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The Legislative Commission to
Review Administrative Rules

JUL 15 1993

STATE OF MINNESOTA DEPARTMENT OF LABOR AND INDUSTRY



In the Matter of the Proposed
Amendments to Minnesota Rules
Chapter 5225 Governing Boilers
and Power Boats

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

The Boiler Division of Code Administration and Inspection Services of the Department of Labor and Industry (Department) regulates boats that carry passengers for hire. Boats which carry passengers for hire means that a passenger gives something of value to ride on a boat. The Department has statutory authority to regulate boats for hire and the pilots who operate them under Minnesota Statutes, sections 183.41, 183.42, 183.44, 183.545, 183.61, 183.62, as well as section 175.171.

The proposed amendments to the rules are in response to concerns expressed by boat owners and boat pilots. These concerns were first expressed at two educational seminars on boats sponsored by the Department in 1990 and 1991. At the seminars boat owners and boat pilots raised a number of concerns about the licensure and inspection of their boats. Their concerns were two fold. First, the double inspection of boats by the Department and the Coast Guard occurring in some jurisdictions was a concern. Second, currently some boat pilots are subject to a duplicate license application test and fee by the Department and the Coast Guard. In addition, it was the sentiment of some of the attendants of the seminar that the equipment requirements of the Department were confusing and needed clarification.

In response to the opinions expressed at the seminars the Department decided to amend the rules governing boats carrying passengers for hire. A Notice of Intention to Solicit Outside

Opinion (NOIS) was published in the *State Register* with copies sent to those on the Department's boat mailing list. The Department received six responses to the NOIS. One response raised an issue outside of the scope of the NOIS. Another called for a performance evaluation of pilots. This idea was rejected because the affidavit requirement for a pilot's license already addresses this issue. The remainder of the responses echoed what had been brought up at the educational seminars, and centered around three themes: (1) the need to update the equipment requirements of the rules; (2) the need to get rid of duplicative regulation by the Coast Guard and the Department; and (3) the need to get rid of burdening and unnecessary regulation. After discussion with the sheriff's departments of Hennepin and Cass counties the proposed amendments to the rules were drafted to address these concerns.

Because the fees for boat inspection and licensure are unchanged or reduced for some pilots (see proposed Minnesota Rules, part 5225.8600, subpart 2, item A), the Department is not required to comply with the requirements of Minnesota Statutes, section 16A.128. Two other bases for exemption from the fee setting requirements of Minnesota Statutes, section 16A.128 exist at subdivision 2 (1) which exempts fees based on actual direct costs of a service such as these and subdivision 2 (3) that exempts fees that produce insignificant revenues. As noted the only fee change involved in this rule making is a possible reduction in fee income.

IMPACT OF THE RULES ON SMALL BUSINESS

Boats meeting the definition of Minnesota Rules, part 5225.6100, subpart 2 (boats) are almost exclusively operated as part of small businesses. There are 130 licensed pilots registered with the Department and 109 registered boats. Most of the boats carry few passengers. The following table gives an overview of the size of boats that are affected by these rules. The data is from inspections done in 1991 by the Department.

Table 1. Profile of the impacted boats.

passenger capacity of boat	number of boats
less than 10	37
10 - 19	9
20 - 29	19
30 - 39	9
40 - 49	9
50 - 59	19
60 - 99	3
100 or more	4

The proposed amendments to the rules will have a neutral or positive impact on affected small businesses. The proposed amendments duplicate the substance yet clarify the existing rules. For example, there is a proposed optional inspection of smaller boats carrying passengers for hire. Second, a proposed rule exempts pilots with an unlimited Coast Guard license from the exam and affidavit requirements when obtaining a state pilot license. Third, a proposed rule raises the minimum amount of property damage caused by a boating accident before it must be reported. These rules will reduce unnecessary regulation for boat owners and pilots.

The proposed rules will also increase boat passenger safety. For example, a proposed rule requires a stability test and approval of all design changes to ensure that modified boats are safe. Boats which are in violation of the proposed rules may not operate until the violation has been corrected. An increase in safety of boats will have a positive impact on these small businesses by encouraging their use.

IMPACT OF THE RULES ON AGRICULTURE

There is no impact on agricultural land by the proposed rule

amendments.

IMPACT OF THE RULES ON LOCAL GOVERNMENT

The impact on local government entities will be less than \$100,000 in the two fiscal years subsequent to the adoption of these rules. None of the boats or pilots impacted are owned by local government.

NEED FOR AND REASONABLENESS OF RULES

Proposed Amendments to Parts 5225.0100, 5225.0300, 5225.0500, 5225.0550, and 5225.0900.

The boat pilot language in the above mentioned sections (regarding license application, expirations and renewals, experience requirements, and display of license) is proposed to be moved to the section of the rules which will now deal specifically with boats, beginning at part 5225.6000. The move generally separates the boiler parts of these rules from the boat parts of the rules to make it easy for the reader to find relevant rules. The changes are reasonable in that no substantive changes are made in the language and they are merely moved for the sake of clarity.

Proposed part 5225.0100 also deletes the term "steam engineer" and replaces it with "boiler operating engineer". It is necessary to change the term "steam engineer" to "boiler operating engineer" because the term "steam" is outdated in that boilers are now operated by steam or hot water. The term "boiler operating engineer" is reasonable because it is a broader term and encompasses engineers operating boilers regulated by the Department as steam boilers, hot water supply boilers over 500,000 BTU input (British thermal units), and liquid boilers over 750,000 BTU input, except boilers exempted under Minnesota Statutes, section 183.56.

Part 5225.6000 SCOPE

This amendment is needed to explain that the rules apply only to boats which carry passengers for hire. As it was previously worded, it implied that the rules applied to all boats which operated within any lake or river of Minnesota. The proposed amendment is reasonable because it clarifies that only pilots and boats which carry passengers for hire operating on Minnesota lakes that are not under Coast Guard jurisdiction are subject to these rules. The proposed amendment is consistent with the statutory

language of Minnesota Statutes, section 183.41.

Part 5225.6050 INCORPORATION BY REFERENCE.

Subpart 1. **Code of Federal Regulations, title 33.** This subpart incorporates the Code of Federal Regulation, title 33, section 86.01, and United States Code, title 33, sections 2002 to 2019. The need for and reasonableness of this incorporation is explained in the relevant portions of this statement.

Subpart 2. **Code of Federal Regulations, title 46.**

This subpart incorporates sections of Title 46 of the Code of Federal Regulations (CFR) as referred to in parts 5225.6140, 5225.6500, and 5225.7200. The Department needs to adopt these sections of the CFR to comply with the mandate of Minn. Stat. §183.41 subd.2. The need and reasonableness of each specific incorporation is fully explained in the relevant portion of this statement.

It is the 1991 edition of the CFR that is incorporated. The incorporation of a specific year of the CFR is reasonable as the Department is convinced of the propriety of that particular provision. The incorporation of a particular code edition is reasonable to ensure that those effected by the rules have an opportunity to participate and comment on the rules that are proposed.

Subpart 3. **Use of Terms.**

These modifications to the incorporated provisions are necessary because the terms used in the CFR do not apply to the Department. The adaptations are reasonable because they replace the Coast Guard titles used in the CFR with the equivalent titles used by Department, resulting in a meaningful use of the CFR.

Part 5225.6100 DEFINITIONS.

Subpart 1. Repealed. **Approved life preserver repealed.**

The existing definition of an approved life preserver needs to be repealed because it is outdated, no longer applicable, and causes confusion for boat owners. This repeal is reasonable because the life preserver specifications of the 1991 CFR are incorporated by reference in proposed Minnesota Rules, part 5225.6500, subpart 2.

Subpart 1a. **Scope.**

This proposed subpart simply clarifies for the reader that the meanings given in this part apply to the whole of Minnesota Rules, chapter 5225.

Subpart 2. Boat.

Revision of the existing boat term is necessary to vividly define which boats are regulated by these proposed rules. The proposed definition of boats subject to regulation by the department are those boats on inland waters of the state, 21 feet or more in length, that carry passengers for hire.

It is reasonable to limit boat inspections to boats of 21 feet or longer because almost all boats for hire that length. The exclusion of small boats from the definition is reasonable because it codifies the practice of the Department of not inspecting boats of less than 21 feet. The safety of smaller boats is not significantly increased by requiring Department inspections. Currently, there are only 11 boats with a length of less than 21 feet that are registered with the Department. A major safety issue with boats is fire hazards and resistance to puncture. Aluminum and steel hulled boats are the most durable material for boat construction and the best safety risk. Fiberglass and wood hulled boats are the most vulnerable to fire and puncture damage. 80% of the boats less than 21 feet long registered with the Department are aluminum hulled, and the remainder are either fiberglass or steel; none have wood hulls. The physical construction of smaller boats registered with the Department in itself reduces the need to inspect these boats because the hulls of these boats are less vulnerable to damage. Further, those boats are currently subject to DNR regulation in some respects. The Department has limited resources that must be utilized in the most effective manner. Limiting regulation of boats for hire to those 21 feet or more in length reduces fiscal constraints on the Division of Boiler Inspection, of the Department.

The Department only has statutory authority under Minnesota Statutes, section 183.41 to regulate boats which carry passengers for hire, thus the definition of boat has this limitation in the definition.

Sailboats have been included in the definition of boat. It is necessary to include sailboats which carry passengers for hire in the definition of boat because boats of this size have an auxiliary motor, meaning they are propelled by mechanical power under Minnesota Statutes, section 183.41, subdivision 1. Sailboats carrying passengers for hire not under Coast Guard jurisdiction would not be inspected for safety if the Department does not perform the inspection. It is reasonable to include sailboats under the regulation of the Department to ensure these boats are safe for public use. Further, it is reasonable to require

sailboats carrying passengers for hire to be subject to the same inspection as motorized boats of similar size carrying passengers for hire.

Subp. 2a. Length.

Because regulation is limited to boats 21 or more feet in length, it is necessary to define how boats are measured to ensure uniform regulation. The definition is reasonable because it is a standard method of measure used by the Coast Guard and because it clarifies enforcement of these rules.

Subp. 2b. Passengers for hire.

It is necessary to define the term "passengers for hire" because the term does not have a common usage. The definition is reasonable because it is the Coast Guard definition of the same term. (46 CFR 175.10-28 (1991))

The other modifications to definitions serve only to clarify the rule language.

Part 5225.6140 INSPECTION OF BOATS.

Subpart 1. Inspection required. Minnesota Statutes, section 183.42 requires the Department to make rules for the inspection of boats under its jurisdiction. It is necessary and reasonable for the Department to promulgate rules to mandate an annual inspection of boats as inspections of at least that frequency are required by Minnesota Statutes, section 183.42.

This proposed subpart also eliminates the Department's inspection requirement of boats under the jurisdiction of Coast Guard. This eliminates duplicative regulation. This is reasonable because the Coast Guard's standards for inspection are similar to the Department's, resulting in uniform and efficient regulation of all boats for hire.

Subp. 2. Inspections optional. Inspection of small boats becomes optional under the proposed exemption in the rules. The optional inspection of boats less than 21 feet is reasonable because it allows boat owners of small boats which carry passengers for hire to have their boat inspected if they wish.

Subpart 3. Inspection standards.

This proposed part is necessary to inform pilots and boat owners what standards their boat must meet to pass an inspection. The only requirements in the existing rules is that a boat for hire

carry oars or pole, an anchor, a fire extinguisher, and life preservers.

The incorporation of the CFR is reasonable because Minnesota Statutes, section 183.41, subdivision 2 requires the Department to prescribe boat inspection rules in conformance with the Federal Code. The incorporation of 46 CFR 176.25 (Code of Federal Regulations, title 46, subpart 176.25) explains standards for a boat's hull, machinery, electrical wiring, lifesaving equipment, fire extinguishing equipment, pressure vessels, steering apparatus, miscellaneous systems and equipment, sanitary inspection, and unsafe practices. This proposed part will illustrate for boat owners and pilots the standards of inspection used by the Department.

Part 5225.6145 PILOT REQUIREMENTS.

This proposed subpart restates Minnesota Rules, part 5225.0880, subpart 1 regarding what is necessary to maintain a pilot license and violations which constitute revocation of a pilot licenses. The Department has authority to revoke the license of a pilot found under the influence of drugs or alcohol when on duty or who otherwise disregards the provisions of chapter 5225 relevant to pilots under Minnesota Statutes, section 183.44, subdivision 3. This part is necessary to give pilots notice that they must comply with these rules and that if they do not their pilot license will be revoked. It is reasonable to mandate that pilots conform to these rules to ensure public safety of boat passengers.

Part 5225.6150 LICENSE REQUIREMENTS.

The Department has statutory authority to license pilots of boats under Minnesota Statutes, section 183.44, subdivision 1.

Subpart 1. **General.** This proposed part simply explains that it is mandatory to hold a pilot license to operate one of these boats. The operation of a boat for hire puts other lives at risk and the Department's licensing requirements have assisted in ensuring safety of those lives and property by ensuring the competency of pilots. This part is necessary and reasonable in that it notifies pilots of the license requirement.

Subpart 2. **Requirements for license.**

This proposed subpart establishes requirements for a pilot licensure as an application, affidavit, exam, and fee. It is basically a repetition of the requirement that is presently in the

boiler portion of the rules, and places all the pilot license requirements into this part for convenience. Pilot license application requirements are not substantively changed in this subpart. The transfer is necessary and reasonable in that a pilot license applicant can now review all the relevant rules in one convenient location within Minnesota Rules, chapter 5225.

Subpart 3. Experience documentation.

This part is proposed to replace Minnesota Rules, section 5225.0550, subpart 7, Pilot license experience documentation. It is reasonable to repeal and replace Minnesota Rules, part 5225.0550, subpart 7 for convenience to locate all of the pilot license requirements into one part. Proposed subpart 2 also changes the pilot license experience requirement from one month or 30 days of time to 15 hours of training experience. It is necessary to change the experience requirement to a specific number of hours because the present 30 day requirement is vague and ambiguous. 15 hours of training experience is reasonable in that it is difficult for pilot trainees to acquire hours piloting a boat and 15 hours ensures an actual number of hours of hands-on experience. Trainees are only able to train when a boat and licensed pilot are available to assist the trainee in obtaining piloting hours. Because pilot trainees are restricted in the ability to train on boats to receive training hours, it may take up to a month or more to obtain 15 hours of training. The 15 hour requirement is adequate to ensure that the trainee will be a competent pilot.

Subpart 4. Exemptions from affidavit and examination requirement.

This proposed subpart incorporates for the pilots Minnesota Rules, part 5225.0550, subpart 9's allowance of other acceptable supporting documentation. This proposed subpart explains what alternative experience is acceptable to establish that an applicant for a pilot license will be able to safely and effectively perform as a pilot.

An exemption from the exam and affidavit requirements for those applicants holding an unlimited current U.S. Coast Guard pilot license will increase the efficiency of the governmental licensing process by eliminating duplicative regulation. Under the current system, pilots with a Coast Guard license who are under the jurisdiction of the Department are required to apply, test for, and pay for a Minnesota pilot's license. This amendment will exempt pilots who have already met these requirements for the Coast Guard from this Department's testing and documentation processes. This

is reasonable because a Coast Guard pilot license is sufficient proof that an applicant can safely and competently operate a boat as the Coast Guard's requirements for licensing are more stringent than the Department's. A distinction is made between a limited and unlimited Coast Guard license because the requirements are different for each. A Coast Guard limited pilot license means that the pilot is only competent to operate certain types of boats. A limited Coast Guard pilot's license does not in itself ensure that the pilot is competent to operate a boat for hire. Thus, the Department requires in the proposed rule that the holder of a limited Coast Guard pilot license meet the affidavit and exam requirements when applying for a state pilot license.

Subpart 5. Effect of failure of examination.

The part of this rule which applies to boat pilots has been moved from Minnesota Rules, part 5225.0500, Subpart 3, item A, to this section for convenience and has not been changed in substance.

Part 5225.6160 LICENSE EXPIRATION AND RENEWAL.

Subpart 1. Timing.

This proposed subpart moves the term pilot from Minnesota Rules, part 5225.0300, subpart 1, and restates that language. This proposed subpart is necessary and reasonable in that it too, pulls together the boating portions of Minnesota Rules, chapter 5225. This subpart does not change in substance the existing rule provision on license expiration and renewal.

Subpart 2. Application for renewal within one year of expiration.

This proposed subpart restates existing Minnesota Rules, part 5225.0300, subpart 2 as it applies to pilot licenses. The language has been changed for clarification only and the meaning of the rule has not changed.

Subpart 3. Renewal application after one year of expiration.

This proposed subpart restates Minnesota Rules, part 5225.0300, subpart 3. as it applies to pilot's licenses. The meaning of this subpart has not been changed in the move.

Part 5225.6170 DISPLAY OF LICENSE.

This proposed subpart restates existing Minnesota Rules, part 5225.0900 as it applies to pilots. It has not been changed in substance.

Part 5225.6350 RULES FOR NAVIGATION.

Subpart 1. Code of Federal Regulations requirements; jurisdiction.

The Department is required by Minnesota Statutes, section 183.44, subdivision 2 to make rules for the navigation of boats under the Department's jurisdiction. This proposed part replaces the repealed rules 5225.6300, 5225.6400, 5225.6600, 5225.7000, and 5225.7100 with parts of the United States Code, Title 33, sections 2002 to 2019 (1992). The purpose of this change is to define more explicitly what is safe navigation by replacing the present generally-phrased parts with situation-specific parts of the United States Code. Further, navigation rules need specific criteria for pilot applicants to learn, to ensure that pilot license applicants are competent boat pilots. Specifically, proposed repealed Minnesota Rules, part 5225.6300, COURSE AND SPEED, is replaced with 33 USC sections 2003 on Definitions, 2004 on Application, 2005 on Look-out, 2007 on Risk of Collision, 2008 on Action to avoid collision, 2010 on Vessel traffic services, 2011 on Application, 2012 on Sailing vessels, 2013 on Overtaking, 2014 on Head-on situation, 2015 on Crossing situation, 2016 on Action by give-way vessel, 2017 on Action by stand-on vessel, 2018 on Responsibilities between vessels, and 2019 on Conduct of vessels in restricted visibility.

This proposed course and speed part replacement is needed because there are currently no comprehensive rules governing boat navigation of the Minnesota inland waters. The proposed part replacement is reasonable because the incorporated parts of the USC have been used by the Coast Guard for the past 13 years and have proved to be effective in ensuring safety and preventing accidents.

Minnesota Rules, part 5225.6400, NARROW CHANNELS is proposed to be replaced with 33 USC section 2009, Narrow channels. It is necessary and reasonable to replace part 5225.6400 with 33 USC 2009 because section 2009 more explicitly describes how to navigate in narrow channels, resulting in greater public safety.

Minnesota Rules, part 5225.6600, APPROACHING DOCK is proposed to be replaced with 33 USC 2006, Safe speed. It is necessary and reasonable to replace part 5225.6600 with 33 USC 2006 because section 2006 defines what is a reasonable speed under a number of different circumstances, whereas Minnesota Rules, part 5225.6600 pertains only to the speed of a boat within 200 feet of a dock. Under the proposed part public safety of both passengers and others is enhanced.

Minnesota Rules, part 5225.7000, CONSTRUCTING RULES is proposed to be replaced with 33 USC 2002 (b). The substantive language has not been affected and the repeal and replacement are done for convenience of reference to one set of guidelines.

Minnesota Rules, part 5225.7100, CONSEQUENCES OF NEGLIGENCE is proposed to be replaced with 33 USC 2002 (a). The substantive language has not been affected and the repeal and replacement are done for convenience of reference to one set of guidelines.

Subpart 2. Towing rowboats.

This proposed subpart will replace Minnesota Rules, part 5225.6800 which is repealed for continuity and clarification. The purpose of this subpart is to ensure a back-up mode of operating the rowboat if its motor fails. This proposed rule is reasonable to ensure safety in an emergency and the oar provision is not overly burdensome to boat owners. The substance of Minnesota Rules, part 5225.6800 is followed in proposed Minnesota Rules, part 5225.6350, subpart 2, and only the unnecessary language has been eliminated.

Part 5225.6500 EQUIPMENT.

Subpart 1. Generally.

This subpart is substantively unchanged except the requirement that poles, if used, must be at least 12 feet in length with a hook at one end. It is necessary and reasonable to require that poles be at least 12 feet long with a hook at one end to ensure that the pole is useful when employed in an emergency.

Subpart 2. Code of Federal Regulations requirements.

The present equipment rule, Minnesota Rules, part 5225.6500 needs updating to be consistent with Coast Guard regulations. Minnesota Statutes, section 183.41, subdivision 2 requires the Department to adopt rules similar to the Coast Guard's boat equipment requirements. The proposed rule is reasonable in that it conforms with this requirement and informs boat owners of what the specific requirements are.

Subpart 3. First aid kit.

First aid kits are needed on board boats for emergency reasons. If someone on a boat is injured, there may be a delay in getting the injured person to a hospital, and emergency first aid needs to be administered on the boat. The type of first aid kit listed in this subpart is reasonable because it is a standard Red Cross first aid kit and is recommended by the Coast Guard. If the

boat owner or pilot chooses to use an alternative first aid kit it must be approved by an equivalent entity to the Red Cross to ensure adequate medical response to emergencies occurring on a boat.

Subpart 4. First aid handbook.

For the same reasons given above for subpart three, a first aid handbook is required.

Subpart 5. Battery covers.

Battery covers are needed for safety reasons in order to prevent sparking and the risk of starting a fire. It is reasonable to require them, as they are not difficult or expensive to buy and install and the damage they prevent is great.

Part 5225.6700 REPORTS OF DAMAGE.

The Department investigates all reports of boat accidents it receives. The purpose of the Department investigations is to learn if any violations of this chapter have occurred and to educate the pilot to avoid future accidents. The proposed amendment requires a pilot of a boat to now report to the department any boat accident that results in more than \$1000 in property damage or in which a person is hospitalized or dies. The proposed amendment increases the amount of property damage from \$100 to \$1000 before it is necessary to report a boat accident to the department. The amendment is necessary because boat accidents involving property damage between \$100 and \$1000 may be insignificant, and mandatory reporting of minor accidents can be burdensome to the pilot and the Department. The amendment is reasonable because it will ensure that only significant accidents are reported .

The proposed requirement to report an accident which involves a fatality or hospitalization is necessary and reasonable because it recognizes the relative significance of personal injury over property damage. This amendment ensures that all deaths and serious bodily injury accidents are reported to and investigated by the Department as a means of studying and, hopefully, avoiding accidents in the future.

Part 5225.6940 DESIGN CHANGES.

Subpart 1. Approval of design.

This proposed rule ensures passenger safety in any boat that is proposed to be modified because the plans must be approved by a marine architect and approved by the chief boiler inspector before modifications can be initiated. This proposed subpart is

reasonable because it ensures professional review of modified boats to ensure public safety. The proposed rule will also potentially save a boat owner money by having the planned changes reviewed and approved before construction begins. The cost of reviewing the plans is small compared to a modified unsafe and, therefore, unusable boat.

Subpart 2. Stability test.

The purpose of a stability test is to determine if a modified boat is stable and safe to carry passengers. The necessity of a stability test is that certain design changes in a boat may change the boat's stability. Without a stability test, a modified boat could be a safety risk to its passengers. A stability test is reasonable because the benefit outweighs the cost of the test. Witnessing by a department inspector is needed because it will ensure that the test has been performed appropriately and that the boat has passed the test.

Part 5225.6975 ISSUANCE OF CERTIFICATE.

This proposed part codifies the Department's issuance of a certificate of inspection for boats that successfully pass the Department's inspection and that the Department will enforce a penalty to those who operate their boat without a certificate of inspection. Under Minnesota Statutes, section 183.41, subdivision 3, the reference to "certificates" indicates the Department's responsibility to perform this function. Under Minnesota Statutes, section 183.42, a person who fails to have an annual inspection is subject to a penalty in the amount of the cost of inspection up to a maximum of \$1000.

Part 5225.6980 REVOCATION OF CERTIFICATE; PENALTIES.

The Department has authority to revoke a certificate of inspection under Minnesota Statutes, section 183.44, subdivision 2, where it states "the division of boiler inspection shall make such rules for inspection and operation of boats . . . as will require their operation without danger to life or property." Thus, the Department may revoke a certificate of inspection if it is necessary to protect life or property.

This proposed part authorizes the Department to terminate operation of boats when any relevant part of chapter 5225 is violated. It is necessary and reasonable for the Department to exercise this authority to ensure that unsafe boats do not place

the public at risk.

This proposed part also reiterates in these rules the provision from Minnesota Statutes, section 183.62 which states that a person having charge of a boat who creates a condition which endangers human life is guilty of a gross misdemeanor. Further, a person who places life or property in danger is subject to the disciplinary procedures of Minnesota Rules, part 5225.0880 which states that the Commissioner may suspend or revoke a pilot's license or take other action to cause the person to stop the dangerous behavior. It is reasonable and necessary for the Department to use means within its authority to protect the public from harm.

Part 5225.7200 PASSENGER CAPACITY.

The Department is required under Minnesota Statutes, section 183.41, subdivision 3 to designate the number of passengers a boat may safely carry. This proposed part establishes that the chief boiler inspector shall determine the passenger capacity of a boat under 46 CFR 176.01-25. It is necessary to change the current part because it is complicated and hard to understand. The proposed part will be easier to apply than the present rule. The proposed part determines passenger capacity as the maximum number of passengers permitted on any vessel of reasonable design and proportions based on length of rail criteria, deck area criteria, or fixed seating criteria, whichever permits the greatest number. The maximum number may be further limited by stability or subdivision considerations. Adoption of the proposed amendment is also reasonable because it has been used the U.S. Coast Guard for over 30 years.

Part 5225.8600 FEES.

The only fee affected by this proposed amendment is the fee at subpart 2, item A, subitem (7). This amendment allows a pilot with an unlimited Coast Guard license to pay a reduced fee when obtaining a Minnesota pilot license. The lower fee is reasonable because a holder of an unlimited Coast Guard license is not required to take a Department exam. Code Administration and Inspection Services (CAIS) is required to cover its operating costs pursuant to Minnesota Statutes, section 16A.128. The lower administration costs to CAIS for administration of this license means that CAIS can charge lower license fees to holders of an unlimited Coast Guard license.

The decrease in revenue resulting from this change in the fee structure is difficult for the Department to project but will be small. Currently, there are only 25 pilots with both a Minnesota pilot license and an unlimited Coast Guard license. This is approximately 19% of the total number of pilots licensed in Minnesota. Because the proposed amendment only applies to first time pilots who already hold an unlimited license it is unknown how many applicants meeting this criteria will apply for a Minnesota pilot license in the future.

REPEALER. Minnesota Rules, parts 5225.6100, subpart 1; 5225.6300; 5225.6400; 5225.6600; 5225.6800; 5225.7000; and 5225.7100 are repealed.

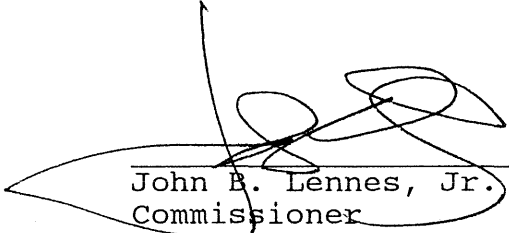
The repealed rules include navigational and other rules that have been replaced with similar proposed rules in a more convenient place within this chapter. These replacements have been discussed in detail in those parts.

CONCLUSION

The proposed amendments to Minn. Rules, chapter 5225 will result in greater safety to the public and a more concise and clear compilation of portions of Minnesota Rules, chapter 5225 pertaining to boats and pilots. The proposed amendments provide greater detail regarding boat navigation, reporting of boat accidents, specific equipment requirements, issuance and revocation of a certificate of inspection, passenger capacity, changes made to the design of a boat, and pilot license requirements. Further, the proposed boat rules of Minn. Rules, chapter 5225 will result in coherent organization of this chapter because the boat and boiler portions of the rules are separated.

Dated: _____

18, 1993



John B. Lennes, Jr.
Commissioner
Department of Labor and Industry