

9/17/90 (rev.)

**STATE OF MINNESOTA
MINNESOTA DEPARTMENT OF HEALTH**

**In the Matter of Proposed Permanent
Rules Governing Limited Dewatering
and Sealing Licenses; Construction
Permits, Minnesota Rules, parts
4725.0450, 4725.0500, and 4725.1825**

**STATEMENT OF NEED
AND REASONABLENESS**

The proposed amendments to Minnesota Rules, parts 4725.0450, 4725.0500 and 4725.1825 govern qualifications for limited contractor licenses to seal wells and construct, repair, or seal dewatering wells. The proposed rules establish experience requirements for limited well contractor licenses to seal wells and for limited well contractor licenses to construct, repair, or seal dewatering wells. The rule parts also propose technical amendments to adopted rules governing well pumps and pumping equipment and dewatering well construction permits.

Statutory Authority

Laws of Minnesota 1990, chapter 597, section 22 amended Minnesota Statutes, section 103I.101, subdivision 5 to grant authority to the commissioner to adopt rules specifically for persons "constructing, repairing, and sealing dewatering wells." Within that subdivision, paragraph (3) gives the commissioner authority to adopt rules governing the "(3) establishment of conditions for examination and review of applications for license and registration."

In accordance with Minnesota Statutes, section 103I.101, subdivision 2 (as amended by Laws of Minnesota 1990, chapter 597, section 21) the duties of the Commissioner of Health include the authority to:

- (1) regulate the drilling, construction, and sealing of wells and borings;
- (2) examine and license well contractors, persons modifying or repairing well casings, well screens, or well diameters; constructing, repairing and sealing unconventional wells such as drive point wells or dug wells; constructing, repairing, and sealing dewatering wells; sealing wells, installing well pumps or pumping equipment; and excavating or drilling holes for the installation of elevator shafts or hydraulic cylinders;
- (3) register and examine monitoring well contractors;

- (4) license explorers engaged in exploratory boring and examine individuals who supervise or oversee exploratory boring;
- (5) after consultation with the commissioner of natural resources and the pollution control agency, establish standards for the design, location, construction, repair, and sealing of wells, elevator shafts, and borings within the state; and
- (6) issue permits for wells, groundwater thermal devices, vertical heat exchangers, and excavation for holes to install elevator shafts or hydraulic cylinders.

Notice of Solicitation

The Notice of Solicitation of Outside Information or Opinions on this matter was published in the State Register on August 20, 1990.

Cost of Implementation to Local Government

If the adoption of a rule by an agency requires the expenditure of public moneys by local public bodies, Minnesota Statutes, section 14.11, subdivision 1 requires the agency to give a reasonable estimate of the total cost to all local bodies in the state to implement the rule for two years immediately following adoption of the rule, if the estimated cost exceeds \$100,000 in either of the two years. There would be no direct cost to local units of government resulting from these proposed rules.

Small Business Considerations

Minnesota Statutes, section 14.115, requires that an agency consider five factors for reducing the impact of proposed rules on small business. The proposed rules and amendments will have an impact on contractors who dewater or seal wells. Most meet the statutory definition of small business.

The commissioner has considered the concerns of small businesses for these proposed rules through the establishment of a Limited Water Well Contractor Advisory Work Group. This group discussed and recommended proposed requirements for the limited licenses to the Commissioner. The rules reflect their recommendations. Of the eight members of the work group, seven are owners or employees of small businesses. The eighth member represents a contractor's association composed of a large number of small business owners. Additionally, the 15 member Commissioner's Advisory Council on Wells and Borings, composed of state agency, industry and public representatives, has six small business members. This group also reviewed the proposed rules.

The major purpose of chapter 4725 is to protect public health by ensuring adequate protection of the groundwater which provides almost two thirds of all drinking water in the state. The rules reflect the basic competence required to be protective of the public health and the resource. A minimum competence and skills level is needed regardless of the size of the licensed contractor's business. Therefore:

a) The proposed rules do not establish less stringent compliance or reporting requirements for small businesses. The licensing rules are designed to ensure that all contractors are adequately qualified to construct, repair and seal wells or dewater wells in compliance with standards in law and rule. Less stringent compliance based on the size of the business may result in inadequate protection of the groundwater.

b) The proposed rules do not establish schedules or deadlines for compliance or reporting requirements, thus these small business factors are not considered under these proceedings.

c) The proposed rules do not effect current performance standards or design or operational standards.

d) The standards do not exempt a small business from any or all requirements of the rule. Small businesses and the customers of small businesses should be afforded the same public health protection as other individuals.

4725.0450 LICENSING AND REGISTRATION

Subp. 3. Well pumps and pumping equipment. The amendment to this subpart is technical to achieve internal consistency and clarify responsibilities described in the rule. The amendment to this subpart clarifies that licensed dewatering well contractors may install pumps and pumping equipment only in dewatering wells, just as monitoring well contractors may install pumps and pumping equipment only in monitoring wells, and limited unconventional well contractors may only install pumps and pumping equipment in unconventional wells.

4725.0500 QUALIFICATIONS FOR CONTRACTOR LICENSE OR REGISTRATION

Subp. 7a. Application for limited well contractor license to seal wells. To properly seal a well in accordance with the sealing requirements of parts 4725.2500 to 4725.3100, it may be necessary to remove obstructions from the well, remove or perforate the well casing, and conduct other actions including drilling out debris or obstructions, pumping water or grout, inspecting the well, and installing temporary seals, fittings or casings. The proposed rule establishes these actions as activities which may be done with a limited license to seal wells.

Subp. 7b. Experience requirements for limited well contractor license to seal wells. The experience requirements necessary to obtain a limited license to seal wells reflects the difficulty of sealing wells. Contractors must have knowledge and experience with both the drilling of wells and the sealing of wells. Drilling experience is necessary because many wells must be drilled out before sealing. The experience helps the person understand the often unique construction of old wells and how to properly seal the well without causing drill hole collapse or greater problems. Considerable sealing experience is necessary because the sealing job often entails greater variation and more complexity than drilling a new well.

Requiring three years of experience consisting of five wells and 1000 hours per year is consistent with the complexity of the task and the other license

category experience requirements such as the required four years for a well contractor license and three years experience for a monitoring well contractor or limited unconventional well contractor license. The three year experience requirement consisting of 1000 hours and five sealed wells per year was supported by the Advisory Task Force on Limited Well contractors which met during the fall of 1989 and in June of 1990, and the Advisory Council on Wells and Borings which met in May of 1990. The experience must be gained now under a licensed well contractor since this type of work must have been done by a licensed well contractor since 1971 and in the future may also be gained under the supervision of a limited well sealing contractor.

Subp. 7c. Application for limited well contractor license to construct, repair, or seal dewatering wells. This subpart reflects the new licensure category in Laws of Minnesota 1990, chapter 597, section 22 which amended Minnesota Statutes, section 103I.101, subdivision 5 to provide for the licensure by the Commissioner of Health of persons "(iii) constructing, repairing, and sealing dewatering wells."

Subp. 7d. Experience requirements for limited well contractor license to construct, repair, or seal dewatering wells. The limited license to construct, repair, or seal dewatering wells was created by Laws of Minnesota 1990, chapter 597, section 22.

The department's Advisory Task Force on Limited well contractors and the Advisory Council on Wells and Borings recommended that two years of experience consisting of 500 hours and five wells per year was adequate minimum experience to be relatively competent in the dewatering business. Dewatering projects often involve tens or hundreds of relatively shallow wells of identical construction. Project design and supervision is important for the success of the project and the prevention of environmental damage, therefore they are considered equivalent to construction experience.

4725.1825 DEWATERING WELL CONSTRUCTION PERMITS

The amendments to this part are technical. They are necessary to make the adopted rule part consistent with Laws of Minnesota, chapter 597, section 22 which allows licensure of an individual to construct a dewatering well. A permit must be obtained prior to a contractor beginning construction of a well. The proposed rule amendment clarifies that the permit is issued to the limited dewatering well contractor or the well contractor.

EFFECTIVE DATE

The department intends that the proposed rules and amendments be effective five working days after publication of the adopted rules in the State Register.

DEPARTMENT : Health

STATE OF MINNESOTA

Office Memorandum

DATE : September 24, 1990

TO : Legislative Committee to Review Administrative Rules
Room 55 State Office Building
100 Constitution Avenue, St. Paul, Minnesota

FROM : Jane A. Nelson, Rules Coordinator
Environmental Health Division
Minnesota Department of Health

PHONE : 627-5038

SUBJECT : Submission of Statement of Need and Reasonableness pursuant to
Minnesota Statutes, sections 14.131 and 14.23

In accordance with the above matter, the Minnesota Department of Health is submitting to you the Statement of Need and Reasonableness on proposed rules governing limited dewatering and sealing licenses; construction permits, Minnesota Rules, parts 4725.0450, 4725.0500, and 4725.1825. These rules are scheduled for publication in the State Register October 8, 1990, and would go to hearing, if necessary, November 14, 1990.

JAN:mq
Enclosure