

443 Lafayette Road N.  
St. Paul, Minnesota 55155  
[www.doli.state.mn.us](http://www.doli.state.mn.us)



MINNESOTA DEPARTMENT OF  
**LABOR & INDUSTRY**

(651) 284-5005  
1-800-DIAL-DLI  
TTY: (651) 297-4198

May 13, 2009

Legislative Reference Library  
645 State Office Building  
100 Constitution Avenue  
St. Paul, Minnesota 55155

Re: In The Matter of the Proposed Amendment to the Rules of the State Department of Labor and Industry Governing Manufactured Homes, Minnesota Rules, Chapter 1350; and Repeal of Minnesota Rules, Parts 1350.3800, subpart 6, and 1350.6500; Governor's Tracking No. AR388

Dear Librarian:

The Minnesota Department of Labor and Industry intends to adopt rule amendments governing Manufactured Homes and to repeal Minnesota Rules, Parts 1350.3800, subpart 6 and 1350.6500. We plan to publish a Notice of Intent to Adopt Rules Without a Public Hearing in the May 18, 2009 State Register.

The Department has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Department is sending the Library a copy of the Statement of Need and Reasonableness at the same time we are mailing our Notice of Intent to Adopt Rules Without a Public Hearing.

If you have questions, please contact me at (651) 284-5128.

Yours very truly,

A handwritten signature in black ink, appearing to read "Patricia Munkel-Olson". The signature is fluid and cursive, with a large loop at the end.

Patricia Munkel-Olson  
General Counsel  
Office of the General Counsel  
Minnesota Department of Labor and Industry  
Phone: (651) 284-5128  
Fax: (651) 284-5725  
E-mail: [Patricia.Munkel-Olson@state.mn.us](mailto:Patricia.Munkel-Olson@state.mn.us)

Enclosure: Statement of Need and Reasonableness

# Minnesota Department of Labor and Industry

## Construction Codes and Licensing Division

### STATEMENT OF NEED AND REASONABLENESS

#### **Proposed Amendment to Rules Governing Manufactured Homes, Minnesota Rules, Chapter 1350; and Repeal of Minnesota Rules, Parts 1350.3800, subpart 6, and 1350.6500.**

#### INTRODUCTION

The National Manufactured Housing Construction and Safety Standards Act of 1974,<sup>1</sup> required the Secretary of the Department of Housing and Urban Development<sup>2</sup> to establish standards for the construction and safety of manufactured homes. Now adopted, these standards apply to all manufactured homes that are manufactured for sale to purchasers in the United States on or after June 15, 1976, and are located in Title 24 of the Code of Federal Regulations Part 3280.<sup>3</sup>

The Act also required the Secretary to promulgate regulations to carry out the purposes of the Act.<sup>4</sup> The regulations in 24 CFR 3282 prescribe procedures to implement the Secretary's responsibilities to conduct inspections and investigations necessary to enforce the standards of 24 CFR 3280, to determine if a manufactured home fails to comply with the applicable standards of 24 CFR 3280 or to determine if a home contains a defect or imminent safety hazard, and to direct the manufacturer to furnish a notification of the defect or hazard and, in some cases, to remedy the defect or hazard. The procedures in 24 CFR 3282 are implemented through the use of private and State inspection organizations, and in cooperation with State manufactured home agencies.

The Act was amended on December 27, 2000, by the National Manufactured Housing Construction and Safety Standards Act, Title VI, Manufactured Housing Improvement Act of 2000.<sup>5</sup> The Amended Act required HUD to, among other things, establish and implement a federal rule for manufactured home installation standards and a new installation program. Title 24 Code of Federal Regulations Part 3285 establishes model manufactured home installation standards for the installation of new manufactured homes and includes standards for the completion of certain aspects necessary to join all sections of multi-section homes.<sup>6</sup> Title 24 Code of Federal Regulations Part 3286 establishes a federal manufactured home installation program.<sup>7</sup> Title 24 Code of Federal Regulations Part 3288 establishes a manufactured home dispute resolution program.<sup>8</sup>

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1 United States Code, Title 42, section 5401, et seq; Hereinafter referred to as "the Act."

2 Hereinafter referred to as "Secretary" and "HUD."

3 Hereinafter "24 CFR 3280."

4 These regulations are located in Title 24, CFR Part 3282; Hereinafter "24 CFR 3282."

5 Hereinafter referred to as the "Amended Act."

6 Hereinafter referred to as "24 CFR 3285."

7 Hereinafter referred to as "24 CFR 3286."

8 Hereinafter referred to as "24 CFR 3288."

24 CFR 3282 also established an approval process that permits States to operate their own installation program, if they chose to do so, in lieu of a HUD-administered program. States that choose to operate their own installation program are required by HUD to be an approved State Administrative Agency (“SAA”). Any state that chooses to operate its own installation program must ensure that the program contains state installation standards that afford manufactured home residents at least the same protection provided by federal installation standards established by 24 CFR 3285. Minnesota Statutes § 327.33, subdivision 6, requires the Commissioner to apply to the Secretary of HUD to become an approved SAA for the regulation of manufactured homes. Minnesota has been a fully approved SAA since 1982 under the requirements of the Act of 1974. To maintain its approval as an SAA, Minnesota’s installation program must be modified to meet the minimum requirements of the Amended Act of 2000, which is a primary objective of this rulemaking. The elements required for an acceptable installation program include establishing qualified installation standards; licensing and training installers; establishing a method for inspecting the installation of manufactured homes; and adequate funding and personnel to administer the installation program.

The proposed rules establish the Department’s installation program, which is consistent with the federal installation standards in 24 CFR 3285 and the installation program established in 24 CFR 3286. It is advantageous for Minnesota to administer and enforce its own installation program because local administration of the program will reduce installation costs to the purchaser. These cost savings are realized through local administration of the program as opposed to HUD’s use of third-party entities (contractors) that conduct their business for profit. HUD’s use of these third party entities will cost states and industry more, which in turn are ultimately passed on to the purchasers and retailers.

The Commissioner of the Minnesota Department of Labor and Industry is charged by the Legislature with the adoption, administration, and enforcement of the Manufactured Home rules and regulations in 24 CFR Parts 3280, 3282, 3285, 3286, and 3288. The Commissioner may adopt the rules, codes, and standards necessary to enforce the standards in 24 CFR 3280. The purpose of this proposed rule is to update the rules regarding administration and enforcement of the Department’s responsibilities as an SAA for the regulation of manufactured homes under the rules of the Secretary of HUD.

## **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 Carrie Rohling at the Department of Labor and Industry, 443 Lafayette Road North, St. Paul, MN 55155, e-mail at [dli.rules@state.mn.us](mailto:dli.rules@state.mn.us), telephone (651) 284-5217, or fax (651) 284-5725. TTY users may call (651) 297-4198.

## **STATUTORY AUTHORITY**

Pursuant to the *Department of Administration Reorganization Order No. 193*, dated April 4, 2005, the responsibilities of the Department of Administration in relation to State Building Codes and Standards as set forth in Minnesota Statutes, sections 16B.59 through 16B.76, 327.20,

subd. 1(5), 327.205, 327.31 through 327.36, and 327B.01 through 327B.12 (2004) were transferred to the Department of Labor and Industry.<sup>9</sup>

The Department's statutory authority to adopt the rules is set forth in Minnesota Statutes §§ 326B.101, 326B.106, 326B.13, 327.32, 327.33, 326B.02, and 327B.10.

Minnesota Statutes § 326B.101, states:

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

Minnesota Statutes § 326B.106, subd. 1, states:

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

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<sup>9</sup> Reorganization Order No. 193 was effective upon filing with the Secretary of State on May 16, 2005, and shall remain in effect until amended, repealed, or superseded. The Reorganization Order was codified in 2007. *See* 2007 Minn. Laws, Chapter 140, Article 2, Section 3. For a copy of the reorganization order, please contact Carrie Rohling by e-mail at [dli.rules@state.mn.us](mailto:dli.rules@state.mn.us), or phone to (651) 284-5217.

Minnesota Statutes § 326B.13, subd. 6, states in pertinent part: “The commissioner shall approve any proposed amendments deemed by the commissioner to be reasonable in conformity with the policy and purpose of the code and justified under the particular circumstances involved...”

Minnesota Statutes § 327.32, subd. 3, states in pertinent part: “...The commissioner may make rules regarding alterations and permits therefor.”

Minnesota Statutes § 327.33, subd. 3, states in pertinent part: “The commissioner may adopt other rules as may be necessary to administer and enforce sections 327.31 to 327.35. The rules shall, to the extent practicable, be uniform with those adopted by other states.”

Minnesota Statutes § 327.33, subd. 4, states in pertinent part: “The commissioner shall adopt rules governing the installation of manufactured homes, and shall include them in the State Building Code. The rules may include a list of specific safety items to be inspected at the time of installation.”

Minnesota Statutes § 327.33, subd. 5, states in pertinent part:

The commissioner shall apply to the secretary for approval of the commissioner as the administrative agency for the regulation of manufactured homes under the rules of the secretary. The commissioner may make rules for the administration and enforcement of department responsibilities as a state administrative agency including, but not limited to, rules for the handling of citizen's complaints. All money received for services provided by the commissioner or the department's authorized agents as a state administrative agency shall be deposited in the construction code fund. The commissioner is charged with the adoption, administration, and enforcement of the Manufactured Home Construction and Safety Standards, consistent with rules and regulations promulgated by the United States Department of Housing and Urban Development. The commissioner may adopt the rules, codes, and standards necessary to enforce the standards promulgated under this section. The commissioner is authorized to conduct hearings and presentations of views consistent with regulations adopted by the United States Department of Housing and Urban Development and to adopt rules in order to carry out this function.

These sources of statutory authority were adopted and effective prior to January 1, 1996, and so Minnesota Statutes § 14.125, does not apply. *See* Minnesota Laws 1995, chapter 233, article 2, section 58.

Minnesota Statutes § 326B.02, subdivision 5, states in pertinent part, “The commissioner may, under the rulemaking provisions of chapter 14 and as otherwise provided by this chapter, adopt, amend, suspend, and repeal rules relating to the

commissioner's responsibilities under this chapter..." In other rulemakings and in accordance with Minn. Stat. § 14.125 the Department has published notices of intent to adopt rules citing to this general rulemaking authority within 18 months of the date Minn. Stat. § 326B.02 became effective.<sup>10</sup>

Because this source of statutory authority was properly and timely relied upon in previous rulemakings, Minnesota Statutes § 14.125, does not apply.

The Department's statutory authority to adopt rules specifically about establishing and approving continuing education programs for manufactured home installers, and the continuing education requirements for manufactured home installers became effective on December 1, 2007, and is set forth in Minnesota Statutes § 327B.10, which provides:

The commissioner may promulgate rules and issue orders reasonably necessary to implement and administer the provisions of sections 327B.01 to 327B.12. The commissioner shall adopt rules establishing and approving education programs for manufactured home installers. Each manufactured home installer must satisfactorily complete the continuing education requirements established by the commissioner in rule.

Pursuant to Minnesota Statutes § 14.125, the Department published a notice of intent to adopt rules within 18 months of the effective date of Minn. Stat. § 327B.10. Because the Department's notice of intent to adopt rule published within 18 months of the effective date of the law, the rulemaking authority had not expired.

Under these statutes, the Department has the necessary statutory authority to adopt the proposed rules.

## 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 repeat these factors and then give the agency'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:**

Those who will probably be affected by the proposed rules include local authorities having jurisdiction (commonly municipalities with a designated building official), dealers, limited dealers, installers, manufactured home parks, manufacturers, and purchasers of manufactured homes.

Those who will probably bear the costs of the rules include manufacturers and installers

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<sup>10</sup> The Department published two notices of intent to adopt rules in the State Register that cite to this general rulemaking authority. See 33 SR 5 (July 7, 2007) and 33 SR 250 (August 4, 2007).

who must pay for the initial costs, although many of these costs are passed down to the manufactured home park owners and purchasers of manufactured homes.

Those who will probably benefit from the rules include manufacturers, installers, and manufactured home park owners and the general public by having manufactured home installations provided in accordance with the most current code.

**(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:**

There will be probable costs to the agency associated with the new requirement for continuing education for installers. The program itself will have costs associated with administration of the program and course approvals. However, the Department and other entities currently operate education programs for the manufactured home industry so the continuing education programs for Minnesota's installers will not need to be established from scratch. The cost of the installation inspection and processing for the seal is offset by the fee established by Minnesota Statutes § 327.33, subd. 2b, which is paid to the Department. There will be no costs to any other agency for the implementation and enforcement of the proposed rule. The proposed rule will have a negligible effect on state revenues because the Commissioner may issue a refund for unused installation seals, minus 20 percent of the total value. Requests for refunds are very infrequently sought, however, so the effect is very small.

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

There are no less costly or intrusive methods to achieve the purpose of the proposed rules. To maintain its authorization as an SAA, the Department must adopt rules that regulate the installation of manufactured homes in accordance with the rules of the Secretary. The proposed rules are consistent with the requirements of 24 Parts CFR 3285 and 3286.

**(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:**

The Department is required to adopt, administer and enforce the standards in 24 CFR 3280, pursuant to Minnesota Statutes § 327.33, subd. 6, to maintain its SAA authorization. If the Department does not adopt the proposed rule, it will not maintain its SAA authorization, which will result in HUD's administration of the regulations pertaining to manufactured homes. The manufactured home purchaser will experience a cost savings with the implementation of the proposed rule that establishes the state program in Minnesota as opposed to the HUD program. The cost savings will be realized by inspections being conducted by Department staff. HUD, in the alternative, contracts with third-party inspectors to conduct inspections on behalf of HUD. Third-party inspectors conduct their inspections for profit, whereas the Department does not profit from its services.

**(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:**

There will likely be costs for licensed installers to obtain the required continuing education to comply with the proposed rule. The Department currently offers education programs for the manufactured home industry for approximately \$7.00 to \$8.00 per classroom hour. The proposed rules require licensed installers to obtain 12 classroom hours of continuing education credit every three years. Other private education providers offer continuing education courses for the industry, however, costs for the private courses typically vary depending upon the provider. The Department has no control over the cost of education provided by private education providers. Any probable costs associated with Minnesota's installation program have been set by Minnesota Statutes § 327.33, subd. 2b.

**(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 government units, businesses, or individuals:**

A probable consequence of not adopting the proposed rules would be that Minnesota would have to fall back on the existing rule, which would not comply or coordinate with the requirements in 24 CFR Parts 3280, 3282, 3285, 3286 and 3288. While the HUD rules and regulations referenced above would supersede that of Minnesota's statutes and rules, it would cause confusion within the industry to have Minnesota rules in place that conflict with or do not comply with HUD's rules and regulations. Further, Minnesota will lose its authorization as a SAA if the proposed rules are not adopted, causing HUD to enforce the installation standards and administer the installation program, including licensing, training and inspections.

A probable cost of not adopting the proposed rule is that manufactured home purchasers in Minnesota will likely pay more to have a manufactured home installed in this state. The cost for a seal issued pursuant to Minnesota's installation program will be \$80 per home, which includes inspection of the installation. HUD determined the installation costs, which were based upon the cost impact in 24 CFR 3286,<sup>11</sup> begin at approximately \$1,000 per home for a single-wide home and increases for double-wide homes. This cost savings for installation would be lost if the proposed rule is not adopted.

**(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:**

HUD's standards in 24 CFR Parts 3285 and 3286 are required, but if a state is an SAA, a state can adopt rules that meet or exceed the HUD standards. The proposed rules meet the HUD standards of 24 CFR Parts 3285 and 3286 and do not exceed them in any of the HUD required minimum standards, with the exception of the following definitions:

- a. Proposed rule part 1350.0100, subpart 46, differs from the federal definition of "person" in that the federal definition exempts government agencies from following

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<sup>11</sup> 24 CFR 3286, Appendix A.  
1350 SONAR, April 2009



- installation standards, while the definition in the proposed rule does not.
- b. Proposed rule part 1350.0100, subpart 32, differs from the federal definition of “Installer” in that it includes a person or entity retained to engage in the repair of a manufactured home.

The rationale for these specific definitions and why they exceed the federal definitions is explained more fully in the rule-by-rule analysis section on pages 11-12 of this SONAR.

## **PERFORMANCE-BASED RULES**

HUD stated in the comments/responses section in Part II of the Model Manufactured Home Installation Standards; Final Rule, 24 CFR 3285 that “[b]ased on the recommendations of the Manufactured Housing Consensus Committee and the public comments, the final model installation standards are a combination of prescriptive and performance standards. While the minimum standards do offer prescriptive methods for compliance, they also provide for alternatives in design that will allow for innovation. Accordingly, manufacturers’ instructions may be used on either the minimum requirements in these model installation standards or may use performance-based design in demonstrating compliance with these standards.”<sup>12</sup> As a result, Minnesota’s proposed rules contain the same prescriptive and performance-based criteria that are contained in HUD’s rules and regulations.

## **ADDITIONAL NOTICE**

We will mail or email Notice of Intent to Adopt Rules Without a Hearing to interested parties. Those parties include:

1. Certified building officials;
2. Minnesota licensed installers;
3. Minnesota licensed dealers;
4. Minnesota licensed manufacturers;
5. The Minnesota Construction Codes Advisory Council;
6. The Department of Housing and Urban Development;
7. The Institute for Building Technology and Safety<sup>13</sup>;
8. The Manufactured Home Owners Association of America;
9. States that are State Administrative Agencies<sup>14</sup>; and
10. All Parks Alliance for Change.

Our Notice Plan also includes giving notice required by statute. We will mail the Notice of Intent to Adopt Rules Without a Hearing to everyone who has registered to be on the Department’s rulemaking mailing lists pertaining generally to all Department rulemakings as well as rulemakings related to the construction codes, and specifically to prefabricated structures, manufactured homes and industrialized/modular buildings, which are maintained pursuant to

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<sup>12</sup> Federal Register, Friday, October 19, 2007, p. 59340.

<sup>13</sup> The Institute is HUD’s contractor.

<sup>14</sup> These states are: North Dakota, South Dakota, Nebraska, Iowa, Missouri, Illinois, Indiana, Wisconsin, and Michigan.

Minnesota Statutes § 14.14, subdivision 1a.

We will also give notice to the Legislature per Minnesota Statutes § 14.116.

We will also publish the proposed rules, the Statement of Need and Reasonableness, and Notice of Intent to Adopt Rules Without a Hearing on the Department's website, which is located at [http://www.doli.state.mn.us/rulemaking\\_activity.html](http://www.doli.state.mn.us/rulemaking_activity.html).

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

As required by Minnesota Statutes § 14.131, the Department has consulted with the Commissioner of Finance. We did this by sending Mr. Ryan Baumtrog, Executive Budget Officer, 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 Rules Without A Hearing. We sent the copies on February 11, 2009 and April 8, 2009. The documents included: the Governor's Office Proposed Rule and SONAR Form; almost final draft rules; and the almost final SONAR. Mr. Baumtrog sent a memorandum dated April 9, 2009, which included the following comments:

On behalf of the Commissioner of Finance, I have reviewed the proposed rule and related Statement of Need and Reasonableness (SONAR) to explore the potential impact these changes may have on local governments. My evaluation is summarized below:

The proposed rules bring the State's manufactured home rules into compliance and alignment with current HUD regulations and standards relating to installation. As identified in the SONAR, there are no costs to any identifiable categories of affected parties to comply with the proposed rule. In accordance with the current practice, the updated rules will be administered and enforced by Department of Labor staff or the local authority having jurisdiction. For building officials, continuing education is already required; thus any additional training required for the updates will not increase costs to local governments. The costs associated with the installation standards have been set in Minnesota Statute and the HUD program and are initially borne by the installers and manufacturers.

In my opinion, the proposed changes will not impose a significant cost on local governments.

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

### **Agency Determination of Cost**

As required by Minnesota Statutes § 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. 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 small business or small city.

The Department has made this determination because the manufactured home purchaser will bear the cost of complying with the proposed rule, and therefore, the cost will not be borne by a small business or city. Any costs associated with compliance with the rule will be passed through from the installers and retailers to the purchasers as possible increased installation costs.

Manufactured home installation costs are set in Minnesota Statutes § 327.33, subd. 2b. As a result, this proposed rule does not address these costs and are not affected by them. The costs associated with the newly required continuing education for licensed installers will cost installers much less than \$25,000 in the first year the rule is in effect. Furthermore, licensed installers will have three years from the date of renewal of their license to obtain the required continuing education.

### **Effect of Cost Determination**

The rules are being proposed pursuant to federal requirements in 24 CFR Parts 3280, 3282, 3285, 3286 and 3288 and statutory requirements in Minnesota Statutes § 327B.10. The Federal rules 24 CFR Parts 3280, 3282, 3285, 3286 and 3288 are discussed in more detail on pages 1 and 2 of this SONAR. Minnesota Statutes § 327B.10 is discussed in more detail on page 5 of this SONAR. Therefore, under Minnesota Statutes § 14.127, subdivision 4(b), no small business or small city can claim a temporary exemption from the proposed rules.

### **LIST OF WITNESSES**

If these rules go to a public hearing, the Department anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

1. Staff from the Department's Construction Codes and Licensing Division; and
2. Members of the advisory committee for this rulemaking.

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

In addition to the purposes described in the Introduction section of this SONAR, the proposed rules clarify unclear provisions by making grammatical corrections (e.g. punctuation and plural agreement), reflect the renumbering of applicable statutes, and change references to the Department of Labor and Industry and its Commissioner to reflect Reorganization Order No. 193.

#### **1350.0100 DEFINITIONS.**

Subpart 7a. **Architect.** A definition for "Architect" is being added to the Definitions section of this rule so that the terminology used in Minnesota's rule is consistent with the terminology used in the federal rules.

Subp. 19a. **Engineer.** A definition for "Engineer" is being added to the Definitions section of this

rule so that the terminology used in Minnesota's rule is consistent with the terminology used in the federal rules.

Subp. 24a. **HUD.** A definition for "HUD" is being added to the Definitions section of this rule to clarify that references to HUD in the rule are clearly understood.

Subp. 27. **Installation.** The definition for "Installation" is being revised by deleting the existing language and replacing it with the language in the federal definition to cause the terminology used Minnesota's rule to be consistent with the terminology used in 24 CFR Parts 3285 and 3286.

Subp. 30. **Installation instructions.** The definition for "Installation Instructions" is being deleted and replaced with a new definition that refers to a "manufacturer's DAPIA approved set of specifications" so that the terminology used in Minnesota's rule is consistent with the terminology used in 24 CFR Parts 3285 and 3286.

Subp. 31a. **Installation standards.** A definition for "Installation Standards" is being added to the definition section of this rule so that the terminology used in Minnesota's rule is consistent with the terminology used in 24 CFR Parts 3285 and 3286.

Subp. 32. **Installer.** The current definition for "Installer" is replaced with a new definition that makes reference to the requirements of 24 CFR 3285 and the requirements of this rule and is consistent with the definition in 24 CFR 3286. The proposed definition includes a provision for installers to repair a manufactured home, which is consistent with the definition of a manufactured home installer in Minnesota Statutes § 327.31, subdivision 11. The federal definition for installer does not include a provision for installers to repair manufactured homes. The revision also contains a requirement that "installers shall be licensed in accordance with Minnesota laws and rules" because Minnesota has laws and rules that must be followed relative to licensing requirements for installers. The previous language only referenced Minnesota installers while the new language permits reciprocity of installer licensing with other states, pursuant to the requirement for reciprocity in Minnesota Statutes § 327B.04, clause b. The new language is necessary so that the terminology used in Minnesota's rule is consistent with state statutes and the terminology used in the federal rules.

Subp. 46. **Person.** The current definition for "Person" is replaced with a new definition that expands the types of entities considered to be persons, and provides an exception for tribal entities on a Federal reservation. This change is necessary because the previous definition was too vague and the new definition in the federal installation program in 24 CFR 3286 was used as a basis of clarification for this definition.

The federal definition for "Person" excludes government agencies from complying with installation requirements. This proposed change modifies the federal definition by requiring government agencies to follow Minnesota's installation program standards to ensure that a manufactured home, owned by or installed for or with the involvement of any governmental agency, is installed in a manner that complies with Minnesota's specific climatic conditions. For example, FEMA is not required to install anchoring systems that conform to Minnesota's frost

requirements because most of FEMA's installations occur in southern regions where such systems are not necessary. Minnesota's climatic conditions, however, require an anchoring system to conform to frost conditions, regardless of the type of entity performing the installation.

Subp. 48a. **Repair.** A definition for "Repair" is being added to the definition section of this rule because there currently is no definition for a "repair" in this rule. A definition for this term is needed to clarify the parameters of the work that can be done by a licensed installer, pursuant to Minnesota Statutes 327.31, subdivision 11, which includes installation or repairs.

Subp. 48b. **Replacement construction seal.** The current definition is renumbered as subpart 48b because the definition for "Repair" was added immediately preceding this term in the list of definitions.

Subp. 48c. **Retailer.** The current definition is renumbered as subpart 48c because the definition for "Repair" was added preceding this term in the list of definitions.

Subp. 51a. **Set-up.** A definition for "Set-up" is being added to the definition section of this rule because there currently is no definition for the process of assembling or installing a manufactured home. This definition is needed so that the terminology used in Minnesota's rule is consistent with the terminology used in 24 CFR 3286.

### **1350.0200 AUTHORIZATION.**

This part is modified by adding three statutory references to the rule that were recently added by the legislature so that the rule reflects the authority provided by statute.

### **1350.0400 REQUIREMENT FOR SEALS, CODE COMPLIANCE, CONSTRUCTION COMPLIANCE CERTIFICATES, OR LABELS.<sup>15</sup>**

Subpart 1. **Construction seals; code compliance; construction compliance certificates or labels.** The modification deletes the word "park" from the first sentence and is replaced with the phrase "install for occupancy" so the proposed rule is consistent with changes made to Minnesota Statutes § 327.32, subdivision 1.

Subp. 3. **Requirement for installation seals.** The modification deletes the word "ground" from the phrase "a ground support or anchoring system" to provide consistency and clarity when the phrase "support system" is used. The phrase "ground support system" is not defined in the rule while the phrase "support system" is defined in Minnesota Rules Part 1350.0100, subpart 55. The words "licensed and certified" are also deleted to remove a redundancy in that the definition of

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<sup>15</sup> Seal: A seal is a device or insignia issued by the Commissioner to be displayed on the manufactured home to evidence compliance with the manufactured home code. These seals were issued from July 1, 1972 through June 12, 1976. Types of seals include construction, accessory structure, and installation seals.

Certificate: A construction compliance certificate is the certificate provided by the manufacturer or dealer to both the Commissioner and to the owner that warrants that the manufactured home complies with the code.

Label: A label is the approved form of certification required by the secretary or the secretary's agents to be affixed to each transportable section of each manufactured home manufactured for sale, after June 14, 1976, to a purchaser in the United States.

installer requires licensure pursuant to Minnesota's laws and rules.

This proposed change adds "retailer" to those entities identified in this subpart that must receive a certificate evidencing compliance for manufactured homes installed in accordance with the installation requirements in Minnesota Rules Parts 1350.0100 to 1350.6900. It is necessary to include retailers in this provision because retailers are, pursuant to the definition of retailer in this proposed rule, synonymous with the terms "dealers" and "distributors" as defined in 24 CFR 3286 and are required to receive this evidence to ensure compliance with all installation requirements. The proposed change is consistent with the terminology in 24 CFR 3286 pertaining to record keeping and tracking manufactured homes installed in Minnesota.

This proposed change adds the word "certificates" to the description of the types of proof of installation, in addition to "seals." Adding the word "certificates" creates consistent terminology and requirements with those in 24 CFR Parts 3285 and 3286, which require the installer to "certify" compliance of installations completed. The language in this same sentence is also modified so that installation seals or certificates will be required on all manufactured homes installed in Minnesota, where previously Minnesota did not require seals or certificates on all homes in Minnesota. The current rule excludes this requirement for manufactured homes installed on a foundation system in a municipality that enforces the State Building Code. This change is necessary because 24 CFR 3286 requires state installation programs to include a method to track all manufactured home installations. These changes will result in consistency between Minnesota's requirements and the federal installation program regarding tracking and verification of compliance.

This proposed change also adds language to provide exceptions to the requirement for seals or certificates for manufactured homes installed on a Federal Reservation or homes installed by the homeowner. These exceptions were added to clarify that manufactured homes installed on a federal reservation are not required to have seals or certificates affixed to the homes, and that Minnesota homeowners cannot obtain installation seals and certificates. (Only persons licensed as manufactured installers are able to obtain Minnesota installation seals and certificates according to Minnesota Rules Part 1350.0500, subpart 5.) Additional language was added to instruct or require retailers to submit documentation on forms provided by the Commissioner for homes installed under these exceptions. Adding this requirement provides Minnesota with a method to track all manufactured homes that are installed in Minnesota, including those homes installed under these exceptions, as required in 24 CFR 3286.

### **1350.0500 ACQUISITION OF LABELS AND SEALS; INSTALLER LICENSING.**

Subpart 2. **Acquisition of replacement seals.** This proposed change deletes the phrase "construction seals or" from the headnote of this subpart. While the headnote is not technically part of the rule, it provides the reader with a quick overview of the contents of the subpart. This phrase is deleted from the headnote of the subpart because the Act, and the federal rules and regulations for the administration and implementation of the Act, authorize only the manufactured home manufacturer's Inspection Primary Inspection Agency ("IPIA") the ability to issue the initial construction label. Minnesota is only permitted to issue replacement construction seals to used manufactured homes because of these restrictions.

Subp. 4. **Installer licensing; proper seal issuance; proper code or standard application.** This subpart is being modified by adding language to the headnote of this subpart. While the headnote is not technically part of the rule, it provides the reader with a quick overview of the contents of the subpart. The additional language provides the reader with the correct contents of the subpart. The proposed subpart also replaces a reference to the Department of Commerce with a reference to the Department of Labor and Industry to reflect the transfer of authority, which is more fully explained in the statutory authority section of this SONAR on pages 2 to 5.

This proposed change also adds language that requires support systems and anchoring system installations to comply with applicable sections of the Minnesota State Building Code and in 24 CFR Parts 3285 and 3286. This change is necessary because the Amended Act requires that state installation programs include installation requirements that meet or exceed the requirements in 24 CFR 3286. Language is added to the end of the section to clarify that either the federal standard or State Building Code will apply, dependent upon the date that the home was manufactured. This change informs the installer that the rules for manufactured home installation compliance will differ; and that the installation rules that apply for any installed home is dependent upon and determined by the date that the home was manufactured.

Subp. 5. **Acquisition of installation seals.** This subpart is modified by adding language to provide a mechanism for installers to acquire seals from the Commissioner of Labor and Industry if they provide proof of licensure in Minnesota or if they have been granted licensure reciprocity by the Commissioner. Reciprocity provisions need to be added to the proposed rule because federal reciprocity is required by 24 CFR 3286. The Department chose to grant reciprocity to all jurisdictions with licensure programs that meet or exceed the Minnesota's licensure requirements to provide greater flexibility for installers in surrounding states.

### **1350.0900 PLACEMENT AND LOCATION OF SEALS.**

Subpart 1. **Replacement construction seals.** This proposed change deletes references to "construction seals" in the headnote and in the text of the subpart, leaving only references to replacement construction seals. The word "replacement" is also added to the remainder of the subpart's text wherever the word "seals" is used so that all references to "construction seals" are clearly stated as "replacement construction seals." The deleted phrases and additional wording in the headnote and body of the subpart are necessary because the Act, and the federal rules issued to carry out the Act, authorize only the manufactured home manufacturer's IPIA, the ability to issue the initial construction label. Minnesota is only permitted to issue replacement construction seals to used manufactured homes because of these restrictions.

The text in the second paragraph of this subpart is modified by deleting the phrase "not less than six inches above the floor line." HUD removed this requirement from its regulations in 24 CFR 3280.11 for construction label placement. As a result, the proposed deletion is necessary so that Minnesota's manufactured home rules are consistent with the requirements of the construction standards in 24 CFR 3280.

Subp. 2. **Installation seals.** The text of this subpart is modified by deleting the phrase "of each

type of” from the beginning of the first sentence pertaining to seals that are assigned and affixed to a manufactured home. This proposed change will enable Minnesota to institute a single installation seal and certificate program for the set-up and anchoring of manufactured home installations, and drop the current two-seal program now in use. This proposed change will streamline and simplify Minnesota’s manufactured home installation tracking and ensure that Minnesota’s installation program is consistent with the program in 24 CFR 3286.

### **1350.1100 RETURN OF SEALS.**

Subpart 1. **Installation seals.** This subpart is being modified by adding a requirement for notification to be provided “in writing” in the event that the installation of a manufactured home is discontinued. The language “in writing” is added to clarify the type of notice that the installer is required to provide to the Commissioner in this circumstance. The current language is vague and permits verbal notification that could permit fraudulent practices to occur. As a result, under the current rule a person licensed as an installer could potentially be harmed by others who attempt to communicate this information to the Commissioner.

This subpart is also modified by adding a sentence to provide a refund to an installer for returning unused installation seals, minus a 20% administrative fee. This additional language is necessary because the current rule does not provide the Commissioner with a mechanism for refunding fees paid for an installation seal when returned by an installer. The Department calculated its administrative costs for handling, cataloging, and preparing the seals for reissuance to be roughly 20% of the seal fee.

### **1350.1400 APPLICATION FOR MANUFACTURED HOME ACCESSORY STRUCTURE APPROVAL.**

Subpart 2, subitems H, I, J, K, L, and M. **Plans and specifications.** This subpart is a list of requirements that must be included on plans and specifications submitted to the Commissioner for review. The clarified item and new items include installation details and instructions for accessory structures; a mechanical layout for heating or cooling; heating and cooling load calculations; structural calculations; engineered truss drawings or rafter calculations; and an approval letter from the home’s manufacturer allowing the addition of an accessory structure for new manufactured homes subject to the limited warranty of merchantability and fitness. These items have been clarified or added to the list because they are part of the manufactured home construction code requirements in 24 CFR 3280. These items are modified or added to list of requirements to ensure that all specifications of a manufactured home accessory structure are included in the plans to be submitted to the Commissioner to enable the Commissioner to verify that the proposed accessory structure complies with, and that the manufactured home receiving the accessory structure continues to comply with, all aspects of 24 CFR 3280, 24 CFR 3282.201, Minnesota Statutes § 327.34, subd. 1(c) and 3(a), and Minnesota Rules Part 1350.1300.

### **1350.2100 INSPECTION REQUESTS.**

This part is modified by deleting the phrase “if said person holds title to the house to be inspected” and adding the phrase “or any person holding title” to the first sentence. Deleting the



requirement that the person requesting the inspection must also hold title to the home and adding the phrase “or any person holding title” to the list of persons that may request the Commissioner to inspect the manufactured home (manufactured after July 1, 1972) permits dealers and installers to request an inspection and they are not required to hold title to the home to do so. This change still permits a title-holder to request an inspection. The current language excludes installers from the list of persons that can submit an inspection request to the Commissioner. This exclusion would cause Minnesota’s installation program to be inconsistent with 24 CFR 3286.803 because 24 CFR 3286.803(b)(4) requires state installation programs to include a method for inspecting the installation of manufactured homes and holds the installer responsible for installation compliance. Expanding the list of persons that may request an inspection provides Minnesota manufactured home purchasers and users with the ability to initiate the inspection process to ensure that the manufactured home’s construction and installation is compliant, that the minimum Minnesota manufactured home code requirements for life, health, safety, and property protections are met, and that Minnesota’s installation standards are followed.

The current rule also says that requests for inspection ‘should’ be on an application. The proposed rule requires that the request for an inspection must be made on an application to the Commissioner so that the Department can have a record of requests for inspection.

#### **1350.2300 OTHER INSPECTIONS.**

This part is expanded to include inspection requirements for all newly installed and re-installed manufactured homes. These changes reformat the part into subparts, where the original language is grouped under one subpart with the headnote “Facilities inspections.”

Additions to the part require the inspection of manufactured home installations as subpart 2, with the headnote “Installation inspections.” This new language is necessary because of changes to the Amended Act, which require state installation programs to meet or exceed the requirements of the federal installation program and standards in 24 CFR Parts 3285 and 3286. The requirements of 24 CFR Parts 3285 and 3286 became effective January 1, 2009. The new language of subpart 2 requires that all installed new manufactured homes and reinstalled used manufactured homes in Minnesota be inspected. The new language also identifies those entities that Minnesota authorizes to inspect manufactured home installations, which meet the minimum inspector qualifications in CFR 3286.511, as required by the Amended Act. The inspection of all manufactured home installations will result in healthier, safer, and more durable homes for Minnesota consumers.

#### **1350.2400 NOTICE OF CORRECTION.**

The headnote of this part is modified to replace the word “violation” with “correction” and body of the part replaces “violation” with “required correction” so that the rule is consistent with the enforcement language contained in Minnesota Statutes Chapter 326B.

This part is modified by adding the phrase “or the home’s installation” to the first part of the first sentence to clarify that a manufactured home’s installation must comply with requirements in Minnesota Statutes § 327.32. The word “construction” and the phrase “to which

the home was manufactured” are added prior to and after the word “code” to provide clarification to language contained in Minnesota Statute § 326B.081 about the types of violations that may be discovered during an inspection, any violations that may apply to the home itself, or to the installation of the home.

The phrase “or local authority having jurisdiction” is added to the first and second sentences of the part to clarify the responsibilities of the Commissioner or the LAHJ pursuant to language contained in Minnesota Statutes §§ 327.33, subd. 1, and 326B.133, subd. 4. These statutes state that the Commissioner shall, through department inspectors or through a designated representative of the Commissioner, inspect the home, its installation, and alterations made to the manufactured home. The proposed rule clarifies that the Commissioner or the LAHJ are required to order the correction of any non-compliance or violation found with the home, its installation, or its alteration to provide Minnesota consumers with healthier, safer, and more durable manufactured home.

### **1350.2500 STABILIZING SYSTEMS FOR MANUFACTURED HOME INSTALLATION.**

This proposed change deletes the reference to Minnesota Rules Parts 1350.2500 to 1350.3200 and replaces it with a reference to Minnesota Rules, Chapter 1350 and 24 CFR 3285 because states and manufacturers will be required to meet minimum Federal installation standards set out in 24 CFR 3285, including the equipment and methods used. The Department has authority, pursuant to Minnesota Statutes § 327.33, to develop standards and rules for installation as the authority having jurisdiction within Minnesota. Minnesota may also retain the right to accept alternate materials and methods for installation as long as the minimum Federal and State requirements referenced in this part are met.

### **1350.2600 INSTRUCTIONS AND DESIGNS.**

Subpart 1. **Manufacturer's installation instructions.** This subpart is modified by adding language to the second to last sentence regarding requirements for manufactured homes manufactured prior to January 1, 2009 and manufactured on or after that date. This subpart is also modified by adding the phrase “completion of” before the word “installation” in the last sentence. The changes to the proposed rule are necessary to provide language that is consistent with the federal language in 24 CFR Parts 3285 and 3286, which went into effect on January 1, 2009. This subpart is also modified by adding the phrase “completion of” before the word “installation” in the last sentence. 24 CFR 3286.9 requires that with each manufactured home, the manufacturer ship a copy of installation designs and instructions to which the home is to be installed. 24 CFR 3286.103 requires the purchaser or lessee of the home to be provided with a copy of the manufacturer’s installation designs and instructions for the home that will be installed. Adding the words “completion of the” in front of the word “installation” is necessary so that Minnesota’s installation program is consistent with the requirements of 24 CFR 3286. Modification is also made to remove a redundancy by deleting the words “registered professional” in front of “engineer” because the definition of engineer specifies that the engineer be licensed.

## **1350.2700 FOUNDATION AND SUPPORT SYSTEMS.**

Subpart 4. **Footings.** This subpart is modified by deleting the combined live and dead loads of “85” pounds per square foot and replacing it with “95” pounds per square foot. Increasing the total load design criteria is necessary because of changes to manufacturing wall, roof and floor framing and finishing systems and materials (those items that are determined to comprise the loads of a structure) that are used to construct today’s manufactured homes. Examples of these system changes are the manufacturer’s use of 2 x 6 studs that are heavier than previous systems that used 2 x 4 studs and gypsum wall and ceiling board that are taped and textured and are heavier than the previously used 3/8” vinyl covered gypsum wall and ceiling boards. The words “registered professional” are deleted from the reference to engineer because “engineer” is a defined term in the Definitions section of this proposed rule.

## **1350.2800 ANCHORING EQUIPMENT.**

Subpart 2. **Resistance to weather deterioration.** This subpart is modified by adding the phrase “paint or” before the word “zinc” in this subpart. This change is being made because, effective February 2, 2009, HUD temporarily suspended the national enforcement of the weatherization and corrosion protection requirements for piers and anchor systems found in 24 CFR 3285.309 and 3285.402. The Department has no documented history of failures or problems with anchoring equipment used in Minnesota that has been painted. For this reason, Minnesota is permitting the use of paint or zinc as a method of resistance to weather deterioration.

## **1350.2900 GROUND ANCHORS.**

Subpart 5. **Table of soil types.** This subpart is modified by replacing the existing table for soil types with 24 CFR 3285, Table 3285.202, to determine soil types for anchors and soil bearing capacities. The replacement table from 24 CFR 3285 is more user-friendly than the existing table and provides a more accurate and simplified method for classifying soil types. Requiring the use of this table enables Minnesota to comply with the requirements in 24 CFR 3285 and national design specifications used in all states.

Subp. 6. **Use of concrete slabs or continuous footings.** This subpart is modified by deleting all of the existing language regarding the use of concrete slabs or continuous footings that transfer anchoring loads to the ground. The deleted language is replaced with language that requires concrete slabs, piers, or continuous footings to be designed and constructed according to the anchor manufacturers’ instructions or to engineered designs. This change is necessary because concrete anchor manufacturers specify reinforcement requirements by location, size, grade, configuration, and the loads for which the anchors were tested, as well as specifications for the construction of the concrete footing or slab. Where a concrete anchor manufacturer does not provide testing from a recognized 3<sup>rd</sup> party for the design of the footing or concrete slab or for reinforcement specifications, an engineer will be required to design the footing or slab and its reinforcement. This change will allow for engineering and designs that incorporate new methods and technology.

### **1350.3300 PIER SPECIFICATIONS.**

This part is modified by inserting the word “hardwood” in front of the word “shims” in subparts 1-3. This modification is necessary because 24 CFR 3285.306(c)(2) requires hardwood shims to be used in piers constructed to support manufactured homes. This change creates consistency between Minnesota’s installation standard and 24 CFR 3285.

### **1350.3400 UTILITY CONNECTIONS.**

**Subpart 1. Water connections.** This subpart is modified by adding two sentences. The first sentence requires the entire water distribution system to be tested in accordance with 24 CFR 3285 after the manufactured home is connected to the site’s water service piping. The second sentence provides direction regarding protection of the water heater upon completion of the required water distribution systems test. These changes are necessary because 24 CFR 3285.603(e), items 1 and 2, require the manufactured home’s water distribution system, at the site of installation, to comply with 24 CFR 3280.612 and it requires the water piping system to be tested to withstand an air test in accordance with 24 CFR 3285.603. The water piping must also meet the requirements of the Minnesota Plumbing Code. This change results in consistency between Minnesota’s requirements and 24 CFR 3285.

**Subp. 2. Sewer connections.** The first sentence of this subpart is modified by adding language to clarify that the portion of the waste system from the site’s sewer connection to the home’s drain outlet must comply with the Minnesota Plumbing Code. New language is added as a second sentence to this subpart requiring testing the drainage piping at the site of installation after completion because 24 CFR 3285.604(d) requires the testing of the drainage system after installation. The proposed change provides the installer with the test method options outlined in 24 CFR 3280.612, or in Minnesota Rules Part 4715.2820, subpart 3, whichever is acceptable to the authority having jurisdiction. These language additions are necessary so Minnesota’s installation program is consistent with the drainage system testing requirements of 24 CFR 3285.

**Subp. 5a. Electrical on-site testing.** This new subpart requires the testing of the manufactured home’s electrical system at the site of installation by the electrical contractor of record. This modification is necessary because 24 CFR 3285.702 and 24 CFR 3285.703 require testing of the electrical system. This change is necessary so that Minnesota’s installation program is consistent with the requirements of 24 CFR 3285.

### **1350.3800 CONSTRUCTION ALTERATIONS.**

**Subpart 1. Effect on seal or label.** This subpart is modified by adding the phrase “prior to receiving review and approval, and prior to obtaining permits, which include necessary inspections” to the middle of the first sentence. This change is necessary to clarify that alterations may be made to a manufactured home if the alterations are reviewed, approved and inspected. Current rule language states that no alterations are permitted to be made to a manufactured home without voiding the construction seal or label, which conflicts with the intent of the language in Minnesota Statutes § 327.32, subdivision 3 (no alterations are permitted if the alterations cause the home not to comply with the manufactured home building code). A manufactured home may

be altered and will not cause the home to fall out of compliance with the Building Code if the alteration has been approved and inspected, even if the home bears a seal or label. The changes proposed provide additional information regarding requirements that must be met to obtain approval for an alteration to a manufactured home and will clarify the language in the statute.

Subp. 3. **Application.** This subpart is modified by adding the phrase “for review and approval of the alteration” after the word “application”, and adds a phrase regarding the local authority having jurisdiction. These changes are necessary to clarify that an alteration application may also be made to the local authority having jurisdiction. The existing language of this subpart indicates that application for alteration can only be made to the Commissioner, but this conflicts with the language of Minnesota Statutes § 326B.133, subdivision 4. The proposed change results in consistency between the rule language and the language in the statute.

Subp. 4. **Inspection.** This subpart adds the phrase “or to the local authority having jurisdiction” after the word “commissioner” and adds the phrase “to determine code compliance of the approved alteration” after the reference to “1350.2100.” These changes are necessary to clarify that alteration inspections, in order to determine code compliance for manufactured homes being altered, may also be completed by the local authority having jurisdiction. The current language of this subpart indicates that an alteration inspection can only be made by the Commissioner, and is in conflict with the language of Minnesota Statutes § 326B.133, subd. 4. The proposed change will more accurately reflect the language in the statute by empowering the local authority having jurisdiction to complete the inspections of the manufactured homes being altered. Furthermore, Minnesota Statutes § 327.33, subd. 1, permits the Commissioner to designate a recognized inspection service (a Building Official for a jurisdiction) that would act on behalf of the Commissioner to perform sufficient manufactured home inspections to ensure compliance.

Subp. 5. **Replacement construction seal.** This subpart is modified by adding language to the beginning of the first sentence that reads “If approvals and inspections for alterations were not obtained, and the homes construction seal or label is removed by the commissioner, or the commissioner ordered removal by the local authority having jurisdiction, then.” This change is necessary because changes proposed to Minnesota Rules Part 1350.3800, subparts 1, 3, and 4 permit alterations (where the procedures in these subparts are followed) and do not require the voiding and removal of all manufactured home labels and seals. The change is necessary because it provides a mechanism for homeowners to obtain a replacement construction seal when unapproved and uninspected alterations were made to a manufactured home after the placement of a construction seal or labels. A sentence was also added to the end of the section that reads, “Replacement construction seals shall require submission of an application in accordance with part 1350.0500 subpart 2.” This language is added to provide a procedure that must be followed when applying for replacement construction seals or the acquisition of labels that will verify compliance with the manufactured home code.

Subp. 6. **Replacement accessory structure seal.** This subpart is proposed for repeal, which is explained more thoroughly in the Repealer section of this SONAR.

### **1350.3850 DISPUTE RESOLUTION PROGRAM.**

This new rule part provides language regarding Minnesota's manufactured home dispute resolution program. On February 8, 2008, 24 CFR Part 3288 went into effect in the United States for the manufactured housing program. Pursuant to 24 CFR Part 3288, each state is required to submit and have approved a dispute resolution program, or HUD will develop and administer a dispute resolution program for states. On February 6, 2008, Minnesota's dispute resolution program was fully approved by HUD with its current laws and rules, in conjunction with the proposed language in this section that permits manufacturers, retailers, installers, and homeowners to initiate a request for dispute resolution, which provides manufactured home protections in Minnesota. HUD determined that homeowners are not considered a party in the dispute but may initiate the process and act as an observer. (Note: Pursuant to 24 CFR Part 3282, Minnesota Rules, Parts 1350.3900 to 1350.5700 Minnesota manufactured home owners have a separate consumer complaint program.) The proposed rule is necessary to maintain Minnesota's approval as an SAA and to comply with the requirement in 24 CFR Part 3288.210 providing an approved dispute resolution process for the entities referenced above.

### **1350.6400 FORM AND REMITTANCE OF FEES.**

As currently written, this part requires that fees be made payable to the Commissioner of Finance. The modification correctly requires that fees are payable to the Department of Labor and Industry.

### **1350.6700 REGISTRATION REQUIREMENT AND INSTALLER LICENSING RECIPROCITY.**

Changes to this part include creating a subpart for the current rule, which is modified as discussed below, and adding a new subpart to address reciprocity.

Subpart 1. **Registration.** This part is modified by deleting the word "Annual" from the headnote and adding the phrase "and Installer Licensing Reciprocity." Although the headnote is technically not part of the rule, the words are added and deleted to clarify the content that is covered in the part's text. In order to be consistent with HUD's installation program requirements, which requires a three-year interval for registrations, the word "annual" is also deleted from the first line of the text. Further modification is made by deleting a reference to the Department of Commerce so that the rule properly identifies the Department of Labor and Industry and its Commissioner.

Additional language clarifies the registration requirement to obtain seals from the Department "or a reciprocal state or United States jurisdiction ..." This change is necessary to provide language for circumstances involving reciprocity and to clarify that installation seals are required by Minnesota Rules Parts 1350.0600, subp. 2, and 1350.6500, subp. 2, and is consistent with the federal reciprocity requirements in 24 CFR 3286.

Subp. 2. **Reciprocity.** This subpart grants reciprocity to an installer with an unexpired license from another United States jurisdiction that meets or exceeds the requirements for licensure in

Minnesota when that licensee provides the Commissioner with proof of licensure, proof of public liability insurance, posts a bond, and registers in accordance with subpart 1. This change is necessary to provide Minnesota with the ability to accept licenses from other jurisdictions that the Department has determined have equivalent licensing criteria. 24 CFR 3286 requires reciprocity for federal certifications that meet or exceed the licensing requirements in the states. The Department chose to grant reciprocity to all jurisdictions whose licensure programs meet or exceed the Minnesota's licensing requirements to provide greater flexibility to installers from surrounding states.

### **1350.6705 DEFINITIONS.**

This new rule part provides clarity to terms used in part 1350.6710 regarding installer continuing education requirements.

### **1350.6710 INSTALLER CONTINUING EDUCATION**

Pursuant to Minnesota Statutes § 327B.10, this rule part is necessary to establish a manufactured home installer continuing education program.

**Subpart 1. Installer continuing education requirements.** This subpart establishes the continuing education credit required for licensed installers, which includes the total continuing education hours required, the number of hours in each technical area required, and a description of the topics that the continuing education instruction must cover. The proposed rule reflects the three-year licensure cycle and continuing education requirements contained in 24 CFR 3286.308 and 3286.309.

**Subp. 2. Approval for instructors.** This subpart establishes the requirements for instructor approval, the application process, and instructor responsibilities and prohibited practices. This language is necessary to establish minimum criteria that must be met by a person who wants to provide continuing education for manufactured home installers in Minnesota. This language substantially reflects HUD's requirements for trainers (instructors) and the approval process.

**Subp. 3. Course approval.** This subpart establishes the requirements that must be followed to have a manufactured home continuing education course approved by the Department. The subpart specifically provides information about course approval, the procedure that must be followed to obtain the approval, course examination requirements, and course resubmission requirements. This language is necessary to provide approved instructors with a mechanism to ensure that the education provided meets the standards required by the installer continuing education program.

**Subp. 4. Fees.** This subpart establishes requirements related to the fees charged by providers for continuing education courses. This language is necessary to provide protections for students regarding the fees charged for continuing education program courses.

**Subp. 5. Facilities and supplementary materials.** This subpart establishes provisions regarding appropriate accommodations for students and instructors, and appropriate course materials, which is necessary to ensure that students have an appropriate learning environment and that the

materials used for the course are available and appropriate for the subject matter being taught.

Subp. 6. **Advertising courses.** This subpart establishes provisions regarding the advertising for courses offered to fulfill the manufactured home installer continuing education requirements, which is necessary to provide students seeking approved continuing education with adequate information about the course and the credit approved to meet the continuing education requirements.

Subp. 7. **Withdrawal of approval.** This subpart establishes consequences for those seeking approval as an instructor or for a course for failure to comply with the requirements of the installer continuing education program. This language is necessary to provide persons involved in the continuing education program with information regarding consequences that may be imposed if they fail to comply with the requirements of the program.

### **1350.6800 OTHER FEES.**

The proposed rule adds the phrase “and on-site inspections” to the last part of the sentence to clarify that payment for on-site inspections is required. Federal and state laws require states that are approved as SAAs to set inspection fees. Minnesota Statutes § 327.33, subd. 1 and 2, require inspections to be conducted and fees to be established for the inspections. Section 623 of the Amended Act, “State Jurisdiction, State Plans,” requires states to require manufacturers to establish inspection fee payments that are adequate to cover the cost of inspections. 24 CFR 3282.302 regarding “State Plans” requires states to set and monitor inspection fees.

### **1350.7200 LICENSE APPLICATION.**

This rule part pertains to the application requirements for licensure as a manufacturer, dealer, limited dealer, or dealer subagency.

Subpart 2. **Required information.** The proposed rule modifies Item A, subitem 5, by adding the words “as the” to the phrase “the applicant as the owner” so that it is clear that the applicant is connected to the business that is applying for licensure as the owner, general partner, or corporate president. Minnesota Statutes § 327B.04, subd. 3, requires the applicant to submit the name of the person who will be licensed to do business in this state, and the type and place of business. Subdivision 4 (c) of the same statute requires that the applicant, as principal, execute the bond, which conveys that the applicant owns or controls the part of business, and that same person is applying for a dealer’s license. The current rule omits this fact.

### **REPEALER.**

Minn. R. part 1350.3800, subpart 6, is proposed for repeal because the accessory structure must comply with one of two circumstances in accordance with the Minnesota State Building Code. If the accessory structure is a site-built structure, the structure must comply with Minnesota Rules, chapter 1300, regarding the permit and inspection process requiring the structure to be inspected and approved by the local building official, so a replacement accessory structure seal would not be required. If the accessory structure is manufactured, it will have a



construction seal affixed at the time of its manufacture in accordance with Minnesota Rules Part 1350.0500, subpart 3, so a replacement accessory structure seal would not be required. Therefore, the language is no longer necessary.

Minn. R. part 1350.6500 is proposed for repeal because the requirements have been relocated to Minnesota Statutes § 327.33, subd. 2a thru 2e.<sup>16</sup>

## **EFFECTIVE DATE.**

The proposed rules specify that the proposed rules will be effective five days after publication of the notice of adoption in the State Register, except for proposed rule part 1350.6710 which is proposed to be effective April 1, 2009.

Minnesota Statutes § 326B.13, subd. 8, states:

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

The Commissioner has determined that the earlier effective dates are necessary to protect public health and safety because HUD's regulations were effective January 1, 2009. Installers must already comply with 24 CFR Parts 3280, 3282, 3285, and 3286. To maintain its approval as an SAA, Minnesota's manufactured home installer rules must be consistent with those of HUD. Installers are already familiar with and applying the HUD requirements and Minnesota's requirements contained in the proposed rule are consistent with HUD's requirements. HUD promulgated its regulations to protect the health and safety of manufactured home purchasers and Minnesota's proposed rules will provide the same protection to purchasers of manufactured homes in Minnesota.

In a March 11, 2009 email, HUD provided the Department with a draft approval letter for Minnesota's Installation program pending its receipt of Minnesota's final rule as adopted. HUD based its pending approval on a review of a draft of the proposed rules and will finalize the approval once the rules are adopted and reviewed by HUD.

Proposed part 1350.6710, upon adoption, will require Minnesota licensed installers to obtain 12 hours of continuing education every three years as part of the qualifications for license renewal. Continuing education for installers is important to ensure that installers are informed of changes to the federal and state installation program and requirements, that manufactured homes are installed safely and properly, and that installers understand new methods and materials used in the industry. This spring, Minnesota is offering continuing education on the new HUD

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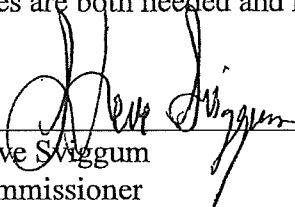
<sup>16</sup> See, 2008 Minn. Laws, Chapter 337, Sections 54-58.  
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program and regulations, and Minnesota's program, which will meet continuing education requirements contained in the proposed rule. In an effort to protect installers from spending their money unnecessarily on continuing education that can be applied to the new licensure renewal period, the Department proposes to make this rule effective April 1, 2009 to ensure that the continuing education offered this spring will count toward the education requirements contained in the proposed rule when it is adopted.

## CONCLUSION

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

Date April 28<sup>th</sup>, 2009

  
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Steve Swiggum  
Commissioner