

## **Minnesota Department of Health**

### **STATEMENT OF NEED AND REASONABLENESS**

#### **Proposed Amendment to Rules Governing Asbestos-Related Work:**

**Definitions – *Minnesota Rules, part 4620.3100***

**Contractors Licensure – *Minnesota Rules, part 4620.3200***

**Use of Qualified Individuals – *Minnesota Rules, part 4620.3250***

**Certification of Asbestos Disciplines – *Minnesota Rules, parts 4620.3300 to 4620.3350***

**Asbestos-Related Work Project Notice – *Minnesota Rules, part 4620.3410***

**Amendment of Notice – *Minnesota Rules, part 4620.3415***

**Glove Bag Procedures – *Minnesota Rules, part 4620.3580***

### **INTRODUCTION**

The Minnesota Department of Health (Department) has regulated asbestos-related work since 1987 through the authority of the Minnesota Asbestos Abatement Act (Minnesota Statutes, sections 326.70 to 326.81). Under that authority, the commissioner of health adopted the Minnesota Asbestos Abatement Rules (Minnesota Rules, parts 4620.3000 through 4620.3724), to regulate asbestos-related work. Portion of these rules were most recently revised on June 11, 2001. These proposed changes accomplish four things: make worker qualifications more flexible, add a definition for “air quality monitoring,” streamline the application process, and correct typographical and cross-reference errors.

In October of 2004, a representative from an environmental consulting firm (consultant) approached the Department requesting that we revise the rules in the various ways and for the reasons that follow. The request was for the Department to review the current qualification and education requirements for the asbestos-certified disciplines. The consultant requested greater flexibility for individuals who monitor air quality during regulated asbestos projects, projects that are commonly associated with renovations. There is always an increase in renovation projects during the spring, summer and fall months of the year, especially for school districts that conduct their major renovation projects during the summer break. Each year, asbestos abatement contractors (contractors) and consultants find they need to recruit additional individuals to conduct asbestos abatement and air monitoring activities during this time of heightened renovation activity.

The consultant informed the Department that each year they try to recruit vocational and college students since many students are looking for employment during their summer break. The consultant focuses their recruitment activities to students who have completed two years of post-secondary education in fields of study related to the environmental and safety industry. The Department feels this would also be a recruiting opportunity for contractors as well.

To develop an additional qualification option that was acceptable to both consultants and contractors, the Department met with the consultant requesting the amendment, members of the

Minnesota Environmental Contractors Association (MECA) and representatives of the Construction Laborers' Education, Apprenticeship & Training Fund of Minnesota and North Dakota (Laborers' Union). The group considered current education and experience qualifications for asbestos workers and site supervisors and the possibility of developing a new asbestos discipline. MDH determined that amending the worker qualification requirements, Minnesota Rules, part 4620.3300, subpart 2, would be preferable to amending the site supervisor qualifications or adding an additional and separate asbestos discipline. Amending the worker qualifications would not require the Department to amend the Minnesota Asbestos Abatement Act, and incur fewer rule amendments to the existing Minnesota Asbestos Abatement Rules, and yet maintain a pool of highly trained individuals to perform asbestos-related work.

The consultant, MECA and the Laborers' Union agreed that to allow a certified asbestos worker (worker) to perform air quality monitoring, as defined in the newly proposed Minnesota Rules, part 4620.3100, item 2b and under specific conditions, could be done safely without the oversight of a certified asbestos site supervisor (site supervisor). The Department therefore proposes to amend Minnesota Rules, part 4620.3250, item C to allow workers to conduct air quality monitoring without a site supervisor's direct supervision.

Furthermore, the Department noticed that "air quality monitoring", "air monitoring" and "air sampling" are used interchangeably throughout the rules and all have the same meaning in Minnesota Rules, part 4620.3250, item C. To alleviate confusion, MDH proposes to add a definition to Minnesota Rules, part 4620.3100, for "air quality monitoring". This will ensure that regulated parties understand what activities are included in air quality monitoring in the proposed amendment of Minnesota Rules, part 4620.3250, item C.

Governor Pawlenty commenced his "Drive to Excellence" initiative by executive order in 2005. Key principles are to streamline government processes and increase electronic delivery of government services. In keeping with the Governor's order, the Department reviewed its business processes for issuing asbestos contractor licenses (licenses), individual certifications for the various asbestos disciplines (certifications), and asbestos abatement project permits (permits). The Department is developing a web-based program to allow applicants to submit applications and notices electronically, which will streamline the Department's licensing, certifying, and permitting processes. Providing electronic submission of application and notices will decrease the Department's administrative costs while increasing the quality and efficiency of this public service.

Similarly, the Department is reconsidering the information and additional documentation that is currently required when applying for a license, certification or permit and determined that applicants do not need to submit complete and separate documents. The actual application or notification forms can collect the pertinent information from these separate documents. Eliminating additional documentation filing lessens the burden for the applicants, contractors, and other entities that must complete and submit these documents.

The unnecessary information and additional documents that the Department is proposing to eliminate are:

- The copy of a site supervisor's certification as proof for an asbestos contractor's license
- A list of other states where the asbestos contractor is currently licensed or certified
- A list of asbestos-related citation or notices issued by other state and federal agencies
- A workers compensation insurance certificate
- An Affidavit of Work Experience (affidavit)
- Apprenticeship attendance records
- Post-secondary education transcripts
- Copies of registrations, certifications, licenses, and training diplomas
- A cost verification

The set of rules requiring the above documents are:

- Minnesota Rules, part 4620.3200, subpart 2, items D, E and F
- Minnesota Rules, part 4620.3200, subpart 2a, items A and B
- Minnesota Rules, part 4620.3300, subpart 4, items C and D
- Minnesota Rules, part 4620.3300, subpart 5, item B, subitem (3)
- Minnesota Rules, part 4620.3310, subpart 5, items C and D
- Minnesota Rules, part 4620.3310, subpart 6, item B, subitem (3)
- Minnesota Rules, part 4620.3330, subpart 5, items C and D
- Minnesota Rules, part 4620.3330, subpart 6, item B, subitem (3)
- Minnesota Rules, part 4620.3340, subpart 5, items C and D
- Minnesota Rules, part 4620.3340, subpart 6, item B, subitem (3)
- Minnesota Rules, part 4620.3350, subpart 5, items C and D
- Minnesota Rules, part 4620.3350, subpart 6, item B, subitem (3)
- Minnesota Rules, part 4620.3410, subpart 2, item C

Eliminating the additional documentation will simplify administration and increase the electronic delivery of government administrative services. More detailed information about eliminating these required documents appears below in the Rule-by-Rule Analysis section of this document.

The Department also proposes to correct typographical errors and erroneous cross-references also explained in the Rule-by-Rule Analysis section of this document.

On Monday, March 12, 2007, the Request for Comments on Planned Amendment to Rules Governing Asbestos-Related Work was published in the *State Register*, Volume 31, Number 37. The Department received two comments from individuals who are certified as asbestos site supervisors and inspectors. The Department made some additional minor revisions since then and provided those revisions to MECA and the laborers' union, but did not receive any additional comment on the proposed rules. Therefore, Department staff believe there is general support for the rules as currently proposed.

## ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Nancy La Plante at the Minnesota Department of Health, Division of Environmental Health, 625 Robert Street N, PO Box 64975, St. Paul, MN 55164-0975, phone number (651) 201-4608, and fax number (651) 201-4606. TTY users may call the Department of Health at (651) 201-5797.

## STATUTORY AUTHORITY

The Department's statutory authority to adopt the rules appears in Minnesota Statutes section 326.78, which provides:

Subdivision 1. **Rulemaking.** The commissioner shall adopt and begin enforcement of rules necessary to implement sections 326.70 to 326.81. The rules adopted shall not be duplicative of rules adopted by the commissioner of the department of labor and industry. The rules shall include rules in the following areas:

This rulemaking is an amendment of existing rules and so Minnesota Statutes, section 14.125, does not apply.

## REGULATORY ANALYSIS

Minnesota Statutes, section 14.131, sets out seven factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (7) below quote these factors and then give the Department's response.

**“(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule”**

Minnesota licensed contractors who conduct asbestos-related work will benefit because the changes would allow them to maintain only one employee, a certified worker, at the work site instead of a supervisor for air monitoring purposes. With an additional qualification option for becoming a worker, contractors would have a larger pool of eligible applicants to recruit from during the peak construction months. They would also benefit from reduced time and effort through electronic application filing and reduced documentation requirements.

Various individuals aspiring to become Minnesota-certified asbestos workers would benefit. These include college students who have completed two years of appropriate post-secondary school seeking summer-job-related experience. Vocational students who have completed their training and graduates with two-year or four-year degrees would benefit from increased ability in obtaining positions in the environmental and safety fields.

Owners renovating property would benefit from the potential for slightly decreased costs due to allowing a certified worker to conduct air monitoring versus a certified site supervisor. They will

also benefit from the time and effort saved by their contractors in meeting filing requirements that now include transcripts and certified cost verifications, among other things.

There are no costs associated with this rule amendment. The application fee structure remains unchanged.

**“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”**

Changing the qualifications for air-quality monitoring incurs no probable costs to the Department or any other agency for the implementation and enforcement. Allowing an additional education qualifier for the asbestos worker discipline will allow more individuals to be certified. More qualifying individuals would apply for certification, which would increase state revenues sufficiently to offset the cost of processing any increase in applications received. These changes can be handled by existing staff.

Eliminating additional documentations for licenses, certifications and permits will not cause additional costs for the Department or any other agency either. The Department believes there will be a cost savings for the Department’s staff by having to review fewer documents.

**“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”**

Adding these proposed options makes this rule less intrusive and costly than current law. Allowing a worker to collect air samples without the direct supervision of a site supervisor makes this rule part less intrusive than the current rule. The potential of the rule amendment to be less costly is possible, but probably marginal. Similarly, adding another qualification option for the asbestos worker certification is intended to increase the number of individuals who would qualify to become certified in this discipline. It does not increase costs to individuals, contractors, building owners or any government agency. Adding this option makes this rule less intrusive.

The Department and its advisors, the consultant, MECA and Laborer’s Union, discussed and rejected the options of creating an additional asbestos discipline or amending the site supervisor’s education and experience qualifications. Adding an additional discipline would require changes to the Minnesota Asbestos Abatement Act and, consequently, more amendments to the Minnesota Asbestos Abatement Rules. This would increase costs to the Department to make all the additional internal changes, plus the additional administration costs in processing yet another asbestos credential. Contractors and consultants would also need to understand and comply with the work restrictions of those individuals when conducting asbestos-related work.

Eliminating additional documentation streamlines administrative processes for the Department and therefore reduces costs. It is also potentially an administrative cost savings to the companies who are required to submit these documents. Any time unnecessary documentation is eliminated from a process it is less intrusive.

No other method was determined to be less costly or intrusive.

**“(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”**

Minnesota Rules, part 4620.3200, subpart 2, items D, E and F

Minnesota Rules, part 4620.3200, subpart 2a, items A and B

For its licensing applications the Department determined that there is no good regulatory reason to continue certain documentation requirements since its current database program has made the current filing requirements obsolete or information required on separate documents can be requested directly on the application form. The only alternative for eliminating these requirements would be to continue requiring them, which imposes needless administrative burdens on both the agency and the applicants. The specifics are spelled out in the Rule-by-Rule Analysis below.

Minnesota Rules, part 4620.3250, item C

Similarly, the only alternative to eliminating the requirement that a site supervisor be on site for air monitoring is to retain the regulation. Discussions with MECA and Laborers' Union made it clear that requiring a site supervisor to be at the work site while asbestos-related work was being conducted was still very important. The site supervisor is the responsible individual who has the knowledge and experience of asbestos-related work and on-site activities. But when the contractor is only performing air monitoring the need for a site supervisor was reconsidered. Since workers have completed both asbestos-related work training and air sampling training, all parties to the discussion recommended that if only air quality monitoring were being performed and a worker were doing it, it would not be necessary to have a site supervisor on site to oversee the air quality monitoring. Having a site supervisor be available for questions even if it is by telephone, in case the Department's or any other agency's representative were conducting an inspection and had questions that the worker was unable to answer, remains important.

Minnesota Rules, part 4620.3300, subpart 2, item B

When considering threshold educational requirements for those performing air-quality monitoring, the first alternative was to develop a new asbestos discipline to allow individuals with two years of post-secondary education to conduct air quality monitoring only. The Department had reviewed other state programs that already had an asbestos discipline in the same context of an air sampling technician. These technicians are restricted to performing air quality monitoring only. They have no authority to oversee or direct asbestos-related work that is being performed. These other state programs also had an additional asbestos discipline known as "project managers". For the Department to add one and possibly two asbestos disciplines would require substantial changes to the Minnesota Statutes, sections 326.71, 326.73 and 326.75, the addition of rule parts to the Minnesota Asbestos Abatement Rules, and the corresponding internal changes needed to administer the new system. The Department decided it was most efficient and cost-effective to work within the existing certification framework and make amendments to the rules that would not require changes to the statutes. The Laborer's Union and MECA also informed the Department that they would prefer amending the existing asbestos disciplines rather than creating new disciplines.

The second alternative was to modify the education and experience qualifications of the asbestos site supervisor. If the site supervisor qualifications were modified to allow individuals with two-years of post secondary education with no job-related experience, the qualification requirements would actually be less than is currently required. Representatives of the Laborers' Union were concerned in maintaining highly trained and knowledgeable individuals to conduct and oversee asbestos-related work. Having reduced qualifications for the site supervisor put the quality of this individual in question and is not recommended.

Alternatively, the Department discussed issuing a *provisional* site-supervisor certification that would restrict the individual from doing any other asbestos-related work other than air quality monitoring. The parties discussed whether the conditional certificate would become a full-fledged site-supervisor certification after a set time or after a set number of hours were worked as a provisional site supervisor. The Department realized that for the Department to evaluate whether someone met the time or hour requirements to move from a provisional certification to a full certification, the candidate would have to submit additional documentation demonstrating that the requirements were met. Determining compliance with this provisional certification would be administratively very difficult since Department representatives only inspect about 15 percent of the projects that it issues permits for. These inspections are also just a "snap shot" in the total time of the project.

Minnesota Rules, part 4620.3300, subpart 4, item C;

Minnesota Rules, parts 4620.3310, 4620.3330 and 4620.3340, subpart 5, item C; and

Minnesota Rules, part 4620.3350, subpart 5, item D

To move the Department toward allowing electronic application submissions, the Department reviewed the need for additional documents besides the application itself. An alternative would be to allow the applicant to submit their application and certification fee electronically, but still require them to submit these additional documents to the Department through the United States Postal Service or other delivery service. This would dramatically increase the time for the Department to process the certifications and increase the potential for errors to be made by both the applicant and the Department. Instead, the Department will require specific information on the application form that will allow the Department to determine that the applicant has met the qualifications as outlined in the rules. The application form has a signature block that includes a statement regarding the ramifications of providing incomplete or false information.

Minnesota Rules, part 4620.3300, subpart 4, item D, and subpart 5, item B, subitem (3);

Minnesota Rules, parts 4620.3310, 4620.3330 and 4620.3340, subpart 5, item D, and subpart 6, item B, subitem (3); and

Minnesota Rules, part 4620.3350, subpart 5, item C, and subpart 6, item B, subitem (3)

Similarly, eliminating applicants having to actually submit copies of their training diplomas for these rule parts is in line with the elimination of other supplemental documentation discussed above. It is all in working towards allowing electronic submissions of applications to the Department. The alternative would again be to allow the applicant to submit their application and certification fee electronically, but still require them to submit their diplomas to the Department through the United States Postal Service or other delivery service again increasing the time for the Department to process the certifications and increasing the potential for errors to be made by both the applicant and the Department. Instead, the Department will work directly with its

asbestos training providers to obtain electronically the actual training diplomas or a report that would indicate the individuals that completed the training and passed the training course exam.

The Department has received calls from applicants from other states who have completed the proper Minnesota training course, but do not have copies of their past training diplomas as required by, for example, Minnesota Rules, part 4620.3300, subpart 4, item D. The Department or applicant has contacted the respective state that the applicant is currently certified to request a report or letter indicating uninterrupted certification with that state. If certification was renewed each year with that state, this is proof that the required refresher training was also completed each year.

Minnesota Rules, part 4620.3410, subpart 2, item C

Department staff discussed whether the existing cost-verification provides necessary information for regulation. The first alternative the Department considered was to eliminate requiring the licensed contractor to submit a document verifying the cost of the asbestos-related work. When the Department met with MECA, members stated that they found having the contracting entities sign a cost verification was useful. They wanted some kind of documentation or contract between them and the contracting entity for the work being proposed and the associated costs.

Consequently, the Department considered still requiring the contractor and consultant to obtain cost verifications from the contracting entity, but not require them to submit the verification to the Department. The cost verification would become part of the project documents that are required to be available for review by the Department.

Department staff discussed this issue further and determined that the cost verification has no real value to the Department. The original purpose of the cost verification was to allow the Department to track the costs of projects and determine that the proper one-percent fee was paid to the Department. Cost verifications are often an estimated cost of the project, and not the true final cost. Very few asbestos projects are contracted as a "not-to-exceed" cost.

Since 2004, the Department has developed a reporting system to assist in determining actual project costs. The Department generates a report in worksheet form. Each contractor and consultant receives a worksheet quarterly for all the permitted projects that they have completed. They review their total costs for the asbestos abatement project and make any adjustments to the worksheet and indicate whether any additional fees are owed to the Department or whether money is due (refund) to them. The Department has recouped substantial additional project fees from contractors and consultants as a result of these worksheets.

The Department has conducted financial audits to determine if certain contractors have paid the total amount of the one-percent fee owed to the Department for their permitted projects. In doing these audits, the Department requests copies of invoices directly from contracting entities or the contractor or consultant. Again, the cost verifications that are originally submitted to the Department have proved to be of no real use since often there are additional costs that were added to the original contract between the contracting entity and the contractor or consultant and continuing to collect them makes no regulatory sense.



**“(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”**

None of the proposed rule amendments will have costs in complying with them. In fact, most of the proposed rule amendments are an administrative cost savings to the Department and regulated parties with reduced employee time in processing and submitting applications and notices. Adding a qualification requirement also has no costs associated with it; nor does correcting typographical errors.

**“(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”**

Not adopting the proposed rules means not being able to streamline the Department’s processing of licenses, certifications and project permits and maintaining a cumbersome, out-of-date application process. Requiring additional documentation to be submitted with applications and notifications could still allow the Department to move towards electronic submission, but the Department would still need to wait for the manual delivery of the supplemental documents.

The consequences of not adopting the additional asbestos worker qualification would continue to limit individuals from becoming certified as asbestos workers for no good regulatory reason. Not allowing certified workers to conduct air monitoring without the presence of a certified site supervisor would continue to limit the abatement company’s flexibility in managing its workforce.

**“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”**

There are no differences between the proposed rule amendments and existing federal regulations.

## **PERFORMANCE-BASED RULES**

The rule amendments do not change any of the performance-based standards set by Minnesota Statutes, sections 326.70 to 326.81, nor Minnesota Rules, parts 4620.3000 to 4620.3724.

The asbestos worker qualification rule amendment will allow an additional way for individuals to become certified asbestos workers.

By eliminating the need for applicants and other parties to submit additional and separate documents, the Department will reduce the amount of paper submitted and handled by the Department staff. Eliminating this paperwork assists the Department in meeting its goal of reducing paper and staff’s time in processing licenses, certifications and project permits. It also assists in the Department to move towards electronic submission of applications and project notifications.

## ADDITIONAL NOTICE

The Department published a Request for Comments on the Planned Amendment to Rules Governing Asbestos-Related Work in the State of Minnesota State Register on March 12, 2007; Volume 31, Number 36, pages 1252 - 1253. The Request for Comments directed interested parties to the Department's website to review the proposed rule amendments and draft SONAR. The request also provided a contact phone number, mailing address and email address in case the interested party wanted a hard copy of the proposed rules and SONAR.

The Department also mailed a notice to the following entities to inform them of that a Request for Comments was published in the State Register:

- all current Minnesota licensed asbestos contractors and those licensed within the past six months of the Request being published;
- all current Minnesota certified asbestos workers, site supervisors, inspectors, management planners and project designers and those certified within the past six months of the Request being published;
- all current Minnesota permitted training course providers who conduct asbestos training courses in Minnesota,
- representatives of MECA and the Laborer's Union, and
- other interested parties requesting to be notified of new and changing issues with the Department's asbestos program.

The notice cited where the Request for Comments could be found on the Department's website and provided a contact phone number, mailing address and email address in case the interested party wanted a hard copy of the State Register.

The Department's Notice Plan also includes giving notice required by statute. The Department will publish the Notice of Intent to Adopt Rules on the Planned Amendment to Rules Governing Asbestos-Related Work in the State of Minnesota State Register. The notice will be mailed to:

- everyone who has registered to be on the Department's rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a;
- the Legislature per Minnesota Statutes, section 14.116; plus
- all lists of companies, individuals, representatives and interested parties that are named above for the notification of the Request for Comments.

The notice will direct interested parties to the Department's website to review the intended rule amendments and SONAR. The notice will also provide a contact phone number, mailing address and email address in case the interested party wants a hard copy of the proposed rule amendments and SONAR.

## **CONSULT WITH FINANCE ON LOCAL GOVERNMENT IMPACT**

As required by Minnesota Statutes, section 14.131, the Department has consulted with the Commissioner of Finance. We did this by sending to the Commissioner of Finance copies of the documents sent to the Governor's Office for review and approval by the Governor's Office prior to the Department publishing the Notice of Intent to Adopt. We sent the copies on December 10, 2007. The documents included: the Governor's Office Proposed Rule and SONAR Form; draft rules; and almost final SONAR. The Department of Finance sent a letter dated December 21, 2007 with its comments.

The Department of Finance summarized their evaluation as follows:

- The fiscal impact to local governments from the proposed rule change is minimal. The changes being proposed impact contractors that perform asbestos-related services. These are private firms, not local government agencies.
- Local government agencies contract with private firms for these services. To the extent local units of government contract for asbestos services, the cost for those services is not expected to increase as a result of this rule.
- The impact on contractor to comply with these new rules is minimal. Contractors were involved in developing these rule changes. If there were new costs to comply, it is likely they would have raised concerns then. The department did not receive comments from any contractor to that effect.

Based on this evaluation, the proposed rule would have a minimal fiscal impact for local units of government.

## **COST OF COMPLYING FOR SMALL BUSINESS OR CITY**

### **Agency Determination of Cost**

As required by Minnesota Statutes, section 14.127, the Department has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. As stated in item 5 of the Regulatory Analysis section, the Department has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any party, including small businesses or small cities. Therefore, the Department did not ask a small business owner or a representative of a small city to estimate the cost to their business or city during the first year to

comply with the proposed rule amendments. Since the proposed rule amendments are all administrative for qualifying or applying for an asbestos certification, license or project permit, there are no associated costs for small businesses or small cities.

## **LIST OF WITNESSES**

The Department does not anticipate these rule amendments will require a public hearing. If these rules were to require a public hearing, the Department anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

1. Daniel Locher, Supervisor of the Asbestos and Lead Compliance Unit, Minnesota Department of Health will testify about the development and content of the rule amendments in general.
2. Gregory Schaefer, Assistant Attorney General, Minnesota Attorney General's Office will address the statutory authority and other legal aspects of the rule amendments.
3. Patricia Winget, Rules Coordinator, Minnesota Department of Health will address procedural issues.
4. Other Department employees as deemed necessary and appropriate.

## **RULE-BY-RULE ANALYSIS**

### **4620.3100 DEFINITIONS**

#### **Subp. 2b. Air Quality Monitoring.**

The term "air quality monitoring" is used in Minnesota Statutes, section 326.71, subdivision 4 as an activity that is associated with asbestos-related work. Minnesota Rules, parts 4620.3570 and 4620.3592 through 4620.3598 uses the terms "indoor air monitoring" and "clearance air sampling" within them. The Department needs to define air quality monitoring so it clearly reflects that it includes both of these types of air sampling. Air samples that are collected outside the work area during the disturbance of asbestos-containing materials (ACM) are known as "indoor air samples." Samples that are collected within the work area after ACM is removed and the work area is thoroughly cleaned are known as "clearance air samples."

Amending part 4620.3250, subpart 2, item B, makes it necessary to define the term "air quality monitoring" so it is clearly understood by regulated parties when a worker may conduct air quality monitoring without having a site supervisor present at the site.

**Subp. 2c. Alternative clearance standard.**  
**Subp. 2d. Alternative indoor air standard.**  
**Subp. 2e. Area preparation.**

These subparts were renumbered to accommodate the additional term "air quality monitoring."

#### **4620.3200 CONTRACTOR LISENCURE.**

##### **Subpart 2. Application for license.**

Items A, B and C are unchanged from the existing rule.

Item D required that supervisors file a copy of their certificates with each application. This was necessary when the rules were first enacted to allow the Department to verify that a current certified site supervisor was named as the responsible party for the asbestos contractor's license. The Department's current electronic database is programmed to allow only currently certified site supervisors to be listed as a responsible party, eliminating the need for a copy of the supervisor's certification. The Department's database will know if the person is currently certified when their name is entered into the system when processing the contractor's license. The Department proposes to repeal this rule requirement because it is unnecessary, cumbersome and inhibits the Department's ability to allow electronic application submissions.

The Department is proposing to eliminate items E and F as rule requirements in an effort to move the Department towards allowing electronically licensure applications. In reviewing these items, the Department determined that knowing if an applicant is licensed or certified in another state or if they have been issued citations or notices is still important information, but applicants could provide the information on the application form. Separate documentation is unduly burdensome to both the agency and the applicant and should be eliminated.

The Department will modify the asbestos contractor license application form (see Exhibit A) so the applicants indicate on the application if they are currently licensed or certified to conduct asbestos-related work in another state. It will also require that they indicate if any citations or notices were ever issued to the applicant from any state or federal agency. This will provide enough information for the Department to investigate into the applicant's overall compliance history, when necessary.

Item G is now proposed as item D, but is unchanged from the existing rule.

**Subpart 2a. Workers' compensation.** This subpart was modified to make necessary adjustments in repealing item B.

Item A was modified to make necessary adjustments in repealing item B.

Item B requires that the Department be listed on the certificate of insurance as a certificate holder. The Department reviewed Minnesota Statutes, section 176.182 and determined that the

Department needs only the name, policy number and dates of coverage. The Department is proposing to request this information within the application form and dispense with requiring the applicant to actually obtain a certificate of insurance and submit it to the Department. Repealing this rule item is reasonable because the necessary workers' compensation information will be requested as part of the application. It is necessary to repeal this rule item to allow the Department to move towards allowing an electronic applications system.

In repealing the certificate of insurance requirement, the Department reformatted subpart 2a to clearly state what is necessary to provide the Department to prove workers' compensation.

#### **4620.3250 USE OF QUALIFIED INDIVIDUALS.**

This rule part was reformatted by dividing it into two subparts to allow for the modifications needed to meet the proposed rule amendment of Minnesota Rules, part 4620.4620.3300, subpart 2, item B.

##### **Subpart 1. Qualified individuals.**

This new subpart contains items A and B, which are unchanged from the existing rule part 4620.3250.

##### **Subpart 2. Required work site personnel.**

Subpart 2, item A, is essentially unchanged from existing rule part 4620.3250, item C.

Item B, subitem 1 clarifies and reinforces the requirement that either a certified worker or site supervisor must remain at the work site during air quality monitoring samples collection. This is necessary to ensure that the air sampling pumps and sampling cassettes are not disturbed or interrupted during the actual sampling period. If something does happen to the air pumps or sampling cassettes, the worker or site supervisor is at the site and able to correct the problem and document the necessary information as it may impact the results of the air quality samples.

Item B, subitem 2 changes existing law to allow a certified worker to remain at the work site to conduct air quality monitoring without a site supervisor. Minnesota Rules, part 4620.3596 already requires that anyone performing air quality monitoring to be certified as either an asbestos worker or site supervisor. In this circumstance, the educational difference between the worker and site-supervisor training course is not great. Site supervisors are required to take one additional day of training to learn the added responsibilities of a supervisor. Otherwise, all the instruction on regulations and work practices are the same. Rule part 4620.3596 also requires that these individuals complete a Minnesota-permitted air-monitoring training course if they are not a certified industrial hygienist or if they have not completed the National Institute for Occupational Safety and Health course number 582 prior to July 1, 1996. By their having completing the training requirements, the Department contends that workers are capable of safely carrying out the air quality monitoring without site-supervisor oversight. The Department maintains that the public health is still protected since no asbestos-containing materials are being disturbed and a trained individual is conducting the air quality monitoring.

The modification of this rule item restricts the worker from conducting any other asbestos-related activities including inspecting the containment or work area as required in Minnesota Rules, part 4620.3594, subpart 2. The worker is only allowed to conduct air quality monitoring as defined in the proposed Minnesota Rules, part 4620.3100, subpart 2b. If the worker has concerns or issues with anything that he or she observes while conducting air quality monitoring, the worker must contact the site supervisor employed by the asbestos contractor performing the air quality monitoring to address those concerns or issues. The worker does not have the authority to direct any person who is not employed by his or her company in addressing their concerns or issues.

Subitem 2, subitems i and ii requires that the worker be able to immediately contact the site supervisor that is employed by the same company when necessary. It also requires that the site supervisor be present at the work site within two hours if requested. These requirements are necessary in situations where the worker conducting the air quality monitoring is unable to provide essential information or properly correct problems found at the site.

#### **4620.3300 CERTIFICATION OF ASBESTOS WORKER.**

##### **Subpart 2. Qualifications or experience requirements.**

Item A remains unchanged from the existing rule.

Item B is added to allow individuals who have completed two years of post-secondary education to apply for an asbestos worker certification. They are also required to complete the Occupational Safety and Health Administration's 510 Occupational Safety and Health Standards for the Construction Industry training course. A representative from a consulting firm approached the Department reporting difficulties in finding enough qualified individuals to satisfy the demand for air-quality-monitoring services under the current worker or site-supervisor qualifications and experience rule requirements. Allowing this additional qualification option will also benefit the abatement contractors. The asbestos abatement industry's busiest time of year coincides with the normal construction season, causing the contractors and consultants to compete for workers. The Department believes amending the rules to allow for another option for individuals to qualify as asbestos workers will allow more individuals to be qualified to work in the industry without compromising public health and safety.

Expanding the asbestos worker qualification requirements will increase the number of individuals that would meet the qualifications so they are employable by either consulting firms or contractors. It will provide more job opportunities for college students who have completed two years of post-secondary education in the science, environmental or safety fields.

Proposed rule items C and D remain unchanged from the existing rule items B and C.

##### **Subpart 4. Application for initial asbestos worker certification.**

Items A and B are unchanged from the existing rules.

The Department is proposes to eliminate the current item C and the associated subitems (1), (2) and (3) in the effort to move the Department towards electronic application filing. In reviewing the subitems within item C, the Department determined that its current database either renders the information no longer necessary or otherwise available since applicants could provide it within the application form instead of separate documents.

The Department will modify the asbestos worker certification application (see Exhibit B) so the applicant indicates on the application which of the qualifications or experience requirements they are meeting under Minnesota Rules, part 4620.3300, subpart 2. Requiring the applicant to obtain separate documents to prove the completion of an apprenticeship, vocational training or the required work experience is burdensome and sometimes an added expense to the applicant. It also slows down the Department's review for approving and issuing the applicant's certification. The application form includes a paragraph for the applicant to verify that all the information provided is true and complete and the applicant understands that submitting false information is grounds for denying their application or suspending, revoking or taking other disciplinary action against the license or certificate after it is issued. The applicant is required to sign below this statement.

Providing false information on or with any application is a violation of Minnesota Statutes, section 144.992. This law gives the Department authority to deny, suspend or revoke a license or certification if false information is submitted to the Department.

In repealing item C, item D is reformatted to item C. In addition, the Department is proposing to eliminate the applicant from having to submit copies of their asbestos training course diplomas within this item. Instead, the Department will work directly with its asbestos training providers to obtain electronically the actual training diplomas or a report that would indicate the individual completed the proper training and passed the training course exam.

**4620.3310 CERTIFICATION OF ASBESTOS SITE SUPERVISOR.**

Subpart 5. Initial certification application. Item C.

**4620.3330 CERTIFICATION OF ASBESTOS INSPECTOR.**

Subpart 5. Application for initial certification. Item C.

**4620.3340 ASBESTOS MANAGEMENT PLANNER CERTIFICATION.**

Subpart 5. Application for initial certification. Item C.

**4620.3350 ASBESTOS PROJECT DESIGNER CERTIFICATION.**

Subpart 5. Application for initial certification. Item D.

Items C and D of subparts 5 of the above rule parts all deal with applicants required to submit:

- affidavits of work experience from the applicant's past employers,
- certified copies of transcripts of coursework completed,



- certified copies of the document verifying the completion of an apprenticeship program, or
- certified copies of licenses, registrations and certifications.

The reasoning for amending these rule items is the same as stated above in part 4620.3300, subpart 4, item C.

#### **4620.3410 ASBESTOS-RELATED WORK PROJECT NOTICE.**

**Subpart 2. Requirements for notice.** Is unchanged from the existing rules.

Item A is substantially unchanged from the existing rules.

Item B is substantially unchanged from the existing rules.

The Department is proposing to repeal Item C from the rules. Currently, contractors and consultants are required to submit a Notification of Asbestos Related Work (notification) (see Exhibit C), cost verification and a one-percent fee for all regulated asbestos projects. The Department must receive the notification, cost verification and fee five days before the asbestos abatement project starts. The practical reality is that often the contractors and consultants will receive only verbal approval from the contracting entity for the cost of the project. They have difficulty in obtaining the actual cost verification documentation from the contracting entities for submitting with their notification. To meet the five-day requirement, the contractor and consultant will then submit the notification and fee without the cost verification causing the Department to take the time to follow up on the cost verification or wait on processing the project permit until the cost verification is submitted. As the following analysis shows, we have better ways to ensure that the Department receives its proper fees.

The Department has found that asbestos projects are contracted in three ways.

1. Not-to-exceed contracts are used when the contractor submits a bid to do the job for a set cost no matter how long it takes or what unexpected costs are incurred.
2. Lump sum contracts are used when a contractor submits a bid to do the work based on a set time and scope of work. If the project takes longer due to unforeseen issues, then the contractor will submit change orders for the additional costs.
3. Time and material contracts are bids that itemize the labor and material costs and the costs are billed to the contracting entity as the project progresses.

In 2004, the Department developed a software program that tracks all permitted projects and the one-percent fees that are paid to the Department for each project. Every quarter during the calendar year, the Department issues an Asbestos Project Fee Record Worksheet (see Exhibit D). The worksheet lists out each contractor and consultant's projects and the associated one-percent fee paid to the Department. The contractor and consultant are required to complete the worksheet

and indicate the total amount of the regulated project costs for each project listed. The contractor and consultant then report any additional fees owed to the Department and submit a check for that amount. If an overpayment of fees was made, then the contractor or consultant will indicate the amount that the Department owes as a refund.

If there is evidence indicating that a contractor or consultant is not paying the full one percent of project costs, the Department will audit the financial records of the contractor or consultant to ensure compliance with Minnesota Rules, part 4620.3430. Therefore, the Department is proposing to repeal the burdensome and ineffective cost-verification requirement in light of the Department's current ability to oversee the accounting of the one-percent fees owed to the Department. Therefore, it is reasonable to eliminate the requirement of submitting cost verification to the Department.

#### **4620.3415 AMENDMENT OF NOTICE.**

The first paragraph requires the licensed asbestos contractor to amend any information that is provided to the commissioner as required in part 4620.3610. Part 4620.3610 is the incorrect rule reference. The correct rule reference is part 4620.3410.

#### **4620.3580 GLOVE BAG PROCEDURES.**

##### **Subpart 1. Application.**

This paragraph sets the limits on the amount of asbestos-containing materials that can be removed using glove bag procedures. Within this subpart, part 4620.3565 is referenced twice. Again, this is an incorrect rule reference. The correct rule reference is part 4620.3566.

##### **Subpart 5. Asbestos removal or encapsulation.**

Item F states the encapsulation requirements prior to removing a glove bag. The encapsulation requirements are referenced as part 4620.3672. This is an incorrect rule reference. The correct reference is part 4620.3572.

## LIST OF EXHIBITS

In support of the need for and reasonableness of the proposed rules, the Department anticipates that it will enter the following exhibits into the hearing record:

- A. Asbestos Contractor License Application
- B. Asbestos Certification Application
- C. Notification for Asbestos Related Work
- D. Asbestos Project Fee Record Worksheet

## CONCLUSION

Based on the foregoing, the proposed rules are both needed and reasonable.

2/14/08  
Date

Sanne Magnan  
Sanne Magnan, Commissioner  
Minnesota Department of Health

# Exhibits

- Exhibit A – Asbestos Contractor Application
- Exhibit B – Asbestos Certification Application
- Exhibit C – Notification of Asbestos Related Work
- Exhibit D – Asbestos Project Fee Worksheet



Exhibit A

ASBESTOS CONTRACTOR LICENSE APPLICATION

- Complete the application form in black or blue ink only. Only originals will be accepted. Allow 2-4 weeks for processing.
- Include a \$100 licensing fee in the form of a business check, cashier's check, or money order made payable to the MN Department of Health. A service fee for returned check is \$25.
- Mail to: MN Department of Health, Asbestos Program, PO Box 64975, St. Paul, MN 55164-0975.

Questions? Call 651-201-4620 or visit our website at: www.health.state.mn.us/divs/eh

1. Select one of the following application types:

- Initial certification
Re-certification
Replacement of a certificate

2. Check here to be listed on MN Department of Health's web site for:

- Consultant (building inspector, project manager, project designer, air monitoring)
Contractor (asbestos abatement)

3. Company Name: \_\_\_\_\_

4. Business Address: \_\_\_\_\_

5. City/State/Zip: \_\_\_\_\_

6. Name of Business Contact: \_\_\_\_\_

7. Business Phone #: \_\_\_\_\_ 8. Fax #: \_\_\_\_\_

9. Email: \_\_\_\_\_ (Optional: MDH uses email to inform regulated parties of pertinent information)

10. Minnesota Tax #: \_\_\_\_\_ 11. Federal Employer #: \_\_\_\_\_
(Required by MN Statutes, §270C.72, subd. 4)

12. Workers' Compensation Insurance: \_\_\_\_\_
(Required by MN Statutes, §176.182) (Insurance Co. Name) (Policy No.) (Dates of Coverage)

13. Is the company licensed, certified or registered in another state for asbestos work? Yes [ ] No [ ]

14. Has the company had any asbestos license, certification or registration denied, suspended or revoked? Yes [ ] No [ ]

15. Responsible Individual's Name (please print): \_\_\_\_\_
(MDH Certified Site Supervisor)

16. Responsible Individual's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

I hereby attest and affirm that the information included on this application, including any attachments, is true and accurate to the best of my belief and knowledge. I acknowledge that any certification issued pursuant to this application, including any attachments, will be subject to revocation if issuance was based on incorrect or inadequate information that materially affected the decision to issue the certification.

Company Representative's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

To obtain a copy of this document in an accessible format (electronic ASCII text, Braille, large print, or audio), please call 651-201-4620. Consumers with hearing or speech disabilities may reach us by calling Minnesota Relay at 1-800-627-3529 or dialing 7-1-1.



# ASBESTOS CERTIFICATION APPLICATION

- Complete the application form in black or blue ink only. A separate application form must be submitted for each discipline type. Only originals will be accepted. Allow 2-4 weeks for processing.
- Provide a photograph or Polaroid of you alone, taken within the last 6 months. Photos must be clear, front view, in street clothing without a hat or dark glasses in front of a light background. No copies accepted.
- Include a licensing fee in the form of a business check, cashier's check, or money order (no cash or personal checks accepted) made payable to the MN Department of Health. Fees are nonrefundable.  

|  |                                     |
|--|-------------------------------------|
| <b>Fees:</b> \$100 for Inspector, Management Planner or Project Designer | \$25 for a replacement card         |
| \$50 for Worker or Supervisor  | \$25 service fee for returned check |
- Provide evidence of your Minnesota-accredited worker, supervisor, inspector, management planner, or project designer training course certificate(s).
- Mail the application and supporting materials to: MN Department of Health, Asbestos/Lead Compliance Unit, PO Box 64975, St. Paul, MN 55164-0975. Questions? Call 651-201-4620 or visit our website at: [www.health.state.mn.us/divs/eh/](http://www.health.state.mn.us/divs/eh/)

- |   |  |
|---|--|
| 1. Select one of the following types:<br><input type="checkbox"/> Initial certification<br><input type="checkbox"/> Re-certification<br><input type="checkbox"/> Replacement of a certification | 2. Indicate the discipline for which you seek certification:<br><input type="checkbox"/> Worker <input type="checkbox"/> Management Planner<br><input type="checkbox"/> Supervisor <input type="checkbox"/> Project Designer<br><input type="checkbox"/> Inspector |
|---|--|

### Applicant's Information:

3. Name: \_\_\_\_\_  
Last
First
Middle Initial
4. Address: \_\_\_\_\_
5. City/State/Zip: \_\_\_\_\_
6. Date of Birth: \_\_\_\_\_ 7. Social Security #: \_\_\_\_\_  
(Month/Day/Year)
(Required by MN Statutes, §270C.72, subd. 4)
8. Phone #: \_\_\_\_\_ 9. Email: \_\_\_\_\_  
(Optional: MDH uses email to inform regulated parties of pertinent information)

### Employment Information:

10. Name of Current Employer: \_\_\_\_\_
11. Business Address: \_\_\_\_\_
12. City/State/Zip: \_\_\_\_\_
13. Business Phone #: \_\_\_\_\_ 14. Fax #: \_\_\_\_\_
15. Experience and education requirements for initial certification applicants only. Check the item in the appropriate section below:

**Worker:** (check one)

- two years full-time attendance, or the part-time equivalent, in an apprenticeship program for general commercial construction trades as approved in Minnesota Rules, part 4620.3300, subp. 2;
- two years of post secondary education with an emphasis in construction management, industrial hygiene, industrial technology safety, or physical or life science and completed an OSHA 510 Occupational Safety and Health Standards for the Construction Industry course;
- a vocational training program in a construction-related discipline of not less than 18 months; OR
- work experience of at least 1,000 hours in general commercial construction trades.

**Supervisor:** (check one)

- work experience of at least 2,000 hours in asbestos-related work, safety, industrial hygiene, hazardous materials control, or other general commercial construction trades;
- a bachelor's degree in architecture, engineering, physical or life science AND at least 500 hours of work experience in asbestos-related work, safety, industrial hygiene, hazardous materials control, or other general commercial construction trades;
- a master's degree in environmental health, industrial hygiene, or safety; OR
- completion of an apprenticeship program within the general commercial construction trades, as approved in Minnesota Rules, part 4620.3310, subp.2.

**Inspector:** (check one)

- work experience of at least 500 hours in the field of building inspection, asbestos-related work, safety, industrial hygiene, or hazardous materials control;
- completion of an apprenticeship program within the general commercial construction trades approved by the Minnesota Department of Labor and Industry, Division of Voluntary Apprenticeship, or registered with the United States Department of Labor, Bureau of Apprenticeship and Training;
- licensure by Minnesota as a building official;
- a bachelor's degree in architecture, engineering, industrial hygiene, industrial technology safety, or physical or life science, AND 40 hours of on-site asbestos inspection experience accompanying a Minnesota-certified asbestos inspector; OR
- registration or certification as a registered architect, licensed professional engineer, certified industrial hygienist, or certified safety professional.

**Management Planner:** (check one)

- work experience of at least 1,000 hours in the field of building inspection, asbestos-related work, safety, industrial hygiene, or hazardous materials control;
- licensure by Minnesota as a building official;
- a bachelor's degree in architecture, engineering, physical or life science, AND work experience of 500 hours in the field of building inspection, asbestos-related work, safety, industrial hygiene, or hazardous materials control;
- registration as a registered architect, licensure as a professional engineer, or certification as a certified industrial hygienist or certified safety professional; OR
- a master's degree in environmental health, industrial hygiene or safety, AND work experience of 250 hours in the field of building inspection, asbestos-related work, safety, industrial hygiene, or hazardous materials control.

**Project Designer:** (check one)

- work experience of at least 4,000 hours in asbestos-related work or asbestos management activity as defined in Minnesota Statutes, section 326.71; OR
- registration as a registered architect, licensure as a professional engineer, or certification as a certified safety professional.

I declare that all the information I have provided is true and complete and that I have read and understand the department's "Tennessee Warning." The Tennessee Warning is available by calling 651-201-4620 or from the department's website at [www.health.state.mn.us](http://www.health.state.mn.us). I understand that submitting false information is grounds for denying, suspending, revoking or taking other disciplinary action against my license as specified in Minnesota Statute §144.992.

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_

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Exhibit C



Minnesota Pollution Control Agency/Minnesota Dept. of Health



Notification of Asbestos Related Work

Permit #

Type of Notification: [ ] Original [ ] Amended [ ] Cancellation

1. Asbestos Abatement Contractor Name: Lic# Address: City: State: Zip: Contact Person: Phone Number(s):

2. Air Monitoring Consultant/Laboratory Name: Lic# Address: City: State: Zip: Contact Person: Phone Number(s): [ ] Air Sample Analysis Only

3. Building Information [ ] Residential [ ] Nonresidential Building Name: Address: City: State: MN Zip: County: Current use: Previous use: Size of Bldg(ft^2) Age of Bldg Floors

4. Building Owner Name: Address: City: State: Zip: Contact Person: Phone Number(s):

5. Type of Project [ ] Renovation [ ] Demolition [ ] Encapsulation [ ] Enclosure [ ] Demolition Rules (MR 4620.3585) [ ] Emergency (Also call MPCA and MDH directly) Date of Emergency: Time of Emergency: AM/PM Description of Emergency:

6. Amount(s) of ACM (Asbestos-Containing Material) to be abated Friable Nonfriable Linear feet on pipes Square feet on facility components (tanks, boilers, ceilings, air ducts, flooring, etc.) Cubic feet off facility components (vermiculite, contaminated soil, demolition debris)

7. Asbestos Abatement Activity Dates Precleaning Work Area to Final Visual Inspection Start: End: Dates when RACM will be disturbed Start: End: Workshifts: Time Start: AM/PM End: AM/PM Days (check all that apply) [ ] Mon [ ] Tue [ ] Wed [ ] Thu [ ] Fri [ ] Sat [ ] Sun



8. Building Inspection: *Prior to a renovation/demolition, all buildings must be inspected by an MDH accredited inspector.*

Company or individual that conducted the building inspection: \_\_\_\_\_

Procedure used to determine the presence of RACM:  Assumed  PLM Microscopy  TEM Microscopy

9. Description & Location of RACM to be abated (including floor# and room #):  
\_\_\_\_\_  
\_\_\_\_\_

10. Asbestos Abatement Control Procedures (Check all that apply)

negative pressure containment  glove bag  mini-containment  facility component removal (wrap & cut)  
 Other: \_\_\_\_\_

11. Waste handling emission control procedures:

All ACM will be placed in appropriate containers and labeled, placed in a locked container and transported to an EPA approved landfill.

12. If unexpected RACM is found or Cat. II nonfriable ACM becomes friable:

The area will be evacuated, the material will be wet and cleanup done by trained personnel. The appropriate regulatory agencies will be notified.

13. Waste Transporter Information:

Transporter Name: \_\_\_\_\_  
Transporter Contact: \_\_\_\_\_  
Transporter Address: \_\_\_\_\_  
City, State, ZIP: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

14. Waste Disposal Information:

Landfill Name: \_\_\_\_\_  
Owner/Operator: \_\_\_\_\_  
Address/Location: \_\_\_\_\_  
City, State, ZIP: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

15. Permit fee: (Check the one that applies)

\$35 permit fee  
For all residential projects with less than 260 linear, 160 square or 35 cubic feet but more than 10 linear, 6 square or 1 cubic foot of RACM.

1% permit fee Total Cost of Project \$ \_\_\_\_\_  
For all projects, residential and nonresidential, with more than 260 linear, 160 square or 35 cubic feet of RACM.

Does this 1% permit fee include air monitoring costs?  yes  no  
Is this a "Time and Materials" project?  yes  no

I certify that an individual trained in the provisions of Federal Regulations 40 CFR Part 61, Subpart M (a Minnesota Asbestos Site Supervisor) will be on-site during the asbestos abatement project, and that the above information is correct and I am a bona fide representative of the abatement contractor or building owner and have authority to enter into agreements for my employer.

Signature of Contractor/Owner \_\_\_\_\_ Date \_\_\_\_\_

## Exhibit D

### Asbestos Project Fee Worksheet (Permits Active/Open between 10/01/2007 and 12/31/2007)\*

ABC Contractor, Inc.

| Permit # | Site            | Payment              | Start/End Dates     | Final Inv Amt | Final 1% Fee | Fee Owed (Refunded) |
|----------|-----------------|----------------------|---------------------|---------------|--------------|---------------------|
| 00001    | Fish Shop       | Check 12597 – 100.00 | 10/05/07 – 10/30/07 |               |              |                     |
| 00011    | Warehouse       | Check 12602 – 41.60  | 10/25/07 – 11/25/07 |               |              |                     |
| 00045    | Hospital        | Check 12611 – 30.24  | 10/31/07 – 11/15/07 |               |              |                     |
| 00053    | Retail Store    | Check 12619 – 10.00  | 11/01/07 – 11/14/07 |               |              |                     |
| 00089    | Restaurant      | Check 12653 – 11.60  | 11/05/07 – 11/20/07 |               |              |                     |
| 00090    | County Building | Check 12654 – 3.93   | 11/27/07 – 11/28/07 |               |              |                     |
| 00101    | Retail Store    | Check 12674 – 63.00  | 12/02/07 – 12/31/07 |               |              |                     |

\*This table was modeled after the worksheet that is produced from the MDH ACES database. The information entered on this Exhibit is fictitious. This table was drafted only for the purpose of being able to include it with the SONAR on the MDH website.