

# State



STATE OF  
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# Register

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\*New rules, both proposed and adopted, and which have never been disseminated or published, are not included in the List of MSAR Rules Affected. Rules which are listed as "uncodified" have been disseminated, but have never been published in the MSAR.

# RULES

## Minnesota Department of Public Safety State Fire Marshal Division Flame Resistance Standards for Tents and Sleeping Bags

Chapter Five: Flame Resistance Standards for Tents and Sleeping Bags.

FireMar 60 Purpose and scope.

A. The purpose of these rules is to adopt minimum flame resistance standards and to establish certification and labeling requirements for camping tents, sleeping bags, and public assembly tents.

B. It is the intent of these rules to provide tests to determine whether all component fabric or fabrics are comparatively difficult to ignite and whether it is comparatively difficult to propagate flame beyond the area exposed to the source of ignition.

C. These rules are enacted pursuant to Laws of 1975, ch. 341 (Minn. Stat. §§ 325.331-325.335 (1975)).

FireMar 61 Camping tents. The standard for flame resistance of camping tents shall be the Camping Products Association International Standard C.P.A.I. 84, 1975 edition, and is hereby incorporated by reference and made part of Minnesota rules.

FireMar 62 Sleeping bags. The standard for flame resistance of sleeping bags shall be the Camping Products Association International Standard C.P.A.I. 75, 1976 edition, and is hereby incorporated by reference and made part of Minnesota rules.

FireMar 63 Public assembly tents. The standard for flame resistance of public assembly tents shall be the small scale test requirements of National Fire Protection Association Standard N.F.P.A. No. 701, Flame Resistant Textiles, Films, 1975, adopted by N.F.P.A. at its annual meeting on May 15, 1975. The following sections of N.F.P.A. No. 701 apply to small scale test requirements and are hereby incorporated by reference and made part of Minnesota rules:

Test apparatus and materials.

2-1 Pre-conditioning oven.

2-2 Small scale test apparatus.

2-4 Test specimens.

Flame test procedures.

3-1 Small scale test.

Cleaning and weathering procedures.

4-1 General considerations.

4-2 Application.

4-3 Accelerated dry cleaning.

4-4 Accelerated laundering.

4-5 Scrubbing.

4-6 Accelerated water leaching.

4-7 Accelerated weathering.

Flame resistance requirements.

5-1 Small scale test.

FireMar 64-66 Reserved for future use.

## Appendix A

### CPAI 75 A Rate-of-Burn Standard for Sleeping Bags, 1975

1. Scope.

1.1 Scope. This standard provides a test method and performance requirements for measuring the flammability, i.e. burn rate, of multi-component sleeping bags, and provides labeling requirements to facilitate the identification of products conforming to this specification.

1.2 Application. This standard is applicable to all sleeping bags.

2. Performance requirements.

2.1 Performance requirements. When subjected to the test described in Section 8 the average burn rate for a sample unit shall not exceed 6.0 inches per minute. No individual specimen shall have a burn rate of more than 8.0 inches per minute.

3. Labeling.



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3.1 Labeling. Bags shall be labeled as conforming to CPA 75 Rate-of-Burn Standard for Sleeping Bags.

## 4. Specimens and sampling.

4.1 Specimen. The specimen shall be taken from the bag as shown in Figure I and shall have a finished size of 12" × 14". In the event that it is impossible to cut an actual sample from a bag due to its construction, a 12" × 28" facsimile may be constructed and folded. All components shall be used in their correct positions and amounts.

4.2 Sample unit. A sample unit shall consist of ten specimens, five to be subjected to three cycles of washing following the procedures recommended by the manufacturer. (Samples should be dried between washings and thoroughly dry before testing).

## 5. Conditions for testing.

5.1 Ambient conditions. Tests shall be conducted under ambient conditions. In the case of a dispute, tests shall be conducted under conditions of 55 percent maximum relative humidity and a temperature of  $70^{\circ} \pm 2^{\circ}$  F, and specimens shall be in moisture equilibrium under the above conditions.

5.2 Draft. Tests shall be conducted in a draft-free environment.

## 6. Apparatus.

6.1 Test cabinet. A test cabinet similar to that shown in Figure IV shall be used.

6.2 Support frame. A support frame conforming to Figure II shall be used. It shall be constructed of  $\frac{1}{8}$ " steel.

6.3 Hold-down plate. A hold-down plate conforming to Figure III shall be used. It shall be constructed of  $\frac{1}{8}$ " steel.

6.4 Spacers and clamps. A spacer and clamping arrangement shall be used which is capable of positioning the hold-down plate with its bottom surface one inch above the top surface of the support frame, so that it holds the test specimen at a one-inch thickness on the two sides and the back.

6.5 Thread. #50 white mercerized cotton thread.

6.6 Tape. Tape for fastening the thread to the frame. (Alternate methods of accomplishing this, such as small clips, may also be used.)

6.7 Weights. Weights for attachment to the timing threads. (See Note 9.1)

6.8 Burner. A Bunsen burner with a tube of  $\frac{3}{8}$ " inside diameter shall be used. The gas adjusting valve is set to provide a flame, with the tube vertical,  $1\frac{1}{2}$ " in height. The air inlet to the burner is closed.

6.9 Gas. The gas used shall be Matheson Manufactured Gas Type B or the equivalent.

6.10 Stop watch. A stop watch or other timing device shall be used capable of measuring the burning time to 0.2 second.

## 7. Sample preparation.

7.1 Compression. Samples shall be compressed to  $\frac{1}{2}$  their original loft for 24 hours prior to testing. (See Note 9.2)

7.2 Re-lofting. Following the 24 hour compression period, specimens shall be allowed a minimum of one hour to regain their loft before tests are conducted.

## 8. Procedure.

8.1 Mount the specimen horizontally on the support frame with the sewn sides and end held at a one-inch thickness by the U-shaped hold-down frame, spacers and clamps.

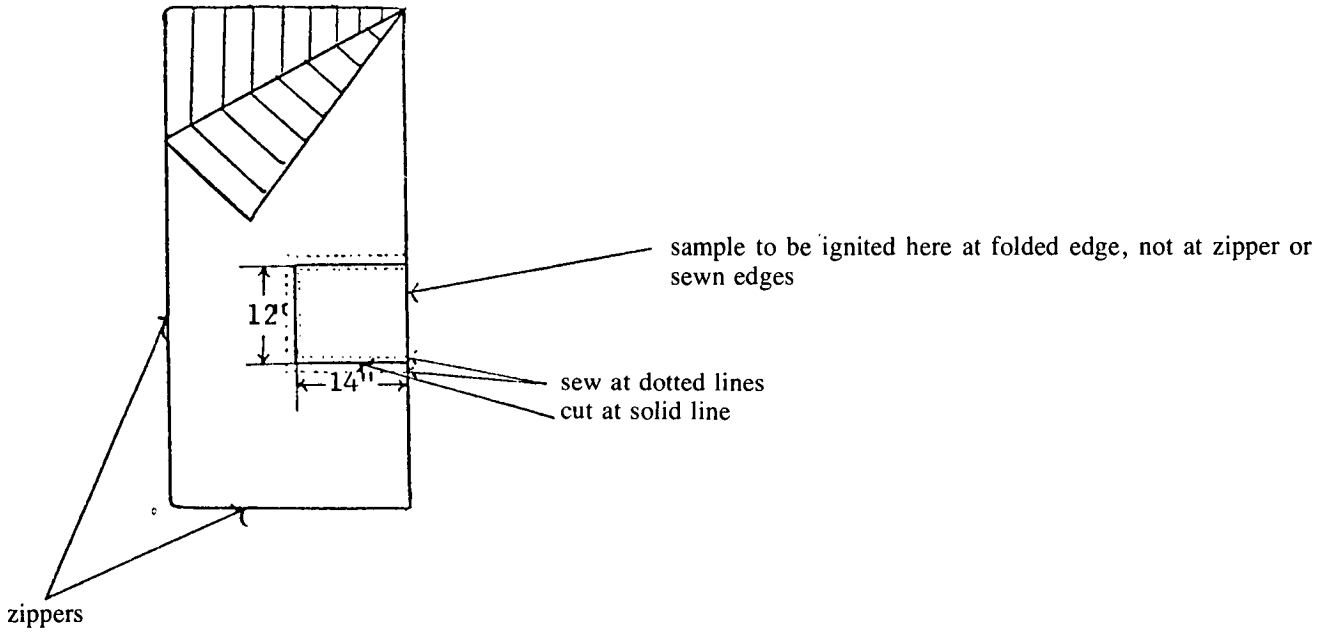
8.2 Attach two #50 White Mercerized Cotton Threads to one edge of the frame at points  $1\frac{1}{2}$ " and  $11\frac{1}{2}$ " inches back from the open end, i.e. with 10" in between, and stretch across the sample, attaching small weights to the overhanging ends of the threads. Timing will begin and end as the respective threads burn through and their weights drop.

8.3 With the flame adjusted as in Section 6.8 and the frame with mounted specimen in the test cabinet, position the burner so that the center of the burner tip is  $\frac{3}{4}$ " below the center of the edge of the exposed end of the specimen.

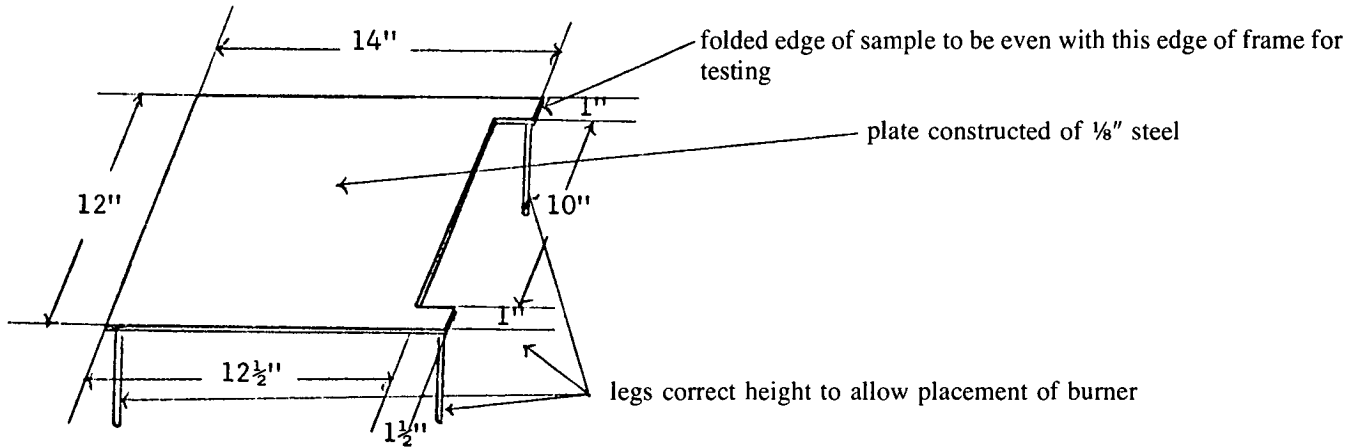
8.4 Lower the door of the test cabinet.

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**Figure I Test Specimen.**



**Figure H Support Frame.**



**Figure III Hold-Down Plate.**

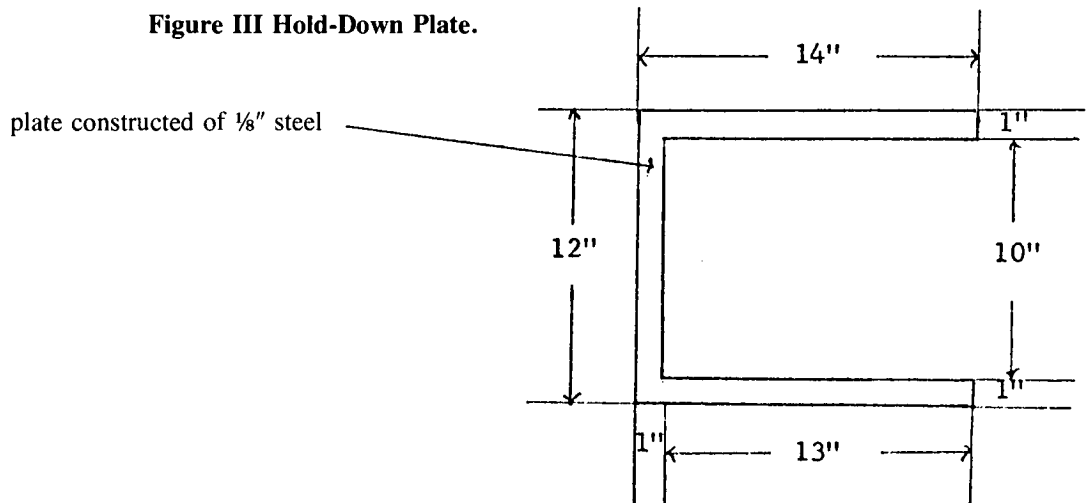
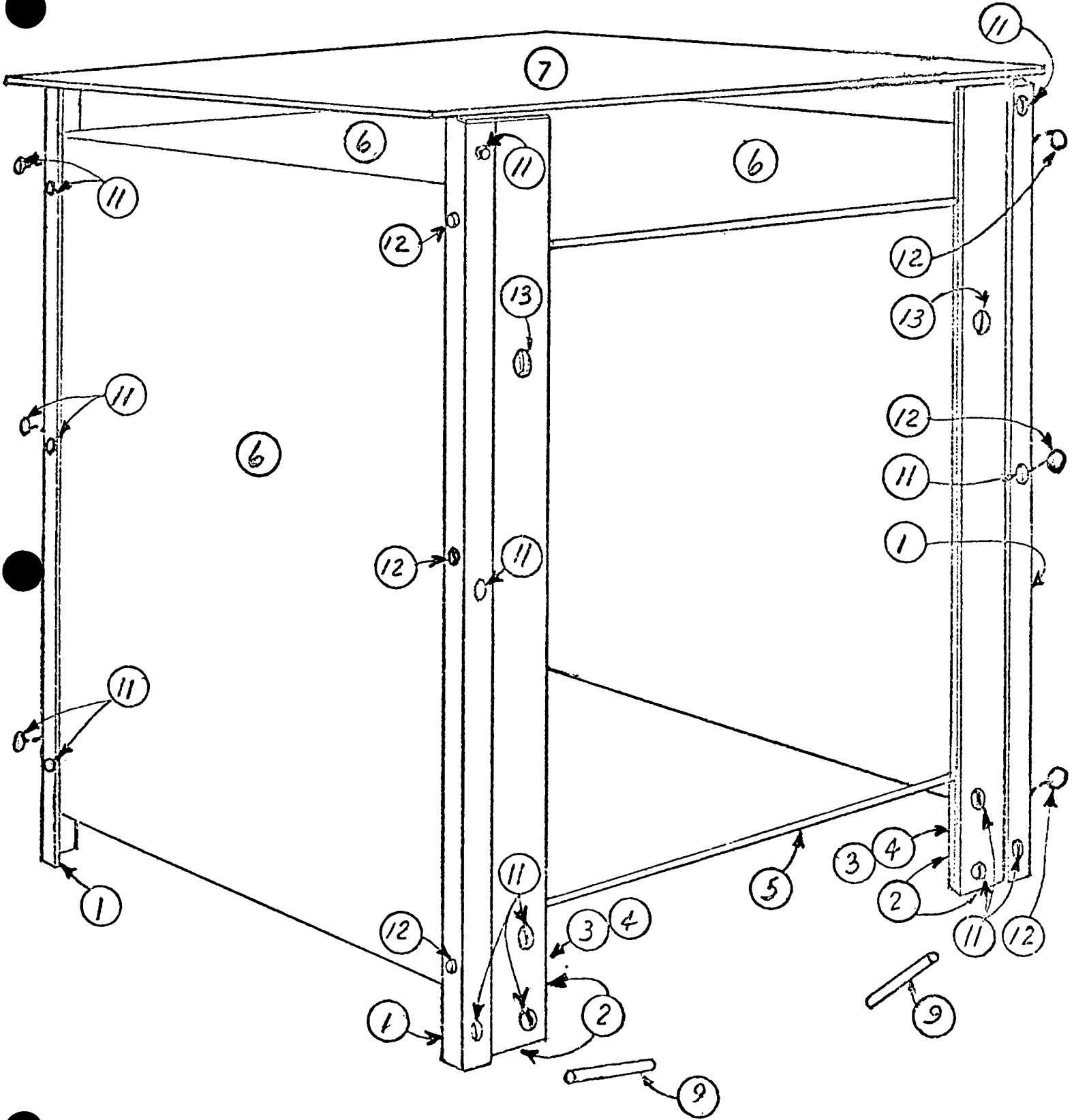


Figure IV Test Cabinet.



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8.5 Expose the sample to the flame for 30 seconds to force ignition. (See Note 9.3)

8.6 Begin timing when the first weight drops and continue until the second weight drops or until the flaming stops.

8.7 Calculate the burn rate using the following formula:

$$B = 60 \times \frac{D}{T}$$

Where:

B = Burn rate in inches per minute

D = Distance the flame travels in inches, and

T = Time in seconds for the flame to travel D inches.

### 9. Notes.

9.1 Small clamp-type paper clips work well as weights.

9.2 An easy method of accomplishing this is to stack a number of specimens in a box and compress them all to half their original height under a board or plate held down by pins through the side of the box, etc.

9.3 The most reproducible results are produced when the fan in the hood is turned off, or down if a variable speed fan is used, during the 30-second ignition period. During this time it is desirable that the burner flame not flicker. Following the ignition period the fan should be turned back up to exhaust fumes, yet not cause a draft in the test cabinet.

## CPAI-75 Test Cabinet Materials List

All items  $\frac{1}{8}$ " stainless except as noted.

Item	No. Required	Description
1.	4	Corner Angle, 1×28"
2.	4	Window Frame, 3×28"
3.	4	Frame Spacer, 1¼×4"
4.	4	Window Seat, 1¼×4"
5.	1	Window, Heat Resistant Glass, 3/16×20×20"
6.	3	Panel, 24×24"
7.	1	Top Plate, 24½×26"
8.	2	Chain, 24"
9.	2	Window Stop Rods, ¼ dia. × 4"
10.	4	S-Hooks
11.	22	Bolt w/nut, ¼-20×¾"
12.	6	Bolt w/nut, 10-24×½"
13.	2	Hole, ¼ dia.

Notes: The window glass slides up and down; its edges are taped to avoid cuts; rubber tubing on top of seat acts as cushion.

## Appendix B

### CPAI 84 A Specification for Flame Resistant Materials Used in Camping Tentage, 1975

#### 1. Scope.

1.1 Scope. This standard provides performance requirements and test methods for evaluating the flame resistance of fabric and other pliable materials used in camping tentage. It also provides for certification of materials by suppliers and for labeling programs to caution the user against actions detrimental to flame retardant finishes, as well as to facilitate the identification of tentage as being constructed of flame resistant materials and to identify the manufacturer.

#### 2. Definitions.

2.1 Camping tentage: Any portable temporary shelter or structure designed to protect persons from the elements, all or a portion of the covering of which is made of fabric or other pliable materials. This includes, though not exclusively, the following: camping tents; play tents; recreational vehicle awnings; dining flies and canopies; fabric screen houses; add-a-room; ice fishing tents.

2.2 Material classifications. All materials covered in this standard fall under one of the following definitions:

2.2.1 Flooring material: Any pliable material used for flooring in camping tentage but excluding such things as rugs or carpets placed in the tent which are not an integral part of the item.

2.2.2 Wall and top material: Any pliable material used in camping tentage for other than flooring including walls, roofs, tops, doors, windows, screens, awnings, flies, and canopies.

2.3 Sample unit. A sample unit shall consist of the following:

2.3.1 Flooring material: Four individual specimens, no two specimens containing the same warp or fill yarns or filaments.

2.3.2 Wall and top material: Eight individual specimens, four taken from the warp and four from the fill direction of the test material. No two warp specimens shall contain the same warp yarns or filaments and no two fill specimens shall contain the same fill yarns or filaments.

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## 3. Performance requirements.

**3.1 Flooring material.** When subjected to the test described in Section 6, no specimen from a sample unit of flooring material shall be damaged within 1.0 inch of the edge of the hole in the flattening frame.

**3.2 Wall and top material.** When subjected to the test described in Section 7, no specimen from a sample unit of wall and top material shall have an afterflame time (length of time a specimen continues to flame after removal of the test flame source) of more than 4.0 seconds; the average afterflame time for all specimens in a sample unit shall not exceed 2.0 seconds. The damaged length (distance from the bottom of the specimen to a point above which all material is sound) for the sample unit and individual specimens shall not exceed the values shown in Section 3.2.1. Portions or residues which break or drip from the test specimens shall not continue to flame after they reach the floor of the test cabinet.

**3.2.1 Damaged length.** The maximum permissible damaged lengths for wall and top material shall be as follows:

Untreated Weight of Materials Being Tested Ounces Per Square Yard	Maximum Average Damaged Length for Sample Unit Inches	Maximum Damaged Length for an Individual Specimen Inches
Over 10	4.5	10.0
Over 8 but not over 10	5.5	10.0
Over 6 but not over 8	6.5	10.0
Over 4 but not over 6	7.5	10.0
Over 1.5 but not over 4	8.5	10.0
Not over 1.5	9.0	10.0

## 4. Certification and labeling.

**4.1 Material certification.** Each lot of flame resistant material supplied to a manufacturer of camping tentage shall be accompanied by a written certification from the supplier stating that it meets the flame retardance requirements of CPAI 84 and giving the lot number and yardage therein.

**4.2 Labeling of camping tentage.** A label or labels shall be permanently affixed to each item of camping tentage containing the following information:

**4.2.1 Certification:** A statement that the materials used in the manufacture of the item meet the flame resistance requirements of CPAI 84.

**4.2.2 Manufacturer identification:** An identification of the manufacturer of the item, unless the item bears a

private label, in which case, it shall identify the private labeler and shall also contain a code mark which will permit the seller of the item to identify the manufacturer thereof to the purchaser upon his request.

**4.2.3 Code number:** A number enabling the manufacturer to identify from his records the suppliers and suppliers' lot numbers of the certified materials used in the item. The manufacturer shall also maintain records identifying the parties to whom he sold camping tentage. Further, he shall maintain records identifying items manufactured from lots of certified material. Records shall be maintained for 4 years.

### 4.2.4 Warning label:

24 pt. type

16 pt. type

12 pt. type

**WARNING**

**KEEP ALL FLAME AND HEAT SOURCES AWAY FROM THIS TENT FABRIC**

This tent is made with flame resistant fabric which meets CPAI-84 specifications. *It is not fire proof.* The fabric will burn if left in continuous contact with any flame source.

The application of any foreign substance to the tent fabric may render the flame resistant properties ineffective.

This warning label or its equivalent must be permanently affixed to the tent at one conspicuous location, and must contain block letters on a white background. The first paragraph of the body of the label must be placed in a conspicuous location on each carton containing the tent.

## 5. Conditioning.

**5.1 Standard conditions for testing.** Flame tests shall be performed under or upon immediate removal from Standard Atmospheric Conditions and on specimens in moisture equilibrium under Standard Atmospheric Conditions.

**5.1.1 Standard atmospheric conditions.** Standard Atmospheric Conditions for testing are 65 percent  $\pm$  2 percent relative humidity at a temperature of 70°F.  $\pm$  2°F. (21.1°C  $\pm$  1.1°C.)

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**5.1.2 Moisture equilibrium.** Moisture equilibrium is considered to have been reached when, after free exposure of the material to air in motion controlled at Standard Atmospheric Conditions as defined above, the change in weight of successive weighings made at intervals of 1 hour is no greater than 0.25 percent.

**5.1.3 Preconditioning.** In the event of dispute concerning the results of tests that may be affected by the moisture content, the material shall be preconditioned by being brought to moisture equilibrium with an atmosphere having a relative humidity of not over 10 percent and a temperature not over 125°F. (52°C.). The material shall then be brought to moisture equilibrium under Standard Atmospheric Conditions as defined above and then tested.

**5.2 Leaching.** Tests in Sections 6 and 7 shall be performed both before and after leaching.

**5.2.1 Test Specimen.** Test specimens to be leached shall be of the following dimensions:

**5.2.1.1 Flooring Material.** Each test specimen shall be a 9 inch by 9 inch ( $\pm 1/16$  inch) section of the flooring material to be tested.

**5.2.1.2 Wall and Top Material.** Test specimens shall be rectangles of cloth  $2\frac{3}{4}$  inches by 12 inches ( $\pm 1/16$  inch) with the long dimensions parallel to either the warp or filling directions of the material.

**5.2.2 Apparatus.**

**5.2.2.1 Water container or tank** of such shape and size that the specimen can be submerged therein with all surfaces of the specimen having full access to the water. For cloth specimens the container shall allow not less than  $\frac{1}{2}$  gallon of water for each square foot of specimen. The water shall be changed by a continuous flow or by emptying and refilling so that there shall be at least six complete changes of water in a 72-hour period.

**5.2.2.2 Means of maintaining water** at a temperature of 60°F. to 70°F. (15.5°C. to 21.1°C.) and a pH of 6.0 to 8.0 during the test.

**5.2.2.3 Means for holding the specimen submerged** throughout the leaching period.

**5.2.3 Procedure.** The specimens shall be immersed in water at a temperature of 60°F. to 70°F. (15.5°C. to 21.1°C.) and a pH of 6.0 to 8.0 for 72 hours. The specimen shall then be removed, air-dried, and brought to standard Atmospheric Conditions prior to further testing.

**5.3 Accelerated weathering.** Tests in Sections 6 and 7 shall be performed both before and after accelerated weathering.

**5.3.1 Test specimen.** Test specimens to be weathered shall be of the following dimensions:

**5.3.1.1 Flooring material.** Each test specimen shall be a 9 inch by 9 inch ( $\pm 1/16$  inch) section of the flooring material to be tested.

**5.3.1.2 Wall and top material.** Test specimens shall be rectangles of cloth  $2\frac{3}{4}$  inches by 12 inches ( $\pm 1/16$  inch) with the long dimensions parallel to either the warp or filling directions of the material.

**5.3.2 Apparatus.**

**5.3.2.1 Vertical carbon arc mounted** at the center of a vertical cylinder. The arc shall be designed to accommodate either two or three pairs of carbons but shall burn only one pair at a time, automatically transferring from one pair to another as the carbons are consumed. The carbons shall be Sunshine-cored and copper-coated, No. 22 for the upper pair and No. 13 for the lower pair. The arc shall be operated on 60 amperes and 50 volts across the arc for alternating current and on 50 amperes and 60 volts across the arc for direct current.

**5.3.2.2 A rotating rack with holder** in which the specimens are suspended vertically and normally to radiation from the arc with the center of the face of the specimen at a radial distance of approximately 18 inches from the arc.

**5.3.2.3 Water-spray nozzles** shall be mounted horizontally (the water-spray assembly vertically) in the test chamber inside the specimen rack and so placed that the water shall strike the specimens evenly over their entire length in the form of a fine spray in sufficient volume to cover specimens immediately on impact. The apparatus shall be so operated that the specimens are exposed to successive cycles of 102 minutes of light without spray and 18 minutes of light with spray.

**5.3.2.4 Means for maintaining the required temperature of water** in the spray.

**5.3.2.5 Means for maintaining the required pressure of water** entering the spray.

**5.3.2.6 Means for delivering the required quantity of water per spray nozzle** to the specimen.

**5.3.2.7 Exhaust fan** to ventilate the arc effectively.

**5.3.2.8 Black panel thermometer unit** for measur-

## RULES

ing the temperature within the machine. This unit shall consist of a metal panel to the base of which is attached the sensitive portion of a bimetallic dial-type thermometer. The entire base is then coated twice with long lasting baked enamel paint.

### 5.3.3 Procedure.

5.3.3.1 The rack shall rotate about the arc at a uniform speed of one revolution per minute.

5.3.3.2 The temperature of water in the spray shall be  $80^{\circ} \pm 10^{\circ}\text{F}$ . ( $26.7^{\circ} \pm 5.6^{\circ}\text{C}$ .)

5.3.3.3 The pressure of the water entering the spray shall be 1-18 psi inclusive.

5.3.3.4 The quantity of water delivered to the specimen shall be .12 to .25 gallons, inclusive, per hour per spray nozzle.

5.3.3.5 The black panel temperature at the exposure plane of the specimen rack shall be  $155^{\circ} \pm 10^{\circ}\text{F}$ . ( $68^{\circ} \pm 5.7^{\circ}\text{C}$ .) when measured in the following manner:

Before reading the temperature the machine shall be full of specimens and shall be in operation long enough for thermal equilibrium to be established. The black panel shall be mounted in the test-panel rack and readings taken at the point where water spray is not striking the panel.

5.3.3.6 The specimen shall be suspended on the rotating rack without tension and in such a way that the ends or corners cannot curl. The long dimension of the specimen shall be in the vertical position and shall be indicated on the reverse side of the cloth. No test portion of the specimen shall be over 7 inches about or below the horizontal plane of the arc.

5.3.3.7 The specimen shall be exposed to normal radiation from the arc for 100 hours.

5.3.3.8 At the end of the exposure period, the specimen shall be removed from the machine, allowed to dry, and brought to Standard Atmospheric Conditions prior to further testing.

## 6. Test method, flooring material.

6.1 Test specimen. Each test specimen shall be a 9 inch by 9 inch ( $\pm 1/16$  inch) section of the flooring material to be tested.

## 6.2 Apparatus.

6.2.1 Test chamber. The test chamber shall consist of an open top hollow cube made of noncombustible material with inside dimensions  $12 \times 12 \times 12$  inches and a minimum of  $1/4$  inch wall thickness. The flat bottom of the box shall be made of the same material as the sides and shall be easily removable. The sides shall be fastened together with screws or brackets and taped to prevent air leakage into the box during use.

6.2.2 Supporting frame. A steel plate, 9 inches by 9 inches,  $1/4$  inch thick with an 8 inch diameter hole in its center and a 1 inch by 1 inch by  $1/16$  inch thick shim affixed to the underside of each corner is required to support the material above the floor of the chamber during the course of the test.

6.2.3 Flattening frame. A steel plate 9 inches by 9 inches,  $1/4$  inch thick with an 8 inch diameter hole in its center is required to hold the flooring material flat during the course of the test.

6.2.4 Punch: A punch capable of making a  $1/4$  inch diameter hole in the center of the specimen of flooring material to be tested.

6.2.5 Standard igniting source: No. 1588 methenamine timed burning tablet or an equal tablet. These tablets shall be stored in a desiccator over a desiccant for 24 hours prior to use. (Small quantities of sorbed water may cause the tablets to fracture when first ignited. If a major fracture occurs, any results from that test shall be ignored, and it shall be repeated.)

6.2.6 Hood: A hood capable of being closed and having its draft turned off during each test and capable of rapidly removing the products of combustion following each test. The front or sides of the hood should be transparent to permit observation of the tests in progress.

6.2.7 Mirror: A small mirror mounted above the test chamber at an angle to permit observation of the specimen from outside of the hood.

## 6.3 Procedure.

6.3.1 Place the test chamber in the draft-protected environment (hood with draft off) with its bottom in place and the supporting frame centered in the bottom of the chamber, shimmed side down.

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6.3.2 Punch a  $\frac{1}{4}$  inch diameter hole in the center of the specimen of flooring material to be tested.

6.3.3 Place the specimen on the supporting frame in the position in which it will be used, exercising care that the specimen is horizontal and flat. Place the flattening frame on the specimen and position a methenamine tablet on one of its flat sides with its edge within  $\frac{1}{8}$  inch of the edge of the hole in the center of the specimen.

6.3.4 Ignite the tablet by touching a lighted match or an equivalent igniting source carefully to its top.

6.3.5 Continue each test until the last vestige of flame or glow disappears (this is frequently accompanied by a final puff of smoke) or the flaming or smoldering has approached within 1.0 inch of the edge of the hole in the flattening frame at any point. (Any test in which the tablet is extinguished by physical action of the specimen of flooring material shall be disregarded and the test repeated.)

6.3.6 When all combustion has ceased, ventilate the hood and measure the shortest distance between the edge of the hole in the flattening frame and the damaged area. Record the distance measured for each specimen.

6.3.7 Remove the specimen from the chamber and remove any burn residue from the floor of the chamber. Before proceeding to the next test, the floor must be cooled to normal room temperature or replaced with one that is at normal room temperature.

6.4 Report. The number of specimens of the four tested in which the damaged area does not extend to within 1.0 inch of the edge of the hole in the flattening frame shall be reported.

### 6.5 Notes.

6.5.1 The No. 1588 methenamine tablet may be procured from a local pharmacy or from Eli Lilly & Co., 740 S. Alabama, Indianapolis, Indiana 46206.

### 7. Test method, wall and top material.

7.1 Test specimen. The test specimens shall be rectangles of cloth  $2\frac{3}{4}$  inches by 12 inches ( $\pm 1/16$  inch) with the long dimensions parallel to either the warp or filling directions of the material.

### 7.2 Apparatus.

7.2.1 Cabinet: A cabinet and accessories, fabricated in accordance with the requirements specified in Figures A, B, and C. Galvanized sheet metal or other suitable metal shall be used. The entire inside back wall

of the cabinet shall be painted black to facilitate the viewing of the test specimen and pilot flame.

7.2.2 Burner. The burner shall be equipped with a variable orifice to adjust the flame height, a barrel having a  $\frac{3}{8}$  inch inside diameter, and a pilot light.

7.2.2.1 The burner may be constructed by combining a  $\frac{3}{8}$  inch inside diameter barrel  $3 \pm \frac{1}{4}$  inches long from a fixed orifice burner with a base from a variable orifice burner.

7.2.2.2 The pilot light tube shall have a diameter of approximately  $1/16$  inch and shall be spaced  $\frac{1}{8}$  inch away from the burner edge with a pilot flame  $\frac{1}{8}$  inch long.

7.2.2.3 The necessary gas connections and the applicable plumbing shall be as specified in Figure D except that a solenoid valve may be used in lieu of the stopcock valve to which the burner is attached. The stopcock valve or solenoid valve, whichever is used, shall be capable of being fully opened or fully closed in 0.1 second.

7.2.2.4 On the side of the barrel of the burner, opposite the pilot light there shall be a metal rod of approximately  $\frac{1}{8}$  inch diameter spaced  $\frac{1}{2}$  inch from the barrel and extending above the burner. The rod shall have two  $5/16$  inch prongs marking the distances of  $\frac{3}{4}$  inch and  $1\frac{1}{2}$  inches above the top of the burner.

7.2.2.5 The burner shall be fixed in a position so that the center of the barrel of the burner is directly below the center of the specimen.

7.2.3 A control valve system with a delivery rate designed to furnish gas to the burner under a pressure of  $2\frac{1}{2} \pm \frac{1}{4}$  lbs. per square inch at the burner inlet (see 7.5.1). The manufacturer's recommended delivery rate for the valve system shall include the required pressure.

7.2.4 The gas used shall be Matheson Manufactured Gas Type B or the equivalent.

7.2.5 Metal hooks and weights to produce a series of total loads to determine damaged length. The metal hooks shall consist of No. 19 gauge steel wire or equivalent and shall be made from 3 inch lengths of the wire and bent  $\frac{1}{2}$  inch from one end to a 45 degree hook. One end of the hook shall be fastened around the neck of the weight to be used.

7.2.6 Stop watch or other device to measure the burning time to 0.2 second.



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7.2.7 Scale, graduated in 0.1 inch to measure the damaged length.

## 7.3 Procedure.

7.3.1 The specimen in its holder shall be suspended vertically in the cabinet in such a manner that the entire length of the specimen is exposed and the lower end is  $\frac{3}{4}$  inch above the top of the gas burner. The apparatus shall be set up in a draft free area.

7.3.2 Prior to inserting the specimen, the pilot flame shall be adjusted to approximately  $\frac{1}{8}$  inch in height measured from its lowest point to the tip. The burner flame shall be adjusted by means of the needle valve in the base of the burner to give a flame height of  $1\frac{1}{2}$  inches ( $\pm 1/16$  inch) with the stopcock fully open and the air supply to the burner shut off and taped. The  $1\frac{1}{2}$  inch flame height is obtained by adjusting the valve so that the uppermost portion (tip) of the flame is level with the tip of the metal prong (see Figure B) specified for adjustment of flame height. It is an important aspect of the evaluation that the flame height be adjusted with the tip of the flame level with the tip of the metal prong. After inserting the specimen, the stopcock shall be fully opened, and the burner flame applied vertically at the middle of the lower edge of the specimen for 12 seconds ( $\pm .2$  second) and the burner turned off. The cabinet door shall remain shut during testing.

7.3.3 The after-flame time for each specimen shall be recorded to the nearest 0.2 seconds. After flaming and glowing have ceased, the specimen shall be removed from the cabinet.

7.3.4 After each specimen is removed, the test cabinet shall be cleared of fumes and smoke prior to testing the next specimen.

7.3.5 After both flaming and glowing have ceased, the damaged length shall be measured. The damaged length shall be the distance from the end of the specimen, which was exposed to the flame, to the end of a tear (made lengthwise) of the specimen through the center of the damaged area as follows: The specimen shall be folded lengthwise and creased by hand along a line through the highest peak of the damaged area. The hook shall be inserted in the specimen (or a hole,  $\frac{1}{4}$  inch diameter or less, punched out for the hook) at one side of the damaged area  $\frac{1}{4}$  inch from the adjacent outside edge and  $\frac{1}{4}$  inch in from the lower end. A weight of sufficient size such that the weight and hook together shall equal the

total tearing load required in 7.3.6.1 shall be attached to the specimen.

7.3.6 A tearing force shall be applied gently to the specimen by grasping the corner of the cloth at the opposite edge of the char from the load and raising the specimen and weight clear of the supporting surface. The end of the tear shall be marked off on the edge and the damaged length measurement made along the undamaged edge.

7.3.6.1 Loads for determining damaged length. The specific load applicable to the weight of the test material shall be as follows:

Untreated weight of material being tested — ounces per square yard	Total tear weight for determining the damaged length — pounds
Not exceeding 6.0	0.25
Over 6.0 and not exceeding 15.0	0.50
Over 15.0 and not exceeding 23.0	0.75
Over 23.0	1.00

7.3.7 The damaged length for each specimen shall be recorded to the nearest 0.1 inch.

## 7.4 Report.

7.4.1 The after-flame time and damaged length of the sample unit shall be the average of the results obtained from the individual specimens tested. All values obtained from the individual specimens shall be recorded.

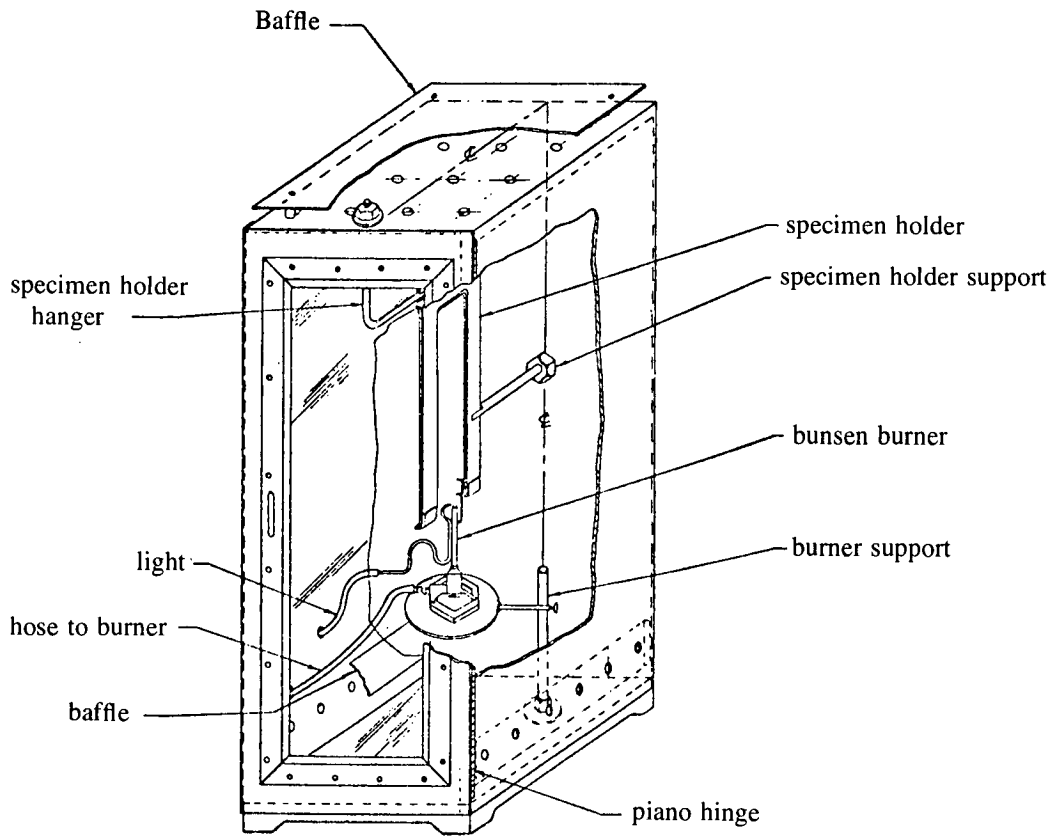
7.4.2 The after-flame time shall be reported to the nearest 0.2 second and the damaged length to the nearest 0.1 inch.

## 7.5 Notes.

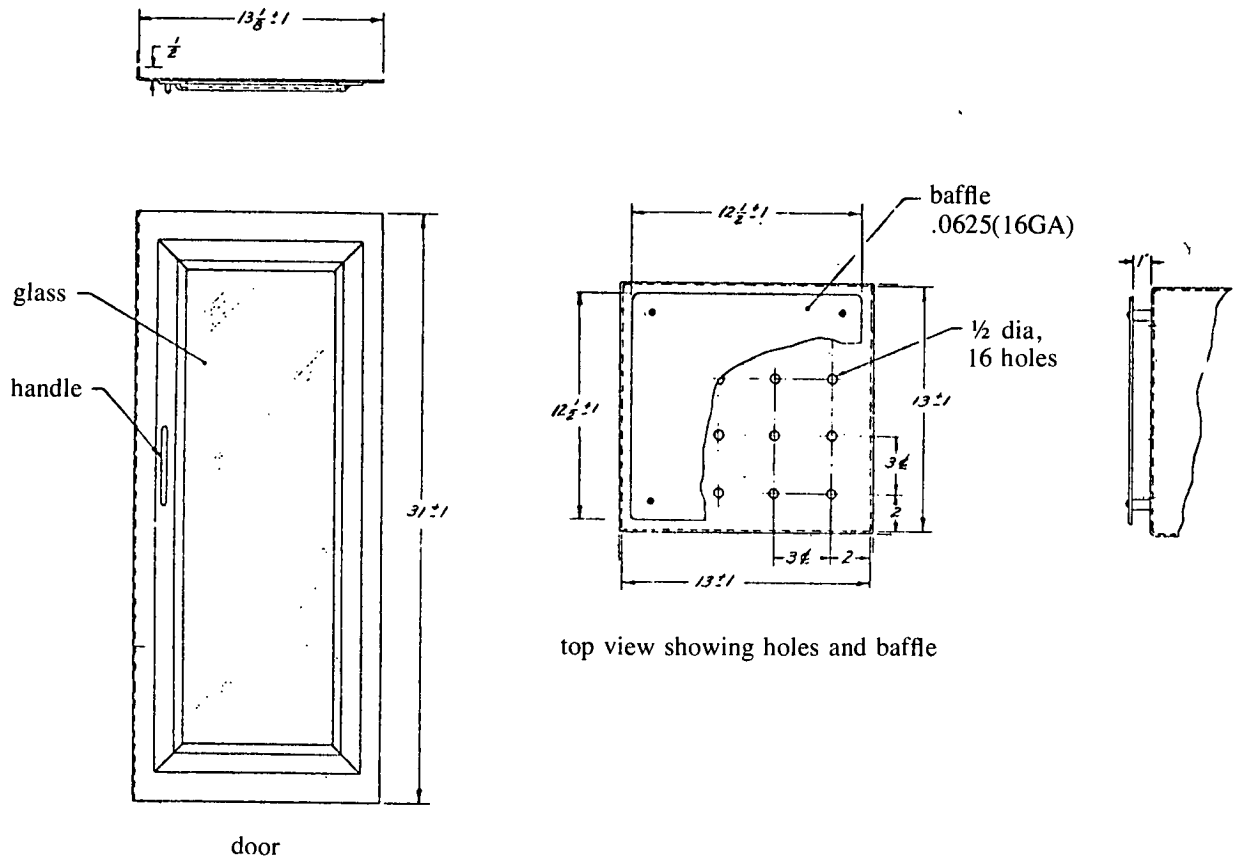
7.5.1 The gas and the regulator valve system, Models IL-350 and 70 with hose and fittings connected in series may be obtained from Matheson Gas Products, P. O. Box 85, East Rutherford, New Jersey 07073.

7.5.2 The test cabinet of the type described in this test method may be obtained from U. S. Testing Company, 1941 Park Avenue, Hoboken, New Jersey 07030 or from the Govmark Organization, Inc. P. O. Box 807, Bellmore, New York 11710.

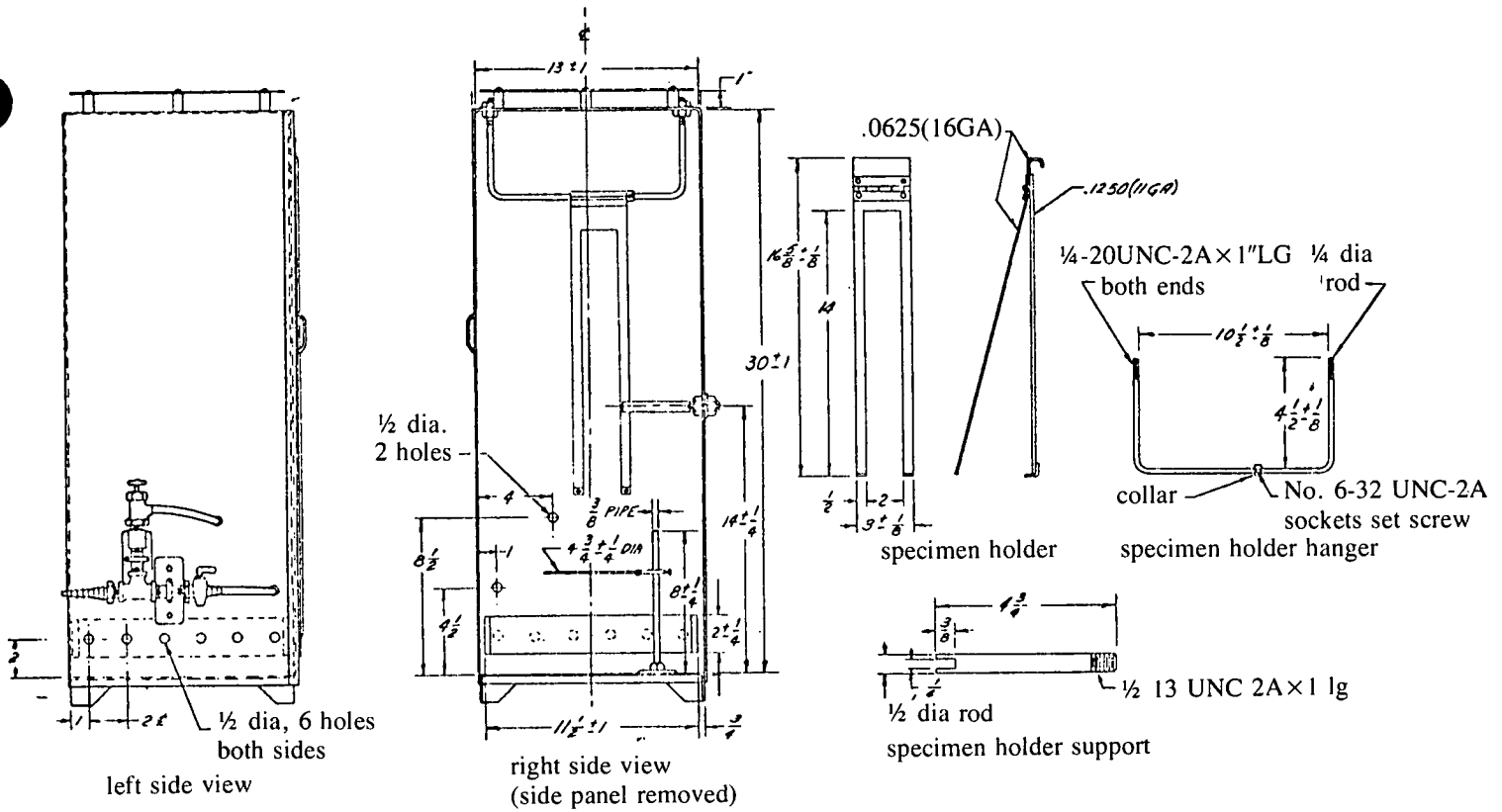
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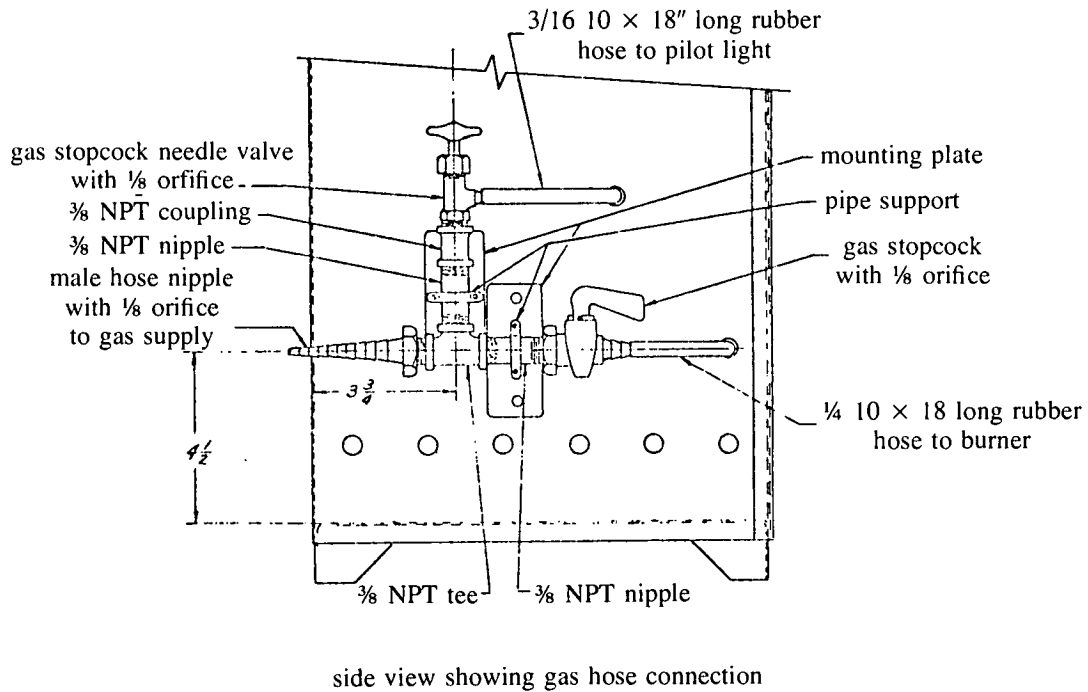
**CPAI 84 Figure A Vertical Flame Resistance Textile Apparatus**



**CPAI 84 Figure B Vertical Flame Resistance Textile Apparatus, Door and Top View w/Baffle**



**CPAI 84 Figure C Vertical Flame Resistance Textile Apparatus, Views and Details**



Note:  
all pipe fitting to be  
black iron pipe

**CPAI 84 Figure D Vertical Flame Resistance Textile Apparatus**

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## Appendix C

### NFPA 701 Flame Resistant Textiles, Films, 1975

#### 2.1 Pre-conditioning oven.

2.1.1 A forced draft oven shall be used to properly condition test specimens prior to testing in either the small scale test or the large scale test.

2.1.1.1 The interior of the oven shall be large enough to provide free air flow around each specimen contained.

2.1.1.2 The oven shall have variable temperature control.

#### 2.2 Small scale test apparatus.

##### 2.2.1 Specimen holder.

2.2.1.1 A metal holder, having clamps arranged to grip the specimen along its edges only, shall be used to support the specimen. The ends of the specimen shall remain free.

##### 2.2.2 Test shield.

2.2.2.1 The specimen and its holder shall be supported in the vertical position within a metal shield having a depth of 12 inches, a width of 12 inches and a height of 30 inches.

(a) The shield shall be open at the top and shall be provided with baffled vent openings along the bottom of at least two sides, totaling 6 square inches of free vent area.

(b) The shield shall also have a sliding glass door or panel.

##### 2.2.3 Gas burner.

2.2.3.1 A Bunsen or Tirrell gas burner, approximately 6 inches high and  $\frac{3}{8}$  inch tube diameter, shall be used as an ignition source.

(a) The burner shall be supported so that its barrel will be at a 25 degree angle with vertical.

(b) The burner shall have means for being moved into test position after the shield has been closed. (A rod attached to the base of the burner and extending through a slot at the bottom of the shield will serve the purpose.)

(c) The gas supply to the burner shall be natural

gas or a mixture of natural and manufactured gases having a heat value of approximately 800-1000 BTU per cubic foot.

##### 2.2.4 Hook and weight.

2.2.4.1 A hook and weight assembly shall be used to determine the length of char or destruction of the specimen.

(a) The weight shall be detachable from the hook.

(b) The combined weight of the assembly shall follow Table 2.2.4.

Table 2.2.4 Tearing weights — small scale test

Weight of Treated Fabric Being Tested	Total Tearing Weight for Determination of Length of Char
Ounces per Square Yard	Pounds
2 to 6 inclusive .....	0.25
Over 6 and not exceeding 15 .....	0.5
Over 15 and not exceeding 23 .....	0.75
Over 23 .....	1.00

#### 2.4 Test specimens.

##### 2.4.1 Small scale test.

2.4.1.1 Five specimens of the material,  $2\frac{3}{4}$  by 10 inches, shall be cut with their long dimension in the direction of the warp and five in the direction of the filling.

2.4.1.2 Each lot of five shall be cut from at least four places in the sample separated sufficiently to give indication as to the uniformity of the flame-resistant treatment.

#### 3.1 Small scale test.

##### 3.1.1 Preconditioning of test specimens.

3.1.1.1 The test specimens shall be conditioned in an oven at temperatures of 140-145 degrees Fahrenheit, for duration of one to one and one-half hours prior to testing.

3.1.1.2 Materials which distort or melt at the above indicated oven exposure are to be conditioned at 60-80 degrees Fahrenheit and 25-50 percent relative humidity for not less than 24 hours.

3.1.1.3 Specimens shall be removed from the oven one at a time and immediately subjected to the procedures described in Sections 3.1.2 and 3.1.3.

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## 3.1.2 Mounting of test specimens.

3.1.2.1 The specimen shall be placed on the specimen holder and clamped so that a strip 2 inches wide and 10 inches long is left exposed.

3.1.2.2 The specimen and its holder shall be supported within the test shield so that its lower end will be  $\frac{3}{4}$  inch above the top of the gas burner.

## 3.1.3 Conducting the flame test.

3.1.3.1 The gas burner shall be ignited and, with the air supply completely shut off, shall be adjusted to give a luminous flame about  $1\frac{1}{2}$  inches long.

3.1.3.2 The burner shall be moved under the specimen so that the flame is applied vertically to the lower end of the specimen, near the middle of its width. The flame shall be applied for 12 seconds, then withdrawn.

3.1.3.3 The duration of flaming of the specimen shall be noted after withdrawal of the burner.

## 3.1.4 Measurement of length of char or material destruction.

3.1.4.1 After all flaming and afterglow on the specimen has ceased, the length of char or material destruction shall be determined immediately. The length of char in this test is defined as the distance from the end of the specimen which was exposed to the flame to the end of a tear made lengthwise of the specimen through the center of the charred area in the following manner:

(a) The hook (of the hook/weight assembly) is inserted in the specimen, on one side of the charred area,  $\frac{1}{4}$  inch in from the adjacent outside edge and  $\frac{1}{4}$  inch up from the bottom.

(b) The weight is then attached to the hook.

(c) The specimen is then grasped on the opposite side of the charred area with the fingers, and raised gently until it supports the weight. The specimen will tear through the charred area until fabric strong enough to carry the load is reached.

3.1.4.2 When it is not feasible to measure char, the material destruction can normally be judged as the measurement from the bottom of the sample to a hori-

zontal line above which all material is sound and in original condition.

## 4.1 General considerations.

4.1.1 The probable durability of a treatment relative to the life of the fabric is difficult to assess but, in general, flame-retardant treatments tend to be either very tenacious or quite easily removed.

## 4.2 Application.

4.2.1 These procedures shall be applied to fabrics which are expected to retain their flame-resistant qualities through dry cleaning, laundering, weathering, or other exposures to water.

4.2.2 Each fabric shall be subjected to only those exposure procedures which are applicable to its intended use. It shall meet the flame resistance requirements of Chapter 5 after passing through the appropriate exposure cycles.

4.2.2.1 It is believed that such accelerated exposure tests as those described in this section provide sufficient testing to permit a reasonable appraisal of the durability of the treatment (under the conditions for which it was designed) for the useful life of the fabric.

## 4.3 Accelerated dry cleaning.

4.3.1 The specimens of the treated fabric shall be agitated for approximately 15 minutes in a suitable commercial type dry cleaning apparatus.

4.3.1.1 A dry cleaning solution of 10 to 15 parts dry cleaning soap or detergent and 1000 parts perchlorethylene shall be used. The volume of solution employed shall be in excess of that required to saturate the sample.

4.3.2 The specimens shall be rinsed for at least five minutes in pure perchlorethylene shall be used. The volume of solution employed shall be in excess of that required to saturate the sample.

4.3.3 The above procedure shall be repeated until ten complete cycles of cleaning and drying have been realized.

## 4.4 Accelerated laundering.

4.4.1 A sample of the treated fabric shall be washed

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in an automatic commercial washing machine using a solution containing 0.15 percent solution of tallow soap and 0.20 to 0.25 percent alkali.

4.4.2 The operating cycle outlined in Table 4.4 shall be followed.

Table 4.4 Operating Cycle for Accelerated Laundering<sup>1</sup>

Operation	Time, Min.	Temp. — Deg. F.
1. Sudsing	6	130
2. Sudsing	6	160
3. Sudsing	6	160
4. Bleaching	8	150
5. Rinsing	2	160
6. Rinsing	2	160
7. Rinsing	2	160
8. Rinsing	2	130
9. Bluing	3	100
10. Scouring	3	100

<sup>1</sup>This cycle is intended for white fabrics. For colored fabrics, the bleaching and bluing operations are omitted and the temperature of the "Sudsing" and "Rinsing" operations is reduced 30 degrees F.

4.4.3 The sample shall then be dried in a drying tumbler at 250 degrees F.

4.4.4 The above procedure shall be repeated until ten complete cycles of washing and drying have been accomplished.

4.4.4.1 If the material is to be subjected to a special use, more laundering may be required.

4.4.5 Where instruction for laundering a fabric are supplied by the manufacturer or finisher, those instructions should be followed in preference to the above procedure which simulates a typical commercial laundering practice.

## 4.5 Scrubbing.

4.5.1 Certain articles of flame-resistant fabric not ordinarily washed by home or commercial laundering methods are sometimes scrubbed vigorously on one or both sides, applying laundry soap (or other detergent) and water with a stiff bristle brush. The fabric is then thoroughly rinsed with water and dried.

4.5.2 Where treated fabrics are likely to be cleaned in this manner during their use, test specimens shall be subjected to flame tests after repeated cycles of scrubbing as outlined.

## 4.6 Accelerated water leaching.

4.6.1 A sample of the treated fabric shall be totally

submerged in a vessel containing tap water at room temperature for a period of 72 hours. The vessel shall have a capacity of at least four gallons of water.

4.6.2 The water shall be drained from the tank and replenished at 24 hour intervals during the immersion period.

4.6.3 At the conclusion of the immersion period, the sample shall be removed from the test vessel and dried at room temperature.

## 4.7 Accelerated weathering.

4.7.1 Either of the following alternative accelerated weathering conditioning procedures shall be used.

4.7.2 Alternative procedure no. 1.

### 4.7.2.1 Apparatus.

(a) The apparatus shall consist of a vertical metal cylinder fitted with a vertical carbon arc at its center and having a specimen holder mounted within.

(b) The diameter of the cylinder shall be such that the distance to the face of the specimen holder from the center of the carbon arc is 14¾ inches.

(c) The cylinder shall be arranged to rotate about the arc at a rate of approximately three revolutions per minute.

(d) A water spray shall be provided within the cylinder and fitted with means to regulate the amount of water discharged.

(e) The vertical carbon arc shall be either 0.5 inches diameter solid electrode type, if operating on direct current, or a single-cored electrode, if operating on alternating current. The electrodes shall be of uniform composition.

(f) The arc shall be surrounded by a clear globe of No. 9200 PX Pyres glass, 0.0625 inches thick, or other enclosure having equivalent absorbing and transmitting properties.

### 4.7.2.2 Operation of the test equipment.

(a) The specimens for test shall be mounted on the inside of the cylinder facing the arc.

(b) The cylinder shall rotate at approximately three revolutions per minute for the duration of the test.

(c) The water spray shall discharge about 0.7

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gallons per minute onto the specimens for about one minute during each revolution.

(d) The arc shall operate on 13 amperes direct current or 17 amperes, 60 hertz alternating current, with voltage at the arc of 140 volts.

(e) The electrodes shall be renewed at intervals sufficiently frequent to insure full operative conditions of the lamp.

(f) The globe shall be cleaned when the electrodes are removed or at least once in each 36 hours of operation.

#### 4.7.2.3 Test cycle.

(a) Specimens shall be subjected to this exposure for 360 hours.

(b) Specimens shall then be allowed to dry thoroughly at a temperature between 70 and 100 degrees Fahrenheit.

(c) After drying, the specimens shall proceed through the Flame Test.

#### 4.7.3.2 Operation of test equipment.

(a) The specimens for test shall be mounted on the rotating rack, facing the arc.

(b) The rack shall rotate about the arc at a uniform speed of about one revolution in two hours.

(c) The arc shall operate on 60 amperes and 50 volts across the arc for alternating current or 50 amperes and 60 volts across the arc for direct current.

#### 4.7.3.3 Test cycle.

(a) Specimens shall be subjected to this exposure for 100 hours.

(b) They shall then be allowed to dry thoroughly at a temperature between 70 and 100 degrees Fahrenheit.

(c) After drying, the specimens shall proceed through the Flame Test.

#### 5.1 Small scale test.

5.1.1 When subjected to the small scale test described in Section 3.1 no specimen shall continue flaming for more than two seconds after the test flame is removed from contact with the specimen.

5.1.2 The vertical spread of flame and afterglow (smoldering combustion) on the material, as indicated by the length of char or the measurement from the bottom of the sample above which all material is sound and in original condition, shall not exceed the values shown in Table 5.1.

5.1.3 At no time during or after the application of the test flame shall portions or residues of textiles or films which break or drip from any test specimen continue to flame after they reach the floor of the tester.

Table 5.1 Permissible Length of Char or Destroyed Material — Small Scale Test

Weight of Treated Fabric Being Tested Ounces per Square Yard	Maximum Average Length of Char or Destroyed Material for Ten Specimens	Maximum Length of Char or Destroyed Material for Any Specimen
	Inches	Inches
Over 10	3½	4½
Over 6 and not exceeding 10	4½	5½
Not exceeding 6	5½	6½

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# PROPOSED RULES

## Energy Agency Reporting Requirements for Electric Companies

### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room D of the Veterans Service Building, 20 West 12th Street and Columbus Avenue between Wabasha and Iglehart, Saint Paul, on January 10, 1977, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally or in writing at the hearing and written materials may be submitted by mail to Allan W. Klein, Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota, 55104, telephone (612) 296-8114, either before the hearing or within 20 days after the close of the hearing.

The proposed rule amendments, if adopted, would improve, update and make more precise the reporting requirements currently imposed on electric utilities. Certain proposed rule amendments would require additional forecast data of the larger utilities to enable the director to better anticipate future state energy demands and enable him to make sensible and rational recommendations for limiting such growth. Certain other proposed rule amendments will aid the director in monitoring energy usage by the state's largest end users. Finally, certain proposed rule amendments delete present reporting requirements which were one time in nature, unnecessary in order for the Agency to fulfill its legislative mandate, overly cumbersome in nature, or duplicative of information collected by other agencies.

Copies of the proposed amended rules are now available and one free copy may be obtained by writing to the Minnesota Energy Agency, 740 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota, 55101. Copies will also be available at the door on the date of the hearing. The Agency's authority to promulgate the proposed amended rules is contained in Minn. Stat. § 116H.08(a) (1974). A Statement of Need presenting facts showing the need for and reasonableness of the proposed amendments and a Statement of Evidence summarizing the evidence to be presented at the hearing in support of the proposed amendments will be filed at the Office of Hearing Examiners at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Minn. Stat. § 10A.01 subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons

or associations attempting to influence administrative action, such as the promulgation of these rule amendments, must register with the State Ethical Practices Board, 410 State Office Building, Saint Paul, Minnesota, as a lobbyist within five days of the commencement of such activity by the individual.

John P. Millhone  
Director

### Rules as Proposed

#### EA [200] 201 Purpose and applicability of these rules.

A. The purpose of these rules is to implement the forecasting, statistical and informational reporting requirements of Minn. Stat. §§ 116H.10 and 11 (1974). These rules are adopted pursuant to the powers of the director conferred by Minn. Stat. §§ 116H.08 (a) (1974), and are designed to identify emerging energy trends based on supply and demand, conservation and public health and safety factors and to determine the level of statewide and service area energy needs.

[EA 201 Applicability of these rules].

B. Each electric utility serving the State of Minnesota shall submit the information required by these rules to the director in the form specified by him.

EA 202 Definitions. For the purposes of these rules, the following definitions shall apply:

A. "Adjusted Net Demand" means system demand, minus firm purchases, plus firm sales;

[(a)] B. "Agency" means the Minnesota Energy Agency;

[(b)] "Annual Conversion Efficiency" means the ratio of electrical energy produced by a power plant to the original fuel energy used to produce the electrical energy, expressed as a percentage;]

C. "Annual Adjusted Net Demand" means annual system demand, minus firm purchases, plus firm sales;

[(c)] D. "Annual [e]Electrical [c]Consumption" means sales of kilowatt-hours of electricity to ultimate consumers over a twelve-month period beginning January 1[st] and ending December 31[st] of the reporting year;

[(d)] "Annual Plant Efficiency" means the ratio of the electrical energy leaving a power plant to the fuel energy used to produce that amount of electrical energy, expressed as a percentage;]

E. "Annual System Demand" means the highest sys-



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tem demand occurring during the twelve-month period beginning May 1 of the forecast year;

[(e)] F. "Director" means the director of the Minnesota Energy Agency;

[(f)] G. "Distribution Only Utility" means a utility which distributes electricity to ultimate consumers but which does not generate electricity **except on a standby emergency basis. Such emergency power shall not consist of more than five percent of total kilowatt-hours sales to ultimate consumers;**

H. "Firm Purchases" and "Firm Sales" means the amount of power to be purchased or sold and intended to have assured availability;

[(g)] I. "Generating and Transmission Utility" means any utility which generates [electricity and transmits it to other utilities or distributes it to ultimate consumers;] **in excess of five percent of its total kilowatt-hour sales to other utilities or its own ultimate consumers;**

J. "Heat Rate" is the measure of thermal efficiency of a generating station or plant expressed in BTU's per net kilowatt-hour and computed by dividing the total BTU content of fuel burned for electric generation by the resulting net kilowatt-hour generation;

K. "Large Electric Generating Facility (LEGF)" means any electric power generating plant or combination of plants at a single site and associated facilities designed for or capable of operation at a combined capacity of 50,000 kilowatts or more, including, but not limited to, fossil fuel, nuclear fuel, pumped storage and hydroelectric plants;

L. "Large High Voltage Transmission Line (LHVTL)" means a conductor of electrical energy and associated facilities designed for and capable of operation at a nominal voltage of 200 kilovolts or more having more than 160 kilometres (100 miles) of its length in Minnesota. Associated facilities shall include, but not be limited to, insulators, towers, and substations and terminals operating at a nominal voltage of 200 kilovolts or more;

[(h)] M. "Last Calendar Year" means the calendar year immediately preceding the year in which reports are required to be filed;

[(i)] N. "Load Factor" means the ratio of the average load in kilowatts supplied during a designated period to the

maximum load in kilowatts which was supplied during that designated period;

[(j)] O. "Minnesota Service Area" means [the geographical area within the State of Minnesota to which a utility supplies electrical energy] **that portion of a utility's system lying within Minnesota;**

P. "Net Generating Capacity" means the total amount of kilowatts, less station use, that all the generating facilities of a system could supply at the time of its maximum system demand including the capacity of the generating units which are temporarily out of service for maintenance or repair;

Q. "Net Reserve Capacity Obligation" means the annual adjusted net demand multiplied by the percent reserve capacity requirement;

R. "Participation Power" means power and energy which are sold from a specific generating unit or units for a period of six or more months on a continuously available basis (except when such unit or units are temporarily out of service for maintenance during which time the delivery of energy from other generating units is at the seller's option);

S. "Participation Purchases" and "Participation Sales" means purchases and sales under a participation power agreement or a seasonal participation power agreement;

[(k)] T. "Peak Demand" means the highest kilowatt demand during a designated period recorded on a one-hour integrated reading basis;

U. "Seasonal Adjusted Net Demand" means seasonal system demand, minus firm purchases, plus firm sales;

V. "Seasonal Participation Power" means participation power sold and bought on a seasonal (summer or winter) basis;

W. "Seasonal System Demand" means the maximum system demand on the applicant's system which occurs or is expected to occur in any normal summer season or winter season;

[(l)] X. "Summer [months] Season" means the period from May 1[st] through October 31[st]; [Winter months means the period from November 1st through April 30th;]

Y. "System" means that combination of generating,

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## PROPOSED RULES

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transmission, and distribution facilities which make up the operating physical plant of the utility, whether owned or nonowned, for the delivery of electrical energy to ultimate consumers and includes the geographic area where the utility's ultimate consumers are located;

**Z. "System Demand"** means the number of kilowatts which is equal to the kilowatt-hours required in any clock hour, attributable to energy required by the system during such hour for supply of firm energy to ultimate consumers, including system losses, and also including any transmission losses occurring on other systems and supplied by the system for transmission of firm energy, but excluding generating station uses and excluding transmission losses charged to another system;

[(m)] **AA. "Utility"** means any entity engaged in the generation, transmission or distribution of electrical energy, including but not limited to a private investor-owned utility or a public or municipally-owned utility;

**BB. "Ultimate Consumers"** means consumers purchasing electricity for their use and not for resale; and

[(l)] **CC. "Winter [months] Season"** means the period from November 1[st] through April 30[th].

EA 203 Registration. [Each electric utility serving the State of Minnesota on June 1, 1975, must file a registration statement with the director by July 1, 1975.] Any electric utility which commences operations in the state [after June 1, 1975,] shall file a registration statement with the director within 30 days after commencing operation. Each registration statement shall be on forms issued by the director and shall contain the name and headquarters address of the utility, the type of utility, the names and addresses of all officers of the utility, and the name, address and telephone number of a person who may be contacted for information about the utility.

EA 204 Reporting dates.

### A. Annual.

[(a)] **1.** Except as provided by the director [or as provided in EA 204 (b)] each generating and transmission utility shall file with the director the information required by rules EA 205, 206, 207, 208, 209 and [211] **210** by July 1 of each year.

[(b)] **2.** Except as provided by the director, each distribution only utility shall file with the director only the information required by rules EA 205 and [EA 209] **210** by July 1 of each year. [if all of its source generating and transmission utilities are required under these regulations to report to the director.]

### B. Quarterly.

[(c)] **1.** Except as provided by the director each utility shall file with the director the information required by rule EA [210] **211** on a quarterly basis as follows:

a. Information for the period of January 1 to March 31 shall be filed by April 30.

b. Information for the period of April 1 to June 30 shall be filed by July 31.

c. Information for the period of July 1 to September 30 shall be filed by October 31.

d. Information for the period of October 1 to December 31 shall be filed by January 31 of the following year.

**2.** No changes shall be made in reporting dates set forth in this section unless each reporting utility which would be affected has been given written notice of such change 30 or more days before the effective date of such change.

EA 205 Federal reports filed by utilities. Each utility shall identify to the director all forms and reports which it regularly files with the Federal Power Commission, the Rural Electrification Administration, and other Federal agencies. Upon request of the director, each utility shall make copies of any such forms or reports available to the director.

EA 206 [Forecasts] **Basic forecast and current data.**

[(a)] **A.** Each utility shall submit annually to the director [5, 10 and 15 year forecasts] **data for the last calendar year and a forecast for the present year and the 15 subsequent years** of the generation, the peak demand, and the consumption of electrical energy. [within its Minnesota Service Area.]

[(b)] **B.** The [energy forecasts] **basic forecast and current data** shall contain the following data for each [reporting] year cited in rule EA 206 A in the form requested below.

[(i)] **1.** The annual electrical consumption[/production], **generation and peak demand** forecast shall include:

[(aa)] **a.** annual electrical consumption in kilowatt-hours by ultimate consumers within the utility's Minnesota service area;

**b.** annual electrical consumption in kilowatt-hours by the utility's ultimate consumers outside its Minnesota service area;

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[(bb)] c. the number of kilowatt-hours the utility has received or expects to receive from other systems for sale to its ultimate consumers or to other utilities;

[(cc)] d. the number of kilowatt-hours the utility has delivered or expects to deliver to other systems for resale; [and the number of kilowatt hours the utility has delivered or expects to deliver to ultimate consumers outside its Minnesota service area;]

[(dd)] e. total annual **gross** [production] **generation** of electrical energy by the utility in kilowatt-hours;

[(ee)] f. annual in-plant consumption of electrical energy in kilowatt-hours (**do not include transmission line or substation losses in this category**);

[(ff)] Net generation as measured by total annual production (dd) less annual inplant consumption (ee);]

[(gg)] System energy losses, which shall be calculated as follows:  $ff + bb - cc - aa$

**g. electrical energy loss in kilowatt-hours due to transmission line and substation losses;**

[(ii) electrical demand forecast.]

[(aa)] h. **peak demand** [data] for the [Minnesota service area] **system** during the summer [months] **season** and during the winter [months] **season**;

[(bb)] i. **load factor** [data] for the [Minnesota service area] **system** during the summer [months] **season** and during the winter [months] **season**.

[(c) Reporting years. The data required in 206(b) shall be supplied for the following years:

(i) the last calendar year;

(ii) the present calendar year;

(iii) the year 5 years after the present calendar year;

(iv) the year 10 years after the present calendar year;

(v) the year 15 years after the present calendar year.

In 1975, data shall also be supplied for the calendar year 1973.

(d) Forecast of consumption of electrical energy by region:

(i) For the reporting years 1973, the last calendar year and the present calendar year, the data required by EA 206 (b) (i) (aa) shall also be reported by county;

(ii) For the reporting years 5 years after the current year, and 10 years after the current year, the data required by EA 206 (b) (i) (aa) shall be forecasted for each of the regions which the utility uses in reporting to the Minnesota Environmental Quality Council under MEQC 71-75.]

[(e)] C. For the last calendar year [and for the year 1973,] historical data shall be supplied. If recorded figures are not available, estimates shall be used and shall be identified as such. **When the recorded figures become available, they shall be supplied as a supplement to the data.** For each other reporting year, a forecast shall be made using [the utility's best estimate of electrical energy growth. The best estimate of electrical energy growth] **the methodology which yields the most meaningful results for the utility's system.** The forecast shall be based on the factors which the reporting utility deems most likely to occur in its Minnesota service area. [The data for each reporting year shall be calculated by applying these factors to the data for the last calendar year for which actual data listed in 206(b) is available.] The **procedures**, assumptions and factors used in arriving at the [best estimate] forecast shall be stated in writing. [Each utility shall evaluate the size of the estimating error, given the conditions and factors used in the estimate.] Each utility shall comment on probable deviations from the [best estimate] projection. **Any utility required to file an extended forecast pursuant to rule EA 207 need not file the forecast documentation required in rule EA 206 C.**

**EA 207 The extended forecast.**

**A. The following utilities must file an extended forecast: Northern States Power Company, Minnesota Power and Light Company, Otter Tail Power Company, Interstate Power Company, Minnkota Power Cooperative, Cooperative Power Association, United Power Association and Dairyland Power Cooperative.**

**B. Content of extended forecast. The following data shall be provided:**

**1. annual electrical consumption by ultimate consumers within the utility's system for the past calendar**

**KEY:** New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

## PROPOSED RULES

year, the present calendar year, and the subsequent 15 years, for each of the following categories:

a. farm, excluding irrigation and drainage pumping (for reporting purposes, any tract of land used primarily for agricultural purposes);

b. irrigation and drainage pumping;

c. nonfarm residential (including electricity supplied through a single meter for both residential and commercial uses reported according to its principal use and apartment buildings reported as residential even if not separately metered);

d. commercial (including wholesale and retail trade; communications industries; public and private office buildings, banks, and dormitories; insurance, real estate and rental agencies; hotels and motels; personal business and auto repair services; medical and educational facilities; recreational, social, religious, and amusement facilities; governmental units, excluding military bases; warehouses other than manufacturer owned; electric, gas, water and water pumping other than pumping for irrigation, and other utilities);

e. mining;

f. industrial (including all manufacturing industries, construction operations and petroleum refineries);

g. street and highway lighting;

h. electrified transportation (including energy supplied for the propulsion of vehicles, but not energy supplied for office buildings, depots, signal lights or other associated facilities which shall be reported as commercial or industrial);

i. other (including municipal water pumping facilities, oil and gas pipeline pumping facilities, military camps and bases, and all other consumers not reported in categories a through h); and

j. the sum of categories a through i;

2. an estimate for the last year of the demand for power by ultimate consumers in the utility's system for each of the categories listed in rule EA 207 B. 1. at the time of the system peak demand;

3. the utility's system peak demand by month for the last calendar year;

4. the utility's average system weekday load factor for the months of January and July for the last calendar

year, the present calendar year and the 15 subsequent years;

5. the utility's seasonal firm purchases and seasonal firm sales for each utility involved in each transaction for the last year, the present year, and the 15 subsequent years;

6. the utility's seasonal participation sales for each utility involved in each transaction for the last year, the present year, and the 15 subsequent years;

7. for the summer season and for the winter season of the last year, the present year, and the 15 subsequent years, the load and generation capacity data requested in items a through m listed below, including all anticipated purchases, sales, capacity retirements, and capacity additions, including those which may depend upon certificates of need not yet issued:

a. seasonal system demand;

b. annual system demand;

c. total seasonal firm purchases;

d. total seasonal firm sales;

e. seasonal adjusted net demand ( $a - c + d$ );

f. annual adjusted net demand ( $b - c + d$ );

g. net generating capacity;

h. total participation purchases;

i. total participation sales;

j. adjusted net capability ( $g + h - i$ );

k. net reserve capacity obligation;

l. total firm capacity obligation ( $e + k$ ); and

m. surplus or deficit ( $-$ ) capacity ( $j - l$ );

8. the utility's proposed additions and retirements. For the present calendar year and the subsequent 15 years each utility shall provide a list in megawatts of proposed additions and retirements in generating capability; and

9. the utility's method of determining its system reserve margin and the appropriateness of the margin.

C. Forecast documentation for rules EA 206 and 207.

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1. Forecast methodology. Each applicant may use the forecast methodology which yields the most useful results for its system. However, the applicant shall detail in written form the forecast methodology employed to obtain the forecasts provided under rules EA 206 and 207, including:

a. the overall methodological framework which is used;

b. the specific analytical techniques which are used, their purpose, and the component(s) of the forecast to which they have been applied;

c. the manner in which these specific techniques are related in producing the forecast;

d. where statistical techniques have been used, the purpose of the technique, typical computations (e.g., computer printouts, formulas used) specifying variables and data, and the results of appropriate statistical tests;

e. forecast confidence levels or ranges of accuracy for annual peak demand and annual electrical consumption;

f. a brief analysis of the methodology used, including its strengths and weaknesses, its suitability to the system, cost considerations, data requirements, past accuracy, and any other factors considered significant by the utility; and

g. an explanation of any discrepancies which appear between the forecasts presented by the utility in rule EA 207 and those contained in rule EA 206 this year or in past years.

2. Data base for forecasts. The utility shall discuss in written form the data base used in arriving at the forecast presented in rules EA 206 and 207, including:

a. a complete list of all data sets used in making the forecast, including a brief description of each data set and an explanation of how each was obtained, (e.g., monthly observations, billing data, consumer survey, etc.) or a citation to the source (e.g., population projection from the state demographer); and

b. a clear identification of any adjustments made to raw data to adapt them for use in forecasts, including the nature of the adjustment, the reason for the adjustment and the magnitude of the adjustment.

3. Assumptions and special information.

a. Discussion. The utility shall discuss in writing each essential assumption made in preparing the forecasts, including the need for the assumption, the nature of the assumption, and the sensitivity of forecast results to variations in the essential assumptions.

b. Subject of assumption. The utility shall discuss the assumptions made regarding the availability of alternative sources of energy, the expected conversion from other fuels to electricity or vice versa, future prices of electricity for customers in the utility's system and the effect that such price changes will likely have on the utility's system demand, the assumptions made in arriving at any data requested in EA 206 or 207 which is not available historically or not generated by the utility in preparing its own internal forecast, the effect of existing energy conservation programs under federal or state legislation on long-term electrical demand, the projected effect of new conservation programs which the utility deems likely to occur through future state and federal legislation on long-term electrical demand, and any other factor considered by the utility in preparing the forecast.

4. Coordination of forecasts with other systems. The utility shall provide in writing:

a. a description of the extent to which the utility coordinates its load forecasts with those of other systems, such as neighboring systems, associate systems in a power pool, or coordinating organizations; and

b. a description of the manner in which such forecasts are coordinated, and any problems experienced in efforts to coordinate load forecasts.

EA 208 [Facility requirements] **Generating facilities.**

[(a)] A. Present facilities. Each utility required to report under rule EA 204 [(a)] A.1. shall provide the following information with regard to each power plant serving or capable of serving its Minnesota service area as of January 1 of the current year:

[(i)] 1. the name and type of the plant;

[(ii)] [the year constructed;]

[(iii)] 2. its location and address;

[(iv)] 3. the primary fuel which is currently used to operate the plant;

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[(v)] **4.** the secondary fuels which are currently used to operate the plant;

[(vi)] **5.** name-plate plant capacity as measured by the sum total of the maximum name-plate rating of each unit of generating equipment in the plant;

[(vii)] **6.** actual plant capacity as measured by the maximum load that could be supplied by present equipment [on a continuous basis and] on a peaking basis of which the utility shall specify duration;

[(viii)] **7.** the total number of kilowatt-hours generated by the plant for nonplant use during the last calendar year;

[(ix)] **8.** the annual [conversion efficiency] **heat rate** of the plant;

[(x)] **9.** the quantities of primary and secondary fuels consumed during the last calendar year;

[(xi)] **10.** the year in which the plant or each unit of a multi-unit plant began operation;

[(xii)] **11.** the name-plate number, kilowatt rating, power factor, voltage, phase and frequency for each unit of generating equipment in the plant.

[(b)] **B. Future facility [requirements] additions.** Each utility required to report under rule EA 204 [(a)] **A.1.** shall estimate the additional power plants or additions to existing plants necessary to provide for the energy growth predicted [for] by the [best estimate] forecasts [projected] in rules EA 206 [(d)] **and 207.** Each utility shall supply the following information about each additional plant or addition:

[(i)] **1.** the proposed general location of each plant currently in the planning stage, or the actual location of each plant currently under construction;

[(ii)] the year in which construction began or is predicted to begin;

[(iii)] **2.** the month and year [in which] the plant is [predicted] to begin operation;

[(iv)] **3.** the estimated cost of the new facility at the time of construction;

[(v)] **4.** the estimated plant capacity of anticipated generating equipment;

[(vi)] **5.** the estimated total annual net kilowatt-hours generated for nonplant use by the plant operating at [full capacity] **normal conditions under normal maintenance and circumstances;**

[(vii)] the primary fuel to be used to operate the plant;]

[(viii)] the secondary fuels to be used to operate the plant;]

**6. the estimated type and amount of fuel to be used to operate the plant on an annual basis under conditions set forth in EA 208 B. 5; and**

[(ix)] the estimated annual conversion efficiency of the plant;]

[(x)] the estimated amounts of primary and secondary fuels required annually to operate the plant at its projected production rate.]

**7. the estimated heat rate of the plant.**

**C. Future facility retirements.** Each utility required to report under rule EA 204 A.1. shall list any planned facility retirements that will take place within the next 15 years. Each utility shall provide the following information about each facility retirement:

**1. the location and type of the plant;**

**2. the year the plant began operation and the year it will cease operation;**

**3. the plant's actual capacity;**

**4. the annual net kilowatt-hours the plant presently generates for nonplant use;**

**5. the type of primary fuel used for the plant; and**

**6. the present heat rate for the plant.**

[(c)] **D. Fuel requirements and generation by fuel type.**

[(i)] **1.** Based on the data reported under rule EA [207 (a) and (b)] **208 A.** each utility [required to report under EA 204 (a)] shall report the quantity of coal, natural gas, middle distillates, heavy oils, nuclear energy, and any other fuels used by its **Minnesota** power plants [serving its Minnesota Service Area] during the last calendar year, and the kilowatt-hours of electrical energy generated for sale to ultimate consumers by each type of fuel. If data is reported for other fuels, the type of fuel shall be specified.

[(ii)] **2.** Each utility shall estimate the quantities of the fuel [listed in 207 (c) (i)] which will be necessary for use by its **Minnesota** power plants [serving its Minnesota Service Area] to provide for the electrical energy growth predicted by the [best estimate] forecast projected in rules EA 206 [(b)] **and 207.** Each utility shall also estimate by fuel type the kilowatt-hours of electricity which will be produced by its **Minnesota** power plants [serving its Minnesota Service

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Area] under the [best estimate] forecast. In preparing such estimates, each utility shall consider increases in fuel use by existing facilities and possible conversions between fuel types. [In 1975 the utility shall also report information for the 1973 calendar year.]

### EA [208] 209 Transmission lines.

[(a) Present transmission lines. Each utility required to report under EA 204 (a) shall report the number of miles of transmission lines 100 kilovolts and over by voltage in use on December 31 of the last calendar year.

(b) Future transmission lines. Each utility required to report under EA 204 (a) shall estimate the number of miles of transmission lines 100 kilovolts and over by voltage which will be necessary to provide distribution capability for those plants currently in the planning stage or under construction and the number of miles of other planned transmission lines 100 kilovolts and over.]

**A. Existing transmission lines. Each utility shall report the following information in regard to each transmission line over 100 kilovolts now in existence:**

1. a map showing the location of each line;
2. the design voltage of each line;
3. the design power capability of each line;
4. the approximate location of D.C. terminals or A.C. substations;
5. the approximate length of each line and the portion of that length in Minnesota; and
6. the estimated losses at the design voltage and at the design current for the length of the transmission line and at the terminals or substations.

**B. Transmission line additions. Each generation and transmission utility as defined in EA 202 shall report the information required in rule EA 209 A. for all future transmission lines over 100 kilovolts which the utility plans to build within the next 15 years.**

**C. Transmission line retirements. Each generation and transmission utility as defined in EA 202 shall identify all present transmission lines over 100 kilovolts which the utility plans to retire within the next 15 years.**

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EA [209] 210 Other information reported annually. Each utility shall provide the following information for the last calendar year:

[(a) **A. a table and a graphed curve of the demand in kilowatts by hour over a 24-hour period for:**

[(i) 1. the 24-hour period during the summer [months] **season** when the kilowatt demand on the system was the greatest; **and**

[(ii) 2. the 24-hour period during the winter [months] **season** when the kilowatt demand on the system was the greatest;

[(b) **B. the names, [and] addresses, [of] and the kilowatt-hours of electricity consumed by [the 25 largest] customers of the utility who annually consume over 600,000 kilowatt-hours. If such a list does not include at least 15 of the utility's customers, the largest 15 shall be listed with their annual consumption of electricity;**

[(c) **C. the names and addresses of the fuel suppliers with whom the utility has contracts; [the type of fuel and the duration of the contract in the following categories:]**

[(i) firm contracts;]

[(ii) interruptible contracts;]

[(iii) standby contracts;]

[(d) **D. the names of any utilities with whom the reporting utility has contracted to purchase or sell electricity and a brief description of the terms of any such contract unless already reported pursuant to rule EA 207 B.5. and 6.**

[(e) **E. a detailed map, on which the scale is indicated, of the utility's Minnesota service area, identifying power plants, principal substations, and transmission lines over 100 kilovolts, identified by voltage;**

[(f) **F. a listing of the interconnections the utility has with other utilities, including:**

[(i) 1. the names of any such [system] **utility;**

[(ii) 2. the [voltage rating] **location** of the interconnection; **and**

[(iii) 3. the kilowatt-hours received or delivered over the connection during the last year;

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[The director may require that utilities report any of the data required by this rule on a quarterly basis upon 30 days notice to all reporting utilities.]

**G. its present rate schedule as of June 1 of the present year;**

**H. its sales to ultimate consumers by county annually;**

**I. a copy of whichever of the following reports it files with either the F.P.C. or the U.S. Department of Agriculture:**

**a. F.P.C. Report 12 Schedule 9 and 10;**

**b. F.P.C. Report 12A Schedule 3 and 4; and**

**c. Part D of the financial and statistical report to the United States Department of Agriculture;**

**J. for distribution only utilities the kilowatt-hours generated on an emergency standby basis and the amount of fuel used to generate such electricity.**

EA [210] **211 Quarterly reports of energy delivered to ultimate consumers.**

[(a)] **A. Beginning in the year 1976 each utility shall report quarterly the kilowatt-hours delivered each month during the preceding quarter to ultimate consumers, broken down by customer class/geographic area combination.**

[(i)] **1. Geographic areas will be defined by the customer's [zip code] county.**

[(ii)] **2. Customer class will be defined by standard industrial classification (SIC) codes with extensions for more detailed breakdown of households and governmental units.**

[(iii)] **3. In each customer class/geographic area combination the utility shall report the number of customers and the total kilowatt-hours consumed.**

**B. After an evaluation of data availability, the director may allow certain distribution only utilities to report only kilowatt-hours consumed by large customers who use in excess 600,000 kilowatt-hours per year by two-digit SIC code. However, the utilities given such exemption must report each quarter kilowatt-hours consumed by ultimate consumers by F.P.C. or R.E.A. end-use categories. Utilities whose sales to ultimate customers did not exceed 5 million kilowatt-hours during the past calendar year need not report.**

**C. Said information shall be in the form determined by**

the director. Upon written application, the director may allow a utility to report said information in a different form.

[(b)] The director may, after an evaluation of the data availability, level of automation and homogeneity of accounts of any utility, require said utility to report the information required by this section for the 3rd and 4th quarters of 1975. Third quarter statistics for such utilities shall be filed by October 31, 1975. No utility shall be required to report in 1975 unless it has been notified in writing by the director of its obligation 30 or more days prior to the reporting date.

(c) During the year 1975 FPC Report No. 12, Schedule 10 or its equivalent shall provide the basis for reporting the energy delivered to ultimate consumers by categories as follows:

(i) farm, excluding irrigation and drainage pumping. For reporting purposes, any tract of land used primarily for agricultural purposes is considered farm land. Land operated by each tenant, cropper or manager shall be reported as a separate farm. Reports shall list number of farms rather than farm dwellings served;

(ii) irrigation and drainage pumping;

(iii) non-farm residential. When electricity is supplied through a single meter for both residential and commercial uses, it shall be reported according to its principal use. Apartment buildings shall be reported as residential even if not separately metered;

(iv) commercial. This category shall include wholesale and retail trade; communication industries; banks, insurance, real estate and rental agencies; hotels and motels; personal business and auto repair services; medical and educational facilities; recreational and amusement facilities; governmental units excluding military bases; electric, gas, water and other utilities;

(v) industrial. This category shall include all mining and manufacturing industries, construction operations and petroleum refineries.

(vi) street and highway lighting;

(vii) electrified transportation. This category shall include energy supplied for the propulsion of vehicles, but shall not include energy supplies for office buildings, depots, signal lights or other associated facilities which shall be reported as commercial or industrial;

(viii) other. This category shall include municipal water pumping facilities, oil and gas pipeline pumping facilities, military camps and bases, and all other consumers not reported in categories (i) through (vii).



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Each utility shall explain in writing any significant deviation in its customer assignments which would affect the delivery figures reported under this section.

(d) In 1975 a utility which files FPC Report 12, Schedule 10, or its equivalent, and whose service area is wholly within Minnesota, shall submit copies of FPC Report 12, Schedule 10, for the years 1965 to 1974 to the director by July 1, 1975. Data for 1975 sales based on FPC Report 12, Schedule 10, shall be reported to the agency within 10 days after it is submitted to the Federal Power Commission.

(e) A utility which files FPC Report 12, Schedule 10, or its equivalent, and whose service area is not wholly within Minnesota, or a utility which does not file FPC Report 12, Schedule 10, or its equivalent, shall submit actual data or estimates if data is not available based on the Schedule 10 categories for the year 1965 to 1974 to the director by July 1, 1975.

EA 211 Advance forecasting for power plant siting. This rule requires reporting of the same information required by the Minnesota Environmental Quality Council for advance forecasting for power plant siting under MEQC 74. It is intended that each utility may submit a single document which will cover the needs of both the MEQC and the Agency. Each reporting utility shall submit three (3) copies of the document to the director.

Each utility required to report under EA 204 (a) shall provide the following information concerning its facilities:

(a) Identification of the location, generating capacity (over one megawatt), type, and fuel of all existing electric power generating plants and of the location, transmission capacity, and type of all existing transmission lines designed to operate at a nominal voltage of 100 Kilovolts or more intended to be removed from service within 20 years from the current year; description of land use plans for the sites and routes involved;

(b) Identification of the location, generating capacity (over one megawatt), type, and fuel of all electric power generating plants and of the location, transmission capacity, and type of all transmission lines designed to operate at a nominal voltage of 100 kilovolts or more removed from service in the preceding five-year period; statement of the disposition of the sites and routes involved (real property and easements);

(c) Description of the tentative regional location, generating capacity, type, land and water areas involved,

anticipated maximum water demand (maximum rate and yearly volume), and source of water for all new LEPGP's and the tentative regional location, transmission capacity, and type of all new HVTL's to be constructed, owned, or operated by the utility within 15 years from the current year;

(d) Description of the current transmission grid and of the forecasted grid together with the reasons for changing the capacity and reliability of the grid;

(e) Description of the utility's relationship to other utilities and regional association, power pools or networks.

The ability of the MEQC to require information other than that listed above is not limited or abrogated by the inclusion of this section in the rules and regulations of the Agency.]

EA 212 Corrections. Substantial corrections of any report or statement must be filed with the agency within 10 days following the date of the event prompting the change in reported information or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and the paragraph of the information to be changed or corrected.

EA 213 Federal or state data substitution for Energy Agency data requirements. **Upon written request by any utility**, the director may allow [any utility] it to substitute data provided to the federal government or another state agency in lieu of data required by these regulations if the data required by both agencies is substantially the same.

## Department of Health State Board of Health Establishment of Grievance Procedures for Patients in Hospitals and Surgery Centers

### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Tuesday, January 18, 1977, commencing at 9:00 A.M., and continuing until all persons have had an opportunity to be heard.

**KEY:** New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

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All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Allan Klein, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, Minnesota, (612) 296-8112, either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, would implement the requirements of Laws of 1976, ch. 325, § 8, including:

1. The delineation of minimum standards and procedural requirements for grievance mechanisms;
2. The presentation of a list of patient complaints which may be processed through such a mechanism;
3. The description of the form and manner in which patient notices are to be made;
4. The specification of a schedule of fines, not to exceed \$200 per offense, for the failure of a hospital or outpatient surgery center to comply with the provisions of the statute; and
5. Requiring the submission of at least an annual report on the operation of such mechanisms by hospitals, outpatient surgery centers and health maintenance organizations.

Copies of the proposed rules are now available and one free copy may be obtained by writing to Daniel J. McInerney, Jr., Room 212, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing. The authority to promulgate the proposed rules is contained in Laws of 1976, ch. 325, § 8. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony the Board of Health will introduce at the hearing, will be filed with the Office of Hearing Examiners at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Minn. Stat. § 10A.01 subd. 11 (1974), any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these proposed rules must register with the State Ethics Commission as a lobbyist within five (5) days of the commencement of such activity by the individual. The State Ethics Commission is located at 410 State Office Building, St. Paul, Minnesota, 55155.

It is suggested that, to save time and avoid duplication, those organizations having a common viewpoint or interest

in these proceedings join together where possible and present a single statement in behalf of such interests.

Warren R. Lawson, M.D.  
Secretary and Executive Officer

### Rules as Proposed

**MHD 521 Applicability.** These rules apply to hospitals and outpatient surgery centers.

**MHD 522 Definitions.** Definitions for these rules are as follows:

A. "grievance mechanism" means grievance and/or complaint procedures.

B. "hospital" means any entity licensed as such pursuant to Minn. Stat. §§ 144.50 to 144.56.

C. "outpatient surgery center" means a free standing facility organized for the specific purpose of providing elective outpatient surgery for preexamined pre-diagnosed low risk patients. Services provided at an outpatient surgery center shall be limited to surgical procedures which utilize local or general anesthesia and which do not require overnight inpatient care. "Outpatient surgery center" does not mean emergency medical services, or physician or dentist offices.

**MHD 523 Minimum standard.** Every hospital and every outpatient surgery center shall establish, operate and maintain a grievance mechanism designed to process and resolve patient grievances in accordance with these rules.

**MHD 524 Procedural requirements.**

A. **Designated person.** Every hospital and every outpatient surgery center, shall, through their respective governing authorities, designate an individual to be accountable for the operation of a grievance mechanism.

B. **Complaints, generally.**

1. Any patient, or his representative, may initiate any oral or written complaint related to those subjects specified in MHD 525.

2. Such complaints may be made to the person designated by the facility under MHD 524 A., or to any other person authorized to receive complaints by the facility. A person authorized to receive complaints shall be physically within the facility and able to receive complaints during ordinary business and visiting hours. Persons authorized to receive complaints, other than the

## PROPOSES RULES

person designated under MHD 524 A., shall, in all complaint cases, report any response or resolution, or refer the complaint, to the person designated under MHD 524 A.

C. Time limits for response. When such complaints are made while the patient is in the facility, written response to them, or written notice of the resolution of the complaint, shall be provided to the complainant within the following time periods:

1. 24 hours for complaints relating to the following provisions of MHD 525: A.; B.; C.; G.; I.; K.; L.; M.; N.; O.; Q.; and T.

2. 72 hours for complaints relating to the following provisions of MHD 525: D.; E.; F.; H.; J.; R.; S.; and U.

3. 30 days for complaints relating to the following provisions of MHD 525: P.; and V.

D. Notice of time limit. The authorized individual to whom the complaint is made shall, within 4 hours, inform the complainant of the applicable time limit, in his best judgement, for response or resolution under MHD 524 C.1., 2., or 3.

E. Exception. If the condition of the patient in question presents an emergency situation preventing timely response to, or the resolution of, a complaint, the time limits specified in MHD 524 C.1. and 2. shall extend an additional 48 hours. In all such cases, a dated annotation of the existence of such an emergency situation shall be placed in the record required to be kept under MHD 524 G. and signed by the person asserting them in behalf of the facility.

F. Denials. The grounds on which denial of the action requested by the complainant can be based include the following:

1. the action sought by the claimant is medically and/or therapeutically contraindicated;

2. the action sought by the claimant would be violative of any of the rights, as prescribed in Minn. Stat. § 144.651, of other facility patients; or,

3. the action sought by the claimant would violate a written policy, approved by the facility's governing authority.

A dated annotation of any of the above grounds

shall be placed in the patient's record and signed by the person asserting them.

G. Patient complaint records. The following complaint records shall be maintained according to patient by the facility for periods of time determined in a written policy approved by the facility's governing authority:

1. an annotation of the date, time and substance of each complaint made by, or in behalf of, any patient;

2. a reference to any previous complaints made by, or in behalf of, the same patient during his current stay in the facility; and

3. an annotation of the date, time and substance of any response to, or resolution of, the complaint.

H. Patient notice.

1. Notice of mechanism. Written notice of the existence and availability of the grievance mechanism shall be posted conspicuously in all facilities, along with the notice required under Minn. Stat. § 144.652, and furnished, along with the notice required under Minn. Stat. § 144.652, to the patient or his representative upon admittance to the facility.

2. Content of the notice. Such written notice shall include the following:

a. a statement that complaints or grievances related to rights expressed in the Patients' Bill of Rights (Minn. Stat. § 144.651), or to any other rights, may be able to be resolved within the facility;

b. a statement that the facility maintains a grievance mechanism for this purpose; and,

c. a statement specifying an individual or type of individual to whom such complaints or grievances can be directed.

MHD 525 Patient complaints. Complaints relating to at least the following shall be subject to being processed through a grievance mechanism;

A. lack of considerate or respectful care;

B. failure to provide complete, current and understandable information concerning diagnosis, treatment or prognosis;

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

## PROPOSED RULES

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C. failure to provide the name and specialty, if any, of the physician responsible for coordination of care;

D. failure to afford consideration or privacy;

E. failure to afford consideration of individual social, religious and psychological well-being;

F. failure to preserve the confidentiality of the medical care program;

G. failure to provide, upon request, information bearing on the individual case with respect to any relationship of the facility to other health services facilities, medical groups and other similar entities;

H. failure to afford continuity of care;

I. failure to provide requested information, prior to or at the time of admission and during the period spent in the facility, relating to charges for care;

J. failure to afford the opportunity to participate in the planning of medical treatment;

K. failure to inform of, or to offer an opportunity to refuse to participate in, experimental research;

L. retaliatory, arbitrary, or otherwise medically unjustifiable discharge;

M. interference with or retaliation for the free exercise of any legally prescribed rights;

N. mental and/or physical abuse;

O. medically unjustifiable physical and/or chemical restraints;

P. failure to comply with lawful requests to release or to withhold medical records;

Q. requiring the performance of services not included for therapeutic purposes in the plan of care;

R. restriction of the right to associate and communicate privately with others;

S. interference with the sending and receipt of personal mail;

T. restriction of the rights to meet with representatives and to participate in commercial, religious and community activities;

U. restriction of the right to retain and use personal clothing and possessions, to the extent that space permits; and,

V. failure to respond to questions concerning billing practices, the amount of a specific bill, and the like.

**MHD 526 Reports.** Every hospital and every outpatient surgery center, shall, on or before each February first, submit to the state board of health a report on the experience of their respective grievance mechanisms during the immediately preceding calendar year. Such reports shall include at least the following information:

A. the name and location of the reporting institution;

B. the reporting period in question;

C. the name of the individual(s) responsible for the operation of the grievance mechanism;

D. the total number of complaints received by the facility;

E. the total number of complaints, according to classification under MHD 525;

F. the total number of any other complaints;

G. the number of patients by whom or for whom more than one complaint was made and the total number of such complaints; and,

H. the total number of complaints resolved to the patient's satisfaction.

**MHD 527 Schedule of fines.**

A. Patient notification and complaint mishandling.

1. Grounds; fine amounts. The following violations of these rules shall constitute grounds for the automatic assessment of a per violation \$50 fine:

a. failure to give individual patient notice, as required under MHD 524 H.; and,

b. failure to respond to a patient complaint within the applicable time limits, as required under MHD 524 C.

Multiple violations with respect to the current stay of a particular patient shall result in fines which in no case exceed \$200. Such fines are payable within 30 days of the automatic assessment, unless there is a facility request for a hearing. Such a request shall stay the collection of the assessed fines, pending the outcome of the hearing.

B. Inadequate or improperly functioning mechanism.

## PROPOSED RULES

1. **Grounds.** The following violations of these rules shall constitute grounds for the issuance of a correction order:

a. failure to have a grievance mechanism, as required under MHD 523;

b. failure to designate a person to be responsible for the operation of a grievance mechanism, as required under MHD 524 A.;

c. failure to have an individual within the facility and able to receive complaints during ordinary business and visiting hours, as required under MHD 524 B.2.;

d. failure to maintain patient complaint records, as required by MHD 524 G.;

e. failure to post notice, as required by MHD 524 H.;

f. failure to submit an annual report, as required by MHD 526; and,

g. failure to fulfill the criteria for content of the annual report, as required by MHD 526 A.

2. **Time periods for correction.** In no case may the allowable period for correction of any of the violations in MHD 527 B.1. exceed 60 days.

3. **Fine amounts.** The amounts which shall be assessed in the event that the facility does not comply with correction orders within the allocated period of time are as follows:

a. violations as described in MHD 527 B.1.a. — up to \$200 per violation;

b. violations as described in MHD 527 B.1.b. — up to \$100 per violation;

c. violations as described in MHD 527 B.1.c. — up to \$150 per violation;

d. violations as described in MHD 527 B.1.d. — up to \$50 per violation;

e. violations as described in MHD 527 B.1.e. — up to \$100 per violation;

f. violations as described in MHD 527 B.1.f. — up to \$200 per violation; and,

g. violations as described in MHD 527 B.1.g. — up to \$100 per violation.

Such fines are payable within 30 days of the assessment, unless there is a facility request for a hearing within that period. Such a request shall stay the collection of the assessed fines, pending the outcome of the hearing.

**MHD 528-535: Reserved for future use.**

**MHD 370 Governing body; consumer members; enrollee participation; complaint system.**

**Sections (a) through (e) remain unchanged.**

**F.** Records of complaints. Every health maintenance organization shall maintain a record of each complaint filed with it during the prior three years. The record shall, where applicable, include:

1. The complaint or a copy thereof and the date of its filing.

2. A brief written summary of the outcome of all informal discussions, consultations or conferences held relative to each complaint and the date or dates on which each such informal discussion, consultation or conference occurred. Such summary shall include an acknowledgment by those participating in the form of their signatures.

3. The date or dates of any hearing and a copy of the hearing findings given the enrollee complainant.

4. The dates of commencement and conclusion of another processing conducted in accordance with MHD 370(e); and a copy of the concise written record of all findings and recommendations arising therefrom, which record shall include an acknowledgment by those participating in the form of their signatures.

5. The date of submission of any complaint to arbitration; a copy of the arbitrator's decision; and the date of the decision.

**KEY:** New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

## **PROPOSED RULES**

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6. A brief written summary, including the filing date, of each complaint which becomes a subject of litigation; a brief written summary, with dates, of the findings or outcome of any prior processing held relative to the complaint; and a brief written statement describing the outcome of the complaint or claim as determined in litigation.

**G. Complaint reports.** Every health maintenance organization shall, on or before each February first, submit to the state board of health a report on the experience of its respective complaint system during the immediately preceding calendar year. Such reports shall include at least the following information:

1. the name and location of the reporting health maintenance organization;

2. the reporting period in question;

3. the name of the individual(s) responsible for the operation of the complaint system;

4. the total number of complaints received by the health maintenance organization;

5. a copy of the written summaries of informal discussions, consultations and conferences required to be kept for each complaint under (f)(2) of this rule;

6. the number of enrollees by whom or for whom more than one complaint was made and the total number of such complaints; and,

7. the total number of complaints resolved to the enrollee's satisfaction.

# OFFICIAL NOTICES

## Ethical Practices Board Definition, Registration and Reporting of Lobbyists

### Draft Advisory Opinion No. 32

The Minnesota State Ethical Practices Board solicits opinions and reactions to the following draft of an advisory opinion which will be acted upon on Tuesday, December 7, 1976, in room 57 of the State Office Building concerning clarification of the new definition of lobbyist and lobbying as it affects individuals registering and reporting as lobbyists with the Board.

B. Allen Clutter, Executive Director  
Ethical Practices Board  
410 State Office Building  
St. Paul, Minnesota 55155

Dear Mr. Clutter:

In order that you may advise affected and interested persons and carry out your duties as executive director, you have requested an advisory opinion clarifying provisions concerning the definition, registration, and reporting of lobbyists under Minn. Stat. § 10A as amended in 1976 based upon the following:

#### Facts.

Minn. Stat. § 10A.01, Subd. 11 as amended in 1976 provides:

“Lobbyist” means any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

“Lobbyist” does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual in the course of selling goods or services to be paid for by public funds;

(d) News media or their employees or agents acting in the ordinary course of business of publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in Minn. Stat. § 500.24, subdivision 1, who does not spend over \$250, excluding travel expenses, in any year in communicating with public officials.

For the purpose of determining whether an individual must register and report as a lobbyist based upon this definition, you ask:

#### 1. Question.

Should time spent attending hearings but *not* testifying or communicating with public officials be included as time spent lobbying?

#### Opinion.

No. Time spent attending hearings but not testifying or communicating with public officials is not included in determining time spent lobbying since no communication with public officials has occurred.

#### 2. Question.

Should time spent in research and writing subsequent reports from which material is used in lobbying be included as time lobbying?

#### Opinion.

No. In Advisory Opinion #13, the cost of research and writing subsequent reports is specifically excluded from being reported as a lobbying expense, and, therefore, it follows that time so spent is not to be included as time lobbying. *However*, the cost of writing and preparing lobbying materials\* using such research data is reportable as a lobbying expense.

Lobbying materials are those materials which:

## OFFICIAL NOTICES

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(a) are prepared by or on behalf of a lobbyist's employer; and

(b) advocate a position to be taken by a public official; and

(c) are communicated either *to* a public official *or* to others urging them to communicate a position to a public official.

### 3. Question.

If an association spends in excess of \$250 in a calendar year in the production of materials advocating a position and these materials are sent to persons urging them to communicate the position advocated to public officials, must an individual be required to register and report as a lobbyist for that association?

#### Opinion.

Yes. If a person or association spends in excess of \$250 in a calendar year to influence legislative or administrative action, an individual must have been authorized to spend in excess of \$250 and, therefore, an individual must register as a lobbyist to report the lobbying expenses incurred even if the individual is not paid as a lobbyist.

### 4. Sole Proprietor — Unincorporated Business.

#### Facts.

An individual is the sole proprietor of an unincorporated business.

#### Question.

Must that individual register as a lobbyist if the individual attempts to influence actions or decisions of a public official regarding a matter of interest to the business of the individual by communicating with or by urging others to communicate with a public official?

#### Opinion.

No. An individual who is the sole owner of an unincorporated business does not have to register and report as a lobbyist *unless* he spends more than \$250, not including membership dues or travel expense, to influence the actions or decisions of a public official regarding a matter of interest to the business.

### 5. Sole Shareholder.

#### Facts.

An individual is the sole shareholder of an *incorporated* business and an employee of that business.

#### Question.

Must that individual register as a lobbyist if he spends more than \$250 in a calendar year or more than five hours in any month seeking to influence legislative or actions of a public official on behalf of a matter of interest to the corporation?

#### Opinion.

Yes. Such an individual must register and report as a lobbyist, with the *exception* of a stockholder of a family farm corporation, who must register, *only* if spending in excess of \$250 in a calendar year in communicating with or urging others to communicate with public officials.

### 6. Employees of State Agencies.

#### Facts.

An agency of the state or a political subdivision retains an individual to represent that agency for lobbying purposes; and you ask:

#### Question.

Must that individual register and report as a lobbyist if otherwise fulfilling the time or monetary requirements of a lobbyist?

#### Opinion.

No. An individual not otherwise a regular employee of a state agency or political subdivision retained to represent that agency for lobbying purposes is regarded as an employee of that agency or subdivision and need not register and report as a lobbyist, provided that the individual is representing the agency or subdivision in an official capacity. However, an individual who represents a non-governmental association of public officials, public employees, or governmental units must register and report as a lobbyist if otherwise qualified as a lobbyist.

### 7. Fundraiser Tickets.

#### Facts.

A campaign contribution in the form of a ticket to a fundraiser of a candidate is made by an individual who is a lobbyist from personal funds; and you ask:

#### Question.

Is the campaign contribution reportable as a lobbying disbursement?

#### Opinion.



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No. The contribution is not a lobbying expense but is a political contribution by the lobbyist of the political committee or fund.

However, if the association is repaying a lobbyist for such a contribution, the lobbyist must designate the source of the contribution to the candidate.

Note: Minn. Stat. § 211.27 prohibits political contributions by corporation. Therefore, a corporation must not reimburse a lobbyist for a contribution.

### 8. Expert Witness.

#### Facts.

A lobbyist pays a fee to an expert witness and arranges for that witness to appear before a legislative committee or administrative body to testify on some matter; and you ask:

#### Question.

(1) Must the expert witness register and report as a lobbyist?

(2) Are the expenses paid to bring the expert witness to testify by reportable as an expense by the lobbyist?

(3) Is the fee paid to the expert witness reportable as an expense by the lobbyist?

#### Opinion.

(1) Yes. An expert witness who is paid for his services must register and report as a lobbyist provided that he spends over five hours in any month or in excess of \$250 in a calendar year lobbying *unless* the legislative body itself requests his appearance *and* pays him a fee.

However, a paid expert witness who testified in a proceeding before an administrative agency is not required to register and report as a lobbyist if the testimony of the witness is requested either by that agency or a party to the proceeding.

(2) Yes. If paid by the lobbyist, expenses incurred by an expert witness must be reported by the lobbyist as lobbying expense.

(3) Yes. Any fee paid to a consultant by a lobbyist, or the employer of a lobbyist, related to lobbying purposes must be reported as expenses by the lobbyist.

### 9. Family Members of a Public Official.

#### Facts.

A public official and the spouse of the official are entertained by a lobbyist, and the total expense for entertaining those two individuals was \$25. The portion allocable to the public official, however, is less than \$20; and you ask:

#### Question.

Must the name and address of the public official receiving the gift, honorarium or item of benefit, the date, nature and amount of the transaction be disclosed in the lobbyist disbursement report?

#### Opinion.

Disclosure is required only when \$20 or more was given or paid to the public official as a gift, loan, honorarium, item or benefit. The allocable portion given or paid directly to a public official's spouse, or to other members of the official's family, need not be included in determining whether \$20 or more in value has been given or paid to a public official. However, the total spent is reportable as a disbursement by the lobbyist including those expenses of the lobbyist in the company of the public official.

### 10. Administrative Proceedings.

#### Facts.

A corporation applies to the Pollution Control Agency for a permit to discharge waste into a river; and you ask:

#### Question.

Are the representatives required to register and report as lobbyists?

#### Opinion.

No. Persons who appear before an administrative agency are not required to register as lobbyists on matters involving the application of rules or regulations in specific cases, except in cases of rate-setting and power plant siting.

However, a person who appears before an administrative agency concerning rules and regulations is required to register and report if otherwise qualified as a lobbyist.

### 11. Salaries.

#### Facts.

A salary is paid by an association to an individual as a lobbyist; and you ask:

#### Question.

(1) Is the salary paid to the lobbyist reportable as a lobbying expense?

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(2) Is the salary paid to a part-time or full time employee subject to reporting as a lobbying expense if that employee works on tasks related to lobbying?

### Opinion.

(1) No. Lobbyist Rules and Regulations 205, Required Reporting Information, 2 (ii) specifically exempts the salary of the lobbyist from reporting requirements.

(2) Yes. If that employee is not registered as a lobbyist and the tasks performed are directly related to performance of tasks related to lobbying.

### 12. Requested Testimony.

#### Facts.

The Public Service Commission requests individuals to testify or submit testimony on the question of whether public utilities should be able to pass along as business expenses to the user contributions to charitable institutions to be used in determining need for rules governing such practice and content of those rules if promulgated.

#### Question.

Must individuals testifying register and report as lobbyists?

#### Opinion.

Yes. Such action is lobbying. However, an individual engaged in lobbying need register and report as a lobbyist only if that individual is engaged for pay, or other consideration or is authorized to spend money *AND* spends five hours in any month or in excess of \$250 in a calendar year to influence legislative or administrative action by communicating with or urging others to communicate with public officials.

The Minnesota State Ethical Practices Board solicits opinions and comments to the following request for an advisory opinion from Mr. James R. Habicht, counsel of Minnesota Power and Light Company, which may be acted upon by the Board at its next meeting on Tuesday, December 7, 1976, in Room 57 of the State Office Building.

#### MINNESOTA POWER & LIGHT COMPANY

30 West Superior Street, Duluth, Minnesota 55802

James R. Habicht, Attorney

October 29, 1976

Mr. B. Allen Clutter  
Executive Director  
Minnesota State Ethics Commission  
410 State Office Building  
St. Paul, Minnesota 55165

Dear Mr. Clutter:

Pursuant to our conversation of October 26, 1976, the purpose of this letter is to request further clarification and/or an advisory opinion with regard to Minn. Stat. § 10A.01, subd. 11 and subd. 14 as amended and more specifically, as that statutory section is construed by Minnesota State Ethics Commission Advisory Opinion No. 15.

#### Issue.

Does Advisory Opinion No. 15 distinguish between rate-setting which is conducted with a state administrative agency on an informal, unilateral basis vis a vis that which is conducted in a formal context such as a contested case pursuant to Minn. Stat. ch. 15? The communication with a "Public Official" for the purpose of attempting to influence administrative action during the course of the informal rate-setting procedure being administrative action, thus, necessitating registration and reporting as a "lobbyist", while the communication with a "Public Official" for the purpose of attempting to influence administrative action during the course of a formal contested case rate-setting procedure would not necessitate registration and reporting as a "lobbyist".

#### Discussion.

As set out in Advisory Opinion No. 15, the pertinent statutory language concerning the definitions of a "lobbyist" and "Administrative action" are:

"any person who is engaged for pay . . . for the purpose of attempting to influence legislative or administrative action by communicating with public officials . . ." Administrative action is defined as action of a nonministerial nature, which includes "making rules, regulations or other general policy and does not include the application or administration of those rules, regulations or policies in specific instances, except in cases of rate-setting, power plant siting, and others which the commission may specify".

Question number 2 and the response thereto in Advisory Opinion No. 15 within the context of the above noted statutory references may be interpreted as creating a distinction between the "informal resolution of a rate dispute" or "formal appeal of a rate determination" insofar as the applicability of the lobbyist registration and reporting requirements are concerned.

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The pertinent question posed by Advisory Opinion No. 15 is: "Must you register and report as a lobbyist because of any communications with Department employees in connection with informal resolution of a rate dispute or formal appeal of a rate determination."

In discussing resolution of that question Advisory Opinion No. 15 recites in pertinent part:

"Once the Commissioner has issued his rate determination, the rate-setting proceeding has ended. The Commissioner's decision has already been made and continues in effect. There is a formal appeals procedure analogous to contested case procedures in other state agencies. Since the similar procedures of other agencies are not included in the definition of administrative action, it is consistent to exclude nursing home rate appeal proceedings."

Expanding this quotation within the meaning of the factual circumstances surrounding Advisory Opinion No. 15, the statutory language of Minn. Stat. § 10A.01, subd. 11 and subd. 14 as amended and the definition of a "contested case" as defined in Minn. Stat. § 15.0411, subd. 4 would yield the following paraphrase:

Once the Commissioner of Public Welfare has issued his rate determination which may have been arrived at by informal resolution and if so, such informal resolution requiring lobbyist registration and reporting, the rate-setting proceeding has ended. The Commissioner's decision has already been made and continues in effect. There is, however, a formal appeals procedure analogous to contested case procedures pursuant to Minn. Stat. ch. 15 which regulates procedurally the hearing of a contested case as defined therein before certain state administrative agencies. Since the similar procedures of other state agencies hearing of contested cases pursuant to Minn. Stat. ch. 15 are not included in the definition of administrative action, there is no requirement of lobbyist registration and reporting procedures, therefore, it is consistent to exclude nursing home rate *appeal* proceedings from the lobbyist registration and reporting requirements inasmuch as they are determined under circumstances procedurally similar to state agency contested cases determined under Minn. Stat. ch. 15.

If the above paraphrase is an accurate expansion of the language contained in Advisory Opinion No. 15 based on the theory that rate-setting administrative action which is carried on informally with unilateral attempts to influence is subject to the lobbyist registration and reporting requirements while that rate-setting action which would be conducted in the procedural context of a contested case pursuant to Minn. Stat. ch. 15 is not administrative action, thus requiring no lobbyist registration and reporting requirements because of the quasi-legal and adversary procedure involved; the presumption would be that a matter involving a

utility rate-setting hearing pursuant to Minn. Stat. ch. 15 would be exempt from the lobbyist registration and reporting requirements as soon as the matter is assigned to the State Office of Hearing Examiners for hearing as a contested case. The determining factor not being that the subject matter involves rates but that the procedural context controls whether it is "administrative action".

The amended definition of "administrative action" contained in Laws of 1976, ch. 307 would not change the distinction between informal rate-setting matters and contested case rate-setting procedures when the theory for making the distinction as noted above is considered, because the amended definition merely adds the definition of "non-ministerial action" already set forth in Minn. Stat. § 10A.01 subd. 14 and similarly does not specifically define "rate-setting" as previously indicated in Advisory Opinion No. 15 which already establishes:

"... cases of rate-setting is not defined in the statute, nursing home rate-setting proceedings fall within the literal language of the statute."

Importantly, the Opinion goes on to make the distinction between informal setting of nursing home rates prior to the Commissioner of Public Welfare's rate determination and the appeal procedure involved in setting nursing home rates which is *analogous* to contested case procedures in other state agencies which are not "administrative action" thereby requiring lobbyist registration and reporting. Further, in the capsule summary of Advisory Opinions dated October 1, 1976, the capsule summary entitled "Opinion No. 15 — Rate-setting" states "Communication with a public official in the course of contested case or appeal procedure does not constitute lobbying." Thus, this would strongly infer that rates as subject matter in the context of a contested case are not within the purview of the intended definition of "rate-setting" contained in amended Minn. Stat. § 10A.01, subd. 2. In essence, Advisory Opinion No. 15 has already concluded that rate-setting falls within the literal language of the statute, but as stated, goes on to distinguish matters of rate determination which are analogous to contested case procedures.

Of course the statute does not differentiate between types of industries which are involved in rate-setting matters and any distinction in that context would likely be unequal treatment inasmuch as the statute does not specify rate-setting for a particular industry.

The changes to Minn. Stat. ch. 15 brought about by Laws of 1975, ch. 380 should likewise have no effect on the apparent distinction set forth in Advisory Opinion No. 15. If anything, the distinction would have greater validity because of the fact that an independent hearing examiner from the newly created State Office of Hearing Examiners is assigned to conduct contested case hearings pursuant to Minn.

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Stat. § 15.052. In the particular case of a rate-setting contested case involving the State Public Service Commission, one or more Commissioners may or may not be in attendance and thus, obviously, be subject to attempts to influence by the parties to the proceeding. Consistent with the rationale of distinguishing between formal and informal proceedings would be the inherent fact that all expenses involved in a contested rate case proceeding under the Minnesota Public Utilities Act are reported by the utility as part of the utilities business expense in the rate case and, therefore, are a matter of formal public record while those involving any informal unilateral attempt to influence would not be.

My specific question for which I have extrapolated what I believe to be the intended interpretations and rationale is whether an attorney of record and witnesses providing testimony for a party to a contested case rate proceeding before a hearing examiner assigned by the State Office of Hearing Examiners wherein the State Public Service Commission will make the final determination, are subject to the lobbyist registration and reporting requirements.

Very truly yours,  
James R. Habicht

## Department of Health State Board of Health Proposed Revision of Rules Relating to Various Subjects

### Notice of Intent to Solicit Outside Opinion

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6 (Supp. 1975) that the Minnesota State Board of Health will propose the adoption of new rules and the amendment and revision of existing rules.

All interested parties desiring to submit data or views relating to the proposed adoption, amendment or revision of the rules noted below should address their comments (either written or oral) to the Minnesota Department of Health, Division of Environmental Health, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, by writing or calling the persons designated. Evidence submitted for consideration should be pertinent to the matter at hand. Any material received by the Department of Health will become part of the hearing record.

1. Proposed amendments to Minnesota Water Well Contractors Code relating to the use of plastic pipe by water well contractors in the construction of water wells:

Contact: Edwin Ross  
Phone: (612) 296-5339

2. Rules relating to the licensing of water conditioner installers and contractors and the installation of water conditioning equipment.

Contact: Charles Settle  
Phone: (612) 296-5325

3. Rule relating to the regulation with respect to sanitary conditions of mass gatherings.

Contact: Charles Schneider  
Phone: (612) 296-5335

4. Amendment to MHD 151-160, Lodging Establishment, and MHD 161-170, Food and Beverage Establishments, will update standards.

Contact: Charles Schneider  
Phone: (612) 296-5335

5. Proposed rules relating to all public drinking water supplies, pursuant to the Safe Drinking Water Act of 1974, P.L. 93-523, and rules amending MHD 136 relating to water supplies and MHD 217 relating to water well construction.

Contact: Gary Englund  
Phone: (612) 296-5330

6. Proposed repeal of the following rules:

MHD 246 dealing with annual sanitary inspections,

MHD 247 dealing with notice of inspection,

MHD 248 dealing with cesspools and privies,

MHD 249 dealing with disposal of dead animals,

MHD 250 dealing with feeding of garbage to hogs,

MHD 251 dealing with rendering establishments,

MHD 252 dealing with slaughterhouses,

MHD 253 dealing with keeping hogs at slaughterhouses,

MHD 254 dealing with hatters' fur,

MHD 198 dealing with industrial camps,

MHD 195 dealing with tourist camps,

MHD 204 dealing with migrant labor camps.

## OFFICIAL NOTICES

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Contact: David Giese  
Phone: (612) 296-5362

7. Amendment of MHD 139, Plumbing, will include standards and qualifications for examination and licensing of journeyman and master plumbers.

Contact: Charles Settle  
Phone: (612) 296-5325

Any materials submitted shall be reviewed and considered by the Department of Health during the preparation of the proposed rules. Notice of the public hearing on the proposed rules shall be published in the State Register and

given to all interested parties who have registered with the Secretary of State's Office in accordance with the provisions of the Administrative Procedure Act.

Under the provisions of Minn. Stat. § 10A.01, subd. 11 (1974), any individual representing persons or associations attempting to influence administrative action, such as the promulgation of these proposed rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual. The State Ethics Commission is located at Room 401, State Office Building, Saint Paul, Minnesota 55155.

Warren R. Lawson, M.D.  
Secretary and Executive Officer

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