephone company, and

(ii) are generally accessible only to employees of such utility, cable communications company, or telephone company or persons acting under its control or direction, and

(iii) are not on the load side of the service point or point of entrance for communication systems;

(2) while performing work on installations, materials, or equipment which are a part of the street lighting operations of such utility; or

(3) while installing or performing work on outdoor area lights which are directly connected to a utility's distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction.

(f) An owner shall not be required to hold or obtain a license under sections 326B.31 to 326B.399.

**History:** 1967 c 602 s 2; 1976 c 222 s 168,169; 1979 c 121 s 2; 1981 c 63 s 1; 1981 c 195 s 1; 1985 c 73 s 5-9; 1985 c 248 s 70; 1Sp1985 c 6 s 4,5; 1986 c 373 s 3-6; 1986 c 444; 1991 c 289 s 11-29; 2002 c 328 s 9-21; 2003 c 58 s 2-4; 2005 c 62 s 1; 2007 c 135 art 6 s 3-7; 2007 c 140 art 5 s 20,32; art 13 s 4; 2008 c 337 s 9-16,65; 2009 c 78 art 5 s 12,13

### **326B.34 ALARM AND COMMUNICATION SYSTEMS.**

Subdivision 1. **Exemption.** No licensed power limited technician, technology system

contractor, or individual employed by a technology system contractor may be required to obtain any authorization, permit, franchise, or license from, or pay any fee, franchise tax, or other assessment to, any agency, department, board, or political subdivision of the state as a condition for performing any work within the scope of the license.

Subd. 2. **Limitation.** Nothing in this section prohibits a unit of local government from charging a franchise fee to the operator of a cable communications company as defined in section 238.02.

**History:** *1Sp1985 c 6 s 1; 1986 c 373 s 7; 1987 c 279 s 2; 1995 c 233 art 2 s 52; 1997 c 7 art 1 s 125; 2002 c 328 s 22,23; 2003 c 58 s 5; 2007 c 140 art 5 s 32; art 13 s 4*

### **326B.35 SAFETY STANDARDS.**

All electrical wiring, apparatus and equipment for electrical light, heat and power, technology circuits or systems shall comply with the rules of the department and the board and be installed in conformity with accepted standards of construction for safety to life and property. For the purposes of this chapter, the rules and safety standards stated at the time the work is done in the then most current edition of the National Electrical Code as adopted by the National Fire Protection Association, Inc. and approved by the American National Standards Institute, and the National Electrical Safety Code as published by the Institute of Electrical and Electronics Engineers, Inc. and approved by the American National Standards Institute, shall be prima facie evidence of accepted standards of construction for safety to life and property; provided further, that in the event a Minnesota Building Code is formulated pursuant to section 326B.106, containing approved methods of electrical construction for safety to life and property, compliance with said methods of electrical construction of said Minnesota Building Code shall also constitute compliance with this section, and provided further, that nothing herein contained shall prohibit any political subdivision from making and enforcing more stringent requirements than set forth herein and such requirements shall be complied with by all licensed electricians working within the jurisdiction of such political subdivisions.

**History:** *1967 c 602 s 3; Ex1967 c 1 s 6; 1971 c 25 s 67; 1983 c 289 s 114 subd 1; 1984 c 544 s 89; 1984 c 655 art 1 s 92; 1985 c 73 s 10; 1985 c 248 s 70; 1Sp1985 c 6 s 6; 1Sp2001 c 4 art 6 s 74; 2002 c 328 s 24; 2007 c 140 art 4 s 61; art 5 s 21,32; art 13 s 4*

### **326B.36 INSPECTION.**

Subdivision 1. **Required inspection.** Except where any political subdivision has by ordinance provided for electrical inspection similar to that herein provided, every new electrical installation in any construction, remodeling, replacement, or repair, except minor repair work as the same is defined by rule, shall be inspected by the commissioner for compliance with accepted standards of construction for safety to life and property.

Subd. 2. **Technology systems.** (a) The installation of the technology circuits or systems described in paragraph (b), except:

(1) minor work performed by a contractor;

(2) work performed by a heating, ventilating, or air conditioning contractor as described in section 326B.38; and

(3) work performed by cable company employees when installing cable communications systems or telephone company employees when installing telephone systems, must be inspected as provided in this section for compliance with the applicable provisions of the National Electrical Code and the applicable provisions of the National Electrical Safety Code, as those codes were approved by the American National Standards Institute.

(b) The inspection requirements in paragraph (a) apply to:

(1) class 2 or class 3 remote control circuits that control circuits or systems other than class 2 or class 3, except circuits that interconnect these systems exempted by section 326B.33, subdivision 21, paragraph (b), other than fire alarm; class 2 or class 3 circuits in electrical cabinets, enclosures, or devices containing physically unprotected circuits other than class 2 or class 3; or technology circuits and systems in hazardous classified locations as covered by chapter 5 of the National Electrical Code;

(2) fire alarm systems, other than in one- or two-family dwellings, as defined in articles 100 and 760 of the National Electrical Code;

(3) technology circuits and systems contained within critical care areas of health care facilities as defined by the safety standards identified in section 326B.35, including, but not limited to, anesthesia and resuscitative alarm and alerting systems, medical monitoring, and nurse call systems;

(4) physical security systems within detention facilities; and

(5) circuitry and equipment for indoor lighting systems as defined in article 411 of the National Electrical Code.

(c) For the purposes of this subdivision "minor work" means the adjustment or repair and replacement of worn or defective parts of a technology circuit or system. Minor work may be inspected under this section at the request of the owner of the property or the person doing the work.

(d) Notwithstanding this subdivision, if an electrical inspector observes that a contractor, employer, or owner has not complied with accepted standards when the work was performed, as provided in the most recent editions of the National Electrical Code and the National Electrical Safety Code as approved by the American National Standards Institute, the inspector may order the contractor, employer, or owner who has performed the work to file a request for electrical

inspection, pay an inspection fee, and make any necessary repairs to comply with applicable standards and require that the work be inspected.

Subd. 3. **Licenses; bond.** All inspectors shall hold licenses as master or journeyman electricians under this chapter. All inspectors under contract with the department to provide electrical inspection services shall give bond in the amount of \$1,000, conditioned upon the faithful performance of their duties.

Subd. 4. **Procedure.** (a) At or before commencement of any installation required to be inspected by the commissioner, the contractor, installer, special electrician, or owner making the installation shall submit to the commissioner a request for inspection, in a form prescribed by the commissioner, together with the fees required for the installation.

(b) The fees required are a handling fee and an inspection fee. The handling fee shall be set by the commissioner in an amount sufficient to pay the cost of printing and handling the form requesting an inspection. The inspection fee shall be set by the commissioner in an amount sufficient to pay the actual costs of the inspection and the commissioner's costs in administering the inspection. All fees shall be set pursuant to the procedure of sections 14.001 to 14.69.

(c) If the inspector finds that the installation is not in compliance with accepted standards of construction for safety to life and property as required by section 326B.35, the inspector shall by written order condemn the installation or noncomplying portion thereof, or order service to the installation disconnected, and shall send a copy of the order to the commissioner. If the installation or the noncomplying part will seriously and proximately endanger human life and property, the order of the inspector, when approved by the inspector's superior, shall require immediate condemnation or disconnection. In all other cases, the order of the inspector shall permit a reasonable opportunity for the installation to be brought into compliance with accepted standards of construction for safety to life and property prior to the effective time established for condemnation or disconnection.

(d) Copies of each condemnation or disconnection order shall be served personally or by mail upon the property owner, and the contractor, installer, or special electrician making the installation, and other persons as the commissioner by rule may direct. An aggrieved party may appeal any condemnation or disconnection order by filing with the commissioner a notice of appeal within ten days after (1) service upon the aggrieved party of the condemnation or disconnection order, if this service is required, or (2) filing of the order with the commissioner, whichever is later. The appeal shall proceed and the order of the inspector shall have the effect the order, by its terms, and the rules of the commissioner provides. The commissioner shall adopt rules providing procedures for the conduct of appeals, including provisions for the stay of enforcement of the order of the inspector pending such appeal when justified by the circumstances.

Subd. 5. **Duty of electrical utility.** No electrical installation subject to inspection by the

commissioner shall be newly connected or reconnected for use until there is filed with the electrical utility supplying power a certificate of the property owner or licensed electrician, directing the work that inspection has been requested and that the conditions of the installation are safe for energization, provided further, that in all cases where an order of condemnation or disconnection has been issued against the installation or any part thereof, prior to connection or reconnection there shall also first be filed with the electrical utility supplying the power a copy of an order of the inspector or the commissioner dismissing such prior order of condemnation or disconnection or approving the installation as being in compliance with accepted standards of construction for safety to life and property. With respect to transient projects, the aforesaid certificate shall also contain a certification that the request for inspection has been or will be filed with the commissioner so as to be received by it at least five days prior to the date and time energization of the installation by the utility is to occur, and that the request for inspection states such date and time, and it shall be the responsibility of the commissioner to have inspection of such transient project occur prior to the date and time at which the request states energization is to occur.

**Subd. 6. Powers of political subdivisions.** Any political subdivision or the University of Minnesota may make provision for inspection of electrical installations within its jurisdiction, in which case it shall keep on file with the commissioner copies of its current inspection ordinances and codes. No political subdivision or the University of Minnesota shall require any individual, partnership, corporation or other business association holding a license from the commissioner under sections 326B.31 to 326B.399 to pay any license or registration fee, provided however, that any such political subdivision or the University of Minnesota may provide by ordinance a requirement that each individual, partnership, corporation or other business association doing electrical work within the jurisdiction of such political subdivision or the University of Minnesota have on file with said political subdivision a copy of the current license issued by the commissioner or such other evidence of such license as may be provided by the commissioner.

Each electrical inspector of any political subdivision or the University of Minnesota shall be a licensed master or journeyman electrician under section 326B.33, subdivision 1, paragraph (1), or 2, paragraph (b), and shall not otherwise engage or be employed in the sale, installing, altering, or repairing of electrical wiring, apparatus, or equipment for light, heat, power, and other purposes and shall have no financial interest in any concern engaged in any such business.

**Subd. 7. Exemptions from inspections.** Installations, materials, or equipment shall not be subject to inspection under sections 326B.31 to 326B.399:

(1) when owned or leased, operated and maintained by any employer whose maintenance electricians are exempt from licensing under sections 326B.31 to 326B.399, while performing electrical maintenance work only as defined by rule;

(2) when owned or leased, and operated and maintained by any electrical, communications, or railway utility, cable communications company as defined in section 238.02, or telephone company as defined under section 237.01, in the exercise of its utility, antenna, or telephone function; and

(i) are used exclusively for the generations, transformation, distribution, transmission, or metering of electric current, or the operation of railway signals, or the transmission of intelligence, and do not have as a principal function the consumption or use of electric current by or for the benefit of any person other than such utility, cable communications company, or telephone company; and

(ii) are generally accessible only to employees of such utility, cable communications company, or telephone company or persons acting under its control or direction; and

(iii) are not on the load side of the service point or point of entrance for communication systems;

(3) when used in the street lighting operations of an electrical utility;

(4) when used as outdoor area lights which are owned and operated by an electrical utility and which are connected directly to its distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction;

(5) when the installation, material, and equipment are in facilities subject to the jurisdiction of the federal Mine Safety and Health Act; or

(6) when the installation, material, and equipment is part of an elevator installation for which the elevator contractor, licensed under section 326B.33, is required to obtain a permit from the authority having jurisdiction as provided by section 326B.184, and the inspection has been or will be performed by an elevator inspector certified and licensed by the department. This exemption shall apply only to installations, material, and equipment permitted or required to be connected on the load side of the disconnecting means required for elevator equipment under National Electrical Code Article 620, and elevator communications and alarm systems within the machine room, car, hoistway, or elevator lobby.

**History:** 1967 c 602 s 4; 1981 c 357 s 81; 1982 c 424 s 130; 1985 c 73 s 11-13; 1985 c 248 s 70; 1Sp1985 c 6 s 7-9; 1986 c 373 s 8,9; 1987 c 358 s 117; 1987 c 384 art 2 s 1; 1990 c 422 s 10; 1991 c 289 s 30-32; 1995 c 166 s 16,17; 2002 c 328 s 25-28; 2003 c 58 s 6,7; 2007 c 140 art 4 s 61; art 5 s 22-27,32; art 13 s 4; 2008 c 337 s 17,18

### **326B.37 INSPECTION FEE SCHEDULE.**

Subdivision 1. **Schedule.** State electrical inspection fees shall be calculated in accordance with subdivisions 2 to 14.

Subd. 2. **Fee for each separate inspection.** The minimum fee for each separate inspection of an installation, replacement, alteration, or repair is \$35. Except as otherwise provided in this section, the maximum number of separate inspections allowed without payment of an additional fee is the whole number resulting from dividing by 35 the total fee calculated in accordance with this section. Where additional separate inspections are necessary, additional fees are required to result in a value equal to the total number of separate inspections multiplied by 35. The fee for any inspections needed after a "final inspection" is performed shall be calculated without consideration of any fee paid before the final inspection.

Subd. 3. **Fee for service, generator, other power source, or feeder to separate structure.** The inspection fee for the installation, addition, alteration, or repair of each service, change of service, temporary service, generator, other power supply source, or feeder to a separate structure is:

- (1) 0 ampere to and including 400 ampere capacity, \$35;
- (2) 401 ampere to and including 800 ampere capacity, \$60; and
- (3) ampere capacity above 800, \$100.

Where multiple disconnects are grouped at a single location and are supplied by a single set of supply conductors the cumulative rating of the overcurrent devices shall be used to determine the supply ampere capacity.

Subd. 4. **Fee for circuit, feeder, feeder tap, or set of transformer secondary conductors.** The inspection fee for the installation, addition, alteration, or repair of each circuit, feeder, feeder tap, or set of transformer secondary conductors, including the equipment served, is:

- (1) 0 ampere to and including 200 ampere capacity, \$6; and
- (2) ampere capacity above 200, \$15.

Where existing feeders and circuits are reconnected to overcurrent devices installed as part of the replacement of an existing disconnect, switchboard, motor control center, or panelboard, the inspection fee for each circuit or feeder is \$2.

Subd. 5. **Inspection fee for dwelling.** (a) The inspection fee for a one-family dwelling and each dwelling unit of a two-family dwelling is the following:

- (1) the fee for each service or other source of power as provided in subdivision 3;
- (2) \$100 for up to 30 feeders and circuits; and
- (3) for each additional feeder or circuit, the fee as provided in subdivision 4.

This fee applies to each separate installation for new dwellings and where 15 or more feeders or circuits are installed or extended in connection with any addition, alteration, or repair to existing dwellings. Where existing feeders and circuits are reconnected to overcurrent devices installed



as part of the replacement of an existing panelboard, the fee for each reconnected feeder or circuit is \$2. The maximum number of separate inspections shall be determined in accordance with subdivision 2. The fee for additional inspections or other installations is that specified in subdivisions 2, 4, 6, and 8. The installer may submit fees for additional inspections when filing the request for electrical inspection. The fee for each detached accessory structure directly associated with a dwelling unit shall be calculated in accordance with subdivisions 3 and 4. When included on the same request for electrical inspection form, inspection fees for detached accessory structures directly associated with the dwelling unit may be combined with the dwelling unit fees to determine the maximum number of separate inspections in accordance with subdivision 2.

(b) The inspection fee for each dwelling unit of a multifamily dwelling with three or more dwelling units is \$70 for a combination of up to 20 feeders and circuits and \$6 for each additional feeder or circuit. This fee applies to each separate installation for each new dwelling unit and where ten or more feeders or circuits are installed or extended in connection with any addition, alteration, or repair to existing dwelling units. Where existing feeders or circuits are reconnected to overcurrent devices installed as part of the replacement of an existing panelboard, the fee for each reconnected feeder or circuit is \$2. The maximum number of separate inspections for each dwelling unit shall be determined in accordance with subdivision 2. The fee for additional inspections or for inspection of other installations is that specified in subdivisions 2, 4, 6, and 8. These fees include only inspection of the wiring within individual dwelling units and the final feeder to that unit where the multifamily dwelling is provided with common service equipment and each dwelling unit is supplied by a separate feeder or feeders extended from common service or distribution equipment. The fee for multifamily dwelling services or other power source supplies and all other circuits is that specified in subdivisions 2 to 4.

(c) A separate request for electrical inspection form must be filed for each dwelling unit that is supplied with an individual set of service entrance conductors. These fees are the one-family dwelling rate specified in paragraph (a).

**Subd. 6. Additions to fees of subdivisions 3 to 5.** (a) The fee for the electrical supply for each manufactured home park lot is \$35. This fee includes the service or feeder conductors up to and including the service equipment or disconnecting means. The fee for feeders and circuits that extend from the service or disconnecting means is that specified in subdivision 4.

(b) The fee for each recreational vehicle site electrical supply equipment is \$6 for each circuit originating within the equipment. The fee for recreational vehicle park services, feeders, and circuits is that specified in subdivisions 3 and 4.

(c) The fee for each street, parking lot, or outdoor area lighting standard and each traffic signal standard is \$5. Circuits originating within the standard or traffic signal controller shall not be used when calculating the fee for each standard.

(d) The fee for transformers for light, heat, and power is \$15 for transformers rated up to ten kilovolt-amperes and \$30 for transformers rated in excess of ten kilovolt-amperes. The previous sentence does not apply to Class 1 transformers or power supplies for Class 1 power-limited circuits or to Class 2 or Class 3 transformers or power supplies.

(e) The fee for transformers and electronic power supplies for electric signs and outline lighting is \$5 per unit.

(f) The fee for technology circuits or systems, and circuits of less than 50 volts, is 75 cents for each system device or apparatus.

(g) The fee for each separate inspection of the bonding for a swimming pool, spa, fountain, an equipotential plane for an agricultural confinement area, or similar installation is \$35. Bonding conductors and connections require an inspection before being concealed.

(h) The fee for all wiring installed on center pivot irrigation booms is \$35 plus \$5 for each electrical drive unit.

(i) The fee for retrofit modifications to existing lighting fixtures is 25 cents per luminaire.

(j) When a separate inspection of a concrete-encased grounding electrode is performed, the fee is \$35.

(k) The fees required by subdivisions 3 and 4 are doubled for installations over 600 volts.

**Subd. 7. Investigation fee: work without electrical inspection request.** (a) Whenever any work for which a request for electrical inspection is required has begun without the request for electrical inspection form being filed with the commissioner, a special investigation shall be made before a request for electrical inspection form is accepted.

(b) An investigation fee, in addition to the full fee required by subdivisions 1 to 6, shall be paid before an inspection is made. The investigation fee is two times the minimum fee specified in subdivision 2 or the inspection fee required by subdivisions 1 to 6, whichever is greater, not to exceed \$1,000. The payment of the investigation fee does not exempt any person from compliance with all other provisions of the department rules or statutes nor from any penalty prescribed by law.

**Subd. 8. Reinspection fee.** Notwithstanding the provisions of subdivisions 2 and 5, when reinspection is necessary to determine whether unsafe conditions identified during a final inspection have been corrected and the conditions are not the subject of an appeal pending before the commissioner or any court, a reinspection fee of \$35 shall be assessed in writing by the inspector.

**Subd. 9. Supplemental fee.** When inspections scheduled by the installer are preempted, obstructed, prevented, or otherwise not able to be completed as scheduled due to circumstances beyond the control of the inspector, a supplemental inspection fee of \$35 shall be assessed

in writing by the inspector.

Subd. 10. **Special inspection.** For inspections not covered in this section, or for requested special inspections or services, the fee is \$80 per hour, including travel time, plus the standard mileage rate per mile traveled, plus the reasonable cost of equipment or material consumed. This provision is applicable to inspection of empty conduits and other jobs as may be determined by the commissioner. This fee may also be assessed when installations are not accessible by roadway and require alternate forms of transportation or are located in the Northwest Angle, or when inspections are performed outside of Minnesota. For purposes of this subdivision, the standard mileage rate is the standard mileage rate effective at the time of travel, as established by the Internal Revenue Service for computing the deductible costs of operating an automobile for business expense purposes.

Subd. 11. **Inspection of transitory project.** (a) For inspection of transitory projects including, but not limited to, festivals, fairs, carnivals, circuses, shows, production sites, and portable road construction plants, the inspection procedures and fees are as specified in paragraphs (b) to (i).

(b) The fee for inspection of each generator or other source of supply is that specified in subdivision 3. A like fee is required at each engagement or setup.

(c) In addition to the fee for generators or other sources of supply, there must be an inspection of all installed feeders, circuits, and equipment at each engagement or setup at the hourly rate specified in subdivision 10, with a one-hour minimum.

(d) An owner, operator, or appointed representative of a transitory enterprise including, but not limited to, festivals, fairs, carnivals, circuses, production companies, shows, portable road construction plants, and similar enterprises shall notify the commissioner of its itinerary or schedule and make application for initial inspection a minimum of 14 days before its first engagement or setup. An owner, operator, or appointed representative of a transitory enterprise who fails to notify the commissioner 14 days before its first engagement or setup may be subject to the investigation fees specified in subdivision 7. The owner, operator, or appointed representative shall request inspection and pay the inspection fee for each subsequent engagement or setup at the time of the initial inspection. For subsequent engagements or setups not listed on the itinerary or schedule submitted to the commissioner and where the commissioner is not notified at least 48 hours in advance, a charge of \$100 may be made in addition to all required fees.

(e) Amusement rides, devices, concessions, attractions, or other units must be inspected at their first appearance of the year. The inspection fee is \$35 per unit with a supply of up to 60 amperes and \$40 per unit with a supply above 60 amperes.

(f) An additional fee at the hourly rate specified in subdivision 10 must be charged for additional time spent by each inspector if equipment is not ready or available for inspection at the time and date specified on the application for initial inspection or the request for electrical inspection form.

(g) In addition to the fees specified in paragraphs (a) and (b), a fee of one hour at the hourly rate specified in subdivision 10 must be charged for inspections required to be performed on Saturdays, Sundays, holidays, or after regular business hours.

(h) The fee for reinspection of corrections or supplemental inspections where an additional trip is necessary may be assessed as specified in subdivision 8.

(i) The commissioner shall retain the inspection fee when an owner, operator, or appointed representative of a transitory enterprise fails to notify the commissioner at least 48 hours in advance of a scheduled inspection that is canceled.

Subd. 12. **Negotiated fee.** When the fee calculated in accordance with subdivisions 2 to 11 results in a total fee that unreasonably exceeds the cost of inspection, the commissioner may negotiate a fee that more reasonably offsets the cost of inspection.

Subd. 13. **Handling fee.** The handling fee to pay the cost of printing and handling of the paper form requesting an electrical inspection is up to \$1.

Subd. 14. **National Electrical Code used for interpretation of provisions.** For purposes of interpretation of this section and Minnesota Rules, chapter 3800, the most recently adopted edition of the National Electrical Code shall be prima facie evidence of the definitions, interpretations, and scope of words and terms used.

**History:** 2000 c 488 art 2 s 21; 2007 c 135 art 6 s 8; 2007 c 140 art 5 s 28,32; art 13 s 4

### **326B.38 MANUFACTURED ELECTRICAL PARTS; EXEMPTION.**

Subdivision 1. **Manufacturers.** Electrical components, apparatus, or appliances being manufactured within the limits of property which is owned or leased by a manufacturer and such manufacturer's production employees are not covered by sections 326B.31 to 326B.399.

Subd. 2. **Electrical appliance units.** Installation, alteration, or repair of electrical appliance units are not covered by sections 326B.31 to 326B.399. For the purposes of this section, "electrical appliance units" means all electrical and fossil fuel appliances that use electricity including, but not limited to, furnaces, water heaters, stoves, clothes washers, dryers, and dishwashers. The installation of electrical wiring to an electrical appliance unit is covered by sections 326B.31 to 326B.399.

Subd. 3. **Other units.** Planning, laying out, and installation of heating, ventilating, air conditioning, or refrigeration units are not covered by sections 326B.31 to 326B.399. For

purposes of this section, heating, ventilating, air conditioning, or refrigeration units include, but are not limited to, air conditioning units, air conditioning evaporators, air conditioning condensers, air conditioning and refrigeration chillers, boilers, furnaces, air handling units, rooftop units, humidifiers, ice makers, and supermarket, ice arena, and bar/restaurant equipment. The installation of electrical wiring to the unit is covered by sections 326B.31 to 326B.399.

Subd. 4. **Other equipment.** Planning, laying out, alteration, replacement, or repair of heating, ventilating, air conditioning, or refrigeration equipment, and associated devices, controls, and wiring including wiring in or on the equipment, are not covered by sections 326B.31 to 326B.399 when the work is performed by an employee of a heating, ventilating, air conditioning, or refrigeration contractor provided that the employee performing the work has received a certificate of completion from a heating, ventilating, air conditioning, or refrigeration apprenticeship program approved by the state of Minnesota or any class of personal license issued by the commissioner. Employees registered in an approved heating, ventilating, air conditioning, or refrigeration program may design, plan, alter, replace, or repair heating, ventilating, air conditioning, or refrigeration equipment, devices, and controls including wiring in or on the equipment, under the direction of an employee who has a certificate of completion from an approved program or any class of personal license issued by the commissioner. The installation of electrical wiring to the unit is covered by sections 326B.31 to 326B.399.

**History:** 1967 c 602 s 5; 1986 c 373 s 10; 1991 c 289 s 33; 2002 c 328 s 29; 2007 c 140 art 5 s 29,32; art 13 s 4

### **326B.399 CITATION.**

Sections 326B.31 to 326B.399 shall be known as the Minnesota Electrical Act.

**History:** 1967 c 602 s 8; 1986 c 373 s 12; 2007 c 140 art 5 s 30,32; art 13 s 4

## **PLUMBING**

### **326B.41 PURPOSE.**

The purpose of sections 326B.41 to 326B.49 is to promote the public health and safety through properly designed, acceptably installed, and adequately maintained plumbing systems.

**History:** 2007 c 140 art 6 s 13

### **326B.42 DEFINITIONS.**

Subdivision 1. **Words, terms, and phrases.** For purposes of sections 326B.41 to 326B.49, the terms defined in this section have the meanings given to them.

Subd. 2. **Direct supervision.** The term "direct supervision," with respect to direct supervision of a plumber's apprentice by a master, restricted master, journeyman, or restricted

journeyman plumber, means that:

(1) at all times while the plumber's apprentice is performing plumbing work, the supervising plumber is present at the location where the plumber's apprentice is working;

(2) the supervising plumber is physically present and immediately available to the plumber's apprentice at all times for assistance and direction;

(3) any form of electronic supervision does not meet the requirement of physically present;

(4) the supervising plumber actually reviews the plumbing work performed by the plumber's apprentice before the plumbing is operated; and

(5) the supervising plumber is able to and does determine that all plumbing work performed by the plumber's apprentice is performed in compliance with the plumbing code.

Subd. 3. MS 2007 Supp [Renumbered subd 5]

Subd. 3. **Journeyman plumber.** A "journeyman plumber" is an individual, other than a master plumber, who, as a principal occupation, is engaged as an employee of, or is otherwise working under the direction of, a master plumber in the practical installation of plumbing.

Subd. 4. MS 2007 Supp [Renumbered subd 7]

Subd. 4. **Master plumber.** A "master plumber" is an individual who is skilled in the planning, superintending, and the practical installation of plumbing, who is otherwise lawfully qualified to contract for plumbing and installations and to conduct the business of plumbing and who is familiar with the laws and rules governing the same.

Subd. 5. **Municipality.** The term "municipality" shall have the meaning given to it in section 326B.103, subdivision 9.

Subd. 6. **Plumber's apprentice.** A "plumber's apprentice" is any individual, other than a master, restricted master, journeyman, or restricted journeyman plumber who, as a principal occupation, is engaged in working as an employee of a plumbing contractor under the direct supervision of a master, restricted master, journeyman, or restricted journeyman plumber and is learning and assisting in the installation of plumbing.

Subd. 7. **Plumbing code.** "Plumbing code" means Minnesota Rules, chapter 4715.

**History:** (5872, 5887, 5887-23, 5887-30, 5887-30e) 1907 c 457 s 8; 1913 c 554 s 1; 1933 c 349 s 5; 1937 c 367 s 1,6; 1937 c 370 s 4; 1941 c 460 s 1; 1943 c 474 s 1; 1947 c 253 s 1; 1957 c 907 s 1-3; 1967 c 602 s 10-16; 1979 c 121 s 1; 1985 c 73 s 1-4; 1985 c 248 s 70; 1Sp1985 c 6 s 2; 1986 c 373 s 1,2; 1986 c 402 s 1; 1986 c 444; 1991 c 289 s 1-9; 2002 c 328 s 1-7; 2003 c 58 s 1; 2007 c 135 art 6 s 1; 2007 c 140 art 4 s 61; art 5 s 1-18; art 6 s 2,3,14,15; art 13 s 4; 2008 c 337 s 5,6,48,64

**326B.43 PLUMBING STANDARDS; RULES; AGREEMENT WITH MUNICIPALITY; EXEMPTION.**

Subdivision 1. **Rules.** The Plumbing Board may, by rule, prescribe minimum standards which shall be uniform and which shall be effective for all new plumbing installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building, or any other place of business regardless of location or the population of the city or town in which the installation is to be located. Notwithstanding the provisions of Minnesota Rules, part 4715.3130, as they apply to review of plans and specifications, the commissioner may allow plumbing construction, alteration, or extension to proceed without approval of the plans or specifications by the commissioner.

Except for powers granted to the Plumbing Board, the commissioner of labor and industry shall administer the provisions of sections 326B.42 to 326B.49 and for such purposes may employ plumbing inspectors and other assistants.

Subd. 2. **Agreement with municipality.** The commissioner may enter into an agreement with a municipality, in which the municipality agrees to perform plan and specification reviews required to be performed by the commissioner under Minnesota Rules, part 4715.3130, if:

(a) the municipality has adopted:

(1) the plumbing code;

(2) an ordinance that requires plumbing plans and specifications to be submitted to, reviewed, and approved by the municipality, except as provided in paragraph (n);

(3) an ordinance that authorizes the municipality to perform inspections required by the plumbing code; and

(4) an ordinance that authorizes the municipality to enforce the plumbing code in its entirety, except as provided in paragraph (p);

(b) the municipality agrees to review plumbing plans and specifications for all construction for which the plumbing code requires the review of plumbing plans and specifications, except as provided in paragraph (n);

(c) the municipality agrees that, when it reviews plumbing plans and specifications under paragraph (b), the review will:

(1) reflect the degree to which the plans and specifications affect the public health and conform to the provisions of the plumbing code;

(2) ensure that there is no physical connection between water supply systems that are safe for domestic use and those that are unsafe for domestic use; and

(3) ensure that there is no apparatus through which unsafe water may be discharged or drawn into a safe water supply system;

(d) the municipality agrees to perform all inspections required by the plumbing code in connection with projects for which the municipality reviews plumbing plans and specifications under paragraph (b);

(e) the commissioner determines that the individuals who will conduct the inspections and the plumbing plan and specification reviews for the municipality do not have any conflict of interest in conducting the inspections and the plan and specification reviews;

(f) individuals who will conduct the plumbing plan and specification reviews for the municipality are:

(1) licensed master plumbers;

(2) licensed professional engineers; or

(3) individuals who are working under the supervision of a licensed professional engineer or licensed master plumber and who are licensed master or journeyman plumbers or hold a postsecondary degree in engineering;

(g) individuals who will conduct the plumbing plan and specification reviews for the municipality have passed a competency assessment required by the commissioner to assess the individual's competency at reviewing plumbing plans and specifications;

(h) individuals who will conduct the plumbing inspections for the municipality are licensed master or journeyman plumbers, or inspectors meeting the competency requirements established in rules adopted under section 326B.135;

(i) the municipality agrees to enforce in its entirety the plumbing code on all projects, except as provided in paragraph (p);

(j) the municipality agrees to keep official records of all documents received, including plans, specifications, surveys, and plot plans, and of all plan reviews, permits and certificates issued, reports of inspections, and notices issued in connection with plumbing inspections and the review of plumbing plans and specifications;

(k) the municipality agrees to maintain the records described in paragraph (j) in the official records of the municipality for the period required for the retention of public records under section 138.17, and shall make these records readily available for review at the request of the commissioner;

(l) the municipality and the commissioner agree that if at any time during the agreement the municipality does not have in effect the plumbing code or any of ordinances described in paragraph (a), or if the commissioner determines that the municipality is not properly administering and enforcing the plumbing code or is otherwise not complying with the agreement:



(1) the commissioner may, effective 14 days after the municipality's receipt of written notice, terminate the agreement;

(2) the municipality may challenge the termination in a contested case before the commissioner pursuant to the Administrative Procedure Act; and

(3) while any challenge is pending under clause (2), the commissioner shall perform plan and specification reviews within the municipality under Minnesota Rules, part 4715.3130;

(m) the municipality and the commissioner agree that the municipality may terminate the agreement with or without cause on 90 days' written notice to the commissioner;

(n) the municipality and the commissioner agree that the municipality shall forward to the state for review all plumbing plans and specifications for the following types of projects within the municipality:

(1) hospitals, nursing homes, supervised living facilities, and similar health-care-related facilities regulated by the Minnesota Department of Health;

(2) buildings owned by the federal or state government; and

(3) projects of a special nature for which department review is requested by either the municipality or the state;

(o) where the municipality forwards to the state for review plumbing plans and specifications, as provided in paragraph (n), the municipality shall not collect any fee for plan review, and the commissioner shall collect all applicable fees for plan review; and

(p) no municipality shall revoke, suspend, or place restrictions on any plumbing license issued by the state.

**Subd. 3. Existing agreement with municipality.** Any agreement between the commissioner and a municipality in which the municipality has agreed to perform plan and specification reviews required to be performed by the commissioner under Minnesota Rules, part 4715.3130, that is in effect on December 1, 2007, shall remain in effect and shall not be required to be in compliance with subdivision 2. If any agreement to perform plan and specification reviews required to be performed by the commissioner under Minnesota Rules, part 4715.3130, in effect on December 1, 2007, is later terminated by operation of the terms of the agreement or by either the commissioner or the municipality, or expires, then any new agreement between the commissioner and the municipality to perform plan and specification reviews required to be performed by the commissioner under Minnesota Rules, part 4715.3130, shall comply with subdivision 2.

**Subd. 4. Standards for capacity.** All new floor-mounted water closets in areas under jurisdiction of the plumbing code may not have a flush volume of more than 1.6 gallons. The water closets must meet the standards in the plumbing code and the standards of the American National Standards Institute.

Subd. 5. **Exemption.** No license or registration authorized by sections 326B.42 to 326B.49 shall be required of any individual engaged in or employed by a person engaged in the work or business of pipe laying outside of buildings if such individual or employer is engaged in a business or trade which has traditionally performed such work within the state prior to January 1, 1994.

Subd. 6. **Air admittance valves prohibited.** Mechanical devices and fittings with internal moving parts are prohibited from installation in plumbing venting systems.

**History:** (5887-19) 1933 c 349 s 1; 1937 c 370 s 1; 1973 c 123 art 5 s 7; 1975 c 136 s 66; 1977 c 305 s 45; 1990 c 597 s 57; 1993 c 206 s 20; 1996 c 439 art 4 s 1; 1997 c 203 art 2 s 28; 2007 c 135 art 3 s 19,20; 2007 c 140 art 6 s 4,15; art 13 s 4; 2008 c 337 s 19,20

### **326B.435 PLUMBING BOARD.**

Subdivision 1. **Composition.** (a) The Plumbing Board shall consist of 14 members. Twelve members shall be appointed by the governor with the advice and consent of the senate and shall be voting members. Appointments of members by the governor shall be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and consent of the senate. One member shall be the commissioner of labor and industry or the commissioner of labor and industry's designee, who shall be a voting member. One member shall be the commissioner of health or the commissioner of health's designee, who shall not be a voting member. Of the 12 appointed members, the composition shall be as follows:

(1) two members shall be municipal plumbing inspectors, one from the metropolitan area and one from greater Minnesota;

(2) one member shall be a licensed professional engineer specializing in plumbing designs or systems;

(3) two members shall be commercial/industrial plumbing contractors, one from the metropolitan area and one from greater Minnesota;

(4) one member shall be a residential plumbing contractor;

(5) two members shall be commercial/industrial journeymen, one from the metropolitan area and one from greater Minnesota;

(6) one member shall be a residential plumbing journeyman;

(7) one member shall be a water conditioning contractor;

(8) one member shall be a municipal public water supply system operator or superintendent;  
and

(9) one member shall be a public member as defined by section 214.02.

One of the municipal plumbing inspectors shall be appointed for an initial term to end on December 31, 2010. The other municipal plumbing inspector shall be appointed for an initial term to end on December 31, 2011. The professional engineer shall be appointed for an initial term to end on December 31, 2011. One of the commercial/industrial plumbing contractors shall be appointed for an initial term to end on December 31, 2010. The other commercial/industrial plumbing contractor shall be appointed for an initial term to end on December 31, 2011. The residential plumbing contractor shall be appointed for an initial term to end on December 31, 2010. One of the commercial/industrial plumbing journeymen shall be appointed for an initial term to end on December 31, 2011. The other commercial/industrial plumbing journeyman shall be appointed for an initial term to end on December 31, 2010. The residential plumbing journeyman shall be appointed for an initial term to end on December 31, 2011. The water conditioning contractor shall be appointed for an initial term to end on December 31, 2011. The municipal public water supply system operator or superintendent shall be appointed for an initial term to end on December 31, 2010. The public member shall be appointed for a term to end December 31, 2010.

(b) The licensed professional engineer must possess a current Minnesota professional engineering license and maintain the license for the duration of their term. All other appointed members, except for the water conditioning contractor, the public member, and the municipal public water supply system operator or superintendent, must possess a current plumbing license issued by the Department of Labor and Industry and maintain that license for the duration of their term. The water conditioning contractor must be licensed as a water conditioning contractor by the Department of Labor and Industry and maintain the license for the duration of the term on the board. All appointed members must be residents of Minnesota at the time of and throughout the member's appointment. The term of any appointed member that does not maintain membership qualification status shall end on the date of the status change and the governor shall appoint a new member. It is the responsibility of the member to notify the board of the member's status change.

(c) For appointed members, except the initial terms designated in paragraph (a), each term shall be three years with the terms ending on December 31. Members appointed by the governor shall be limited to three consecutive terms. The governor shall, all or in part, reappoint the current members or appoint replacement members with the advice and consent of the senate. Midterm vacancies shall be filled for the remaining portion of the term. Vacancies occurring with less than six months time remaining in the term shall be filled for the existing term and the following three-year term. Members may serve until their successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

**Subd. 2. Powers; duties; administrative support.** (a) The board shall have the power to:

(1) elect its chair, vice-chair, and secretary;

(2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and containing such other provisions as may be useful and necessary for the efficient conduct of the business of the board;

(3) adopt the plumbing code that must be followed in this state and any plumbing code amendments thereto. The board shall adopt the plumbing code and any amendments thereto pursuant to chapter 14 and as provided in subdivision 6, paragraphs (b), (c), and (d);

(4) review requests for final interpretations and issue final interpretations as provided in section 326B.127, subdivision 5;

(5) except for rules regulating continuing education, adopt rules that regulate the licensure or registration of plumbing contractors, journeymen, apprentices, master plumbers, restricted master plumbers, and restricted journeymen and other persons engaged in the design, installation, and alteration of plumbing systems, except for those individuals licensed under section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (e) and (f);

(6) advise the commissioner regarding educational requirements for plumbing inspectors;

(7) refer complaints or other communications to the commissioner, whether oral or written, as provided in subdivision 8, that allege or imply a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, or an offering to perform or performance of unlicensed plumbing services;

(8) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;

(9) approve license reciprocity agreements;

(10) select from its members individuals to serve on any other state advisory council, board, or committee; and

(11) recommend the fees for licenses and certifications.

Except for the powers granted to the Plumbing Board, the Board of Electricity, and the Board of High Pressure Piping Systems, the commissioner of labor and industry shall administer and enforce the provisions of this chapter and any rules promulgated pursuant thereto.

(b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by the other boards created pursuant to this chapter. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

Subd. 3. **Compensation.** (a) Members of the board may be compensated at a rate of \$55 a day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of the political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they are compensated by the state or political subdivision. However, a state or political subdivision employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) The board shall adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

Subd. 4. **Removal; vacancy.** (a) An appointed member of the board may be removed by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the governor of an appointed member missing the three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the appointed member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the governor shall, with the advice and consent of the senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.0597, subdivisions 5 and 6.

Subd. 5. **Membership vacancy within three months of appointment.** Notwithstanding any law to the contrary, when a membership on the board becomes vacant within three months after being filled through the appointments process, the governor may, upon notification to the office of secretary of state, choose a new member from the applications on hand and need not repeat the process.

Subd. 6. **Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that is not covered by statute shall be determined by

Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Except as provided in paragraph (c), each plumbing code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all of the voting members of the board shall be included in the next plumbing code rulemaking proceeding initiated by the board. If a plumbing code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all the voting members of the board, the plumbing code amendment shall not be included in the next plumbing code rulemaking proceeding initiated by the board.

(c) If the plumbing code amendment considered by the board is to replace the Minnesota Plumbing Code with a model plumbing code, then the amendment may only be included in the next plumbing code rulemaking proceeding if it receives an affirmative two-thirds or more majority vote of all the voting members of the board.

(d) The board may reconsider plumbing code amendments during an active plumbing code rulemaking proceeding in which the amendment previously failed to receive a two-thirds majority vote or more of all the voting members of the board only if new or updated information that affects the plumbing code amendment is presented to the board. The board may also reconsider failed plumbing code amendments in subsequent plumbing code rulemaking proceedings.

(e) Each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), clause (5), that receives an affirmative majority vote of all the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(f) The board may reconsider proposed rules or rule amendments during an active rulemaking proceeding in which the amendment previously failed to receive an affirmative majority vote of all the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider failed proposed rules or rule amendments in subsequent rulemaking proceedings.

Subd. 7. **Board meetings.** (a) The board shall hold meetings at such times as the board shall specify. Notice and conduct of all meetings shall be pursuant to chapter 13D and in such a manner as the bylaws may provide.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. Any person monitoring the meeting electronically from a remote location may be required to pay documented costs incurred by the board as a result of the additional connection. The timing and method of providing notice is governed by section 13D.04.

Subd. 8. **Complaint.** (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether written or oral, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the department to provide plumbing services, the performance or offering to perform plumbing services requiring licensure by an unlicensed person, or plumbing code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.

(b) The commissioner shall advise the board of the status of the complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

Subd. 9. **Data Practices Act.** The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

Subd. 10. **Official records.** The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

**History:** 2007 c 140 art 4 s 61; art 6 s 5; art 13 s 4; 2008 c 337 s 21,64

### **326B.439 BAN ON LEAD IN PLUMBING.**

Lead pipe, solders and flux containing more than 0.2 percent lead, and pipes and pipe fittings containing more than eight percent lead shall not be used in any plumbing installation which conveys a potable water supply. A Minnesota seller of lead solder, except for a seller whose primary business is contracting in plumbing, heating, and air conditioning, shall not sell any solder containing 0.2 percent lead unless the seller displays a sign which states,

"Contains Lead

Minnesota law prohibits the use of this solder in any plumbing installation which is connected to a potable water supply."

**History:** 1985 c 279 s 2; 1988 c 689 art 2 s 232; 2008 c 337 s 64

### **326B.44 LOCAL REGULATIONS.**

Any of the following entities may, by ordinance, adopt local regulations providing for plumbing permits, approval of plans and specifications, and inspections of plumbing, which regulations are not in conflict with the plumbing code: any city having a system of waterworks or sewerage, regardless of population; any town having a population of 5,000 or more according to the last federal census, exclusive of any statutory cities located therein; and the Metropolitan Airports Commission. No such entity shall prohibit plumbers licensed by the commissioner from engaging in or working at the business of plumbing, except cities and statutory cities which, prior to April 21, 1933, by ordinance required the licensing of plumbers. No such entity shall require any person who engages in the business of plumbing to post a bond as a prerequisite for engaging in the business of plumbing, except the bond to the state required under section 326B.46 and except any performance bond required under a contract with the person for the performance of plumbing work for the entity. No such entity shall require any person who engages in the business of plumbing to maintain public liability insurance as a prerequisite for engaging in the business of plumbing, except the insurance required under section 326B.46 and except any public liability insurance required under a contract with the person for the performance of plumbing work for the entity. No city or town may require a license for persons performing building sewer or water service installation who have completed pipe laying training as prescribed by the commissioner of



labor and industry. Any city by ordinance may prescribe regulations, reasonable standards, and inspections and grant permits to any person engaged in the business of installing water softeners, who is not licensed as a master plumber or journeyman plumber by the commissioner, to connect water softening and water filtering equipment to private residence water distribution systems, where provision has been previously made therefor and openings left for that purpose or by use of cold water connections to a domestic water heater; where it is not necessary to rearrange, make any extension or alteration of, or addition to any pipe, fixture or plumbing connected with the water system except to connect the water softener, and provided the connections so made comply with minimum standards prescribed by the Plumbing Board.

**History:** (5887-20) 1933 c 349 s 2; 1937 c 370 s 2; 1941 c 367 s 1; 1953 c 166 s 1; 1957 c 921 s 1; 1973 c 123 art 5 s 7; 1977 c 305 s 45; 1Sp2001 c 9 art 1 s 56; 2002 c 379 art 1 s 113; 2007 c 135 art 3 s 22; 2007 c 140 art 6 s 6,15; art 13 s 4

### **326B.45 VIOLATIONS TO BE REPORTED TO COMMISSIONER.**

Such local authority as may be designated by any such ordinance for the issuance of such plumbing permits and approval of such plans shall report to the commissioner persistent or willful violation of the same and any incompetence of a licensed plumber observed by the local authority.

**History:** (5887-21) 1933 c 349 s 3; 1977 c 305 s 45; 2007 c 140 art 6 s 7,15; art 13 s 4

### **326B.46 LICENSING, BOND AND INSURANCE.**

Subdivision 1. **License required.** (a) No person shall engage in or work at the business of a master plumber, restricted master plumber, journeyman plumber, and restricted journeyman plumber unless licensed to do so by the state commissioner. A license is not required for individuals performing building sewer or water service installation who have completed pipe laying training as prescribed by the commissioner of labor and industry. A master plumber may also work as a journeyman plumber, a restricted journeyman plumber, and a restricted master plumber. A journeyman plumber may also work as a restricted journeyman plumber. Anyone not so licensed may do plumbing work which complies with the provisions of the minimum standards prescribed by the Plumbing Board on premises or that part of premises owned and actually occupied by the worker as a residence, unless otherwise forbidden to do so by a local ordinance.

(b) No person shall engage in the business of planning, superintending, or installing plumbing or shall install plumbing in connection with the dealing in and selling of plumbing material and supplies unless at all times a licensed master plumber, or in cities and towns with a population of fewer than 5,000 according to the federal census, a restricted master plumber, who shall be responsible for proper installation, is in charge of the plumbing work of the person, firm, or corporation.

Subd. 2. **Bond; insurance.** Any person contracting to do plumbing work must give bond to

the state in the amount of at least \$25,000 for (1) all plumbing work entered into within the state or (2) all plumbing work and subsurface sewage treatment work entered into within the state. If the bond is for both plumbing work and subsurface sewage treatment work, the bond must comply with the requirements of this section and section 115.56, subdivision 2, paragraph (e). The bond shall be for the benefit of persons injured or suffering financial loss by reason of failure to comply with the requirements of the State Plumbing Code and, if the bond is for both plumbing work and subsurface sewage treatment work, financial loss by reason of failure to comply with the requirements of sections 115.55 and 115.56. The bond shall be filed with the commissioner and shall be written by a corporate surety licensed to do business in the state.

In addition, each applicant for a master plumber license or restricted master plumber license, or renewal thereof, shall provide evidence of public liability insurance, including products liability insurance with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in the state of Minnesota and each licensed master plumber shall maintain on file with the commissioner a certificate evidencing the insurance providing that the insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner. The term of the insurance shall be concurrent with the term of the license.

**Subd. 3. Bond and insurance exemption.** If a master plumber or restricted master plumber who is in compliance with the bond and insurance requirements of subdivision 2, employs a licensed plumber, the employee plumber shall not be required to meet the bond and insurance requirements of subdivision 2. An individual who is an employee working on the maintenance and repair of plumbing equipment, apparatus, or facilities owned or leased by the individual's employer and which is within the limits of property owned or leased, and operated or maintained by the individual's employer, shall not be required to meet the bond and insurance requirements of subdivision 2.

**Subd. 4. Fee.** (a) Each person giving bond to the state under subdivision 2 shall pay the department a bond registration fee of \$40 for one year or \$80 for two years.

(b) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the bond registration from one year to two years so that the expiration of bond registration corresponds with the expiration of the license issued under section 326B.475 or 326B.49, subdivision 1.

**Subd. 5. Exterior connections.** Persons licensed as manufactured home installers under chapter 327B are not required to be licensed under sections 326B.42 to 326B.49 when connecting the exterior building drain sewer outlets to the aboveground building sewer system and when connecting the exterior water line to the aboveground water system to the manufactured home as described in National Manufactured Housing Construction and Safety Standards Act of 1974,

United States Code, title 42, section 5401 et seq. No additional licensure, bond, or insurance related to the scope of work permitted under this subdivision may be required of a licensed manufactured home installer by any unit of government.

**History:** (5887-22) 1933 c 349 s 4; 1937 c 370 s 3; 1941 c 367 s 2; 1973 c 123 art 5 s 7; 1977 c 305 s 45; 1978 c 604 s 1; 1980 c 487 s 10; 1986 c 444; 1999 c 245 art 2 s 39-41; 2004 c 251 s 12; 2007 c 135 art 3 s 23; 2007 c 140 art 6 s 8,15; art 13 s 4; 2008 c 337 s 22-24; 2009 c 78 art 5 s 14; 2009 c 109 s 13

### **326B.47 PLUMBER'S APPRENTICES.**

Subdivision 1. **Registration.** All plumber's apprentices must be registered. To be a registered plumber's apprentice, an individual must either:

(1) be an individual employed in the trade of plumbing under an apprenticeship agreement approved by the department under Minnesota Rules, part 5200.0300; or

(2) be an unlicensed individual registered with the commissioner under subdivision 3. A plumber's apprentice is authorized to assist in the installation of plumbing only while under the direct supervision of a master, restricted master, journeyman, or restricted journeyman plumber. The master, restricted master, journeyman, or restricted journeyman plumber is responsible for ensuring that all plumbing work performed by the plumber's apprentice complies with the plumbing code.

Subd. 2. **Journeyman exam.** A plumber's apprentice who has completed four years of practical plumbing experience is eligible to take the journeyman plumbing examination. Up to 24 months of practical plumbing experience prior to becoming a plumber's apprentice may be applied to the four-year experience requirement. However, none of this practical plumbing experience may be applied if the individual did not have any practical plumbing experience in the 12-month period immediately prior to becoming a plumber's apprentice. The Plumbing Board may adopt rules to evaluate whether the individual's past practical plumbing experience is applicable in preparing for the journeyman's examination. If two years after completing the training the individual has not taken the examination, the four years of experience shall be forfeited.

The commissioner may allow an extension of the two-year period for taking the exam for cases of hardship or other appropriate circumstances.

Subd. 3. **Registration, rules, applications, renewals, and fees.** An unlicensed individual may register by completing and submitting to the commissioner a registration form provided by the commissioner. A completed registration form must state the date the individual began training, the individual's age, schooling, previous experience, and employer, and other information required by the commissioner. The board may prescribe rules, not inconsistent with this section, for the registration of unlicensed individuals. Each applicant for initial registration as a plumber's

apprentice shall pay the department an application fee of \$25. Applications for initial registration may be submitted at any time. Registration must be renewed annually and shall be for the period from July 1 of each year to June 30 of the following year. Applications for renewal registration must be received by the commissioner by June 30 of each registration period on forms provided by the commissioner, and must be accompanied by a fee of \$25. An application for renewal registration received on or after July 1 in any year but no more than three months after expiration of the previously issued registration must pay the past due renewal fee plus a late fee of \$25. No applications for renewal registration will be accepted more than three months after expiration of the previously issued registration.

**History:** 1986 c 402 s 2; 1986 c 444; 2007 c 135 art 3 s 24; 2007 c 140 art 6 s 9,15; art 13 s 4

### **326B.475 RESTRICTED PLUMBER LICENSE.**

Subdivision 1. **Licensure.** (a) The commissioner of labor and industry shall grant a restricted journeyman or restricted master plumber license to an individual if:

(1) the individual completes an application with information required by the commissioner of labor and industry;

(2) the completed application is accompanied by a fee of \$30;

(3) the commissioner of labor and industry receives the completed application and fee between October 1, 2009, and October 15, 2009;

(4) the completed application for a restricted journeyman plumber license demonstrates that, prior to the application, the applicant has had at least two years of practical plumbing experience in the plumbing trade; and

(5) the completed application for a restricted master plumber license demonstrates that, prior to the application, the applicant has had:

(i) at least four years of practical plumbing experience in the plumbing trade; or

(ii) at least two years of practical plumbing experience as a plumbing contractor in the plumbing trade.

(b) For applications received between October 1, 2009, and October 15, 2009, the commissioner may waive penalties for an applicant who failed to post a bond after June 30, 1999, under section 326B.46, subdivision 2, if the commissioner finds that the penalty would cause undue hardship or the waiver is otherwise warranted under the circumstances.

Subd. 2. **Use of license.** A restricted master plumber and restricted journeyman plumber may engage in the plumbing trade in all areas of the state except in cities and towns with a population of more than 5,000 according to the federal census.

Subd. 3. **Application period.** Applications for restricted master plumber and restricted journeyman plumber licenses must be submitted to the commissioner prior to October 1, 2008.

Subd. 4. **Renewal; use period for license.** (a) A restricted master plumber and restricted journeyman plumber license must be renewed for as long as that licensee engages in the plumbing trade. Failure to renew a restricted master plumber and restricted journeyman plumber license within 12 months after the expiration date will result in permanent forfeiture of the restricted master plumber and restricted journeyman plumber license.

(b) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of restricted master plumber and restricted journeyman plumber licenses from one year to two years. By June 30, 2011, all restricted master plumber and restricted journeyman plumber licenses shall be two-year licenses.

Subd. 5. **Prohibition of transference.** A restricted master plumber and restricted journeyman plumber license may not be transferred or sold to any other person.

Subd. 6. **Bond; insurance.** A restricted master or a restricted journeyman plumber licensee is subject to the bond and insurance requirements of section 326B.46, subdivision 2, unless the exemption provided by section 326B.46, subdivision 3, applies.

Subd. 7. **Fee.** The renewal fee for the restricted master plumber and restricted journeyman plumber licenses is the same fee as for a master or journeyman plumber license, respectively.

**History:** 2007 c 135 art 3 s 25; 2007 c 140 art 6 s 10,15; art 13 s 4; 2008 c 282 s 1,2; 2008 c 337 s 64; 2009 c 78 art 5 s 15,16; 2009 c 153 s 5

### **326B.48 RECIPROCITY WITH OTHER STATES.**

The commissioner may enter into reciprocity agreements for personal licenses with another state if approved by the board. Once approved by the board, the commissioner may issue a plumber's license without requiring the applicant to pass an examination provided the applicant:

- (a) submits an application under section 326B.49;
- (b) pays the fee required under section 326B.49; and
- (c) holds a valid comparable license in the state participating in the agreement.

Agreements are subject to the following:

(1) The parties to the agreement must administer a statewide licensing program that includes examination and qualifying experience or training comparable to Minnesota's.

(2) The experience and training requirements under which an individual applicant qualified for examination in the qualifying state must be deemed equal to or greater than required for

an applicant making application in Minnesota at the time the applicant acquired the license in the qualifying state.

(3) The applicant must have acquired the license in the qualifying state through an examination deemed equivalent to the same class of license examination in Minnesota. A lesser class of license may be granted where the applicant has acquired a greater class of license in the qualifying state and the applicant otherwise meets the conditions of this section.

(4) At the time of application, the applicant must hold a valid license in the qualifying state and have held the license continuously for at least one year before making application in Minnesota.

(5) An applicant is not eligible for a license under this section if the applicant has failed the same or greater class of license examination in Minnesota, or if the applicant's license of the same or greater class has been revoked or suspended.

(6) An applicant who has failed to renew a plumber's license for two years or more after its expiration is not eligible for a license under this section.

**History:** 1977 c 19 s 1; 1992 c 464 art 1 s 35; 2007 c 135 art 3 s 26; 2007 c 140 art 6 s 11,15; art 13 s 4

### **326B.49 APPLICATIONS, FEES.**

Subdivision 1. **Application, examination, and license fees.** (a) Applications for plumber's license shall be made to the commissioner, with fee. Unless the applicant is entitled to a renewal, the applicant shall be licensed by the commissioner only after passing a satisfactory examination developed and administered by the commissioner, based upon rules adopted by the Plumbing Board, showing fitness. Examination fees for both journeyman and master plumbers shall be \$50 for each examination. Upon being notified of having successfully passed the examination for original license the applicant shall submit an application, with the license fee herein provided. The license fee for each initial master plumber's license shall be \$240. The license fee for each initial journeyman plumber's license shall be \$110.

(b) All initial master and journeyman plumber's licenses shall be effective for more than one calendar year and shall expire on December 31 of the year after the year in which the application is made. The license fee for each renewal master plumber's license shall be \$120 for one year or \$240 for two years. The license fee for each renewal journeyman plumber's license shall be \$55 for one year or \$110 for two years. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of master and journeyman plumber's licenses from one year to two years. By June 30, 2011, all renewed master and journeyman plumber's licenses shall be two-year licenses.

(c) Any licensee who does not renew a license within two years after the license expires is no longer eligible for renewal. Such an individual must retake and pass the examination before a new license will be issued. A journeyman or master plumber who submits a license renewal application after the time specified in rule but within two years after the license expired must pay all past due renewal fees plus a late fee of \$25.

Subd. 2. **Fees for plan reviews and audits.** Plumbing system plans and specifications that are submitted to the commissioner for review shall be accompanied by the appropriate plan examination fees. If the commissioner determines, upon review of the plans, that inadequate fees were paid, the necessary additional fees shall be paid prior to plan approval. The commissioner shall charge the following fees for plan reviews and audits of plumbing installations for public, commercial, and industrial buildings:

- (1) systems with both water distribution and drain, waste, and vent systems and having:
  - (i) 25 or fewer drainage fixture units, \$150;
  - (ii) 26 to 50 drainage fixture units, \$250;
  - (iii) 51 to 150 drainage fixture units, \$350;
  - (iv) 151 to 249 drainage fixture units, \$500;
  - (v) 250 or more drainage fixture units, \$3 per drainage fixture unit to a maximum of \$4,000; and
  - (vi) interceptors, separators, or catch basins, \$70 per interceptor, separator, or catch basin design;
- (2) building sewer service only, \$150;
- (3) building water service only, \$150;
- (4) building water distribution system only, no drainage system, \$5 per supply fixture unit or \$150, whichever is greater;
- (5) storm drainage system, a minimum fee of \$150 or:
  - (i) \$50 per drain opening, up to a maximum of \$500; and
  - (ii) \$70 per interceptor, separator, or catch basin design;
- (6) manufactured home park or campground, one to 25 sites, \$300;
- (7) manufactured home park or campground, 26 to 50 sites, \$350;
- (8) manufactured home park or campground, 51 to 125 sites, \$400;
- (9) manufactured home park or campground, more than 125 sites, \$500;
- (10) accelerated review, double the regular fee, one-half to be refunded if no response from the commissioner within 15 business days; and

(11) revision to previously reviewed or incomplete plans:

(i) review of plans for which the commissioner has issued two or more requests for additional information, per review, \$100 or ten percent of the original fee, whichever is greater;

(ii) proposer-requested revision with no increase in project scope, \$50 or ten percent of original fee, whichever is greater; and

(iii) proposer-requested revision with an increase in project scope, \$50 plus the difference between the original project fee and the revised project fee.

Subd. 3. **Inspection fees.** The commissioner shall charge the following fees for inspections under sections 326B.42 to 326B.49:

Residential inspection fee (each visit)	\$	50
Public, Commercial, and Industrial Inspections	Inspection Fee	
25 or fewer drainage fixture units	\$	300
26 to 50 drainage fixture units	\$	900
51 to 150 drainage fixture units	\$	1,200
151 to 249 drainage fixture units	\$	1,500
250 or more drainage fixture units	\$	1,800
Callback fee (each visit)	\$	100

**History:** (5887-25) 1933 c 349 s 7; 1937 c 370 s 5; 1941 c 367 s 3; 1959 c 78 s 1; 1974 c 205 s 1; 1974 c 471 s 15; 1975 c 310 s 31; 1976 c 2 s 169; 1977 c 305 s 45; 1986 c 444; 1Sp2003 c 14 art 7 s 82; 1Sp2005 c 4 art 6 s 50; 2007 c 135 art 3 s 27; 2007 c 140 art 6 s 12,15; art 13 s 4; 2009 c 78 art 5 s 17

## WATER CONDITIONING

### 326B.50 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 326B.50 to 326B.59, the terms defined in this section have the meanings given them.

Subd. 2. **Single family residential unit.** "Single family residential unit" means a building or portion thereof which is arranged, designed, used or intended to be used for residential occupancy by one family, but not including a motel, hotel or rooming house.

Subd. 3. **Water conditioning installation.** "Water conditioning installation" means the installation of appliances, appurtenances, and fixtures designed to treat water so as to alter, modify, add or remove mineral, chemical or bacterial content, said installation to be made in a water distribution system serving a single family residential unit, which has been initially



established by a licensed plumber, and does not involve a direct connection without an air gap to a soil or waste pipe.

Subd. 4. **Water conditioning servicing.** "Water conditioning servicing" means the servicing (including servicing prior to installation) of a water conditioning installation.

**History:** 1969 c 898 s 5; 1977 c 305 s 45; 1985 c 248 s 70; 1989 c 209 art 2 s 1; 2007 c 140 art 7 s 6-9,12,13; art 13 s 4

### **326B.52 WATER CONDITIONING CONTRACTOR AND INSTALLER STANDARDS.**

Subdivision 1. **Rulemaking by commissioner.** The commissioner shall, by rule, prescribe minimum standards which shall be uniform, and which standards shall thereafter be effective for all new water conditioning servicing and water conditioning installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building or any other place of business, regardless of location or the population of the city, county or town in which located.

Subd. 2. **Inspectors.** The commissioner shall administer the provisions of sections 326B.50 to 326B.59 and for such purposes may employ water conditioning inspectors and other assistants.

**History:** 1969 c 898 s 1; 1973 c 123 art 5 s 7; 1977 c 305 s 45; 1985 c 248 s 70; 1989 c 209 art 2 s 1; 2007 c 140 art 7 s 1,13; art 13 s 4

### **326B.53 LOCAL REGULATIONS.**

Any city or town with a population of 5,000 or more according to the last federal census may, by ordinance, adopt local regulations providing for water conditioning permits, bonds, approval of plans, and inspections of water conditioning installations and servicing, which regulations shall not be in conflict with the water conditioning standards on the same subject prescribed by the commissioner. No such city or town shall prohibit water conditioning contractors or installers licensed by the commissioner from engaging in or working at the business.

**History:** 1969 c 898 s 2; 1973 c 123 art 5 s 7; 1977 c 305 s 45; 2007 c 140 art 7 s 2,13; art 13 s 4

### **326B.54 VIOLATIONS TO BE REPORTED TO COMMISSIONER.**

Such local authority as may be designated by any such ordinance for the issuance of such water conditioning installation and servicing permits and approval of such plans shall report to the commissioner persistent or willful violations of the same and any incompetence of a licensed water conditioning contractor or licensed water conditioning installer observed by the local authority.

**History:** 1969 c 898 s 3; 1977 c 305 s 45; 2007 c 140 art 7 s 3,13; art 13 s 4

**326B.55 LICENSING IN CERTAIN CITIES; QUALIFICATIONS; RULES.**

Subdivision 1. **Licensing in certain cities.** In any city or town having a population of 5,000 or more according to the last federal census, no person shall engage in or work at the business of water conditioning installation or servicing after January 1, 1970, unless (1) at all times an individual licensed as a water conditioning contractor by the commissioner shall be responsible for the proper water conditioning installation and servicing work of such person, and (2) all installations, other than exchanges of portable equipment, are performed by a licensed water conditioning contractor or licensed water conditioning installer. Any individual not so licensed may perform water conditioning work that complies with the minimum standard prescribed by the commissioner on premises or that part of premises owned and occupied by the worker as a residence, unless otherwise prohibited by a local ordinance.

Subd. 2. **Qualifications for licensing.** A water conditioning contractor license shall be issued only to an individual who has demonstrated skill in planning, superintending, and servicing water conditioning installations. A water conditioning installer license shall only be issued to an individual other than a water conditioning contractor who has demonstrated practical knowledge of water conditioning installation.

Subd. 3. **Rules.** The commissioner shall:

(1) prescribe rules, not inconsistent herewith, for the licensing of water conditioning contractors and installers;

(2) license water conditioning contractors and installers;

(3) prescribe rules not inconsistent herewith for the examining of water conditioning contractors and installers prior to first granting a license as a water conditioning contractor or water conditioning installer; and

(4) collect an examination fee from each examinee for a license as a water conditioning contractor and an examination fee from each examinee for a license as a water conditioning installer in an amount set forth in section 326B.58. A water conditioning installer must successfully pass the examination for water conditioning contractors before being licensed as a water conditioning contractor.

**History:** 1969 c 898 s 4; 1973 c 123 art 5 s 7; 1974 c 471 s 16; 1977 c 305 s 45; 1980 c 487 s 11; 1985 c 248 s 70; 1986 c 444; 2007 c 140 art 7 s 4,13; art 13 s 4

**326B.56 ALTERNATIVE STATE BONDING AND INSURANCE REGULATION.**

Subdivision 1. **Bonds.** (a) An applicant for a water conditioning contractor or installer license or renewal thereof who is required by any political subdivision to give a bond to obtain or maintain the license, may comply with any political subdivision bonding requirement by giving a

bond to the state as described in paragraph (b). No applicant for a water conditioning contractor or installer license who maintains the bond under paragraph (b) shall be otherwise required to meet the bond requirements of any political subdivision.

(b) Each bond given to the state under this subdivision shall be in the total sum of \$3,000 conditioned upon the faithful and lawful performance of all water conditioning contracting or installing work done within the state. The bond shall be for the benefit of persons suffering injuries or damages due to the work. The bond shall be filed with the commissioner and shall be written by a corporate surety licensed to do business in this state. The bond must remain in effect at all times while the application is pending and while the license is in effect.

Subd. 2. **Insurance.** (a) Each applicant for a water conditioning contractor or installer license or renewal thereof who is required by any political subdivision to maintain insurance to obtain or maintain the license may comply with any political subdivision's insurance requirement by maintaining the insurance described in paragraph (b). No applicant for a water conditioning contractor or installer license who maintains the insurance described in paragraph (b) shall be otherwise required to meet the insurance requirements of any political subdivision.

(b) The insurance shall provide coverage, including products liability coverage, for all damages in connection with licensed work for which the licensee is liable, with personal damage limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in this state and a certificate evidencing the insurance shall be filed with the commissioner. The insurance must remain in effect at all times while the application is pending and while the license is in effect. The insurance shall not be canceled without the insurer first giving 15 days' written notice to the commissioner.

Subd. 3. **Bond and insurance exemption.** A water conditioning contractor or installer who is an employee of a water conditioning contractor or installer, including an employee engaged in the maintenance and repair of water conditioning equipment, apparatus, or facilities owned, leased and operated, or maintained by the employer, is not required to meet the bond and insurance requirements of subdivisions 1 and 2 or of any political subdivision.

Subd. 4. **Fee.** (a) The commissioner shall collect a \$40 bond registration fee for one year or \$80 for two years from each applicant for issuance or renewal of a water conditioning contractor or installer license who elects to proceed under subdivisions 1 and 2.

(b) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the bond registration from one year to two

years so that the expiration of bond registration corresponds with the expiration of the license issued under section 326B.55.

**History:** 1980 c 614 s 134; 1986 c 444; 2007 c 140 art 7 s 5,13; art 13 s 4; 2009 c 78 art 5 s 18

### **326B.57 RULES.**

In order to provide effective protection of the public health, the commissioner may by rule prescribe limitations on the nature of alteration to, extension of, or connection with, the said water distribution system initially established by a licensed plumber which may be performed by a person licensed hereunder, and may by rule in appropriate instances require filing of plans, blueprints and specifications prior to commencement of installation. The installation of water heaters shall not constitute water conditioning installation and consequently such work shall be accomplished in accordance with the provisions of sections 326B.42 to 326B.49.

**History:** 1969 c 898 s 5; 1977 c 305 s 45; 1985 c 248 s 70; 1989 c 209 art 2 s 1; 2007 c 140 art 7 s 6-9,12,13; art 13 s 4

### **326B.58 FEES.**

(a) Examination fees for both water conditioning contractors and water conditioning installers shall be \$50 for each examination. Each initial water conditioning contractor and installer license shall be effective for more than one calendar year and shall expire on December 31 of the year after the year in which the application is made. The license fee for each initial water conditioning contractor's license shall be \$140, except that the license fee shall be \$105 if the application is submitted during the last three months of the calendar year. The license fee for each renewal water conditioning contractor's license shall be \$70 for one year or \$140 for two years. The license fee for each initial water conditioning installer license shall be \$70, except that the license fee shall be \$52.50 if the application is submitted during the last three months of the calendar year. The license fee for each renewal water conditioning installer license shall be \$35 for one year or \$70 for two years.

(b) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of water conditioning contractor and installer licenses from one year to two years. By June 30, 2011, all renewed water conditioning contractor and installer licenses shall be two-year licenses. The commissioner may by rule prescribe for the expiration and renewal of licenses.

(c) Any licensee who does not renew a license within two years after the license expires is no longer eligible for renewal. Such an individual must retake and pass the examination before a new license will be issued. A water conditioning contractor or water conditioning installer who

submits a license renewal application after the time specified in rule but within two years after the license expired must pay all past due renewal fees plus a late fee of \$25.

**History:** 1969 c 898 s 6; 1974 c 471 s 17; 1975 c 310 s 32; 1977 c 305 s 45; 2007 c 140 art 7 s 10,13; art 13 s 4; 2008 c 337 s 35; 2009 c 78 art 5 s 19

### **326B.59 STATE LICENSE; EXAMINATION; APPLICATION; EXEMPTION.**

The provisions of sections 326B.50 to 326B.59 that require licenses to engage in the work or business of water conditioning installation, and the provisions that provide for the examination of applicants for such licenses, shall only apply to work accomplished in cities or towns having populations of 5,000 or more according to the last federal census, and shall not apply to master plumbers and journeymen plumbers licensed under the provisions of sections 326B.42 to 326B.49.

**History:** 1969 c 898 s 9; 1973 c 123 art 5 s 7; 1989 c 209 art 2 s 1; 2007 c 140 art 7 s 11,13; art 13 s 4

## **RESIDENTIAL TRADES; LICENSING**

### **326B.801 SCOPE.**

Except as otherwise provided by law, the provisions of sections 326B.801 to 326B.825 apply to residential contractors, residential remodelers, residential roofers, and manufactured home installers.

**History:** 2007 c 140 art 8 s 24

### **326B.802 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to sections 326B.802 to 326B.885.

Subd. 2. **Affiliate.** An "affiliate" of another person means any person directly or indirectly controlling, controlled by, or under common control with the other person.

Subd. 3. **Gross annual receipts.** "Gross annual receipts" means the total amount derived from residential contracting or remodeling activities, regardless of where the activities are performed, and must not be reduced by cost of goods sold, expenses, losses, or any other amount.

Subd. 4. **Lessee.** "Lessee" means one who rents or leases residential real estate pursuant to a written lease agreement of at least one year's duration.

Subd. 5. **Licensee.** "Licensee" means a residential building contractor, residential remodeler, manufactured home installer, or residential roofer licensed under sections 326B.802 to 326B.885.

Subd. 6. **Manufactured home.** "Manufactured home" has the meaning given it in section 327.31, subdivision 6.

Subd. 7. **Manufactured home installer.** "Manufactured home installer" has the meaning given it in section 327.31, subdivision 11.

Subd. 8. **Mechanical contractor.** "Mechanical contractor" means a person, sole proprietor, partnership, joint venture, corporation, or other organization which is in the business of erection, installation, alteration, repair, relocation, replacement, addition to, use, or maintenance of any heating, ventilating, cooling, process piping, plumbing, fire protection, or refrigeration systems, incinerators, or other miscellaneous heat-producing appliance, piping, or equipment or appliances associated with those systems.

Subd. 9. **Owner.** "Owner," when used in connection with real property, means a person who has any legal or equitable interest in the real property.

Subd. 10. **Qualifying person.** "Qualifying person" means the individual who fulfills the examination and education requirements for licensure on behalf of the licensee.

Subd. 11. **Residential building contractor.** "Residential building contractor" means a person in the business of building residential real estate, or of contracting or offering to contract with an owner to build residential real estate, by providing two or more special skills as defined in this section. A residential building contractor may also contract or offer to contract with an owner to improve existing residential real estate.

Subd. 12. **Residential remodeler.** "Residential remodeler" means a person in the business of contracting or offering to contract with an owner to improve existing residential real estate by providing two or more special skills as defined in this section.

Subd. 13. **Residential real estate.** "Residential real estate" means a new or existing building constructed for habitation by one to four families, and includes detached garages.

Subd. 14. **Residential roofer.** "Residential roofer" means a person in the business of contracting, or offering to contract with an owner, to complete work on residential real estate in roof coverings, roof sheathing, roof weatherproofing and insulation, and repair of roof systems, but not construction of new roof systems.

Subd. 15. **Special skill.** "Special skill" means one of the following eight categories:

(a) **Excavation.** Excavation includes work in any of the following areas:

- (1) excavation;
- (2) trenching;
- (3) grading; and
- (4) site grading.

(b) **Masonry and concrete.** Masonry and concrete includes work in any of the following areas:

- (1) drain systems;
- (2) poured walls;
- (3) slabs and poured-in-place footings;
- (4) masonry walls;
- (5) masonry fireplaces;
- (6) masonry veneer; and
- (7) water resistance and waterproofing.

(c) **Carpentry.** Carpentry includes work in any of the following areas:

- (1) rough framing;
- (2) finish carpentry;
- (3) doors, windows, and skylights;
- (4) porches and decks, excluding footings;
- (5) wood foundations; and
- (6) drywall installation, excluding taping and finishing.

(d) **Interior finishing.** Interior finishing includes work in any of the following areas:

- (1) floor covering;
- (2) wood floors;
- (3) cabinet and counter top installation;
- (4) insulation and vapor barriers;
- (5) interior or exterior painting;
- (6) ceramic, marble, and quarry tile;
- (7) ornamental guardrail and installation of prefabricated stairs; and
- (8) wallpapering.

(e) **Exterior finishing.** Exterior finishing includes work in any of the following areas:

- (1) siding;
- (2) soffit, fascia, and trim;
- (3) exterior plaster and stucco;
- (4) painting; and
- (5) rain carrying systems, including gutters and down spouts.

(f) **Drywall and plaster.** Drywall and plaster includes work in any of the following areas:

- (1) installation;
- (2) taping;
- (3) finishing;
- (4) interior plaster;
- (5) painting; and
- (6) wallpapering.

(g) **Residential roofing.** Residential roofing includes work in any of the following areas:

- (1) roof coverings;
- (2) roof sheathing;
- (3) roof weatherproofing and insulation; and
- (4) repair of roof support system, but not construction of new roof support system.

(h) **General installation specialties.** Installation includes work in any of the following areas:

- (1) garage doors and openers;
- (2) pools, spas, and hot tubs;
- (3) fireplaces and wood stoves;
- (4) asphalt paving and seal coating; and
- (5) ornamental guardrail and prefabricated stairs.

Subd. 16. **Specialty contractor.** "Specialty contractor" means a person in the business of contracting or offering to contract to build or improve residential real estate by providing only one special skill as defined in this section.

Subd. 17. **Garage.** "Garage" means a structure attached to or in reasonable proximity to a dwelling, which is used or intended to be used primarily for the protection or storage of automobiles or other personal vehicles owned or driven by the occupants of the dwelling.

**History:** 1991 c 306 s 7; 1993 c 9 s 1-3; 1993 c 145 s 2-4; 1993 c 245 s 2-13; 1993 c 366 s 18; 1995 c 169 s 1,2; 1997 c 222 s 45,46; 1999 c 137 s 6; 2007 c 140 art 8 s 2-7,30; art 13 s 4

### **326B.805 LICENSING REQUIREMENTS.**

Subdivision 1. **Persons required to be licensed.** A person who meets the definition of a residential building contractor as defined in section 326B.802, subdivision 11, must be licensed as a residential building contractor by the commissioner. A person who meets the definition of a residential remodeler as defined in section 326B.802, subdivision 12, must be licensed by



the commissioner as a residential remodeler or residential building contractor. A person who meets the definition of a residential roofer as defined in section 326B.802, subdivision 14, must be licensed by the commissioner as a residential roofer, residential building contractor, or residential remodeler. A person who meets the definition of a manufactured home installer as defined in section 327.31, subdivision 11, must be licensed as a manufactured home installer by the commissioner.

Subd. 2. **Persons who may be licensed.** A person who meets the definition of a specialty contractor as defined in section 326B.802, subdivision 16, may be licensed by the commissioner as a residential building contractor or residential remodeler.

Subd. 3. **Prohibition.** Except as provided in subdivision 6, no persons required to be licensed by subdivision 1 may act or hold themselves out as a residential building contractor, residential remodeler, residential roofer, or manufactured home installer for compensation without a license issued by the commissioner.

Subd. 4. **Licensing criteria.** The examination and education requirements for licensure under sections 326B.805 to 326B.885 must be fulfilled by a qualifying person designated by the potential licensee. If the qualifying person is a managing employee, the qualifying person must be an employee who is regularly employed by the licensee and is actively engaged in the business of residential contracting or residential remodeling on behalf of the licensee. For a sole proprietorship, the qualifying person must be the proprietor or managing employee. For a partnership, the qualifying person must be a general partner or managing employee. For a limited liability company, the qualifying person must be a chief manager or managing employee. For a corporation, the qualifying person must be an owner, officer, or managing employee. A qualifying person for a corporation or limited liability company may act as the qualifying person for more than one corporation or limited liability company if there is common ownership of at least 25 percent among each of the licensed corporations or limited liability companies for which the person acts in the capacity of qualifying person.

Subd. 5. **Required information.** (a) Each licensee or applicant for licensure shall provide to the commissioner a current street address and telephone number where the licensee resides, and a street address and telephone number where the licensee's business is physically located. A post office box address is not sufficient to satisfy this requirement. Each licensee or applicant for licensure must notify the commissioner in writing of any change in the required information within 15 days of the change.

(b) Each licensee or applicant for licensure must notify the commissioner in writing upon any change in control, ownership, officers or directors, personal name, business name, license name, or qualifying person, within 15 days of the change.

(c) Each licensee or applicant for licensure must notify the commissioner in writing if the licensee or applicant for licensure is found to be a judgment debtor based upon conduct requiring licensure pursuant to sections 326B.802 to 326B.885 within 15 days of the finding.

(d) Each licensee or applicant for licensure must notify the commissioner in writing within 15 days of filing a petition for bankruptcy.

(e) Each licensee or applicant for licensure must notify the commissioner in writing within ten days if the licensee or applicant for licensure has been found guilty of a felony, gross misdemeanor, misdemeanor, or any comparable offense related to residential contracting, including convictions of fraud, misrepresentation, misuse of funds, theft, criminal sexual conduct, assault, burglary, conversion of funds, or theft of proceeds in this or any other state or any other United States jurisdiction.

Subd. 6. **Exemptions.** The license requirement does not apply to:

- (1) an employee of a licensee performing work for the licensee;
- (2) a material person, manufacturer, or retailer furnishing finished products, materials, or articles of merchandise who does not install or attach the items;
- (3) an owner of residential real estate who builds or improves any structure on residential real estate, if the building or improving is performed by the owner's bona fide employees or by individual owners personally. This exemption does not apply to an owner who constructs or improves property for purposes of speculation if the building or improving is performed by the owner's bona fide employees or by individual owners personally. A residential building contractor or residential remodeler will be presumed to be building or improving for purposes of speculation if the contractor or remodeler constructs or improves more than one property within any 24-month period;
- (4) an architect or professional engineer engaging in professional practice as defined by section 326.02, subdivisions 2 and 3;
- (5) a person whose total gross annual receipts for performing specialty skills for which licensure would be required under this section do not exceed \$15,000;
- (6) a mechanical contractor;
- (7) a plumber, electrician, or other person whose profession is otherwise subject to statewide licensing, when engaged in the activity which is the subject of that licensure;
- (8) specialty contractors who provide only one special skill as defined in section 326B.802;
- (9) a school district, or a technical college governed under chapter 136F; and
- (10) Habitat for Humanity and Builders Outreach Foundation, and their individual volunteers when engaged in activities on their behalf.

To qualify for the exemption in clause (5), a person must obtain a certificate of exemption from licensure from the commissioner. A certificate of exemption will be issued upon the applicant's filing with the commissioner, an affidavit stating that the applicant does not expect to exceed \$15,000 in gross annual receipts derived from performing services which require licensure under this section. To renew the exemption in clause (5), the applicant must file an affidavit stating that the applicant did not exceed \$15,000 in gross annual receipts during the past calendar year. If a person, operating under the exemption in clause (5), exceeds \$15,000 in gross receipts during any calendar year, the person must immediately surrender the exemption certificate and apply for the appropriate license. The person must remain licensed until such time as the person's gross annual receipts during a calendar year fall below \$15,000. The person may then apply for an exemption for the next calendar year.

**History:** 1991 c 306 s 8; 1993 c 245 s 14,15; 1995 c 169 s 3; 1996 c 395 s 18; 1997 c 222 s 47; 2007 c 140 art 8 s 8,30; art 13 s 4; 2008 c 337 s 36

### **326B.809 WRITTEN CONTRACT REQUIRED.**

(a) All agreements including proposals, estimates, bids, quotations, contracts, purchase orders, and change orders between a licensee and a customer for the performance of a licensee's services must be in writing and must contain the following:

(1) a detailed summary of the services to be performed;

(2) a description of the specific materials to be used or a list of standard features to be included; and

(3) the total contract price or a description of the basis on which the price will be calculated.

(b) All agreements shall be signed and dated by the licensee and customer.

(c) The licensee shall provide to the customer, at no charge, a signed and dated document at the time that the licensee and customer sign and date the document. Documents include agreements and mechanic's lien waivers.

**History:** 2007 c 140 art 8 s 25

### **326B.81 RESIDENTIAL ROOFERS.**

Residential roofers are subject to all of the requirements of sections 326B.802 to 326B.885, except the recovery fund in section 326B.89.

**History:** 1993 c 145 s 5; 1993 c 366 s 19; 2007 c 140 art 8 s 10,30; art 13 s 4

**326B.814 REHABILITATION OF CRIMINAL OFFENDERS.**

Chapter 364 does not apply to an applicant for a license or to a licensee where the underlying conduct on which the conviction is based would be grounds for denial, censure, suspension, or revocation of the license.

**History:** 2007 c 140 art 8 s 26

**326B.815 FEES.**

Subdivision 1. **Licensing fee.** (a) The licensing fee for persons licensed pursuant to sections 326B.802 to 326B.885, except for manufactured home installers, is \$200 for a two-year period. The licensing fee for manufactured home installers under section 327B.041 is \$300 for a three-year period.

(b) All initial licenses, except for manufactured home installer licenses, shall be effective for two years and shall expire on March 31 of the year after the year in which the application is made. The license fee for each renewal of a residential contractor, residential remodeler, or residential roofer license shall be \$100 for one year and \$200 for two years.

(c) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of residential contractor, residential remodeler, and residential roofer licenses from one year to two years. By June 30, 2011, all renewed residential contractor, residential remodeler, and residential roofer licenses shall be two-year licenses.

Subd. 2. **Local surcharge.** A local government unit may place a surcharge in an amount no greater than \$5 on each land use, zoning, or building permit that requires a licensed residential building contractor, residential remodeler, residential roofer, or manufactured home installer for the purpose of license verification. The local government may verify a license by telephone, facsimile or electronic communication. A local government unit shall not issue a land use, zoning, or building permit unless the required license has been verified and is current.

**History:** 1991 c 306 s 10; 1993 c 245 s 17; 1996 c 305 art 3 s 34; 1997 c 200 art 1 s 72; 1999 c 223 art 2 s 46; 1999 c 250 art 3 s 28; 2007 c 140 art 8 s 11,30; art 13 s 4; 2008 c 337 s 37; 2009 c 78 art 5 s 20

**326B.82 DEFINITIONS.**

Subdivision 1. **Words, terms, and phrases.** For the purposes of section 326B.821, the terms defined in this section have the meanings given them, unless the context clearly indicates otherwise.

Subd. 2. **Appropriate and related knowledge.** "Appropriate and related knowledge" means facts, information, or principles that are clearly relevant to the licensee in performing

responsibilities under a license issued by the commissioner. These facts, information, or principles must convey substantive and procedural knowledge as it relates to postlicensing issues and must be relevant to the technical aspects of a particular area of continuing education.

Subd. 3. **Classroom hour.** "Classroom hour" means a 50-minute hour.

Subd. 4. **Coordinator.** "Coordinator" means an individual who is responsible for monitoring approved educational offerings.

Subd. 5. **Instructor.** "Instructor" means an individual lecturing in an approved educational offering.

Subd. 6. **Licensee.** "Licensee" means a person licensed by the Minnesota Department of Labor and Industry for whom an examination is required before licensure.

Subd. 7. **Medical hardship.** "Medical hardship" includes a documented physical disability or medical condition.

Subd. 8. **Overpayment.** "Overpayment" means any payment of money in excess of a statutory fee.

Subd. 9. **Regulated industries.** "Regulated industries" means residential contracting, residential remodeling, or residential roofing. Each of these is a regulated industry.

Subd. 10. **Sponsor.** "Sponsor" means any person or entity offering or providing approved continuing education.

**History:** 2007 c 140 art 8 s 27,30; art 13 s 4

### **326B.821 CONTINUING EDUCATION.**

Subdivision 1. **Standards.** The commissioner may by rule adopt standards for continuing education requirements and course and instructor approval. The standards must include requirements for continuing education in the implementation of energy codes applicable to buildings and other building codes designed to conserve energy.

Subd. 2. **Hours.** A qualifying person of a licensee must provide proof of completion of 14 hours of continuing education per two-year licensure period in the regulated industry in which the licensee is licensed.

Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

Subd. 3. **Accessibility.** To the extent possible, the commissioner shall ensure that continuing education courses are offered throughout the state and are easily accessible to all licensees.

Subd. 4. **Renewal of approval.** The commissioner is authorized to establish a procedure for

renewal of course approval.

Subd. 5. **Content.** (a) Continuing education consists of approved courses that impart appropriate and related knowledge in the regulated industries pursuant to sections 326B.802 to 326B.885. Courses may include relevant materials that are included in licensing exams subject to the limitations imposed in paragraph (e). The burden of demonstrating that courses impart appropriate and related knowledge is upon the person seeking approval or credit.

(b) Course examinations will not be required for continuing education courses unless they are required by the sponsor.

(c) Textbooks are not required to be used for continuing education courses. If textbooks are not used, the coordinator must provide students with a syllabus containing, at a minimum, the course title, the times and dates of the course offering, the names and addresses or telephone numbers of the course coordinator and instructor, and a detailed outline of the subject materials to be covered. Any written or printed material given to students must be of readable quality and contain accurate and current information.

(d) Upon completion of an approved course, licensees shall earn one hour of continuing education credit for each hour approved by the commissioner. Each continuing education course must be attended in its entirety in order to receive credit for the number of approved hours. Courses may be approved for full or partial credit, and for more than one regulated industry.

Continuing education credit in an approved course shall be awarded to presenting instructors on the basis of one credit for each hour of preparation for the initial presentation, which may not exceed three hours total credit for each approved course. Continuing education credit may not be earned if the licensee has previously obtained credit for the same course as a licensee or as an instructor within the three years immediately prior.

(e) The following courses will not be approved for credit:

(1) courses designed solely to prepare students for a license examination;

(2) courses in mechanical office or business skills, including typing, speed reading, or other machines or equipment. Computer courses are allowed, if appropriate and related to the regulated industry of the licensee;

(3) courses in sales promotion, including meetings held in conjunction with the general business of the licensee;

(4) courses in motivation, salesmanship, psychology, time management, or communication;  
or

(5) courses that are primarily intended to impart knowledge of specific products of specific companies, if the use of the product or products relates to the sales promotion or marketing of one or more of the products discussed.

Subd. 6. **Course approval.** (a) Courses must be approved by the commissioner in advance and will be approved on the basis of the applicant's compliance with the provisions of this section relating to continuing education in the regulated industries. The commissioner shall make the final determination as to the approval and assignment of credit hours for courses. Courses must be at least one hour in length.

Individuals requesting credit for continuing education courses that have not been previously approved shall, on a form prescribed by the commissioner, submit an application for approval of continuing education credit accompanied by a nonrefundable fee of \$10 for each course to be reviewed. To be approved, courses must be in compliance with the provisions of this section governing the types of courses that will and will not be approved.

Approval will not be granted for time spent on meals or other unrelated activities. Breaks may not be accumulated in order to dismiss the class early. Classes shall not be offered by a provider to any one student for longer than eight hours in one day, excluding meal breaks.

(b) Application for course approval must be submitted 30 days before the course offering.

(c) Approval must be granted for a subsequent offering of identical continuing education courses without requiring a new application if a notice of the subsequent offering is filed with the commissioner at least 30 days in advance of the date the course is to be held. The commissioner shall deny future offerings of courses if they are found not to be in compliance with the laws relating to course approval.

Subd. 7. **Courses open to all.** All course offerings must be open to any interested individuals. Access may be restricted by the sponsor based on class size only. Courses must not be approved if attendance is restricted to any particular group of people, except for company-sponsored courses allowed by applicable law.

Subd. 8. **Course coordinator.** (a) Each course of study shall have at least one coordinator, approved by the commissioner, who is responsible for supervising the program and ensuring compliance with all relevant law. Sponsors may engage an additional approved coordinator in order to assist the coordinator or to act as a substitute for the coordinator in the event of an emergency or illness.

(b) The commissioner shall approve as a coordinator a person meeting one or more of the following criteria:

(1) at least three years of full-time experience in the administration of an education program during the five-year period immediately before the date of application;

(2) a degree in education plus two years' experience during the immediately preceding five-year period in one of the regulated industries for which courses are being approved; or

(3) a minimum of five years' experience within the previous six years in the regulated industry for which courses are held.

Subd. 9. **Responsibilities.** A coordinator is responsible for:

(1) ensuring compliance with all laws and rules relating to continuing educational offerings governed by the commissioner;

(2) ensuring that students are provided with current and accurate information relating to the laws and rules governing their licensed activity;

(3) supervising and evaluating courses and instructors. Supervision includes ensuring that all areas of the curriculum are addressed without redundancy and that continuity is present throughout the entire course;

(4) ensuring that instructors are qualified to teach the course offering;

(5) furnishing the commissioner, upon request, with copies of course and instructor evaluations and qualifications of instructors. Evaluations must be completed by students at the time the course is offered and by coordinators within five days after the course offering;

(6) investigating complaints related to course offerings or instructors. A copy of the written complaint must be sent to the commissioner within ten days of receipt of the complaint and a copy of the complaint resolution must be sent not more than ten days after resolution is reached;

(7) maintaining accurate records relating to course offerings, instructors, tests taken by students if required, and student attendance for a period of three years from the date on which the course was completed. These records must be made available to the commissioner upon request. In the event that a sponsor ceases operation for any reason, the coordinator is responsible for maintaining the records or providing a custodian for the records acceptable to the commissioner. The coordinator must notify the commissioner of the name and address of that person. In order to be acceptable to the commissioner, custodians must agree to make copies of acknowledgments available to students at a reasonable fee. Under no circumstances will the commissioner act as custodian of the records;

(8) ensuring that the coordinator is available to instructors and students throughout course offerings and providing to the students and instructor the name of the coordinator and a telephone number at which the coordinator can be reached;

(9) attending workshops or instructional programs as reasonably required by the commissioner;

(10) providing course completion certificates within ten days of, but not before, completion of the entire course. Course completion certificates must be completed in their entirety. Course completion certificates must contain the following statement: "If you have any comments about this course offering, please mail them to the Minnesota Department of Labor and Industry." The



current address of the department must be included. A coordinator may require payment of the course tuition as a condition for receiving the course completion certificate; and

(11) notifying the commissioner in writing within ten days of any change in the information in an application for approval on file with the commissioner.

Subd. 10. **Instructors.** (a) Each continuing education course shall have an instructor who is qualified by education, training, or experience to ensure competent instruction. Failure to have only qualified instructors teach at an approved course offering will result in loss of course approval. Coordinators are responsible to ensure that an instructor is qualified to teach the course offering.

(b) Qualified continuing education instructors must have one of the following qualifications:

(1) a four-year degree in any area plus two years' practical experience in the subject area being taught;

(2) five years' practical experience in the subject area being taught; or

(3) a college or graduate degree in the subject area being taught.

(c) Approved instructors are responsible for:

(1) compliance with all laws and rules relating to continuing education;

(2) providing students with current and accurate information;

(3) maintaining an atmosphere conducive to learning in the classroom;

(4) verifying attendance of students, and certifying course completion;

(5) providing assistance to students and responding to questions relating to course materials; and

(6) attending the workshops or instructional programs that are required by the commissioner.

Subd. 11. **Prohibited practices for coordinators and instructors.** (a) In connection with an approved continuing education course, coordinators and instructors shall not:

(1) recommend or promote the services or practices of a particular business;

(2) encourage or recruit individuals to engage the services of, or become associated with, a particular business;

(3) use materials, clothing, or other evidences of affiliation with a particular entity;

(4) require students to participate in other programs or services offered by the instructor, coordinator, or sponsor;

(5) attempt, either directly or indirectly, to discover questions or answers on an examination for a license;

(6) disseminate to any other person specific questions, problems, or information known or believed to be included in licensing examinations;

(7) misrepresent any information submitted to the commissioner;

(8) fail to cover, or ensure coverage of, all points, issues, and concepts contained in the course outline approved by the commissioner during the approved instruction; or

(9) issue inaccurate course completion certificates.

(b) Coordinators shall notify the commissioner within ten days of a felony or gross misdemeanor conviction or of disciplinary action taken against an occupational or professional license held by the coordinator or an instructor teaching an approved course. The notification shall be grounds for the commissioner to withdraw the approval of the coordinator and to disallow the use of the instructor.

Subd. 12. **Fees.** Fees for an approved course of study and related materials must be clearly identified to students. In the event that a course is canceled for any reason, all fees must be returned within 15 days from the date of cancellation. In the event that a course is postponed for any reason, students shall be given the choice of attending the course at a later date or having their fees refunded in full within 15 days from the date of postponement. If a student is unable to attend a course or cancels the registration in a course, sponsor policies regarding refunds shall govern.

Subd. 13. **Facilities.** Each course of study must be conducted in a classroom or other facility that is adequate to comfortably accommodate the instructors and the number of students enrolled. The sponsor may limit the number of students enrolled in a course. Approved courses may be held on the premises of a company doing business in the regulated area only when the company is sponsoring the course offering, or where product application is appropriate and related.

Subd. 14. **Supplementary materials.** An adequate supply of supplementary materials to be used or distributed in connection with an approved course must be available at the time and place of the course offering in order to ensure that each student receives all of the necessary materials. Outlines and any other materials that are reproduced must be of readable quality.

Subd. 15. **Advertising courses.** (a) Paragraphs (b) to (g) govern the advertising of continuing education courses.

(b) Advertising must be truthful and not deceptive or misleading. Courses may not be advertised in any manner as approved unless approval has been granted in writing by the commissioner.

(c) No advertisement, pamphlet, circular, or other similar materials pertaining to an approved offering may be circulated or distributed in this state, unless the following statement is prominently displayed:

"This course has been approved by the Minnesota Department of Labor and Industry for ..... (approved number of hours) hours for continuing ..... (relevant industry) education."

(d) Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

(e) Continuing education courses may not be advertised before approval unless the course is described in the advertising as "approval pending" and an application for approval has been timely submitted to the commissioner and a denial has not been received.

(f) The number of hours for which a course has been approved must be prominently displayed on an advertisement for the course. If the course offering is longer than the number of hours of credit to be given, it must be clear that credit is not earned for the entire course.

(g) The course approval number must not be included in any advertisement.

Subd. 16. **Notice to students.** At the beginning of each approved offering, the following notice must be handed out in printed form or must be read to students:

"This educational offering is recognized by the Minnesota Department of Labor and Industry as satisfying ..... (insert number of hours approved) hours of credit toward continuing ..... (insert appropriate industry) education requirements."

Subd. 17. **Audits.** The commissioner reserves the right to audit subject offerings with or without notice to the sponsor.

Subd. 18. **Falsification of reports.** A licensee, its qualified person, or an applicant found to have falsified an education report to the commissioner shall be considered to have violated the laws relating to the industry for which the person has a license and shall be subject to censure, limitation, condition, suspension, or revocation of the license or denial of the application for licensure.

The commissioner reserves the right to audit a licensee's continuing education records.

Subd. 19. **Waivers and extensions.** If a licensee provides documentation to the commissioner that the licensee or its qualifying person is unable, and will continue to be unable, to attend actual classroom course work because of a physical disability, medical condition, or similar reason, attendance at continuing education courses shall be waived for a period not to exceed one year. The commissioner shall require that the licensee or its qualifying person satisfactorily complete a self-study program to include reading a sufficient number of textbooks, or listening to a sufficient number of tapes, related to the regulated industry, as would be necessary for the licensee to satisfy continuing educational credit hour needs. The commissioner shall award the licensee credit hours for a self-study program by determining how many credit hours would be granted to a classroom course involving the same material and giving the licensee the same number of credit hours under this section. The licensee may apply each year for a new waiver

upon the same terms and conditions as were necessary to secure the original waiver, and must demonstrate that in subsequent years, the licensee was unable to complete actual classroom course work. The commissioner may request documentation of the condition upon which the request for waiver is based as is necessary to satisfy the commissioner of the existence of the condition and that the condition does preclude attendance at continuing education courses.

Upon written proof demonstrating a medical hardship, the commissioner shall extend, for up to 90 days, the time period during which the continuing education must be successfully completed. Loss of income from either attendance at courses or cancellation of a license is not a bona fide financial hardship. Requests for extensions must be submitted to the commissioner in writing no later than 60 days before the education is due and must include an explanation with verification of the hardship, plus verification of enrollment at an approved course of study on or before the extension period expires.

**Subd. 20. Reporting requirements.** Required continuing education must be reported in a manner prescribed by the commissioner. Licensees are responsible for maintaining copies of course completion certificates.

**Subd. 21. Residential building contractor, remodeler, and roofer education.** (a) Each licensee must, during the licensee's first complete continuing education reporting period, complete and report one hour of continuing education relating to lead abatement rules in safe lead abatement procedures.

(b) Each licensee must, during each continuing education reporting period, complete and report one hour of continuing education relating to energy codes for buildings and other building codes designed to conserve energy.

**Subd. 22. Continuing education approval.** (a) Continuing education courses must be approved in advance by the commissioner of labor and industry. "Sponsor" means any person or entity offering approved education.

(b) For coordinators with an initial approval date before August 1, 2005, approval will expire on December 31, 2005. For courses with an initial approval date on or before December 31, 2000, approval will expire on April 30, 2006. For courses with an initial approval date after January 1, 2001, but before August 1, 2005, approval will expire on April 30, 2007.

**Subd. 23. Continuing education fees.** The following fees shall be paid to the commissioner:

(1) initial course approval, \$10 for each hour or fraction of one hour of continuing education course approval sought. Initial course approval expires on the last day of the 24th month after the course is approved;

(2) renewal of course approval, \$10 per course. Renewal of course approval expires on the last day of the 24th month after the course is renewed;

(3) initial coordinator approval, \$100. Initial coordinator approval expires on the last day of the 24th month after the coordinator is approved; and

(4) renewal of coordinator approval, \$10. Renewal of coordinator approval expires on the last day of the 24th month after the coordinator is renewed.

Subd. 24. **Refunds.** All fees paid to the commissioner under this section are nonrefundable, except that an overpayment of a fee shall be returned upon proper application.

**History:** 1991 c 306 s 11; 1992 c 522 s 23; 1992 c 595 s 25; 1992 c 597 s 17; 1993 c 245 s 18; 1996 c 439 art 4 s 2; 2007 c 140 art 8 s 12,30; art 13 s 4; 2008 c 322 s 6; 2008 c 337 s 38; 2009 c 78 art 5 s 21

### **326B.825 LOSS OF QUALIFYING PERSON.**

Upon the departure or disqualification of a licensee's qualifying person because of death, disability, retirement, position change, or other reason, the licensee must notify the commissioner within 15 business days. The licensee shall have 120 days from the departure of the qualifying person to obtain a new qualifying person. Failure to secure a new qualifying person within 120 days will, with or without notice, result in the automatic termination of the license.

**History:** 1991 c 306 s 12; 1993 c 245 s 20; 2007 c 140 art 8 s 13,30; art 13 s 4

### **326B.83 APPLICATION AND EXAMINATION.**

Subdivision 1. **Form.** An applicant for a license under sections 326B.802 to 326B.885 must submit an application, under oath and accompanied by the license fee required by section 326B.815, on a form prescribed by the commissioner. Within 30 business days of receiving all required information, the commissioner must act on the license request. If one of the categories in the application does not apply, the applicant must identify the category and state the reason the category does not apply. The commissioner may refuse to issue a license if the application is not complete or contains unsatisfactory information.

Subd. 2. **Contents.** Each application must include the following information regarding the applicant:

- (1) Minnesota workers' compensation insurance certificate;
- (2) employment insurance account number;
- (3) certificate of liability insurance;
- (4) type of license requested;
- (5) name, current address, and telephone number where the applicant resides;
- (6) name and address of the applicant's qualifying person, if other than applicant;

(7) if the applicant is a sole proprietorship, the name and address of the sole proprietor; if the applicant is a partnership, the name and address of each partner; if the applicant is a limited liability company, the name and address of each governor and manager; if the applicant is a corporation, the name and address of each of the corporate officers, directors, and all shareholders holding more than ten percent of the outstanding stock in the corporation;

(8) name and address of the applicant's agent in this state authorized to receive service of process, and a consent to service of process as required by section 326B.855;

(9) current street address and telephone number where the business is physically located;

(10) whether the applicant, any employee, or qualifying person has ever been licensed in this or any other state and has had a professional or vocational license reprimanded, censured, limited, conditioned, refused, suspended, or revoked, or has been the subject of any administrative action;

(11) whether the applicant, qualifying person, or any of the applicant's corporate or partnership directors, limited liability company governors, officers, limited or general partners, managers, all shareholders holding more than ten percent of the share of the corporation that have been issued, or all members holding more than ten percent of the voting power of the membership interests that have been issued, has been convicted of a crime that either related directly to the business for which the license is sought or involved fraud, misrepresentation, or misuse of funds; has suffered a judgment in a civil action involving fraud, misrepresentation, construction defect, negligence, breach of contract, or conversion of funds within the ten years prior to the submission of the application; or has had any government license or permit reprimanded, censured, limited, conditioned, suspended, or revoked as a result of an action brought by a federal, state, or local governmental unit or agency in this or any other state;

(12) the applicant's and qualifying person's business history for the past five years and whether the applicant, a managing employee, or qualifying person has ever filed for bankruptcy or protection from creditors or has any unsatisfied judgments against the applicant, employee, or qualifying person;

(13) where the applicant is a firm, partnership, sole proprietorship, limited liability company, corporation, or association, whether there has been a sale or transfer of the business or other change in ownership, control, or name in the last five years and the details thereof, and the names and addresses of all prior, predecessor, subsidiary, affiliated, parent, or related entities, and whether each such entity, or its owners, officers, directors, members or shareholders holding more than ten percent of the stock, or an employee has ever taken or been subject to an action that is subject to clause (10), (11), or (12) in the last ten years; and

(14) whether the qualifying person is the qualifying person for more than one licensee.

For purposes of this subdivision, "applicant" includes employees who exercise management or policy control over the residential contracting, residential remodeling, residential roofing, or manufactured home installation activities in the state of Minnesota, including affiliates, partners, directors, governors, officers, limited or general partners, managers, all shareholders holding more than ten percent of the shares that have been issued, a shareholder holding more than ten percent of the voting power of the shares that have been issued, or all members holding more than ten percent of the membership interests that have been issued or more than ten percent of the voting power of the membership interests that have been issued.

The commissioner may require further information as the commissioner deems appropriate to administer the provisions and further the purposes of this chapter.

Subd. 3. **Examination.** (a) Each qualifying person must satisfactorily complete a written examination for the type of license requested. The commissioner may establish the examination qualifications, including related education experience and education, the examination procedure, and the examination for each licensing group. The examination must include at a minimum the following areas:

(1) appropriate knowledge of technical terms commonly used and the knowledge of reference materials and code books to be used for technical information; and

(2) understanding of the general principles of business management and other pertinent state laws.

(b) Each examination must be designed for the specified type of license requested.

(c) An individual's passing examination results expire two years from the examination date. An individual who passes the examination but does not choose to apply to act as a qualifying person for a licensee within two years from the examination date, must, upon application provide:

(1) passing examination results within two years from the date of application; or

(2) proof that the person has fulfilled the continuing education requirements in section 326B.821 in the manner required for a qualifying person of a licensee for each license period after the expiration of the examination results.

Subd. 4. **Exemption.** A general retailer whose primary business is not being a residential building contractor, residential remodeler, residential roofer, or manufactured home installer, and who has completed a license examination meeting or exceeding Minnesota's examination requirements in another state is exempt from subdivision 3 and sections 326B.821 and 326B.825.

Subd. 5. **Additional licensing requirements.** As an alternative to denying an application for licensure pursuant to section 326B.84, the commissioner may, as a condition of licensure and based upon information received pursuant to subdivision 2, clauses (10) to (12), or a finding pursuant to section 326B.84, clauses (1) to (9), impose additional insurance, bonding, reporting,

record keeping, and other requirements on the applicant as are reasonable to protect the public.

Subd. 6. **License.** A nonresident of Minnesota may be licensed as a residential building contractor, residential remodeler, residential roofer, or manufactured home installer upon compliance with all the provisions of sections 326B.802 to 326B.885.

**History:** 1991 c 306 s 13; 1993 c 245 s 21-24; 1999 c 137 s 7; 2007 c 140 art 8 s 14,30; art 13 s 4

### **326B.835 LOCAL LICENSES.**

Subdivision 1. **Local license prohibited.** Except as provided in subdivision 2, a political subdivision may not require a person licensed under sections 326B.802 to 326B.885 to also be licensed or pay a registration or other fee related to licensure under any ordinance, law, rule, or regulation of the political subdivision. This section does not prohibit charges for building permits or other charges not directly related to licensure.

Subd. 2. **Exception.** This section does not prohibit a political subdivision from requiring licensure or certification under any ordinance, law, rule, or regulation of the political subdivision for persons who engage in the installation of an on-site sewage treatment system.

**History:** 1991 c 306 s 14; 1993 c 245 s 25; 2001 c 207 s 7; 2007 c 140 art 8 s 15,30; art 13 s 4

### **326B.84 GROUNDS FOR LICENSE SANCTIONS.**

In addition to the grounds set forth in section 326B.082, subdivision 11, the commissioner may deny, suspend, limit, place conditions on, or revoke a license or certificate of exemption, or may censure the person holding the license or certificate of exemption, if the applicant, licensee, certificate of exemption holder, qualifying person, or affiliate of an applicant, licensee, or certificate of exemption holder, or other agent owner:

(1) has filed an application for licensure or a certificate of exemption which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(2) has engaged in a fraudulent, deceptive, or dishonest practice;

(3) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the business;

(4) has failed to reasonably supervise employees, agents, subcontractors, or salespersons, or has performed negligently or in breach of contract, so as to cause injury or harm to the public;

(5) has violated or failed to comply with any provision of sections 326B.802 to 326B.885, any rule or order under sections 326B.802 to 326B.885, or any other law, rule, or order related to the duties and responsibilities entrusted to the commissioner;



(6) has been convicted of a violation of the State Building Code or has refused to comply with a notice of violation or stop order issued by a certified building official, or in local jurisdictions that have not adopted the State Building Code has refused to correct a violation of the State Building Code when the violation has been documented or a notice of violation or stop order issued by a certified building official has been received;

(7) has failed to use the proceeds of any payment made to the licensee for the construction of, or any improvement to, residential real estate, as defined in section 326B.802, subdivision 13, for the payment of labor, skill, material, and machinery contributed to the construction or improvement, knowing that the cost of any labor performed, or skill, material, or machinery furnished for the improvement remains unpaid;

(8) has not furnished to the person making payment either a valid lien waiver as to any unpaid labor performed, or skill, material, or machinery furnished for an improvement, or a payment bond in the basic amount of the contract price for the improvement conditioned for the prompt payment to any person or persons entitled to payment;

(9) has engaged in an act or practice that results in compensation to an aggrieved owner or lessee from the contractor recovery fund pursuant to section 326B.89, unless:

(i) the applicant or licensee has repaid the fund twice the amount paid from the fund, plus interest at the rate of 12 percent per year; and

(ii) the applicant or licensee has obtained a surety bond in the amount of at least \$40,000, issued by an insurer authorized to transact business in this state;

(10) has engaged in bad faith, unreasonable delays, or frivolous claims in defense of a civil lawsuit or arbitration arising out of their activities as a licensee or certificate of exemption holder under this chapter;

(11) has had a judgment entered against them for failure to make payments to employees, subcontractors, or suppliers, that the licensee has failed to satisfy and all appeals of the judgment have been exhausted or the period for appeal has expired;

(12) if unlicensed, has obtained a building permit by the fraudulent use of a fictitious license number or the license number of another, or, if licensed, has knowingly allowed an unlicensed person to use the licensee's license number for the purpose of fraudulently obtaining a building permit; or has applied for or obtained a building permit for an unlicensed person;

(13) has made use of a forged mechanic's lien waiver under chapter 514;

(14) has provided false, misleading, or incomplete information to the commissioner or has refused to allow a reasonable inspection of records or premises;

(15) has engaged in an act or practice whether or not the act or practice directly involves the business for which the person is licensed, that demonstrates that the applicant or licensee is

untrustworthy, financially irresponsible, or otherwise incompetent or unqualified to act under the license granted by the commissioner; or

(16) has failed to comply with requests for information, documents, or other requests from the department within the time specified in the request or, if no time is specified, within 30 days of the mailing of the request by the department.

**History:** *1991 c 306 s 15; 1993 c 245 s 26,27; 1995 c 169 s 4; 1996 c 439 art 4 s 3,4; 2001 c 208 s 22; 2007 c 140 art 8 s 16,30; art 13 s 4; 2008 c 277 art 1 s 71*

### **326B.845 PENALTIES.**

Subdivision 1. **Gross misdemeanor.** An individual who violates an order of the commissioner or is the manager, officer, or director of a person who violates an order issued by the commissioner is guilty of a gross misdemeanor.

Subd. 2. **Lien rights.** An unlicensed person who knowingly violates sections 326B.802 to 326B.885 has no right to claim a lien under section 514.01 and the lien is void. Nothing in this section affects the lien rights of material suppliers and licensed contractors to the extent provided by law.

**History:** *1991 c 306 s 16; 1993 c 245 s 28,29; 1999 c 137 s 8; 2007 c 140 art 8 s 17,30; art 13 s 4*

### **326B.85 BUILDING PERMIT CONDITIONED ON LICENSURE; NOTICE OF PERMIT APPLICATION.**

Subdivision 1. **Building permit.** A political subdivision shall not issue a building permit to an unlicensed person who is required to be licensed under sections 326B.802 to 326B.885. A political subdivision that issues zoning or land use permits in lieu of a building permit shall not issue those permits to an unlicensed person who is required to be licensed under sections 326B.802 to 326B.885. The political subdivision shall report the person applying for the permit to the commissioner who may bring an action against the person.

Subd. 2. **Notice of building permit application.** A political subdivision shall notify the department when an application for a building permit involving the construction of new residential real estate has been received from an unlicensed person by submitting a copy of the application to the department within two business days of receipt of the application. The political subdivision may submit a copy of the building permit application by facsimile, United States mail, or electronic communication.

**History:** *1993 c 245 s 30; 1997 c 222 s 49; 1998 c 254 art 1 s 86; 2007 c 140 art 8 s 18,30; art 13 s 4*

**326B.855 SERVICE OF PROCESS.**

Subdivision 1. **Procedure.** Every applicant for licensure or certificate of exemption under sections 326B.802 to 326B.885 shall irrevocably consent to the appointment of the commissioner and successors in office to be the applicant's agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or a successor, executor, or administrator which arises under sections 326B.802 to 326B.885 or any rule or order thereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service under this section shall be made in compliance with subdivision 3.

Subd. 2. **Service on commissioner.** (a) When a person, including any nonresident of this state, engages in conduct prohibited or made actionable by sections 326B.802 to 326B.885, or any rule or order under those sections, and the person has not consented to service of process under subdivision 1, that conduct is equivalent to an appointment of the commissioner and successors in office as the person's agent to receive service of process in any noncriminal suit, action, or proceeding against the person that is based on that conduct and is brought under sections 326B.802 to 326B.885, or any rule or order under those sections, with the same force and validity as if served personally on the person consenting to the appointment of the commissioner and successors in office. Service under this section shall be made in compliance with subdivision 3.

(b) Subdivision 3 applies in all other cases in which a person, including a nonresident of this state, has filed a consent to service of process. This paragraph supersedes any inconsistent provision of law.

(c) Subdivision 3 applies in all cases in which service of process is allowed to be made on the commissioner.

Subd. 3. **How made.** Service of process under this section may be made by leaving a copy of the process in the office of the commissioner, or by sending a copy of the process to the commissioner by certified mail, and is not effective unless:

(1) the plaintiff, who may be the commissioner in an action or proceeding instituted by the commissioner, sends notice of the service and a copy of the process by certified mail to the defendant or respondent at the last known address; and

(2) the plaintiff's affidavit of compliance is filed in the action or proceeding on or before the return day of the process, if any, or within further time as the court allows.

**History:** 1991 c 306 s 17; 1993 c 245 s 31; 2007 c 140 art 8 s 19,30; art 13 s 4; 2008 c 337 s 39

**326B.86 BOND; INSURANCE.**

Subdivision 1. **Bond.** (a) Licensed manufactured home installers and licensed residential roofers must post a surety bond in the name of the licensee with the commissioner, conditioned that the applicant shall faithfully perform the duties and in all things comply with all laws, ordinances, and rules pertaining to the license or permit applied for and all contracts entered into. The bond must be continuous and maintained for so long as the licensee remains licensed. The aggregate liability of the surety on the bond to any and all persons, regardless of the number of claims made against the bond, may not exceed the amount of the bond. The bond may be canceled as to future liability by the surety upon 30 days' written notice mailed to the commissioner by regular mail.

(b) A licensed residential roofer must post a bond of at least \$15,000.

(c) A licensed manufactured home installer must post a bond of at least \$2,500.

Bonds issued under sections 326B.802 to 326B.885 are not state bonds or contracts for purposes of sections 8.05 and 16C.05, subdivision 2.

Subd. 2. **Insurance.** Each licensee shall have and maintain in effect commercial general liability insurance, which includes premises and operations insurance and products and completed operations insurance, with limits of at least \$100,000 per occurrence, \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of at least \$25,000 or a policy with a single limit for bodily injury and property damage of \$300,000 per occurrence and \$300,000 aggregate limits. The insurance must be written by an insurer licensed to do business in this state. Each licensee shall maintain on file with the commissioner a certificate evidencing the insurance which provides that the insurance shall not be canceled without the insurer first giving 15 days' written notice of cancellation to the commissioner. The commissioner may increase the minimum amount of insurance required for any licensee or class of licensees if the commissioner considers it to be in the public interest and necessary to protect the interests of Minnesota consumers.

**History:** 1991 c 306 s 18; 1993 c 245 s 32; 1999 c 137 s 9; 2007 c 9 s 1; 2007 c 140 art 8 s 20,30; art 13 s 4; 2008 c 322 s 7; 2008 c 337 s 40,65; 2009 c 78 art 5 s 22

**326B.865 SIGN CONTRACTOR; BOND.**

(a) A sign contractor may post a compliance bond with the commissioner, conditioned that the sign contractor shall faithfully perform duties and comply with laws, ordinances, rules, and contracts entered into for the installation of signs. The bond must be renewed annually and maintained for so long as determined by the commissioner. The aggregate liability of the surety on the bond to any and all persons, regardless of the number of claims made against the bond, may not exceed the annual amount of the bond. The bond may be canceled as to future liability by the surety upon 30 days' written notice mailed to the commissioner by United States mail.

(b) The amount of the bond shall be \$8,000. The bond may be drawn upon only by a local unit of government that requires sign contractors to post a compliance bond. The bond is in lieu of any compliance bond required by a local unit of government.

(c) For purposes of this section, "sign" means a device, structure, fixture, or placard using graphics, symbols, or written copy that is erected on the premises of an establishment including the name of the establishment or identifying the merchandise, services, activities, or entertainment available on the premises.

**History:** 1997 c 222 s 44; 2007 c 140 art 8 s 1,30; art 13 s 4

### **326B.87 LICENSE NUMBER; ADVERTISING.**

Subdivision 1. **License number must be displayed.** The license number of a licensee must be placed on all building permits and building permit applications made to or issued by the state or a political subdivision. In jurisdictions that have not adopted the State Building Code, the license number must be placed on the site plan review or zoning permit. License numbers must be on all business cards and all contracts to perform work for which a license is required.

Subd. 2. **Advertising.** The license number of a licensee must appear in any advertising by that licensee including but not limited to signs, vehicles, business cards, published display ads, flyers, brochures, Web sites, and Internet ads.

Subd. 3. **Contracts.** Contracts entered into by a licensee must state that the person is licensed and must state the license number.

**History:** 1991 c 306 s 19; 1995 c 169 s 5; 2007 c 140 art 8 s 21,30; art 13 s 4

### **326B.875 DISCLOSURES.**

If a licensee sells or offers to sell residential property, constructed by the licensee, which is or has been occupied by the licensee, the licensee must, prior to entering into a binding purchase agreement, provide to the buyer a written disclosure which states that any claims that arise as a result of the licensee's construction of the property: (1) will not be covered under the statutory warranty established by chapter 327A, and (2) if the licensee has occupied the residential property for one year or more, will not be eligible for reimbursement from the contractor's recovery fund.

**History:** 1993 c 245 s 33; 2007 c 140 art 8 s 30; art 13 s 4

### **326B.88 PUBLIC EDUCATION.**

The commissioner may develop materials and programs to educate the public concerning licensure requirements. The commissioner may develop materials for reporting unlicensed contracting activity. The commissioner shall provide information in other languages.

**History:** 1991 c 306 s 20; 2007 c 140 art 8 s 22,30; art 13 s 4

**326B.885 LICENSE RENEWAL.**

Subdivision 1. **Renewal.** A licensee whose fully completed renewal application has been properly and timely filed and who has not received a notice of denial of renewal is considered to have been approved for renewal and may continue to transact business whether or not the renewed license has been received. Applications are timely if received by March 1 of the renewal year. Applications must be made on a form approved by the commissioner. An application for renewal that does not contain all of the information requested is an incomplete application and will not be processed.

Subd. 2. **Renewal period.** (a) A residential contractor, residential remodeler, and residential roofer license shall have a renewal period of two years. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of residential contractor, residential remodeler, and residential roofer licenses from one year to two years. By June 30, 2011, all renewed residential contractor, residential remodeler, and residential roofer licenses shall be two-year licenses.

(b) A manufactured home installer's license shall have a renewal period of three years, effective for all renewals and new licenses issued after December 31, 2008.

Subd. 3. **Failure to renew.** A person who has failed to make a timely application for renewal of a license is unlicensed at 11:59:59 p.m. central time on March 31 of the renewal year and remains unlicensed until a renewed license has been issued by the commissioner and is received by the applicant.

Subd. 4. **Expiration.** All licenses expire at 11:59:59 p.m. central time on March 31 of the renewal year if not properly renewed.

**History:** 1991 c 306 s 21; 1993 c 245 s 34,35; 2007 c 140 art 8 s 23,30; art 13 s 4; 2008 c 337 s 41; 2009 c 78 art 5 s 23

**326B.89 CONTRACTOR RECOVERY FUND.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Gross annual receipts" means the total amount derived from residential contracting or residential remodeling activities, regardless of where the activities are performed, and must not be reduced by costs of goods sold, expenses, losses, or any other amount.

(c) "Licensee" means a person licensed as a residential contractor or residential remodeler.

(d) "Residential real estate" means a new or existing building constructed for habitation by one to four families, and includes detached garages.

(e) "Fund" means the contractor recovery fund.

Subd. 2. **Generally.** The contractor recovery fund is created in the state treasury and shall be administered by the commissioner for the purposes described in this section. Any interest or profit accruing from investment of money in the fund shall be credited to the contractor recovery fund.

Subd. 3. **Fund fees.** In addition to any other fees, a person who applies for or renews a license under sections 326B.802 to 326B.885 shall pay a fee to the fund. The person shall pay, in addition to the appropriate application or renewal fee, the following additional fee that shall be deposited in the fund. The amount of the fee shall be based on the person's gross annual receipts for the person's most recent fiscal year preceding the application or renewal, on the following scale:

Fee	Gross Annual Receipts
\$320	under \$1,000,000
\$420	\$1,000,000 to \$5,000,000
\$520	over \$5,000,000

Subd. 4. **Purpose of fund.** The purpose of this fund is to:

(1) compensate owners or lessees of residential real estate who meet the requirements of this section;

(2) reimburse the department for all legal and administrative expenses, disbursements, and costs, including staffing costs, incurred in administering and defending the fund;

(3) pay for educational or research projects in the field of residential contracting to further the purposes of sections 326B.801 to 326B.825; and

(4) provide information to the public on residential contracting issues.

Subd. 5. **Payment limitations.** Except as otherwise provided in this section, the commissioner shall not pay compensation from the fund to an owner or a lessee in an amount greater than \$75,000. Except as otherwise provided in this section, the commissioner shall not pay compensation from the fund to owners and lessees in an amount that totals more than \$150,000 per licensee. The commissioner shall not pay compensation from the fund for a final judgment based on a cause of action that arose before the commissioner's receipt of the licensee's fee required by subdivision 3. The commissioner shall only pay compensation from the fund for a final judgment that is based on a contract directly between the licensee and the homeowner or lessee that was entered into prior to the cause of action and that requires licensure as a residential building contractor or residential remodeler.

Subd. 6. **Verified application.** To be eligible for compensation from the fund, an owner or lessee shall serve on the commissioner a verified application for compensation on a form approved by the commissioner. The application shall verify the following information:

(1) the specific grounds upon which the owner or lessee seeks to recover from the fund:

(2) that the owner or the lessee has obtained a final judgment in a court of competent jurisdiction against a licensee licensed under section 326B.803;

(3) that the final judgment was obtained against the licensee on the grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance that arose directly out of a contract directly between the licensee and the homeowner or lessee that was entered into prior to the cause of action and that occurred when the licensee was licensed and performing any of the special skills enumerated under section 326B.802, subdivision 15;

(4) the amount of the owner's or the lessee's actual and direct out-of-pocket loss on the owner's residential real estate, on residential real estate leased by the lessee, or on new residential real estate that has never been occupied or that was occupied by the licensee for less than one year prior to purchase by the owner;

(5) that the residential real estate is located in Minnesota;

(6) that the owner or the lessee is not the spouse of the licensee or the personal representative of the licensee;

(7) the amount of the final judgment, any amount paid in satisfaction of the final judgment, and the amount owing on the final judgment as of the date of the verified application;

(8) that the owner or lessee has diligently pursued remedies against all the judgment debtors and all other persons liable to the judgment debtor in the contract for which the owner or lessee seeks recovery from the fund; and

(9) that the verified application is being served within two years after the judgment became final.

The owner's and the lessee's actual and direct out-of-pocket loss shall not include attorney fees, litigation costs or fees, interest on the loss, and interest on the final judgment obtained as a result of the loss. Any amount paid in satisfaction of the final judgment shall be applied to the owner's or lessee's actual and direct out-of-pocket loss. An owner or lessee may serve a verified application regardless of whether the final judgment has been discharged by a bankruptcy court. A judgment issued by a court is final if all proceedings on the judgment have either been pursued and concluded or been forgone, including all reviews and appeals. For purposes of this section, owners who are joint tenants or tenants in common are deemed to be a single owner. For purposes of this section, owners and lessees eligible for payment of compensation from the fund shall not include government agencies, political subdivisions, financial institutions, and any other entity that purchases, guarantees, or insures a loan secured by real estate.

Subd. 7. **Commissioner review.** The commissioner shall within 120 days after receipt of the verified application:



(1) enter into an agreement with an owner or a lessee that resolves the verified application for compensation from the fund; or

(2) issue an order to the owner or the lessee accepting, modifying, or denying the verified application for compensation from the fund.

Upon receipt of an order issued under clause (2), the owner or the lessee shall have 30 days to serve upon the commissioner a written request for a hearing. If the owner or the lessee does not serve upon the commissioner a timely written request for hearing, the order issued under clause (2) shall become a final order of the commissioner that may not be reviewed by any court or agency. The commissioner shall order compensation from the fund only if the owner or the lessee has filed a verified application that complies with subdivision 6 and if the commissioner determines based on review of the application that compensation should be paid from the fund. The commissioner shall not be bound by any prior settlement, compromise, or stipulation between the owner or the lessee and the licensee.

**Subd. 8. Administrative hearing.** If an owner or a lessee timely serves a request for hearing under subdivision 7, the commissioner shall request that an administrative law judge be assigned and that a hearing be conducted under the contested case provisions of chapter 14 within 30 days after the service of the request for hearing upon the commissioner. Upon petition of the commissioner, the administrative law judge shall continue the hearing up to 60 days and upon a showing of good cause may continue the hearing for such additional period as the administrative law judge deems appropriate. At the hearing the owner or the lessee shall have the burden of proving by substantial evidence under subdivision 6, clauses (1) to (8). The administrative law judge shall issue findings of fact, conclusions of law, and order. If the administrative law judge finds that compensation should be paid to the owner or the lessee, the administrative law judge shall order the commissioner to make payment from the fund of the amount it finds to be payable pursuant to the provisions of and in accordance with the limitations contained in this section. The order of the administrative law judge shall constitute the final decision of the agency in the contested case. Judicial review of the administrative law judge's findings of fact, conclusions of law, and order shall be in accordance with sections 14.63 to 14.69.

**Subd. 9. Satisfaction of applications for compensation.** The commissioner shall pay compensation from the fund to an owner or a lessee pursuant to the terms of an agreement that has been entered into under subdivision 7, clause (1), or pursuant to a final order that has been issued under subdivision 7, clause (2), or subdivision 8 by December 1 of the fiscal year following the fiscal year during which the agreement was entered into or during which the order became final, subject to the limitations of this section. At the end of each fiscal year the commissioner shall calculate the amount of compensation to be paid from the fund pursuant to agreements that have been entered into under subdivision 7, clause (1), and final orders that have been issued under

subdivision 7, clause (2), or subdivision 8. If the calculated amount exceeds the amount available for payment, then the commissioner shall allocate the amount available among the owners and the lessees in the ratio that the amount agreed to or ordered to be paid to each owner or lessee bears to the amount calculated. The commissioner shall mail notice of the allocation to all owners and lessees not less than 45 days following the end of the fiscal year. Any compensation paid by the commissioner in accordance with this subdivision shall be deemed to satisfy and extinguish any right to compensation from the fund based upon the verified application of the owner or lessee.

Subd. 10. **Right of subrogation.** If the commissioner pays compensation from the fund to an owner or a lessee pursuant to an agreement under subdivision 7, clause (1), or a final order issued under subdivision 7, clause (2), or subdivision 8, then the commissioner shall be subrogated to all of the rights, title, and interest in the owner's or lessee's final judgment in the amount of compensation paid from the fund and the owner or the lessee shall assign to the commissioner all rights, title, and interest in the final judgment in the amount of compensation paid. The commissioner shall deposit in the fund money recovered under this subdivision.

Subd. 11. **Effect of section on commissioner's authority.** Nothing contained in this section shall limit the authority of the commissioner to take disciplinary action against a licensee under the provisions of this chapter. A licensee's repayment in full of obligations to the fund shall not nullify or modify the effect of any other disciplinary proceeding brought under the provisions of this chapter.

Subd. 12. **Limitation.** Notwithstanding subdivision 5, nothing may obligate the fund for claims brought by:

- (1) insurers or sureties under subrogation or similar theories; or
- (2) owners of residential property where the contracting activity complained of was the result of a contract entered into with a prior owner, unless the claim is brought and judgment is rendered for breach of the statutory warranty set forth in chapter 327A.

Subd. 13. **Condominiums or townhouses.** For purposes of this section, the owner or the lessee of a condominium or townhouse is considered an owner or a lessee of residential property regardless of the number of residential units per building.

Subd. 14. **Accelerated compensation.** (a) Payments made from the fund to compensate owners and lessees that do not exceed the jurisdiction limits for conciliation court matters as specified in section 491A.01 may be paid on an accelerated basis if all of the following requirements in paragraphs (b) and (c) have been satisfied.

(b) The owner or the lessee has served upon the commissioner a verified application for compensation that complies with the requirements set out in subdivision 6 and the commissioner determines based on review of the application that compensation should be paid from the fund.

The commissioner shall calculate the actual and direct out-of-pocket loss in the transaction, minus attorney fees, litigation costs or fees, interest on the loss and on the judgment obtained as a result of the loss, and any satisfaction of the judgment, and make payment to the owner or the lessee up to the conciliation court jurisdiction limits within 45 days after the owner or lessee serves the verified application.

(c) The commissioner may pay compensation to owners or lessees that totals not more than \$50,000 per licensee per fiscal year under this accelerated process. The commissioner may prorate the amount of compensation paid to owners or lessees under this subdivision if applications submitted by owners and lessees seek compensation in excess of \$50,000 against a licensee. Any unpaid portion of a verified application that has been prorated under this subdivision shall be satisfied in the manner set forth in subdivision 9.

Subd. 15. **Appropriation.** Money in the fund is appropriated to the commissioner for the purposes of this section.

Subd. 16. **Additional assessment.** If the balance in the fund is at any time less than the commissioner determines is necessary to carry out the purposes of this section, every licensee, when renewing a license, shall pay, in addition to the annual renewal fee and the fee set forth in subdivision 3, an assessment not to exceed \$200. The commissioner shall set the amount of assessment based on a reasonable determination of the amount that is necessary to restore a balance in the fund adequate to carry out the purposes of this section.

**History:** 2007 c 135 art 3 s 29; 2007 c 140 art 8 s 28,30; art 13 s 4; 2008 c 337 s 49-52; 2009 c 78 art 5 s 24,25

## HIGH PRESSURE PIPING

### 326B.90 DEPARTMENT TO SUPERVISE HIGH PRESSURE PIPING.

The department shall supervise all high pressure piping used on all projects in this state.

The department shall employ inspectors and other assistants to carry out the provisions of sections 326B.90 to 326B.925.

**History:** (5887-30a) 1937 c 367 s 2; Ex1967 c 1 s 6; 1984 c 481 s 1; 2007 c 135 art 4 s 1; 2007 c 140 art 10 s 1,11; art 13 s 4

### 326B.91 DEFINITIONS.

Subdivision 1. **Scope.** For the purpose of sections 326B.90 to 326B.925, the following terms have the meanings given them.

Subd. 2. **Board.** "Board" means the Board of High Pressure Piping Systems.

Subd. 3. **Contracting high pressure pipefitter.** "Contracting high pressure pipefitter"

means an individual, such as a steamfitter, engaged in the planning, superintending, and practical installation of high pressure piping and appurtenances, and otherwise lawfully qualified to construct high pressure piping installations and make replacements to existing plants, who is also qualified to conduct the business of high pressure piping installations and who is familiar with the laws, rules, and minimum standards governing them.

Subd. 4. **High pressure piping.** "High pressure piping" means all high pressure piping used in the installation of hot water or steam heating boilers, any systems of piping hot water or other medium used for heating that exceed 30 p.s.i. gauge and 250 degrees Fahrenheit, or any system of high pressure steam, ammonia piping, or bioprocess piping, but shall not include any high pressure piping under the direct jurisdiction of the United States.

Subd. 5. **High pressure steam.** "High pressure steam" means a pressure in excess of 15 pounds per square inch.

Subd. 6. **Journeyman high pressure pipefitter.** "Journeyman high pressure pipefitter" means an individual, such as a steamfitter, who is not a contracting high pressure pipefitter and who is engaged in the practical installation of high pressure piping and appurtenances in the employ of a contracting high pressure pipefitter.

Subd. 7. **Municipality.** "Municipality" means a statutory or home rule charter city.

Subd. 8. **Pipefitter apprentice.** A "pipefitter apprentice" is an individual employed in the trade of the practical construction and installation of high pressure piping and appurtenances under an apprenticeship agreement approved by the department under Minnesota Rules, part 5200.0300.

**History:** 1984 c 481 s 2; 1987 c 132 s 1; 1989 c 22 s 1; 1994 c 465 art 1 s 42; 2006 c 241 s 4; 2007 c 140 art 10 s 2-6,11; art 13 s 4

### **326B.92 APPLICATION, PERMIT, FILING, AND INSPECTION FEES.**

Subdivision 1. **Required permit.** No person shall construct or install high pressure piping systems without first filing an application for a permit with the department or a municipality that has complied with subdivision 2.

Subd. 2. **Permissive municipal regulation.** The commissioner may enter into an agreement with a municipality, in which the municipality agrees to perform inspections and issue permits for the construction and installation of high pressure piping systems within the municipality's geographical area of jurisdiction, if:

(a) The municipality has adopted:

(1) the code for power piping systems, Minnesota Rules, parts 5230.0250 to 5230.6200;

(2) an ordinance that authorizes the municipality to issue permits to persons holding a high pressure piping business license issued by the department and only for construction or installation that would, if performed properly, fully comply with all Minnesota Statutes and Minnesota Rules;

(3) an ordinance that authorizes the municipality to perform the inspections that are required under Minnesota Statutes or Minnesota Rules governing the construction and installation of high pressure piping systems; and

(4) an ordinance that authorizes the municipality to enforce the code for power piping systems in its entirety.

(b) The municipality agrees to issue permits only to persons holding a high pressure piping business license as required by law at the time of the permit issuance, and only for construction or installation that would, if performed properly, comply with all Minnesota Statutes and Minnesota Rules governing the construction or installation of high pressure piping systems.

(c) The municipality agrees to issue permits only on forms approved by the department.

(d) The municipality agrees that, for each permit issued by the municipality, the municipality shall perform one or more inspections of the construction or installation to determine whether the construction or installation complies with all Minnesota Statutes and Minnesota Rules governing the construction or installation of high pressure piping systems, and shall prepare a written report of each inspection.

(e) The municipality agrees to notify the commissioner within 24 hours after the municipality discovers any violation of the licensing laws related to high pressure piping.

(f) The municipality agrees to notify the commissioner immediately if the municipality discovers that any entity has failed to meet a deadline set by the municipality for correction of a violation of the high pressure piping laws.

(g) The commissioner determines that the individuals who will conduct the inspections for the municipality do not have any conflict of interest in conducting the inspections.

(h) Individuals who will conduct the inspections for the municipality are permanent employees of the municipality and are licensed contracting high pressure pipefitters or licensed journeyman high pressure pipefitters.

(i) The municipality agrees to notify the commissioner within ten days of any changes in the names or qualifications of the individuals who conduct the inspections for the municipality.

(j) The municipality agrees to enforce in its entirety the code for power piping systems on all projects.

(k) The municipality shall not approve any piping installation unless the installation conforms to all applicable provisions of the high pressure piping laws in effect at the time of the installation.

(l) The municipality agrees to promptly require compliance or revoke a permit that it has issued if there is noncompliance with any of the applicable provisions of the high pressure piping laws in connection with the work covered by the permit. The municipality agrees to revoke the permit if any laws regulating the licensing of pipefitters have been violated.

(m) The municipality agrees to keep official records of all documents received, including permit applications, and of all permits issued, reports of inspections, and notices issued in connection with inspections.

(n) The municipality agrees to maintain the records described in paragraph (m) in the official records of the municipality for the period required for the retention of public records under section 138.17, and shall make these records readily available for review according to section 13.37.

(o) Not later than the tenth day of each month, the municipality shall submit to the commissioner a report of all high pressure piping permits issued by the municipality during the preceding month. This report shall be in a format approved by the commissioner and shall include:

- (1) the name of the contractor;
- (2) the license number of the contractor's license issued by the commissioner;
- (3) the permit number;
- (4) the address of the job;
- (5) the date the permit was issued;
- (6) a brief description of the work; and
- (7) the amount of the inspection fee.

(p) Not later than the 31st day of January of each year, the municipality shall submit a summary report to the commissioner identifying the status of each high pressure piping project for which the municipality issued a permit during the preceding year, and the status of high pressure piping projects for which the municipality issued a permit during a prior year where no final inspection had occurred by the first day of the preceding year. This summary report shall include:

- (1) the permit number;
- (2) the date of any final inspection; and
- (3) identification of any violation of high pressure piping laws related to work covered by the permit.

(q) The municipality and the commissioner agree that if at any time during the agreement the municipality does not have in effect the code for high pressure piping systems or any of the ordinances described in paragraph (a), or if the commissioner determines that the municipality is not properly administering and enforcing the code for high pressure piping or is otherwise not complying with the agreement:

(1) the commissioner may, effective 14 days after the municipality's receipt of written notice, terminate the agreement and have the administration and enforcement of the high pressure piping code in the involved municipality undertaken by the department;

(2) the municipality may challenge the termination in a contested case before the commissioner pursuant to the Administrative Procedure Act; and

(3) while any challenge under clause (2) is pending, the commissioner may exercise oversight of the municipality to the extent needed to ensure that high pressure piping inspections are performed and permits are issued in accordance with the high pressure piping laws.

(r) The municipality and the commissioner agree that the municipality may terminate the agreement with or without cause on 90 days' written notice to the commissioner.

(s) The municipality and the commissioner agree that no municipality shall revoke, suspend, or place restrictions on any high pressure piping license issued by the commissioner. If the municipality identifies during an inspection any violation that may warrant revocation, suspension, or placement of restrictions on a high pressure piping license issued by the commissioner, the municipality shall promptly notify the commissioner of the violation and the commissioner shall determine whether revocation, suspension, or placement of restrictions on any high pressure piping license issued by the commissioner is appropriate.

**Subd. 3. Filing and inspection fees.** (a) The department must charge a filing fee and an inspection fee for all applications for permits to construct or install high pressure piping systems. The filing fee shall be \$100. The inspection fee shall be calculated as follows:

(1) When an application for a permit is filed prior to the start of construction or installation, the inspection fee shall be \$150 plus 0.022 of the first \$1,000,000, plus 0.011 of the next \$2,000,000, plus 0.00055 of the amount over \$3,000,000 of the cost of construction or installation.

(2) Except as provided in paragraph (b), when an application for permit is filed after the start of construction or installation, the inspection fee shall be the greater of: \$1,100; or \$150 plus 0.033 of the first \$1,000,000, plus 0.0165 of the next \$2,000,000, plus 0.011 of the amount over \$3,000,000 of the cost of construction or installation.

(b) The commissioner shall consider any extenuating circumstances that caused an application for permit to be filed after the start of construction or installation. If warranted by such extenuating circumstances, the commissioner may calculate the inspection fee as if the application for permit had been filed prior to the start of construction or installation.

(c) Paragraphs (a) and (b) do not apply where a permit is issued by a municipality in accordance with an agreement under subdivision 2.

**History:** (5887-30b, 5887-30c) 1937 c 367 s 3,4; Ex1967 c 1 s 6; 1973 c 123 art 5 s 7; 1984 c 481 s 3; 1987 c 132 s 2; 1989 c 335 art 4 s 106; 1996 c 305 art 3 s 32; 2007 c 135 art 4 s 2; 2007 c 140 art 10 s 7,11; art 13 s 4; 2008 c 337 s 25,65

### **326B.921 LICENSING AND REGISTRATION.**

Subdivision 1. **License required; rules; time credit.** No individual shall engage in or work at the business of a contracting high pressure pipefitter unless issued a contracting high pressure pipefitter license to do so by the department under rules adopted by the board. No license shall be required for repairs on existing installations. No individual shall engage in or work at the business of journeyman high pressure pipefitter unless issued a journeyman high pressure pipefitter competency license to do so by the department under rules adopted by the board. An individual possessing a contracting high pressure pipefitter competency license may also work as a journeyman high pressure pipefitter.

No person shall construct or install high pressure piping, nor install high pressure piping in connection with the dealing in and selling of high pressure pipe material and supplies, unless, at all times, an individual possessing a contracting high pressure pipefitter competency license or a journeyman high pressure pipefitter competency license is responsible for ensuring that the high pressure pipefitting work is in conformity with Minnesota Statutes and Minnesota Rules.

The board shall prescribe rules, not inconsistent herewith, for the examination and competency licensing of contracting high pressure pipefitters and journeyman high pressure pipefitters and for issuance of permits by the department and municipalities for the installation of high pressure piping.

An employee performing the duties of inspector for the department in regulating pipefitting shall not receive time credit for the inspection duties when making an application for a license required by this section.

Subd. 2. **High pressure pipefitting business license.** Before obtaining a permit for high pressure piping work, a person must obtain or utilize a business with a high pressure piping business license.

A person must have at all times as a full-time employee at least one individual holding a contracting high pressure pipefitter competency license. Only full-time employees who hold contracting high pressure pipefitter licenses are authorized to obtain high pressure piping permits in the name of the business. The contracting high pressure pipefitter competency license holder can be the employee of only one high pressure piping business at a time.



To retain its business license without reapplication, a person holding a high pressure piping business license that ceases to employ an individual holding a contracting high pressure pipefitter competency license shall have 60 days from the last day of employment of its previous contracting pipefitter competency license holder to employ another license holder. The department must be notified no later than five days after the last day of employment of the previous license holder.

No high pressure pipefitting work may be performed during any period when the high pressure pipefitting business does not have a contracting high pressure pipefitter competency license holder on staff. If a license holder is not employed within 60 days after the last day of employment of the previous license holder, the pipefitting business license shall lapse.

The board shall prescribe by rule procedures for application for and issuance of business licenses.

Subd. 3. **Registration requirement.** All unlicensed individuals, other than pipefitter apprentices, must be registered under subdivision 4. No licensed high pressure piping business shall employ an unlicensed individual to assist in the practical construction and installation of high pressure piping and appurtenances unless the unlicensed individual is registered with the department. A pipefitter apprentice or registered unlicensed individual employed by a high pressure piping business may assist in the practical construction and installation of high pressure piping and appurtenances only while under direct supervision of a licensed contracting high pressure pipefitter or licensed journeyman high pressure pipefitter employed by the same high pressure piping business. The licensed contracting high pressure pipefitter or licensed journeyman high pressure pipefitter shall supervise no more than two pipefitter apprentices or registered unlicensed individuals. The licensed contracting high pressure pipefitter or journeyman high pressure pipefitter is responsible for ensuring that all high pressure piping work performed by the pipefitter apprentice or registered unlicensed individual complies with Minnesota Statutes and Minnesota Rules.

The board shall make recommendations by October 1, 2008, to the chairs of the standing committees of the senate and house of representatives having jurisdiction over high pressure piping regulation on the ratio of licensed contracting high pressure pipefitters or licensed journeyman high pressure pipefitters to pipefitter apprentices or registered unlicensed individuals for purposes of supervision.

Subd. 4. **Registration with commissioner.** An unlicensed individual may register to assist in the practical construction and installation of high pressure piping and appurtenances while in the employ of a licensed high pressure piping business by completing and submitting to the commissioner a registration form provided by the commissioner. The board may prescribe rules, not inconsistent with this section, for the registration of unlicensed individuals.

An unlicensed individual applying for initial registration shall pay the department an application fee of \$50. Applications for initial registration may be submitted at any time. Registration must be renewed annually and shall be valid for one calendar year beginning January 1. Applications for renewal registration must be submitted to the commissioner before December 31 of each registration period on forms provided by the commissioner, and must be accompanied by a fee of \$50. There shall be no refund of fees paid.

Subd. 5. **Bond.** As a condition of licensing, each applicant for a high pressure piping business license or renewal shall give bond to the state in the total sum of \$15,000 conditioned upon the faithful and lawful performance of all work contracted for or performed within the state. The bond shall run to and be for the benefit of persons injured or suffering financial loss by reason of failure of payment or performance. Claims and actions on the bond may be brought according to sections 574.26 to 574.38.

The term of the bond must be concurrent with the term of the high pressure pipefitting business license and run without interruption from the date of the issuance of the license to the end of the calendar year. All high pressure pipefitting business licenses must be annually renewed on a calendar year basis.

The bond must be filed with the department and shall be in lieu of any other business license bonds required by any political subdivision for high pressure pipefitting. The bond must be written by a corporate surety licensed to do business in the state.

Subd. 6. **Insurance.** In addition to the bond described in subdivision 5, each applicant for a high pressure pipefitting business license or renewal shall have in force public liability insurance, including products liability insurance, with limits of at least \$100,000 per person and \$300,000 per occurrence and property damage insurance with limits of at least \$50,000.

The insurance must be kept in force for the entire term of the high pressure pipefitting business license, and the license shall be suspended by the department if at any time the insurance is not in force.

The insurance must be written by an insurer licensed to do business in the state and shall be in lieu of any other insurance required by any subdivision of government for high pressure pipefitting. Each person holding a high pressure pipefitting business license shall maintain on file with the department a certificate evidencing the insurance. Any purported cancellation of insurance shall not be effective without the insurer first giving 30 days' written notice to the department.

Subd. 7. **License fee.** The department shall charge the following license fees:

- (a) application for journeyman high pressure pipefitter competency license, \$120;
- (b) renewal of journeyman high pressure pipefitter competency license, \$80;

- (c) application for contracting high pressure pipefitter competency license, \$270;
- (d) renewal of contracting high pressure pipefitter competency license, \$240;
- (e) application for high pressure piping business license, \$450;
- (f) application to inactivate a contracting high pressure pipefitter competency license or inactivate a journeyman high pressure pipefitter competency license, \$40; and
- (g) renewal of an inactive contracting high pressure pipefitter competency license or inactive journeyman high pressure pipefitter competency license, \$40.

If an application for renewal of an active or inactive journeyman high pressure pipefitter competency license or active or inactive contracting high pressure pipefitter competency license is received by the department after the date of expiration of the license, a \$30 late renewal fee shall be added to the license renewal fee.

Payment must accompany the application for a license or renewal of a license. There shall be no refund of fees paid.

Subd. 8. **Reciprocity with other states.** The commissioner may issue a temporary license without examination, upon payment of the required fee, to nonresident applicants who are licensed under the laws of a state having standards for licensing which the commissioner determines are substantially equivalent to the standards of this state if the other state grants similar privileges to Minnesota residents duly licensed in this state. Applicants who receive a temporary license under this section may acquire an aggregate of 24 months of experience before they have to apply and pass the licensing examination. Applicants must register with the commissioner of labor and industry and the commissioner shall set a fee for a temporary license. Applicants have five years in which to comply with this section.

**History:** (5887-30d) 1937 c 367 s 5; Ex1967 c 1 s 6; 1978 c 604 s 2; 1979 c 50 s 40; 1981 c 72 s 1; 1984 c 481 s 4; 1986 c 444; 1987 c 132 s 3; 1995 c 123 s 1-5; 2004 c 251 s 13; 2007 c 135 art 4 s 4-6; 2007 c 140 art 10 s 8,11; art 13 s 4; 2008 c 337 s 26-30

### **326B.922 LICENSE APPLICATION AND RENEWAL.**

Application for a contracting high pressure pipefitter competency or a journeyman high pressure pipefitter competency license shall be made to the department, with fees. The applicant shall be licensed only after passing an examination developed and administered by the department in accordance with rules adopted by the board. A competency license issued by the department shall expire on December 31 of each year. A renewal application must be received by the department within one year after expiration of the competency license. A license that has been expired for more than one year cannot be renewed, and can only be reissued if the applicant

submits a new application for the competency license, pays a new application fee, and retakes and passes the applicable license examination.

**History:** (5887-30g) 1937 c 367 s 8; 1951 c 119 s 1; 1959 c 134 s 1; Ex1967 c 1 s 6; 1974 c 7 s 1; 1981 c 72 s 2; 1984 c 481 s 5; 1987 c 132 s 4; 1995 c 123 s 6; 1996 c 305 art 3 s 33; 1999 c 250 art 3 s 27; 2007 c 135 art 4 s 7; 2007 c 140 art 10 s 9,11; art 13 s 4; 2008 c 337 s 31

### **326B.925 BOARD OF HIGH PRESSURE PIPING SYSTEMS.**

Subdivision 1. **Composition.** (a) The Board of High Pressure Piping Systems shall consist of 13 members. Twelve members shall be appointed by the governor with the advice and consent of the senate and shall be voting members. Appointments of members by the governor shall be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and consent of the senate. One member shall be the commissioner of labor and industry or the commissioner of labor and industry's designee, who shall be a voting member. Of the 12 appointed members, the composition shall be as follows:

- (1) one member shall be a high pressure piping inspector;
- (2) one member shall be a licensed mechanical engineer;
- (3) one member shall be a representative of the high pressure piping industry;
- (4) four members shall be contracting high pressure pipefitters engaged in the business of high pressure piping, two from the metropolitan area and two from greater Minnesota;
- (5) two members shall be journeyman high pressure pipefitters engaged in the business of high pressure piping systems installation, one from the metropolitan area and one from greater Minnesota;
- (6) one member shall be a representative of industrial companies that use high pressure piping systems in their industrial process;
- (7) one member shall be a representative from utility companies in Minnesota; and
- (8) one member shall be a public member as defined by section 214.02.

The high pressure piping inspector shall be appointed for a term to end December 31, 2011. The professional mechanical engineer shall be appointed for a term to end December 31, 2010. The representative of the high pressure piping industry shall be appointed for a term to end December 31, 2011. Two of the contracting high pressure pipefitters shall be appointed for a term to end December 31, 2011. The other two contracting high pressure pipefitters shall be appointed for a term to end December 31, 2010. One of the journeyman high pressure pipefitters shall be appointed for a term to end December 31, 2011. The other journeyman high pressure pipefitter shall be appointed for a term to end December 31, 2010. The one representative of

industrial companies that use high pressure piping systems in their industrial process shall be appointed for a term to end December 31, 2010. The one representative of a utility company in Minnesota shall be appointed for a term to end December 31, 2010. The public member shall be appointed for a term to end December 31, 2010.

(b) The licensed professional mechanical engineer must possess a current Minnesota professional engineering license and maintain the license for the duration of their term. All other appointed members, except for the representative of the piping industry, the representative of industrial companies that use high pressure piping systems, the public member, and the representative of public utility companies in Minnesota, must possess a current high pressure piping license issued by the Department of Labor and Industry and maintain that license for the duration of their term. All appointed members must be residents of Minnesota at the time of and throughout the member's appointment. The term of any appointed member that does not maintain membership qualification status shall end on the date of status change and the governor shall appoint a new member. It is the responsibility of the member to notify the board of the member's status change.

(c) For appointed members, except the initial terms designated in paragraph (a), each term shall be three years with the terms ending on December 31. Members appointed by the governor shall be limited to three consecutive terms. The governor shall, all or in part, reappoint the current members or appoint replacement members with the advice and consent of the senate. Midterm vacancies shall be filled for the remaining portion of the term. Vacancies occurring with less than six months time remaining in the term shall be filled for the existing term and the following three-year term. Members may serve until their successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

Subd. 2. **Powers; duties; administrative support.** (a) The board shall have the power to:

- (1) elect its chair, vice-chair, and secretary;
- (2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and containing such other provisions as may be useful and necessary for the efficient conduct of the business of the board;
- (3) adopt the high pressure piping code that must be followed in this state and any high pressure piping code amendments thereto. The board shall adopt the high pressure piping code and any amendments thereto pursuant to chapter 14, and as provided in subdivision 6, paragraphs (b), (c), and (d);
- (4) review requests for final interpretations and issue final interpretations as provided in section 326B.127, subdivision 5;

(5) except for rules regulating continuing education, adopt rules that regulate the licensure or registration of high pressure piping contractors, journeymen, and other persons engaged in the design, installation, and alteration of high pressure piping systems, except for those individuals licensed under section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (e) and (f);

(6) advise the commissioner regarding educational requirements for high pressure piping inspectors;

(7) refer complaints or other communications to the commissioner, whether oral or written, as provided in subdivision 8 that allege or imply a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, or an offering to perform or performance of unlicensed high pressure piping services;

(8) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;

(9) select from its members individuals to serve on any other state advisory council, board, or committee;

(10) recommend the fees for licenses and registrations; and

(11) approve license reciprocity agreements.

Except for the powers granted to the Plumbing Board, Board of Electricity, and the Board of High Pressure Piping Systems, the commissioner of labor and industry shall administer and enforce the provisions of this chapter and any rules promulgated pursuant thereto.

(b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by the other boards created pursuant to chapter 326B. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

Subd. 3. **Compensation.** (a) Members of the board may be compensated at the rate of \$55 a day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of the political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they

are compensated by the state or political subdivision. However, a state or political subdivision employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) The board shall adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

Subd. 4. **Removal; vacancies.** (a) An appointed member of the board may be removed by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the governor of an appointed member missing the three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the appointed member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the governor shall, with the advice and consent of the senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.0597, subdivisions 5 and 6.

Subd. 5. **Membership vacancies within three months of appointment.** Notwithstanding any law to the contrary, when a membership on the board becomes vacant within three months after being filled through the appointments process, the governor may, upon notification to the Office of Secretary of State, choose a new member from the applications on hand and need not repeat the process.

Subd. 6. **Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that is not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Except as provided in paragraph (c), each high pressure piping code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all the voting members of the board shall be included in the next high pressure piping code rulemaking proceeding initiated by the board. If a high pressure piping code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all the voting members of the board, the high pressure piping code amendment shall not be included in the next high pressure piping code rulemaking proceeding initiated by the board.

(c) If the high pressure piping code amendment considered by the board is to replace the Minnesota High Pressure Piping Code with a model high pressure piping code, then the amendment may only be included in the next high pressure piping code rulemaking proceeding if it receives an affirmative two-thirds or more majority vote of all the voting members of the board.

(d) The board may reconsider high pressure piping code amendments during an active high pressure piping code rulemaking proceeding in which the amendment previously failed to receive a two-thirds majority vote or more of all the voting members of the board only if new or updated information that affects the high pressure piping code amendment is presented to the board. The board may also reconsider failed high pressure piping code amendments in subsequent high pressure piping code rulemaking proceedings.

(e) Each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), clause (5), that receives an affirmative majority vote of all the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(f) The board may reconsider the proposed rule or rule amendment during an active rulemaking proceeding in which the amendment previously failed to receive an affirmative majority vote of all the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider failed proposed rules or rule amendments in subsequent rulemaking proceedings.

Subd. 7. **Board meetings.** (a) The board shall hold meetings at such times as the board shall specify. Notice and conduct of all meetings shall be pursuant to chapter 13D, and in such a manner as the bylaws may provide.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location;  
and



(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. Any person monitoring the meeting electronically from a remote location may be required to pay documented costs incurred by the board as a result of the additional connection. The timing and method of providing notice is governed by section 13D.04.

Subd. 8. **Complaints.** (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether written or oral, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the department to provide high pressure piping services, the performance or offering to perform high pressure piping services requiring licensure by an unlicensed person, or high pressure piping code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.

(b) The commissioner shall advise the board of the status of the complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

Subd. 9. **Data Practices Act.** The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

Subd. 10. **Official records.** The board shall make and preserve all records necessary to a

full and accurate knowledge of its official activities in accordance with section 15.17.

**History:** 2007 c 140 art 4 s 61; art 10 s 10; art 13 s 4; 2008 c 337 s 32-34,64

### **326B.93 INSPECTION PERSONNEL.**

Subdivision 1. **Inspectors.** The department may employ such inspectors and other persons as are necessary to efficiently perform the duties and exercise the powers imposed upon the department.

Subd. 2. **Chief boiler inspector.** The commissioner shall appoint a chief boiler inspector who, under the direction and supervision of the commissioner, shall administer this chapter and the rules adopted under this chapter. The chief boiler inspector must:

(1) be licensed as a chief Grade A engineer; and

(2) possess a current commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

The chief boiler inspector shall be the state of Minnesota representative on the National Board of Boiler and Pressure Vessel Inspectors, shall be the final interpretative authority of the rules adopted under this chapter, and shall perform other duties in administering this chapter and the rules adopted under this chapter as assigned by the commissioner. Any person aggrieved by a ruling of the chief boiler inspector may appeal the ruling in accordance with chapter 14.

**History:** 2007 c 140 art 9 s 25

## **PASSENGER BOATS AND MASTERS**

### **326B.94 BOATS; MASTERS.**

Subdivision 1. **Boat.** "Boat" means any vessel navigating inland waters of the state that is propelled by machinery or sails, is carrying passengers for hire, and is 21 feet or more in length.

Subd. 2. **Number of passengers.** The department shall designate the number of passengers that each boat may safely carry, and no such boat shall carry a greater number than is allowed by the inspector's certificate.

Subd. 3. **Annual permit.** The commissioner shall issue an annual permit to a boat for the purpose of carrying passengers for hire on the inland waters of the state provided the boat satisfies the inspection requirements of this section. A boat subject to inspection under this chapter shall be registered with the department and shall be inspected before a permit may be issued. No person shall operate a boat or cause a boat to be operated for the purpose of carrying passengers for hire on the inland waters of the state without a valid annual permit issued under this section.

Subd. 4. **Examinations, licensing.** The commissioner shall develop and administer an

examination for all masters of boats carrying passengers for hire on the inland waters of the state as to their qualifications and fitness. If found qualified and competent to perform their duties as a master of a boat carrying passengers for hire, they shall be issued a license authorizing them to act as such on the inland waters of the state. All initial master's licenses shall be for two years. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of master's licenses from one year to two years. By June 30, 2011, all renewed master's licenses shall be two-year licenses. Fees for the original issue and renewal of the license authorized under this section shall be pursuant to section 326B.986, subdivision 2.

Subd. 5. **Rules.** (a) The department shall prescribe rules for the inspection of the hulls, machinery, boilers, steam connections, firefighting apparatus, lifesaving appliances, and lifesaving equipment of all power boats navigating the inland waters of the state, which shall conform to the requirements and specifications of the United States Coast Guard in similar cases as provided in Code of Federal Regulations, title 46, as applicable inland waters; these rules shall have the force of law.

(b) The commissioner shall make such rules for inspection and operation of boats subject to inspection under this chapter, the licensing of masters, and the navigation of any such boat as will require its operation without danger to life or property.

Subd. 6. **Drugs, alcohol.** No master shall be under the influence of illegal drugs or alcohol when on duty.

**History:** 2007 c 140 art 9 s 26; 2009 c 78 art 5 s 26

## **BOILER INSPECTIONS; LICENSURE**

### **326B.952 BOILER INSPECTOR; INSPECTIONS; EXAMINATIONS; LICENSES.**

Subdivision 1. **All boilers inspected.** The commissioner shall inspect all boilers and pressure vessels in use not expressly excepted from such inspection by law. Upon inspection the commissioner shall issue a certificate of inspection therefor or a certificate condemning the boiler or pressure vessel and shall seal it. Forms for these licenses and certificates shall be prepared and furnished by the commissioner. The commissioner shall examine all applicants for engineer's licenses. The commissioner shall issue such license to an applicant as the examination shall show the applicant is entitled to receive.

Subd. 2. **Inspector's examination.** For the purpose of examining applicants for a National Board of Boiler and Pressure Vessel Inspectors commission, the commissioner shall fix and determine a time and place for the examinations, and give notice to all applicants of the time and place. The commissioner shall grant and sign such license certificates as applicants are entitled to

receive upon examination. Applicants may be examined and issued certificates of competency as inspectors of boilers and pressure vessels.

**History:** (5474) *RL s 2168; 1919 c 240 s 1; 1927 c 378; 1957 c 503 s 3; 1982 c 379 s 2; 1992 c 464 art 1 s 26; 2007 c 140 art 9 s 1,27; art 13 s 4*

### **326B.954 BOILER INSPECTOR LICENSE.**

Each boiler inspector shall be licensed in this state as a chief grade A engineer, and must hold a national board commission as a boiler inspector within 12 months of being employed as a boiler inspector by the department. An inspector shall not be interested in the manufacture or sale of boilers or steam machinery or in any patented article required or generally used in the construction of engines or boilers or their appurtenances.

**History:** (5475) *RL s 2169; 1957 c 503 s 4; 1974 c 161 s 11; 1982 c 379 s 3; 2007 c 140 art 9 s 2,27; art 13 s 4*

### **326B.956 STEAM FARM TRACTION ENGINES; SHOW BOILERS AND ENGINES.**

Subdivision 1. **Definition.** For the purpose of sections 326B.952 to 326B.998, the terms "show boiler" and "hobby boiler" are synonymous and mean a boiler that is used only for display and demonstration purposes. In recognition of the historical significance of show boilers in maintaining a working reminder of Minnesota's agricultural, transportation, and lumber industries, show boilers and engines are considered to be historical artifacts.

Subd. 2. **Inspection.** When used for display and demonstration purposes, steam farm traction engines, portable and stationary show engines and portable and stationary show boilers shall be inspected every two years according to law.

(a) Show boilers or engines not certified in Minnesota shall be inspected thoroughly by a boiler inspector certified to inspect boilers in Minnesota, using inspection standards in paragraph (b), before being certified for use in Minnesota.

(b) Standards for inspection of show boilers shall be those established by the National Board Inspection Code ANSI/NB23 and by the rules adopted by the department and as follows:

(1) the boiler shall be subjected to the appropriate method of nondestructive examination, at the owner's expense, as deemed necessary by the boiler inspector to determine soundness and safety of the boiler;

(2) the boiler shall be tested by ultrasonic examination for metal thickness (for purposes of calculating the maximum allowable working pressure the thinnest reading shall be used and a safety factor of six shall be used in calculating maximum allowable working pressure on all non-ASME-code hobby and show boilers); and

(3) repairs and alterations made to show boilers must be made pursuant to section 326B.966.

(c) Further each such object shall successfully complete an inspection of:

(1) the fusible plug;

(2) the safety valve, which must be of ASME approved design and set at the maximum allowable working pressure and sealed in an appropriate manner not allowing tampering with the valve setting without destroying the seal; and

(3) the boiler power piping.

Any longitudinal cracks found in riveted longitudinal seams requires that the vessel be sealed and not approved for use in Minnesota. If the boiler or show engine is jacketed, the jacket must be removed prior to inspection.

Subd. 3. **Inspection fees.** The fee for inspecting traction engines, show boilers, and show engines shall be the hourly rate pursuant to section 326B.986, subdivision 4.

Subd. 4. **Licenses.** A license to operate steam farm traction engines, portable and stationary show engines, and portable and stationary show boilers shall be issued to an applicant who:

(1) is 16 years of age or older;

(2) has a licensed second class grade A or higher class engineer or steam traction (hobby) engineer sign an affidavit attesting to the applicant's competence in operating these devices and that the applicant has demonstrated the ability to perform each task on the list, approved by the chief boiler inspector, of tasks associated with the operation of the devices;

(3) has at least 50 hours of operating experience on the devices, eight hours of which must be operating the boiler under load, and up to 16 hours of which may be satisfied by attendance at a school of instruction in operating the devices;

(4) passes a written test for competence in operating the devices; and

(5) pays the required fee.

A license is valid for the lifetime of the licensee unless revoked for cause. A onetime fee pursuant to section 326B.986, subdivision 5, shall be charged for the license.

Subd. 5. **Exemption.** Any licensed steam engineer may operate steam farm traction engines, portable and stationary show engines and portable and stationary show boilers, subject to the apparatus and horsepower restrictions set forth in the license, without obtaining a license under subdivision 4.

Subd. 6. **Licensed operator; presence required.** An operator licensed under this section must be present when a traction engine, portable or stationary show engine, or portable or

stationary show boiler is in operation and a member of the public is present.

**History:** 1980 c 601 s 1; 1981 c 38 s 1; 1983 c 301 s 156; 1986 c 444; 1987 c 70 s 2,3; 1988 c 719 art 19 s 2-4; 1991 c 331 s 1; 1994 c 402 s 1; 1996 c 305 art 3 s 25,26; 1997 c 38 s 1-3; 1Sp2005 c 1 art 4 s 43,44; 2007 c 140 art 9 s 3,27; art 13 s 4; 2008 c 309 s 1

### **326B.958 INSPECTION AND REGISTRATION.**

Subdivision 1. **Inspection.** Every owner, lessee, or other person having charge of boilers or pressure vessels subject to inspection under sections 326B.956 to 326B.998 shall cause them to be inspected by the department. Except as provided in sections 326B.956 and 326B.96, boilers subject to inspection under sections 326B.956 to 326B.998 must be inspected at least annually and pressure vessels inspected at least every two years. The commissioner shall assess a \$250 penalty per applicable boiler or pressure vessel for failure to have the inspection required by this section and may seal the boiler or pressure vessel for refusal to allow an inspection as required by this section.

Subd. 2. **Registration.** Every owner, lessee, or other person having charge of boilers or pressure vessels subject to inspection under sections 326B.952 to 326B.998, except hobby boilers under section 326B.956, shall register said objects with the department. The registration shall be renewed annually and is applicable to each object separately. The fee for registration of a boiler or pressure vessel shall be pursuant to section 326B.986, subdivision 9. The department may issue a billing statement for each boiler and pressure vessel on record with the division, and may determine a monthly schedule of billings to be followed for owners, lessees, or other persons having charge of a boiler or pressure vessel subject to inspection under sections 326B.952 to 326B.998.

Subd. 3. **Certificate of registration.** The department shall issue a certificate of registration that lists the registered boilers and pressure vessels at the location, expiration date of the certificate of registration, last inspection date of each registered boiler and pressure vessel, and maximum allowable working pressure for each registered boiler and pressure vessel. The commissioner may make an electronic certificate of registration available to be printed by the owner, lessee, or other person having charge of the registered boiler or pressure vessel.

**History:** (5478) RL s 2172; 1957 c 503 s 6; 1982 c 379 s 5; 1987 c 70 s 4; 1989 c 71 s 1; 1Sp2005 c 1 art 4 s 45; 2007 c 140 art 9 s 4,27; art 13 s 4

### **326B.96 INSPECTION.**

Subdivision 1. **Inspection requirements.** All boilers and steam generators must be inspected by the department before they are used and all boilers must be inspected at least once each year thereafter except as provided under subdivision 2 or section 326B.956. Inspectors may subject all boilers to hydrostatic pressure or hammer test, and shall ascertain by a thorough

internal and external examination that they are well made and of good and suitable material; that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat, are of proper dimensions and free from obstructions; that the flues are circular in form; that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby; and that such boilers and their connections may be safely used without danger to life or property. Inspectors shall ascertain that the safety valves are of suitable dimensions, sufficient in number, and properly arranged, and that the safety valves are so adjusted as to allow no greater pressure in the boilers than the amount prescribed by the inspector's certificate; that there is a sufficient number of gauge cocks, properly inserted, to indicate the amount of water, and suitable gauges that will correctly record the pressure; and that the fusible metals are properly inserted where required so as to fuse by the heat of the furnace whenever the water in the boiler falls below its prescribed limit; and that provisions are made for an ample supply of water to feed the boilers at all times; and that means for blowing out are provided, so as to thoroughly remove the mud and sediment from all parts when under pressure.

Subd. 2. **Qualifying boiler.** (a) "Qualifying boiler" means a boiler of 200,000 pounds per hour or more capacity which has an internal continuous water treatment program approved by the department and which the commissioner has determined to be in compliance with paragraph (c).

(b) A qualifying boiler must be inspected at least once every 24 months internally and externally while not under pressure and at least once every 18 months externally while under pressure. If the inspector considers it necessary to conduct a hydrostatic test to determine the safety of a boiler, the test must be conducted under the direction of the owner, contractor, or user of the equipment under the supervision of an inspector.

(c) The owner of a qualifying boiler must keep accurate records showing the date and actual time the boiler is out of service, the reason or reasons therefor, and the chemical physical laboratory analysis of samples of the boiler water taken at regular intervals of not more than 48 hours of operation which adequately show the condition of the water, and any elements or characteristics of the water capable of producing corrosion or other deterioration of the boiler or its parts.

(d) If an inspector determines there are substantial deficiencies in equipment or in boiler water treatment operating procedures, inspections of a qualifying boiler may be required once every 12 months until the commissioner finds that the substantial deficiencies have been corrected.

**History:** (5481) *RL s 2175; 1957 c 503 s 8; 1982 c 379 s 7; 1989 c 71 s 2; 2007 c 140 art 9 s 5,27; art 13 s 4*

**326B.962 TESTS.**

In subjecting both high- and low-pressure boilers and pressure vessels to the hydrostatic test, and to determine the safe allowable working pressure, the inspector shall use the latest approved formula of the ASME Code or National Board Inspection Code, as applicable.

**History:** (5482) *RL s 2176; 1957 c 503 s 9; 1982 c 379 s 8; 2007 c 140 art 9 s 6,27; art 13 s 4*

**326B.964 STANDARDS OF INSPECTION.**

The engineering standards of boilers and pressure vessels for use in this state shall be that established by the current edition of and amendments to the ASME Code or the National Board Inspection Code, as applicable, for construction, operation and care of, in-service inspection and testing, and controls and safety devices, and by the rules adopted by the department.

**History:** *1957 c 503 s 10; Ex1967 c 1 s 6; 1969 c 1149 s 1; 1973 c 238 s 1; 1982 c 379 s 9; 2007 c 140 art 9 s 7,27; art 13 s 4*

**326B.966 STANDARDS OF REPAIRS.**

The rules for repair of boilers and pressure vessels for use in this state shall be those established by the National Board of Boiler and Pressure Vessel Inspectors inspection code and the rules adopted by the department.

**History:** *1982 c 379 s 10; 1988 c 719 art 19 s 5; 2007 c 140 art 9 s 8,27; art 13 s 4*

**326B.968 EXAMINATION FINDING BOILER UNSAFE.**

If an inspector examines a boiler or pressure vessel and determines that the boiler or pressure vessel is unsafe, the inspector shall notify the owner or operator of any defect in that boiler or pressure vessel. Such boiler or pressure vessel shall not thereafter be used until the defect is corrected. Boilers found to be operated by unlicensed or improperly licensed persons shall not be used until the operators are properly licensed. If circumstances warrant continued operation, approval may be given for continuing operation for a specific period of time, not to exceed 30 days, at the discretion of the boiler inspector.

**History:** (5484) *RL s 2178; 1957 c 503 s 11; 1982 c 379 s 11; 2007 c 140 art 9 s 9,27; art 13 s 4*



**326B.97 INSPECTION OF BOILERS AND PRESSURE VESSELS.**

The owner or manager of a boiler or pressure vessel shall allow inspectors full access thereto. Every engineer operating a boiler shall assist the inspector in the examination, and point out any known defects in the boilers, steam engines, or turbines in the engineer's charge.

**History:** (5486) *RL s 2180; 1919 c 240 s 3; 1939 c 399; 1947 c 563 s 1; 1957 c 503 s 12; 1957 c 876 s 1; 1982 c 379 s 12; 1986 c 444; 2007 c 140 art 9 s 27; art 13 s 4*

**326B.972 LICENSE REQUIREMENT.**

(a) To operate a boiler, steam engine, or turbine an individual must have received a license for the grade covering that boiler, steam engine, or turbine. Except for licenses described in section 326B.956 and except for provisional licenses described in paragraphs (d) to (g):

(1) all initial licenses shall be for two years;

(2) the commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of licenses from one year to two years; and

(3) by June 30, 2011, all licenses shall be two-year licenses.

(b) For purposes of sections 326B.952 to 326B.998, "operation" does not include monitoring of an automatic boiler, either through on premises inspection of the boiler or by remote electronic surveillance, provided that no operations are performed upon the boiler other than emergency shut down in alarm situations.

(c) No individual under the influence of illegal drugs or alcohol may operate a boiler, steam engine, or turbine or monitor an automatic boiler.

(d) The commissioner may issue a provisional license to allow an employee of a high pressure boiler plant to operate boilers greater than 500 horsepower at only that boiler plant if:

(1) the boiler plant has a designated chief engineer in accordance with Minnesota Rules, part 5225.0410;

(2) the boiler plant employee holds a valid license as a second-class engineer, Grade A or B;

(3) the chief engineer in charge of the boiler plant submits an application to the commissioner on a form prescribed by the commissioner to elicit information on whether the requirements of this paragraph have been met;

(4) the chief engineer in charge of the boiler plant and an authorized representative of the owner of the boiler plant both sign the application for the provisional license;

(5) the owner of the boiler plant has a documented training program with examination for boilers and equipment at the boiler plant to train and test the boiler plant employee; and

(6) if the application were to be granted, the total number of provisional licenses for employees of the boiler plant would not exceed the total number of properly licensed first-class engineers and chief engineers responsible for the safe operation of the boilers at the boiler plant.

(e) A public utility, cooperative electric association, generation and transmission cooperative electric association, municipal power agency, or municipal electric utility that employs licensed boiler operators who are subject to an existing labor contract may use a provisional licensee as an operator only if using the provisional licensee does not violate the labor contract.

(f) Each provisional license expires 36 months after the date of issuance unless revoked less than 36 months after the date of issuance. A provisional license may not be renewed.

(g) The commissioner may issue no more than two provisional licenses to any individual within a four-year period.

**History:** 1982 c 379 s 13; 2007 c 140 art 9 s 10,27; art 13 s 4; 2008 c 309 s 2; 2009 c 78 art 5 s 27

### **326B.974 SCHOOL ENGINEER OPERATIONAL REQUIREMENTS.**

Any custodial engineer employed by a school whose duties include the operation of a boiler shall be licensed pursuant to section 326B.978, to operate the particular class of boiler used in the school.

**History:** 1982 c 379 s 14; 2007 c 140 art 9 s 27; art 13 s 4

### **326B.976 APPLICATIONS FOR LICENSES.**

The commissioner shall prepare blank applications on which applications for licenses shall be made. These blanks shall elicit such information as is needed to determine whether an applicant meets the qualifications required for the license.

**History:** (5494) 1919 c 240 s 9; 1957 c 503 s 19; 2007 c 140 art 9 s 11,27; art 13 s 4

### **326B.978 EXAMINATIONS; CLASSIFICATIONS; QUALIFICATIONS.**

Subdivision 1. **Engineers, classes.** Engineers shall be divided into four classes:

- (1) Chief engineers; Grade A, Grade B, and Grade C.
- (2) First class engineers; Grade A, Grade B, and Grade C.
- (3) Second class engineers; Grade A, Grade B, and Grade C.
- (4) Special engineers.

Subd. 2. **Applications.** Any individual who desires an engineer's license shall submit an application on a written or electronic form prescribed by the commissioner, at least 15 days before the requested exam date. If the commissioner approves the applicant for examination,

the applicant may take the examination on one occasion within one year from the date the commissioner receives the application.

Subd. 3. **Examinations.** Each applicant for a license must pass an examination developed and administered by the commissioner. The examinations shall be of sufficient scope to establish the competency of the applicant to operate a boiler of the applicable license class and grade.

Subd. 4. **Continuing education.** The commissioner may require continuing education prior to the renewal of any license. Before requiring continuing education, the commissioner shall adopt rules that specify the continuing education requirements.

Subd. 5. **High- and low-pressure boilers.** For the purposes of this section and section 326B.97, high-pressure boilers shall mean boilers operating at a steam or other vapor pressure in excess of 15 p.s.i.g., or a water or other liquid boiler in which the pressure exceeds 160 p.s.i.g. or a temperature of 250 degrees Fahrenheit.

Low-pressure boilers shall mean boilers operating at a steam or other vapor pressure of 15 p.s.i.g. or less, or a water or other liquid boiler in which the pressure does not exceed 160 p.s.i.g. or a temperature of 250 degrees Fahrenheit.

Subd. 6. **Chief engineer, Grade A.** An individual seeking licensure as a chief engineer, Grade A, shall be at least 18 years of age and have experience which verifies that the individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers, steam engines, and turbines and their appurtenances; and, before receiving a license, the applicant shall take and subscribe an oath attesting to at least five years actual experience in operating the boilers except as provided in subdivision 18, including at least two years' experience in operating the engines or turbines except as provided in subdivision 18.

Subd. 7. **Chief engineer, Grade B.** An individual seeking licensure as a chief engineer, Grade B, shall be at least 18 years of age and have habits and experience which justify the belief that the individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers and their appurtenances; and, before receiving a license, the applicant shall take and subscribe an oath attesting to at least five years' actual experience in operating those boilers except as provided in subdivision 18.

Subd. 8. **Chief engineer, Grade C.** An individual seeking licensure as a chief engineer, Grade C, shall be at least 18 years of age and have habits and experience which justify the belief that the individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of low-pressure boilers and their appurtenances, and before receiving a license, the applicant shall take and subscribe an oath attesting to at least five years of actual experience in operating the boilers except as provided in subdivision 18.

Subd. 9. **First-class engineer, Grade A.** An individual seeking licensure as a first-class

engineer, Grade A, shall be at least 18 years of age and have experience which verifies that the individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers, engines, and turbines and their appurtenances of not more than 500 horsepower or to operate as a shift engineer in a plant of unlimited horsepower. Before receiving a license, the applicant shall take and subscribe an oath attesting to at least three years actual experience in operating the boilers, including at least two years' experience in operating such engines or turbines except as provided in subdivision 18.

Subd. 10. **First-class engineer, Grade B.** An individual seeking licensure as a first-class engineer, Grade B, shall be at least 18 years of age and have habits and experience which justify the belief that the individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers of not more than 500 horsepower or to operate as a shift engineer in a plant of unlimited horsepower. Before receiving a license the applicant shall take and subscribe an oath attesting to at least three years' actual experience in operating the boilers except as provided in subdivision 18.

Subd. 11. **First-class engineer, Grade C.** An individual seeking licensure as a first-class engineer, Grade C, shall be at least 18 years of age and have habits and experience which justify the belief that the individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of low-pressure boilers and their appurtenances of not more than 500 horsepower or to operate as a shift engineer in a low-pressure plant of unlimited horsepower. Before receiving a license, the applicant shall take and subscribe an oath attesting to at least three years' actual experience in operating the boilers except as provided in subdivision 18.

Subd. 12. **Second-class engineer, Grade A.** An individual seeking licensure as a second-class engineer, Grade A, shall be at least 18 years of age and have experience which verifies that the individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers, engines, and turbines and their appurtenances of not more than 100 horsepower or to operate as a shift engineer in a plant of not more than 500 horsepower, or to assist the shift engineer, under direct supervision, in a plant of unlimited horsepower. Before receiving a license the applicant shall take and subscribe an oath attesting to at least one year of actual experience in operating the boilers, including at least one year of experience in operating the engines or turbines except as provided in subdivision 18.

Subd. 13. **Second-class engineer, Grade B.** An individual seeking licensure as a second-class engineer, Grade B, shall be at least 18 years of age and have habits and experience which justify the belief that the individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers of not more than 100 horsepower or to operate as a shift engineer in a plant of not more than 500 horsepower or to assist the shift engineer, under direct supervision, in a plant of unlimited horsepower. Before receiving a license

the applicant shall take and subscribe an oath attesting to at least one year of actual experience in operating the boilers except as provided in subdivision 16 or 18.

Subd. 14. **Second-class engineer, Grade C.** An individual seeking licensure as a second-class engineer, Grade C, shall be at least 18 years of age and have habits and experience which justify the belief that the individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of low-pressure boilers and their appurtenances of not more than 100 horsepower or to operate as a shift engineer in a low-pressure plant of not more than 500 horsepower, or to assist the shift engineer, under direct supervision, in a low-pressure plant of unlimited horsepower. Before receiving a license, the applicant shall take and subscribe an oath attesting to at least one year of actual experience in operating the boilers except as provided in subdivision 18.

Subd. 15. **Special engineer.** (a) An individual seeking licensure as a special engineer shall be at least 18 years of age and have habits and experience which justify the belief that the individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers and their appurtenances of not more than 50 horsepower or to operate as a shift engineer in a plant of not more than 100 horsepower, or to serve as an apprentice in any plant under the direct supervision of the properly licensed engineer.

(b) An individual seeking licensure as a special engineer who is at least 16 years of age but less than 18 years of age must be enrolled in a course approved by the commissioner, and have habits and experience that justify the belief that the individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers and their appurtenances of not more than 50 horsepower or to operate as a shift engineer in a plant of not more than 100 horsepower, or to serve as an apprentice in any plant under the direct supervision of the properly licensed engineer.

Subd. 16. **Current boiler operators.** Any individual operating a boiler other than a steam boiler on or before April 15, 1982, shall be qualified for application for the applicable class license upon presentation of an affidavit furnished by an inspector and sworn to by the individual's employer or a chief engineer. Except as provided in subdivision 18, the applicant must have at least the number of years of actual experience specified for the class of license requested and pass the appropriate examination.

Subd. 17. **Rating horsepower.** For the purpose of rating boiler horsepower for engineer license classifications only: ten square feet of heating surface shall be considered equivalent to one boiler horsepower for conventional boilers and five square feet of heating surface equivalent to one boiler horsepower for steam coil type generators.

Subd. 18. **Educational offset.** Notwithstanding the experience requirements in subdivisions

6 to 16, the commissioner may by rule establish educational equivalencies that an applicant may meet instead of a portion of the specified operating experience.

**History:** (5487) *RL s 2181; 1919 c 113 s 1; 1919 c 240 s 4; 1947 c 563 s 2; 1957 c 503 s 13; 1957 c 876 s 2; 1965 c 49 s 1; 1973 c 725 s 28-35; 1974 c 406 s 41; 1982 c 379 s 15; 1986 c 444; 1988 c 719 art 19 s 6-8; 1Sp2005 c 1 art 4 s 47,48; 2007 c 140 art 9 s 12,27; art 13 s 4; 2008 c 309 s 3*

### **326B.98 VERIFICATION OF CERTIFICATE.**

In making an inspection of boilers, machinery, or vessels, inspectors may act jointly or separately. In all cases inspectors shall verify the certificate of inspection.

**History:** (5489) *RL s 2183; 1957 c 503 s 15; 1982 c 379 s 17; 2007 c 140 art 9 s 27; art 13 s 4*

### **326B.982 CERTIFICATE DELIVERY; PAYMENT OF INSPECTION FEES.**

Subdivision 1. **Inspection certificate.** After examination and tests of the boiler or pressure vessel being inspected, the boiler inspector shall document the condition of the boiler or pressure vessel as required by the commissioner. The inspector shall issue an inspection certificate, as prescribed by the commissioner, to the owner or operator for the inspected boilers and pressure vessels found to be safe and suitable for use. The inspector shall immediately notify the owner or operator of any deficiencies found on the boilers and pressure vessels during the inspection on a form prescribed by the commissioner.

Subd. 2. **Failure to pay fee.** If the owner or lessee of any boiler or pressure vessel, which boiler or pressure vessel has been duly inspected, refuses to pay the required fee within 30 days from the date of the invoice, the department may seal the boiler or pressure vessel until the fee is paid.

**History:** (5490) *RL s 2184; 1919 c 240 s 5; 1933 c 257; 1943 c 340 s 1; 1947 c 563 s 3; 1957 c 503 s 16; 1982 c 379 s 18; 1986 c 444; 2007 c 140 art 9 s 13,14,27; art 13 s 4*

### **326B.986 FEES FOR INSPECTION.**

Subdivision 1. **Fee amount; vessels operated on inland waters.** The fees for the inspection of the hull, boiler, machinery, and equipment of vessels operated on inland waters and that carry passengers for hire are as follows:

- (1) annual operating permit and safety inspections shall be \$200; and
- (2) other inspections, including dry-dock inspections, boat stability tests, and plan reviews, are billed at the hourly rate set in subdivision 4.

Subd. 2. **Fee amounts; master's.** The license and application fee for an initial master's

license is \$70, or \$40 if the applicant possesses a valid, unlimited, current United States Coast Guard master's license. The renewal fee for a master's license is \$20 for one year or \$40 for two years. If the renewal fee is paid later than 30 days after expiration, then a late fee of \$15 will be added to the renewal fee.

Subd. 3. **Boiler and pressure vessel inspection fees.** The fees for the annual inspection of boilers and biennial inspection of pressure vessels are as follows:

- (1) boiler inaccessible for internal inspection, \$55;
- (2) boiler accessible for internal inspection, \$55;
- (3) boiler internal inspection over 2,000 square feet heating surface shall be billed at the hourly rate set in subdivision 4;
- (4) boiler accessible for internal inspection requiring one-half day or more of inspection time shall be billed at the hourly rate set in subdivision 4;
- (5) pressure vessel for internal inspection via manhole, \$35; and
- (6) pressure vessel inaccessible for internal inspection, \$35.

Subd. 4. **Hourly rate.** The hourly rate for an inspection not set elsewhere in sections 326B.952 to 326B.998 is \$80 per hour. Inspection time includes all time related to the inspection. Travel time, billed at the hourly rate, and travel expenses shall be billed for shop inspections, triennial audits, boat stability tests, hydrostatic tests of a boiler or pressure vessel, or any other inspection or consultation requiring a special trip.

Subd. 5. **Boiler engineer license fees.** (a) For the following licenses, the nonrefundable license and application fee is:

- (1) chief engineer's license, \$70;
- (2) first class engineer's license, \$70;
- (3) second class engineer's license, \$70;
- (4) special engineer's license, \$40;
- (5) traction or hobby boiler engineer's license, \$50; and
- (6) provisional license, \$50.

(b) An engineer's license, except a provisional license, may be renewed upon application and payment of a renewal fee of \$20 for one year or \$40 for two years. If the renewal fee is paid later than 30 days after expiration, then a late fee of \$15 will be added to the renewal fee.

Subd. 6. **National board inspectors.** The fee for an examination of an applicant for a National Board of Boiler and Pressure Vessels Inspectors commission is \$100.

Subd. 7. **Nuclear endorsement.** The fee for each examination of an applicant for a National

Board of Boiler and Pressure Vessels commissioned inspectors nuclear endorsement is \$100.

Subd. 8. **Certificate of competency.** The fee for issuance of the original state of Minnesota certificate of competency for inspectors is \$85 for inspectors who did not pay the examination fee or \$35 for inspectors who paid the examination fee. All initial certificates of competency shall be effective for more than one calendar year and shall expire on December 31 of the year after the year in which the application is made. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of certificates of competency from one calendar year to two calendar years. By June 30, 2011, all renewed certificates of competency shall be valid for two calendar years. The fee for renewal of the state of Minnesota certificate of competency is \$35 for one year or \$70 for two years, and is due the day after the certificate expires.

Subd. 9. **Boiler and pressure vessel registration fee.** The annual registration fee for boilers and pressure vessels in use and required to be inspected per section 326B.958 shall be \$10 per boiler and pressure vessel.

Subd. 10. **Late fee.** The commissioner may assess a late fee of up to \$100 for each invoice issued under subdivision 1, 3, or 4 that is not paid in full by the due date stated on the invoice.

**History:** 1957 c 503 s 17; 1959 c 586 s 1; 1969 c 1148 s 30-32; 1974 c 427 s 1,2; 1978 c 485 s 1-4; 1982 c 379 s 19; 1983 c 301 s 157; 1Sp1985 c 13 s 296; 1987 c 70 s 5; 1989 c 335 art 4 s 106; 1996 c 305 art 3 s 27; 1Sp2005 c 1 art 4 s 49; 2007 c 140 art 9 s 15,27; art 13 s 4; 2008 c 309 s 4; 2009 c 78 art 5 s 28-30

### **326B.988 EXCEPTIONS.**

- (a) The provisions of sections 326B.952 to 326B.998, shall not apply to:
- (1) boilers in buildings occupied solely for residence purposes with accommodations for not more than five families;
  - (2) railroad locomotives operated by railroad companies for transportation purposes;
  - (3) air tanks installed on the right-of-way of railroads and used directly in the operation of trains;
  - (4) boilers and pressure vessels under the direct jurisdiction of the United States;
  - (5) unfired pressure vessels having an internal or external working pressure not exceeding 15 p.s.i.g. with no limit on size;
  - (6) pressure vessels used for storage of compressed air not exceeding five cubic feet in volume and equipped with an ASME code stamped safety valve set at a maximum of 100 p.s.i.g.;
  - (7) pressure vessels having an inside diameter not exceeding six inches;



(8) every vessel that contains water under pressure, including those containing air that serves only as a cushion, whose design pressure does not exceed 300 p.s.i.g. and whose design temperature does not exceed 210 degrees Fahrenheit;

(9) boiler or pressure vessels located on farms used solely for agricultural or horticultural purposes; for purposes of this section, boilers used for mint oil extraction are considered used for agricultural or horticultural purposes, provided that the owner or lessee complies with the inspection requirements contained in section 326B.958;

(10) tanks or cylinders used for storage or transfer of liquefied petroleum gases;

(11) unfired pressure vessels in petroleum refineries;

(12) an air tank or pressure vessel which is an integral part of a passenger motor bus, truck, or trailer;

(13) hot water heating and other hot liquid boilers not exceeding a heat input of 750,000 BTU per hour;

(14) hot water supply boilers (water heaters) not exceeding a heat input of 500,000 BTU per hour, a water temperature of 210 degrees Fahrenheit, a nominal water capacity of 120 gallons, or a pressure of 160 p.s.i.g.;

(15) a laundry and dry cleaning press not exceeding five cubic feet of steam volume;

(16) pressure vessels operated full of water or other liquid not materially more hazardous than water, if the vessel's contents' temperature does not exceed 140 degrees Fahrenheit or a pressure of 200 p.s.i.g.;

(17) steam powered turbines at papermaking facilities which are powered by steam generated by steam facilities at a remote location; and

(18) manually fired boilers for model locomotive, boat, tractor, stationary engine, or antique motor vehicles constructed or maintained only as a hobby for exhibition, educational or historical purposes and not for commercial use, if the boilers have an inside diameter of 12 inches or less, or a grate area of two square feet or less, and are equipped with an ASME stamped safety valve of adequate size, a water level indicator, and a pressure gauge.

(b) An engineer's license is not required for hot water supply boilers.

(c) An engineer's license is not required for boilers, steam cookers, steam kettles, steam sterilizers or other steam generators not exceeding 100,000 BTU per hour input, 25 kilowatt, 2-1/2 horsepower and a pressure of 15 p.s.i.g.

(d) Electric boilers not exceeding a maximum working pressure of 50 p.s.i.g., maximum of 30 kilowatt input or three horsepower rating shall be inspected as pressure vessels and shall not require an engineer license to operate.

**History:** (5492) *RL s 2186; 1919 c 240 s 7; 1955 c 817 s 1; 1957 c 503 s 1; 1Sp1981 c 4 art 1 s 92; 1982 c 379 s 20; 1987 c 70 s 6; 1987 c 382 s 1; 1991 c 331 s 2; 1992 c 436 s 1; 2007 c 140 art 9 s 16,27; art 13 s 4; 2009 c 2 s 1*

### **326B.99 REPORT OF INSURER; EXEMPTION FROM INSPECTION.**

Subdivision 1. **Report required.** Any insurance company insuring boilers and pressure vessels in this state shall file a report showing the most recent date of inspection, the name of the individual making the inspection, the condition of the boiler or pressure vessel as disclosed by the inspection, whether the boiler was operated by a properly licensed engineer, whether a policy of insurance has been issued by the company with reference to the boiler or pressure vessel, and other information as directed by the commissioner. Within 21 days after the inspection, the insurance company shall file the report with the commissioner. The insurer shall provide a copy of the report to the person owning or operating the inspected boiler or pressure vessel. Such report shall be made annually for boilers and biennially for pressure vessels.

Subd. 2. **Exemption.** Every boiler or pressure vessel as to which any insurance company authorized to do business in this state has issued a policy of insurance, after the inspection thereof, is exempt from inspection by the department made under sections 326B.952 to 326B.998, while the same continues to be insured and provided it continues to be inspected in accordance with the inspection schedule set forth in sections 326B.958 and 326B.96, and the person owning or operating the same has an unexpired certificate of registration.

Subd. 3. **Notice of insurance coverage.** The insurer shall notify the commissioner in writing of its policy to insure and inspect boilers and pressure vessels at a location within 30 days of receipt of notification from the insured that a boiler or pressure vessel is present at an insured location. The insurer must also provide a duplicate of the notification to the insured.

Subd. 4. **Notice of discontinued coverage.** The insurer shall notify the commissioner in writing, within 30 days of the effective date, of the discontinuation of insurance coverage of the boilers and pressure vessels at a location and the cause or reason for the discontinuation if the insurer has received notice from the insured that a boiler or pressure vessel is present at an insured location, as provided under subdivision 3. This notice shall show the effective date when the discontinued policy takes effect.

Subd. 5. **Penalties.** The commissioner shall assess upon the insurer a \$50 penalty, per applicable boiler and pressure vessel, for failing to submit an inspection report or notify the commissioner of insurance coverage or discontinuation of insurance coverage as set forth in this

section. The commissioner shall assess upon the insurer a penalty of \$100, per applicable boiler and pressure vessel, for failing to conduct the required in-service inspection within 120 days after the inspection was due in accordance with section 326B.958. The penalties in this subdivision may only be assessed for notice, reports, and inspections required during the period that the insurance coverage was in effect and for which the insurer has received notice from the insured that a boiler or pressure vessel is present at an insured location, as provided under subdivision 5.

**History:** (5493) 1919 c 240 s 8; 1957 c 503 s 18; 1959 c 148 s 1; 1969 c 1148 s 33; 1974 c 427 s 3; 1978 c 485 s 5; 1Sp1981 c 4 art 1 s 93; 1982 c 379 s 21,22; 1983 c 301 s 158; 1997 c 7 art 1 s 88; 1Sp2005 c 1 art 4 s 50; 2007 c 140 art 9 s 17-20,27; art 13 s 4; 2008 c 277 art 1 s 27

### **326B.992 VIOLATIONS BY INSPECTORS.**

Every inspector who willfully certifies falsely regarding any boiler or its attachments, or pressure vessel, or the hull and equipments of any steam vessel, or who grants a license to any individual to act as engineer or master contrary to any provision of sections 326B.952 to 326B.998, is guilty of a misdemeanor. In addition to this punishment the inspector shall be removed from office forthwith.

**History:** 1957 c 503 s 20; 1979 c 102 s 13; 1Sp1981 c 4 art 1 s 94; 1982 c 379 s 23; 2007 c 140 art 9 s 21,27; art 13 s 4; 2008 c 277 art 1 s 28

### **326B.994 VIOLATIONS IN CONSTRUCTION; REPAIR; SALE.**

Subdivision 1. **Construction violation.** No person shall construct a boiler, boiler piping, or pressure vessel so as not to meet the minimum construction requirements of the ASME boiler and pressure vessel code, and the rules of the department.

Subd. 2. **Repair violation.** A person who repairs a boiler or pressure vessel by welding or riveting must meet the minimum requirements established by the current edition of the National Board of Boiler and Pressure Vessel Inspectors inspection code and the rules of the department.

Subd. 3. **Sale violation.** No manufacturer, jobber, dealer, or other person shall sell or offer for sale a boiler or pressure vessel that does not meet the minimum construction requirements of the ASME boiler and pressure vessel code and the rules of the department.

**History:** 1957 c 503 s 21; 1982 c 379 s 24; 2007 c 140 art 9 s 22,27; art 13 s 4; 2008 c 337 s 3

### **326B.996 VIOLATIONS BY THOSE RESPONSIBLE FOR OPERATION.**

Subdivision 1. **Inspection violation.** No person shall cause to be operated or shall operate any boiler or boat without having the same inspected at least once each year, or pressure vessel, steam farm traction engine, portable or stationary show engine, or portable or stationary show boiler without having it inspected biennially, or without having the proper engineer or master

license.

Subd. 2. **Failure to repair.** After any boiler or pressure vessel has been examined and found to be unsafe and after the owner or operator of the boiler or pressure vessel has been notified of any defect in it, no person shall operate the boiler or pressure vessel or cause it to be operated unless and until the defect has been corrected.

**History:** *1957 c 503 s 22; 1961 c 560 s 17; Ex1967 c 1 s 6; 1982 c 379 s 25; 1985 c 248 s 70; 2007 c 140 art 9 s 23,24,27; art 13 s 4*

### **326B.998 PENALTY FOR UNLAWFUL OPERATION.**

(a) Every person who shall apply, or cause to be applied, to a boiler or pressure vessel a higher pressure than is allowed by law, or by the inspector, officer, or person authorized to limit the same; and every owner and lessee of a boiler or pressure vessel having knowledge of such application, or of circumstances which would cause such an application, shall be guilty of a gross misdemeanor.

(b) Every captain or other person having charge of the machinery of a boat used for the conveyance of passengers in the waters of this state and every engineer or other person having charge of a boiler, steam engine, or other apparatus for generating or employing steam, who shall willfully, or from ignorance or gross neglect, create, or allow to be created any condition whereby human life is endangered, and every owner and lessee of a boat, boiler, steam engine, or other apparatus for generating or supplying steam who has knowledge of such a condition, or of circumstances which would cause such a condition, shall be guilty of a gross misdemeanor.

**History:** *(10265) RL s 5003; 1982 c 379 s 26; 2007 c 140 art 9 s 27; art 13 s 4*