

STATE FIRE MARSHAL DIVISION

285 BIGELOW BUILDING  
450 NORTH SYNDICATE STREET  
ST. PAUL, MINNESOTA 55104  
TELEPHONE: (612) 643-3080



STATE OF MINNESOTA  
DEPARTMENT OF PUBLIC SAFETY

March 22, 1994

Ms. Maryanne V. Hrubby, Executive Director  
Legislative Commission to Review Administrative Rules  
55 State Office Building  
100 Constitution Avenue  
St. Paul, Minnesota 55155

Re: In the Matter of Proposed Rules of the State Department of Public Safety Relating To  
A Hazardous Materials Incident Response Plan and System

Dear Ms. Hrubby:


The Minnesota Department of Public Safety intends to adopt rules Relating To A Hazardous  
Materials Incident Response Plan and System. We plan to publish a Notice Of Intent To  
Adopt Rules in the April 4, 1994 State Register.

As required by Minnesota Statutes, sections 14.131 and 14.23, the Department has prepared a  
Statement of Need and Reasonableness which is now available to the public. Also as  
required, a copy of this Statement is enclosed with this letter.

For your information, we are also enclosing a copy of the Notice Of Intent To Adopt Rules  
and a copy of the proposed Rules in this matter.

If you have any questions about these rules, please contact me at 643-3089.

Yours very truly,

  
Bob Dahm, Operations Administrator  
Hazardous Materials Regional Response Team Program

enclosures: Statement of Need and Reasonableness  
Notice Of Intent To Adopt Rules  
Rules



**Minnesota Department of Public Safety  
State Fire Marshal Division**

**Regional Hazardous Materials  
Response Team Program  
3/14/94**

**In The Matter Of The Proposed  
Rules Of The State Fire Marshal  
Relating To The Hazardous Materials  
Incident Response Plan and System**

**STATEMENT OF  
NEED AND  
REASONABLENESS**

General Statement

The State Fire Marshal Division is a division of the Department of Public Safety. The Commissioner of Public Safety assigned primary responsibility for development of the proposed rules to the State Fire Marshal, working in conjunction with the Division of Emergency Management, and the Minnesota Emergency Response Commission. The proposed rules were developed to assist the Commissioner of Public Safety in the implementation and administration of Minnesota Statutes, sections 299A.48 to 299A.52, the "Minnesota Hazardous Materials Incident Response Act". The Act is the culmination of several years of work by public and private organizations to develop a regional system for responding to hazardous materials emergencies which occur in Minnesota.

Development of the system began in 1988 with the preparation of a report to the Minnesota Legislature. "A Study of the Need for Regional Hazardous Materials Response Teams in the State of Minnesota" presented in December 1988, determined that local emergency response agencies generally lacked the training and equipment necessary to respond in an effective fashion to hazardous materials incidents occurring in their jurisdictions. The study acknowledged that, given the cost of Occupational Safety and Health Administration required advanced levels of training and specialized equipment, it was not reasonable for each county or city to develop its own response capability. The study concluded that a regionally based system of strategically located hazardous materials teams was the most efficient and economical approach to addressing the emergency needs related to a hazardous materials release.

At the direction of the Minnesota Legislature, the Commissioner of Public Safety prepared "A Plan for the Implementation of Regional Teams for Response to Hazardous Materials Incidents in the State of Minnesota" in December 1990. The plan carried forth the findings of the 1988 needs assessment and recommended the development of a two tier system of strategically located hazardous materials regional response teams. This plan led to the adoption of the Minnesota Hazardous Materials Incident Response Act (Minnesota Statutes, sections 299A.48 to 299A.52) in April 1992.

The system described in the December 1990 plan was intended to assist local authorities in their efforts to mitigate the immediate effects of a hazardous materials incident which may

pose a threat to public safety, property, or the environment. That same concept has been carried forth in the plan and system which would be established by the proposed rules. The regional response team program is not intended to replace similar existing local government programs, nor is it intended to provide a means for responding to all hazardous materials incidents. Local authorities should continue to develop hazardous materials emergency response capabilities within their jurisdictions, based on the specific needs of each jurisdiction. The team program will support and supplement those capabilities.

### Public Involvement In Development Of Proposed Rules

The Department of Public Safety has encouraged public input during the rule development process. A Notice of Solicitation of Outside Information and Opinion was published in the State Register October 19, 1992, inviting all interested persons to submit information and opinions concerning the subject matter of the rules. The Fire Marshal convened a rules advisory committee to provide technical guidance during the rule development process. The committee consisted of representatives of various public and private sector organizations which will be affected by the rules. The committee met eleven times from January 1993 to November 1993 to discuss the many issues addressed by the rules. The members of the committee were:

Robert Dahm, the designee of the State Fire Marshal  
Ed Leier, the designee of the Director of the Division of Emergency Management  
Bruce Anthony, representative of petroleum industry  
Tom Baltutis, representative of chemical manufacturing industry  
Al Bataglia, member of the Minnesota State Fire Chief's Association  
Delon Clarksean, representative of agricultural industry  
Jeff Frederick, representative of the emergency medical services community  
James Gasser, member of the Minnesota State Fire Chief's Association  
Mark Lappe, representative of the emergency medical services community  
Kevin Leuer, representative of the Minnesota Division of Emergency Management  
Phil Marbut, representative of the railroad transportation industry  
Thomas Neal, member of the Minnesota Professional Firefighters Association  
Max Reichen, representative of the paper industry  
Ted Robison, representative of paper industry  
Edward Pierre, member of the Minnesota Fire Department Association  
Mike Stockstead, member of the Minnesota Professional Firefighters Association  
Robert Wetherile, member of the Minnesota Fire Department Association  
Lester Wilsey III, representative of the highway transportation industry

In addition, information and opinions were sought from representatives of the Minnesota Emergency Response Commission and the Commissioners of the Minnesota Department of Agriculture, Minnesota Department of Natural Resources, Minnesota Department of Transportation, and the Minnesota Pollution Control Agency.

State Fire Marshal Thomas R. Brace, State Fire Marshal Division Hazardous Materials Senior Planner Bob Dahm, Division of Emergency Management Director James D. Franklin, and Division of Emergency Management Hazardous Materials Senior Planner Edward Leier, have

appeared before many public and private industry trade groups and associations to provide information and receive comments about the proposed rules. Mr. Dahm also traveled to Oregon for informational meetings and inspections of the Oregon Regional Hazardous Materials Response Team Program, to gather information which could be applied to Minnesota's proposed program.

#### Statutory Authority

The Commissioner of Public Safety has authority to adopt these rules under Minnesota Statutes, section 299A.50, subdivision 1, which states:

"After consultation with the commissioners of natural resources, agriculture, transportation, and the pollution control agency, the state fire marshal, the emergency response commission, appropriate technical emergency response representatives, and representatives of affected parties, the commissioner shall adopt rules to implement a statewide hazardous materials incident response plan."

The Commissioner also has general rulemaking authority under Minnesota Statutes, section 299A.01, subdivision 6, "to promulgate such rules pursuant to chapter 14, as are necessary to carry out the [duties of the Commissioner]."

#### Other Statutory Requirements

Minnesota Statutes, section 115.43, subdivision 1, and section 116.07, subdivision 6, regarding pollution control and Minnesota Statutes, section 144A.29, subdivision 4, regarding nursing homes are not applicable to these rules.

#### Consultation Regarding the Proposed Rule

Minnesota Statutes, section 299A.50, subdivision 1, states "After consultation with the commissioners of natural resources, agriculture, transportation, and the pollution control agency, the state fire marshal, the emergency response commission, appropriate technical emergency response representatives, and representatives of affected parties, the commissioner shall adopt rules to implement a statewide hazardous materials incident response plan."

The commissioners of natural resources, agriculture, transportation, and the pollution control agency, and the emergency response commission appointed representatives for purposes of consultation during the rule development process. The commissioner held individual and group meetings with these persons prior to and throughout the rule development process.

Department of Natural Resources:	Terry Lahti, Safety and Health Unit
Department of Agriculture:	Michael Starkey, Agronomy Services Division
Department of Transportation:	Elizabeth Parker, Motor Carrier Services Ward Briggs, Motor Carrier Services
Pollution Control Agency:	Stephen Lee, Tanks and Spills Unit
Emergency Response Commission:	Paul Aasen, Executive Director David Senjem, Chairperson

The commissioner consulted with representatives of the following emergency response organizations:

Minnesota Ambulance Association:	Joseph Graft
Minnesota Fire Department Association:	Robert Wetherile
Minnesota Professional Firefighters Association:	Michael Stockstead
Minnesota Professional Firefighters Association:	John Wallace
Minnesota State Fire Chief's Association:	Brian Holzer

The commissioner also consulted with representatives of the following affected parties:

American Petroleum Council:	Erin Roth
Bay West, Inc.	Don Erickson
Indianhead Trucking Company:	Lester Wilsey, Jr.
Koch Refining Company:	Bruce Anderson
Minnesota Agricultural Dealers Association:	Craig Sallstrom
Minnesota Chamber of Commerce:	David Wefering
Minnesota Mining and Manufacturing:	Daryl Wegscheid
Minnesota Mining and Manufacturing:	Lowell Ludford
Minnesota Trucking Association:	Lisa Peterson
Northwest Petroleum Council:	Robert Krogman
Canadian Pacific Rail System:	Steven Patton

#### Incorporations By Reference

The proposed rules incorporate by reference National Fire Protection Association standard NFPA 471, "Recommended Practice for Responding to Hazardous Materials Incidents", published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts (1992). The proposed rules also incorporate by reference National Fire Protection Association standard NFPA 472, "Standard for Professional Competence of Responders to Hazardous Materials Incidents", published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts (1992). The proposed rules also incorporate by reference National Fire Protection Association standard NFPA 473, "Standard for Professional Competencies for EMS Personnel Responding to Hazardous Materials Incidents", published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts (1992). The Revisor has approved these incorporations.

#### Small Business Considerations

Minnesota Statutes, section 14.115, requires the Department of Public Safety to consider the effect on small businesses when it adopts rules. The rules will have a direct effect on a small business which manufactures, uses, stores, or transports hazardous materials and experiences an accidental release of those materials in a way which necessitates an emergency response by local authorities and components of the regional response team program.

The rules will also have an impact on those small businesses which elect to submit a proposal to participate in the hazardous materials regional response team program, and are selected as a contract for service provider by the commissioner.

Section 14.115, subdivision 2, states in part:

" When an agency proposes a new rule, or an amendment to an existing rule, which may affect small businesses . . . , the agency shall consider each of the following methods for reducing the impact of the rule on small businesses:

- (a) the establishment of less stringent compliance or reporting requirements for small business;
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small business;
- (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
- (d) the establishment of performance standards for small businesses to replace design or operational standards required by the rule; and
- (e) the exemption of small businesses from any or all requirements of the rule."

The State Fire Marshal established the rules advisory committee, caused fifty percent of its membership to be representative of business and industry, and charged the committee with the duty to develop a rule that will meet the intent of the law while at the same time minimizing the burden of compliance on all business and industry. Members of the committee developed many suggestions for doing this that are incorporated in the rules. The proposed rules are the culmination of the work of the committee and were arrived at by consensus of the committee. In general, the proposed rules are drafted to impose as small a burden as possible on all businesses, including small business. The following are examples of ways that the impact of the rules is reduced:

- (a) Less stringent compliance or reporting requirements. Section 115E.04 requires certain facilities, some of which may be small businesses, to prepare a spill prevention and response plan. The proposed rules would require those regulated facilities to provide a copy of that plan to a team only when it is requested by the team. The rule relies on the use of existing plans prepared in compliance with other statutes, and does not require the modification of those plans or the preparation of additional plans. This will reduce the burden on all businesses.
- (b) Less stringent schedules or deadlines for compliance or reporting requirements. Section 299A.52 requires the commissioner to recover the hazardous materials regional response team costs of a response from

the person responsible for the spill. The rules advisory committee gave consideration to establishing a period of time for payment of those recoverable costs by the person responsible for a spill which are in keeping with normal business practices. Industry representatives recommended the time period established in the proposed rules as reasonable for all businesses (See Part 7514.1700, subpart 4).

- (c) Consolidation or simplification of compliance or reporting requirements. The proposed rules simplify compliance and reporting requirements on all businesses by permitting teams to request facility hazardous materials storage information from state agencies which have already collected it under other statutes or rules, and emergency planning information prepared by regulated businesses in compliance with already existing state statutes. This reduces the burden on all businesses since no additional reporting requirements are imposed by these rules.
- (d) Establishment of performance standards instead of design or operational standards. The proposed rule incorporates the performance standards established by National Fire Protection Association in NFPA standards 471, 472, and 473 (See section headed "Incorporations By Reference".) These standards would only apply to small businesses which may elect to participate in the regional response team program as an emergency response team or chemical assessment team, and which are selected as a contract for service provider by the commissioner. There are no additional design or operational standards imposed on other small businesses.
- (e) Exemption of small businesses. The proposed rules establish a plan and system designed to protect the public and the environment from the immediate effects of a hazardous materials incident. It is conceivable that small business may experience a hazardous materials release which would require a response under these rules. Section 299A.52 requires the commissioner to recover the hazardous materials regional response team costs of a response from the person responsible for the spill. The committee found that the statute clearly intended this requirement to apply to all responsible persons, and that it did not provide the authority to exempt small business from this requirement.

Exemptions to reporting and planning requirements provided by other statutes and rules are not altered by these proposed rules.

#### Notice To Department Of Finance

In accordance with Minnesota Statutes, section 16A.1285, pertaining to departmental earnings from charges for goods and services, licenses, or regulation, the rules were submitted to the Commissioner of Finance for the Commissioner's review and comment on the charges



established or adjusted in these rules. The Commissioner of Finance's comments are attached to this Statement.

### Notice To Chairs of Certain Legislative Committees

In accordance with Minnesota Statutes, section 16A.1285, subdivision 4, paragraph (c), the Department has reported any departmental earnings changes or adjustments to the Chairs of the Senate Committee On Finance and the House Ways And Means Committee. This was done by sending a copy of the Notice Of Intent To Adopt and the Rules to the Committee Chairs prior to submitting the Notice to the State Register.

### Fiscal Impact

Local public bodies are not mandated to participate in the regional response team program established by these rules and thus will not incur costs exceeding \$100,00.00 in either of the two years following their adoption. Local public bodies may elect to participate in the program as a contract for service provider, in which case some costs will be incurred. Part 7514.1500, subpart 7, establishes contractor compensation in an amount subject to negotiations between the contractor and the state, and budget appropriations by the state legislature, which will cover all or a portion of those costs.

### Agricultural Land Impact

Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

### Witnesses

If these rules go to a public hearing, the witnesses listed below may testify on behalf of the Department in support of the need for and reasonableness of the rules. The witnesses will be available to answer questions about the development and content of the rules.

Thomas Brace, Minnesota State Fire Marshal, Fire Marshal Division,  
Minnesota Department of Public Safety, 285 Bigelow Building, 450 North Syndicate  
Street, St. Paul, Minnesota, 55104.

Robert Dahm, Fire Marshal Division, Minnesota Department of Public Safety,  
285 Bigelow Building, 450 North Syndicate Street, St. Paul, Minnesota, 55104.

James Franklin, Director of Emergency Management, Division of Emergency  
Management, Minnesota Department of Public Safety, B5 State Capitol, St. Paul,  
Minnesota, 55155.

Kevin Leuer, Division of Emergency Management, Minnesota Department of  
Public Safety, B5 State Capitol, St. Paul, Minnesota, 55155.

Any other employee of the State Fire Marshal Division, the Division of Emergency Management, or the Minnesota Department of Public Safety.

### Rule-By-Rule Analysis

#### 7514.0100 Definitions

Subpart. 1. **Scope.** This part sets forth the scope of the definitions.

Subpart 2. **Activated by the state.** This part defines the term "activated by the state." The term is used to clarify when team members are functioning as employees of the state for purposes of worker's compensation and liability provisions of section 299A.51, subdivisions 1 and 2. This is necessary to clarify when the protection provided by statute is in effect.

Subpart 3. **Chemical assessment team.** This part defines the term "chemical assessment team." The definition assigned in section 299A.51, subdivision 2, is used to define this term. This is necessary so the rule definition is consistent with the law.

Subpart 4. **Commissioner.** This part defines the term "commissioner" as the Commissioner of Public Safety, acting directly or through other authorized agents. Under the law of agency, a person can act directly or through agents who are authorized to act for the person. This is necessary in order to clarify who has authority to carry out the provisions of the rule for those who might not be aware of the law of agency.

Subpart 5. **Deployment time.** This part defines the term "deployment time." Part 7514.1600, subpart 10, establishes a time standard for deployment of team personnel and resources. It is necessary to define the term so that teams know what period of time the standard encompasses.

Subpart 6. **Emergency response team.** This part defines the term "emergency response team". The term is given the meaning assigned to "regional hazardous materials response team" in section 299A.51, subdivision 7. The federal government also has regional hazardous materials response teams located nation-wide. Although the function of the federal teams differs from that of the state teams, commentators noted the potential for confusion at the scene of an incident between state and federal programs with identical names. The term "emergency response team" was selected because it accurately reflects the role of such teams. The definition assigned in statute to "regional hazardous materials response teams" was assigned to the new term as a direct link to the law. It is reasonable to do this in order to avoid confusion between the state and federal program, and to clarify the difference in terminology.

Subpart 7. **Employer.** This part defines the term "employer." The definition assigned to the term by Minnesota Statutes, section 182.651, subdivision 7, is

used to define this term. Numerous references are made in the rule to Occupational Safety and Health Administration rules which also use this term. It is reasonable to do this because using the same definition avoids confusion on the part of the reader.

Subpart 8. **Facility.** This part defines the term "facility." The definition assigned to the term by Minnesota Statutes, section 115E.01, is used to define this term. It is reasonable to do this because the reference to the term in the rule relates to the statute which defines it.

Subpart 9. **Local authority.** This part defines the term "local authority." It is necessary to define this term so that persons requesting the assistance of a team understand who has the authority to make such a request, to whom the teams report at the scene of an incident, and who has the authority to cancel a request.

Subpart 10. **Minnesota duty officer system.** This part defines the term "Minnesota duty officer system." It is necessary to do this so that persons requiring the assistance of a team are able to clearly identify the point of contact for requesting that assistance.

Subpart 11. **Minnesota emergency operations plan.** This part defines the term "Minnesota emergency operations plan." It is necessary to define this term so that interested persons are directed to the appropriate document establishing state agency roles and responsibilities during a hazardous materials incident.

Subpart 12. **Minnesota incident management system.** "This part defines the term "Minnesota incident management system." The term is defined by using the nationally accepted definition of "incident management system". The word "Minnesota" is added to clarify that the national system has been adopted for Minnesota. It is reasonable to use this definition because it is based on a definition commonly accepted by the emergency response community nationwide and has uniformity of meaning throughout Minnesota.

Subpart 13. **Mitigation.** This part defines the term "mitigation." The term is defined at the request of private industry. Long term clean-up operations are normally conducted by private industry under contract with the state or responsible person, or by personnel directly employed by the responsible person. The definition limits team operations only to those actions which are necessary to control the immediate danger of a hazardous materials incident. This is necessary so it is clear that teams will not be involved in long-term clean-up operations in conflict with the role of private industry. It is also necessary to clarify that the teams will not assume the responsibility for long-term remediation actions which are assigned by state and federal statutes to the person responsible for the release.

**Subpart 14. Operations authorized by the state.** This part defines the term "operations authorized by the state." Section 299A.51, subdivisions 1 and 2, require the state to provide workers' compensation and liability protection to team members when they authorized to operate as a part of the regional response team program. It is necessary to clarify when the teams have such authorization so they know when the protection provided by statute is in effect.

**Subpart 15. Primary service area.** This part defines the term "primary service area". It is necessary to define this term so that teams understand that they have been assigned a geographic portion of the state for which they have responsibility to provide the first or initial response to an incident occurring in that area.

**Subpart 16. Regional response team program.** This part defines the term "regional response team program" as consisting of the hazardous materials emergency response teams and chemical assessment teams established by law and rule. It is reasonable to do this as a clarification to the reader.

**Subpart 17. Response time.** This part defines the term "response time." A time frame within which a team must respond to an incident occurring in its primary service area will be established for each service area in accordance with the provisions of part 7514.0500, subpart 2, item F. Teams will be held accountable in contract for responding within the parameters of that time frame. It is necessary to identify the period of time which is encompassed in that time frame. This definition is reasonable because it is in keeping with the commonly accepted understanding of the term.

**Subpart 18. Responsible person.** This part defines the term "responsible person." This term is given the definition assigned in section 299A.52, subdivision 1. It is reasonable to do this so the provisions of the rule are directly linked to the authority established in the law.

**Subpart 19. Secondary service area.** This part defines the term "secondary service area." It is necessary to define this term so that teams understand that they have been assigned a geographic portion of the state for which they have responsibility to provide the secondary or support response to an incident occurring in that area.

**Subpart 20. Suggested operating guidelines.** This part defines the term "suggested operating guidelines". Each incident presents unique circumstances which are impossible to predict in advance. Strict adherence to guidance in one situation might prove dangerous in a different situation. It is necessary for teams to have a general frame of reference for assessing response options, to which they must apply their individual training and experience. The term is defined to clarify to the reader that the intent is to provide general direction to team operations, but not to require that response actions addressed by the guidelines be performed in a specific manner at each incident. It is reasonable

to do this so that teams have the flexibility to take response actions in keeping with the needs of the incident.

7514.0200 **Purpose**

This part states the purpose of parts 7514.0100 to 7514.2000. This is consistent with section 299A.48 to 299A.52

7514.0300 **Scope**

This part identifies that the rule is established to address the requirements of section 299A.50, subdivision 1, clauses (1) through (8).

7514.0400 **Authority**

This part identifies the statutory authority for the adoption of the rules.

7514.0500 **Team Service Areas**

**Explanation:** Section 299A.50, subdivision 1, requires the commissioner to "adopt rules to implement a statewide hazardous materials incident response plan." Section 299A.50, subdivision 1, clause (1), requires the commissioner to include in the plan "the location of up to five regional hazardous materials response teams." A two step process will be used to establish the location of each of the five teams. The first step involves the establishment of service areas for each of the teams. The second step involves selection of teams for each service area through the use of a competitive selection process. Step 1 is described in part 7514.0500. Step 2 is described in part 7514.1500.

**Subpart 1. Establishing service areas.** Section 299A.50, subdivision 1, clause (1) requires the commissioner to establish "the locations of up to five regional hazardous materials response teams." Subpart 1 requires the commissioner to establish five service areas. Five service areas would be established because the law specifies a limit of five teams, but does not require that a specific number of teams be established. The rules advisory committee believes that five service areas are needed to provide reasonable coverage for the state. Subpart 1 is reasonable because it addresses the requirement of clause (1) by locating the teams within defined service areas established on the basis of need.

**Subpart 2. Factors for establishing service areas.** Section 299A.50, subdivision 1, clause (1), requires the commissioner to "adopt rules to implement a statewide hazardous materials incident response plan [which includes] . . . the locations of up to five regional hazardous materials response teams, based on the locations of hazardous materials, response time, proximity to large population centers, and other factors." As discussed above, the rules establish the locations of teams by first establishing service areas and then selecting a team for each service area.

Items A to F set out the factors to be considered in establishing service areas. Some of these items expand on the factors listed in section 299A.50, subdivision 1, clause (1), and some list other factors which might contribute to the occurrence or seriousness of a hazardous materials incident within given areas of the state. The purpose of considering all available factors is to provide the most effective statewide response plan. Listing the factors will give the commissioner a clearly stated basis for establishing the service areas.

A & B. Clause (1) lists the factor "location of hazardous materials." These locations can be divided into two categories: hazardous materials at fixed facilities and hazardous materials in transit between fixed facilities. Item A requires the commissioner to consider the locations of fixed facilities which manufacture, use or store hazardous materials. Item B requires the commissioner to consider the number of miles of primary transportation routes, which happen to be the routes on which hazardous materials are transported. Items A and B are reasonable because they break down the directive of clause (1) into factors that can easily be measured, or into factors for which data already exists.

C. Clause (1) lists the factor "proximity to large population centers." Item C requires the commissioner to consider the population of each county using the latest available United States Census Bureau information. Item C is reasonable because it addresses the directive of clause (1) using generally accepted data which is already available.

D & E. Clause (1) lists "other factors". Items D and E require the commissioner to consider three categories of other factors: special conditions which may be present in a given area of the state, the need for specialized equipment which may be unique to those special conditions, and other factors deemed appropriate by the commissioner. Item D requires consideration of special conditions such as natural or man-made features which may impact the response of a team to a particular area of the state. Item D is reasonable because it addresses the requirement of clause (1) and will minimize delays in response. Item D also requires consideration of the need for specialized response equipment to address the special conditions posed by natural or man-made features. Item D is reasonable because it addresses the requirement of clause (1) and will avoid duplication of response equipment. Item E requires the commissioner to consider other factors which may contribute to the potential for a release such as a significant number of accidental releases of hazardous materials at a particular fixed facility or along a specific portion of a primary transportation route. Item E is reasonable because it addresses the requirement of clause (1) and will cause teams to be located based on an identifiable need.

F. Clause (1) lists the factor "response time". Item F requires the commissioner to establish a maximum acceptable response time for 90% of each service area when responding under favorable weather conditions. Item F is reasonable because it addresses the requirement of clause (1) and takes into consideration portions of the state not easily accessible, as well as variations in weather conditions which may be encountered during a response.

**Subpart 3. Assigning primary service areas.** This subpart directs the reader to part 7514.1500, which establishes the process for the selection of teams for service areas established in subpart 2.

**Subpart 4. Serving as chemical assessment team.** Section 299A.49, subdivision 7, states that a "regional hazardous materials response team may include strategically located chemical assessment teams." Section 299A.50, subdivision 1, clause (3), requires the commissioner to establish "the responsibilities of regional hazardous materials response teams." Subpart 4 requires an emergency response team to also serve as a chemical assessment team for all or a part of its primary service area. The rules advisory committee considered establishing emergency response teams that would not serve as chemical assessment teams. This created a situation where an emergency response team would not respond to assess an incident in its own back yard. This would be unacceptable. Subpart 4 is reasonable because it implements the authorization provided in subdivision 7 and improves response capability by requiring an emergency response team to serve a dual role as a chemical assessment team.

**Subpart 5. Designating additional chemical assessment teams.** Section 299A.49, subdivision 7, states that a "regional hazardous materials response team may include strategically located chemical assessment teams." Chemical assessment teams will provide a rapid initial response by serving a portion of each emergency response team service area. Depending on the size of each service area, and the extent of the threat presented by hazardous materials located in each area, more than one chemical assessment team may be needed in order to provide rapid initial response coverage for the entire service area. Subpart 5 is reasonable because it implements the authorization provided in subdivision 7 and improves the emergency response capability of the system.

**Subpart 6. Assigning secondary service areas.** Section 299A.50, subdivision 1, clause (1), requires the commissioner to establish "the location of up to five regional hazardous materials response teams." Clause (3) requires the commissioner to determine "the responsibilities of regional hazardous materials response teams." It is possible that an incident may occur that exceeds the capabilities and resources of a single response team. It is also possible that a response team may be responding to an incident in its service area when another incident occurs in the same area. It is important that additional or back up response capability be available for each service area. Subpart 6 requires the

commissioner to assign secondary service areas for each team. Subpart 6 is reasonable because it implements the requirements of clauses (1) and (3), and improves emergency response capability during a catastrophic incident, or when multiple incidents occur in a single service area.

**Subpart 7. Reviewing service area designations.** Section 299A.50, subdivision 1, clause (1), requires the commissioner to establish "the location of up to five regional hazardous materials response teams." Subpart 7 is reasonable because it addresses the requirements of clause (1) by requiring periodic review of service area boundaries to ensure that all factors considered during their establishment remain valid and result in the best possible statewide response capability.

**Subpart 8. Adjusting service area boundaries.** Section 299A.50, subdivision 1, clause (1), requires the commissioner to establish "the location of up to five regional hazardous materials response teams." Subpart 8 is reasonable because it addresses the requirements of clause (1), and provides direction for implementing changes in service area boundaries deemed necessary by the review required by subpart 7.

**Subpart 9. Statewide response.** Section 299A.50, subdivision 1, clause (3), requires the commissioner to determine "the responsibilities of regional hazardous materials response teams." It is conceivable that a single incident may be of such catastrophic nature that the resources of multiple teams may be needed to mitigate its effects. It is also common for such incidents to continue for several days, making it necessary to rotate personnel due to fatigue and other considerations. Subpart 9 permits the commissioner to require that teams respond to incidents outside their designated primary or secondary service areas whenever the commissioner determines the need exists. Subpart 9 is reasonable because it authorizes the commissioner to effectively utilize team resources in response to the special needs of an incident.

#### 7514.0600 **Qualification of Team Members**

**Explanation:** Section 299A.50, subdivision 1, clause (2), requires the commissioner to determine the "qualifications of the members on each team". Subpart 1 to 9 establish those qualifications.

**Subpart 1. Qualifications of all members.** Federal Occupational Safety and Health Administration rule 29 CFR 1910.120, is cited because they establish the minimum qualifications of hazardous materials team members. Team members must meet these requirements or be in violation of federal law. National Fire Protection Association Standard 472 is the most commonly accepted national standard for the training of firefighters responding to hazardous materials incidents and reinforces the requirements of 29 CFR 1910.120. Hazardous materials training curriculums for firefighters are typically developed to address the competencies of both 29 CFR 1910.120 and



NFPA 472. Subpart 1 is included as a reference for team members so they know what standards they will need to meet in order to be qualified as members of a team. Subpart 1 is reasonable because it reinforces the requirements of federal law, and adopts nationally recognized standards, without placing additional burden on team members.

Subpart 2. **Medical support team member.** Federal Occupational Safety and Health Administration rule 29 CFR 1910.120 is cited because they establish the minimum qualifications of hazardous materials team members. Team members must meet these requirements or be in violation of federal law. National Fire Protection Association Standard 473 is the most commonly accepted national standard for the training of emergency medical personnel responding to hazardous materials incidents, and reinforces the requirements of 29 CFR 1910.120. Hazardous materials training curriculums for emergency medical personnel are typically developed to address the competencies of both 29 CFR 1910.120 and NFPA 473. Subpart 2 is included as a reference for team members so they know what standards they will need to meet in order to be qualified as members of a team. Subpart 2 is reasonable because it reinforces the requirements of federal law, and adopts nationally recognized standards, without placing additional burden on team members.

Subpart 3. **Continuing education requirements.** Equipment and techniques for responding to hazardous materials incidents are constantly changing in response to new technology and the development of new chemicals. It is reasonable to require team members to be familiar with these new developments for their own safety and in order to be able to effectively respond to incidents. 29 CFR 1910.120 addresses this need by establishing minimum Occupational Safety and Health Administration requirements for the continuing education of hazardous materials team members. Subpart 3 is included as a reference for team members so they know what standards they will need to meet in order to maintain their qualifications as members of a team. Subpart 3 is reasonable because it reinforces the requirements of federal law without placing additional burden on team members.

Subpart 4. **Team training.** Variations in operating guidelines have been noted while studying those of existing teams. While this does not present a problem when a single team is functioning on its own during an incident, it is possible that more than one team may respond to a catastrophic incident. In order for multiple teams to function effectively together, it is important that they work under a standardized set of operating guidelines and administrative procedures. Part 7514.1000, subpart 1, requires the commissioner to establish suggested operating guidelines for emergency response teams and chemical assessment teams. Part 7514.0700, subpart 2, requires the commissioner to provide the training necessary for applying the guidelines to responses made by the teams. Subpart 4 is reasonable because it requires that team members complete the training developed under part 7514.1000 before they can serve as members of a team in order to assure the continuity of the regional response team program

and so that multiple teams will be able to function as a single unit during a catastrophic incident.

**Subpart 5. Reviewing training and continuing education records.** It is standard practice for emergency response organizations to maintain records of the training provided to personnel in order to document that the requirements of Occupational Safety and Health Administration rules have been met. Review of these records by the commissioner is a reasonable way to ensure that required training has been completed since it places no additional record keeping requirements on the part of the employer.

**Subpart 6. Certifying compliance with qualification requirements.** Occupational Safety and Health Administration rules require employers to certify that their personnel are qualified to perform assigned functions during a hazardous materials incident. The state provides liability coverage for regional teams when responding outside the employer's jurisdiction, and has set minimum qualifications for team members in order to limit that liability and ensure the public safety. Since the required certification records are maintained by the employer under Occupational Safety and Health Administration rules it is necessary for the commissioner to have assurance that team members are certified to perform assigned functions and have met the prescribed qualifications as established in these rules. Subpart 6 is a reasonable way to ensure compliance because there is little additional burden placed on the employer.

**Subpart 7. Certifying compliance with medical requirements.** Occupational Safety and Health Administration rules 29 CFR 1910.120, requires persons responding to hazardous materials incidents to meet certain medical requirements. The state has assumed responsibility for providing workers' compensation coverage to team members when responding outside the employer's jurisdiction. The commissioner must be able to confirm that team members do not have any medical condition which would prevent them from performing the duties assigned to them during a response. Documentation of the required medical examinations are normally maintained by the employer. Subpart 7 is a reasonable way to ensure compliance because there is little additional burden placed on the employer.

**Subpart 8. Substitution of training requirements.** Occupational Safety and Health Administration rules are periodically revised and National Fire Protection Association standards are regularly reviewed and updated to insure they meet the highest standards of care. When National Fire Protection Association standards are updated to improve professional competencies, teams should have the option of meeting the new standards. This rule would allow the employer of team members to request that the commissioner waive the old standard and replace it with the new standard. Subpart 8 is reasonable because it limits the commissioner's discretion in granting the waiver by requiring that the request to do so be made by the employer, and by requiring that the

standard or rule which would replace existing requirements meet or exceed existing the requirement.

**Subpart 9. Review of training requirements.** Equipment and techniques available for mitigating the effects of a hazardous materials release are continuously changing in response to new technology and experience gained during actual response. It is appropriate to regularly review the training requirements established in these rules to ensure that they reflect the current state of the art. Subpart 9 is reasonable because it requires the commissioner to assure that team members are receiving the most current training to qualify them to perform assigned duties.

7514.0700 **Training Programs**

Part 7514.0600 establishes the qualifications of members of emergency response teams and chemical assessment teams. It is important that it be stated who is responsible for providing the training necessary to meet the qualifications. Part 7514.0700 addresses that responsibility.

Under subpart 1 the employer must provide training which will meet the qualification requirements identified in part 7514.0600, subparts 1, 2, and 3. Occupational Safety and Health Administration rule 29 CFR 1910.120 requires the employer to provide this training. This requirement is restated in the rules as a reference to the teams.

29 CFR 1910.120 requires teams to develop emergency response plans prior to responding to an incident. The regional response team program will refer to these plans as suggested operating guidelines. It is important that the suggested operating guidelines be uniform for all regional teams to ensure that they can function together when necessary. Since the commissioner is required by part 7514.1000 to develop the suggested operating guidelines, it is appropriate for the commissioner to provide training in their implementation. Subpart 2 requires the commissioner to do so.

7514.0800 **Composition of Teams**

**Explanation:** Section 299A.50, subdivision 1, clause (2), requires the commissioner to determine the "number and qualifications of the members on each team." Subpart 1 to 5 address the requirements of clause (2).

**Subpart 1. Composition of emergency response teams.** It is important to ensure that each team consist of a sufficient total number of trained personnel to assure that the team will be able to respond with the required minimum number of response personnel at all times. The rules advisory committee discussed a variety of alternatives for ensuring that a team could consistently provide sufficient personnel to meet minimum response requirements. These alternatives ranged from establishing a minimum total number of trained

personnel in contract, based on the individual needs of each team, to establishing a minimum total number in rule which each team would be required to meet.

Those who felt that a minimum should be established in contract rather than rule reasoned that the personnel needs of each team could be different depending on the team's organizational structure (career, part-time, or volunteer personnel), previous response history, whether more than one organization would join together to form a team, and the personal commitment of team members. There was also a concern that establishing a minimum total number of trained personnel could unnecessarily increase the cost of training for a team which could assure the commissioner that it would be able to respond with the required minimum number of response personnel when staffed at a lesser total number of trained personnel.

Those who advocated establishing a minimum in rule believe that it is a necessary provision to assure that a team could meet its response obligations under the terms of these rules. Factors such as personal and family commitments, sick time, vacation time, and other employment and avocational interests were cited as limitations to availability. They reasoned that a team's failure to have sufficient numbers of trained personnel available could hamper a team's response capability. Those who suggested a required minimum for emergency response teams offered numbers ranging from 20 to 48 persons. A commonly accepted ratio of 3:1, or three persons for each position to be filled, was also suggested.

As a result of these discussions, the rules advisory committee recommended the rule contain a requirement that each emergency response team consist of a minimum of thirty members. While the emergency response team minimum is less than the suggested 3:1 ratio (2.5:1), it represents a reasonable compromise given the range of suggested minimum numbers. This slightly lower ratio is made possible by the fact that an emergency response team will not always be working with its own chemical assessment team, thus will be able to draw personnel from a second organization.

The committee also deemed it necessary to establish a minimum number of personnel for each response to assure that a sufficient number of team members are available at the scene to perform all functions required by the response. Consideration was given to the functions which were required to be performed at the scene of an incident, the number of personnel necessary to perform those functions, and the level of training necessary to perform those functions. Staffing patterns of existing teams were also considered. Wide variation was found, ranging from six to twenty-eight persons. With this information, the rules advisory committee determined that a total of twelve trained personnel, nine from an emergency response team and three from a chemical assessment team, would be the minimum necessary response to an incident which required the skills and resources of an emergency response team. The committee

considered lesser numbers as insufficient to provide for a safe and effective response. Greater numbers were considered excessive. The committee also noted that local personnel will be available to assist with team operations, particularly those related to support services and decontamination procedures.

A response by an emergency response team, acting solely as an emergency response team and working in conjunction with a chemical assessment team from another organization, will require a minimum of nine response personnel to perform the functions of Team Leader, Safety Officer, Planning Officer, Logistics Officer, and Medical Support Officer, in addition to staffing a two person entry team and a two person back-up team as required by Occupational Safety and Health Administration rule 29 CFR 1910.120, and National Fire Protection Association Standard NFPA 1500, 1992 Edition, Standard on Fire Department Occupational Safety and Health Program.

Part 7514.0500, subpart 4, requires an emergency response team to also function as a chemical assessment team, either in conjunction with its own emergency response team, or an emergency response team from another service area. In order to provide sufficient response capability to a single incident in conjunction with its own emergency response team, to an incident in conjunction with another emergency response team, or to respond solely as a chemical assessment team, three additional response personnel will be necessary to form a chemical assessment team component within the emergency response team. Functions to be performed by the chemical assessment team personnel include Team Leader/Liaison Officer, Science Officer, and Decontamination Officer.

In order to simultaneously perform both the functions of an emergency response team and a chemical assessment team, it is therefore necessary for an emergency response team to have a total of twelve personnel available for response at all times.

Subpart 1 is reasonable because it implements commonly accepted practice and national standards, and because it allows the team to function in accordance with the requirements of federal rule. More importantly, it ensures that an emergency response team will be able to respond with the personnel necessary to safely and effectively perform its functions during an incident.

Subpart 2. **Waiver of minimum composition.** The rules advisory committee also agreed that an employer should be allowed to request a waiver of the minimum composition requirement of subpart 1 when it could be proven to the commissioner that the team could meet its responsibilities with a lesser number of trained personnel. Based on their individual needs, the employer would propose a minimum number of trained personnel in response to a request for proposal (RFP) to become a team. Detailed justification of the proposed minimum would be included in the RFP response, and become a consideration in evaluating the proposal. The minimum required in subpart 1 could be used

as a benchmark for evaluation of the requested waiver. The commissioner would approve or deny the request based on the information provided by the employer.

Subpart 2 is reasonable because it permits those teams which are able to properly function with less than the minimum total number of trained personnel required in subpart 1 to function as a team and, in those specific circumstances, eliminates unnecessary training costs from the program.

**Subpart 3. Composition of chemical assessment team.** It is important to ensure that each team consists of a sufficient total number of trained personnel to assure that the team will be able to respond with the required minimum number of response personnel at all times so that all functions assigned to the team can be performed. The rules advisory committee discussed a variety of alternatives for ensuring that a team could consistently provide sufficient personnel to meet minimum response requirements. These alternatives ranged from establishing a minimum total number of trained personnel in contract, based on the individual needs of each team, to establishing a minimum total number in rule which each team would be required to meet. The same concerns expressed on these issues as they related to the emergency response teams applied to the chemical assessment teams. (See discussion of this issue under subpart 1 above.) Again, the commonly accepted ratio of 3:1, or three persons for each position to be filled, was suggested.

The rules advisory committee determined that a response by a chemical assessment team will require a minimum of three response personnel to perform the functions of Team Leader/Liaison Officer, Science Officer and Decontamination Officer. On the basis of the 3:1 ratio noted above, and described in the discussion concerning subpart 1 above, there was general agreement among the committee that the minimum total of trained personnel for a chemical assessment team should be nine.

Subpart 3 is reasonable because it implements a commonly accepted standard and provides for a sufficient number of response personnel to safely and effectively complete the assigned mission of the team.

**Subpart 4. Waiver of minimum composition.** The rules advisory committee also agreed that an employer should be allowed to request a waiver of the minimum composition requirement of subpart 3 when it could be proven to the commissioner that the team could meet its responsibilities with a lesser number of trained personnel. Based on their individual needs, the employer would propose a minimum number of trained personnel in response to a request for proposal (RFP) to become a team. Detailed justification of the proposed minimum would be included in the RFP response, and become a consideration in evaluating the proposal. The minimum required in subpart 3 could be used as a benchmark for evaluation of the requested waiver. The commissioner

would approve or deny the request based on the information provided by the employer.

Subpart 4 is reasonable because it permits those teams which are able to properly function with less than the minimum total number of trained personnel required in subpart 3 to function as a team and, in those specific circumstances, eliminates unnecessary training costs from the program.

**Subpart 5. Training required to respond as emergency response team.** Subpart 1 establishes the minimum number of personnel required for a response by an emergency response team. Subpart 5, items A to C establish the minimum levels of training for each emergency response team member.

A. Specialist are the highest trained hazardous materials emergency response personnel identified by Occupational Safety and Health Administration rule 29 CFR 1910.120. Specialists supervise the work of technician and operations level personnel, have more specific training than technician and operations level personnel, and are trained to perform additional functions beyond the technician or operations level.

The rules advisory committee determined that four specialists will be required for each response, serving as team leader, safety officer, one member of the primary entry team and one member of the backup entry team. Occupational Safety and Health Administration interpretations of 29 CFR 1910.120 require that specialist personnel supervise the work of technician level personnel. The team leader will have overall supervisory responsibility for the team. The safety officer will be dedicated to ensuring the safety of the team and must have additional training beyond the technician level in order to be able to clearly identify dangerous conditions. One specialist each will directly supervise the work of the technician level personnel who are part of the entry and backup teams.

Item A is reasonable because it addresses the requirements of clause (2) and is in compliance with the Occupational Safety and Health Administrations requirements for supervision of response personnel.

B. Occupational Safety and Health Administration rule 29 CFR 1910.120 requires that pre- and post-entry medical examinations be conducted for team members who have the potential to, or have come into contact with a hazardous material during an emergency response. National Fire Protection Association standard NFPA 1500, 1992 Edition, Standard on Fire Department Occupational Safety and Health Program, requires that emergency medical support be provided to members of the team. Neither 29 CFR 1910.120, nor NFPA 1500, specify a level of training for medical support personnel.

The rules advisory committee considered several options for the provision of this service, including requiring that each team contract with an advanced life support ambulance service to respond with the team. This option was abandoned due to potential conflicts with Minnesota Department of Health ambulance licensing laws and rules, and the added cost to the person responsible for the spill or release.

Another option the committee considered was to require that each team response include a medical support officer certified at the EMT - Paramedic level of pre-hospital care, and trained to the technician level of hazardous materials response and the competencies of National Fire Protection Association standard 473 for an EMS Level II hazardous materials responder. Transportation of patients would be provided by the local ambulance service in whose jurisdiction the incident occurred.

In the Twin Cities Metro area, paramedic personnel are readily available however, during the course of the committee's deliberations it was determined that the same conditions did not uniformly exist throughout the remainder of the state. Of special concern was southwestern Minnesota. To require paramedic training could make it impossible for teams in that part of the state to meet the requirements of the rule. However, emergency medical technician - basic and intermediate personnel are available.

It was also determined that requiring the medical support officer to be trained to the hazardous materials technician level was desirable, but not essential. Operations level training permits response personnel to work in the warm zone. National Fire Protection Association standard NFPA 471 defines the warm zone as "the area where personnel and equipment decontamination and hot zone support takes place." National Fire Protection Association standard 471 defines the hot zone as "the area immediately surrounding a hazardous materials incident, extending far enough to prevent adverse effects from hazardous materials releases to personnel outside the zone." Since medical support functions will occur in the warm zone, operations level training is the minimum necessary level of hazardous materials training.

The effect of item B is that employers may determine the level of emergency medical technician training to be provided to medical support members of the team, based on the availability of personnel trained to the various levels of pre-hospital care. Employers will be encouraged to utilize paramedic level personnel whenever possible. At their discretion, the employer may also elect to train medical support officers to the technician or specialist level of hazardous materials training.



Item B is a reasonable compromise because it permits teams to select medical support personnel based on the level of emergency medical technician training available and the team's determination of their needs. Item B is also reasonable because it addresses the requirements of clause (2), and provides appropriately trained personnel capable of meeting the requirements of 29 CFR 1910.120, and NFPA standards 473 and 1500.

C. Occupational Safety and Health Administration rule 29 CFR 1910.120 requires that members of a hazardous materials emergency response team be trained to a minimum of the technician level, if they are to be assigned to make entry into the hot zone. Four team members will be trained to the technician level and serve as Planning Officer, Logistics Officer, one member of the primary entry team, and one member of the backup entry team. Item C is reasonable because it addresses the requirements of clause (2), and the requirements of 29 CFR 1910.120.

**Subpart 6. Training required to respond as chemical assessment team.**

Subpart 3 establishes the minimum number of personnel required for a response by an emergency response team. Subpart 6, items A and B establish the minimum levels of training for each chemical assessment team member.

A. Specialist are the highest trained hazardous materials emergency response personnel identified by Occupational Safety and Health Administration rule 29 CFR 1910.120. Specialists supervise the work of technician level personnel, have more specific training than technician level personnel, and are trained perform additional functions beyond the technician level. Occupational Safety and Health Administration interpretations of 29 CFR 1910.120 require that specialist personnel supervise the work of technician level personnel. One specialist will be required for each response to serve as team leader and supervise the work of technician level personnel. Item A is reasonable because it addresses the requirements of clause (2), and the requirements of 29 CFR 1910.120.

B. Occupational Safety and Health Administration regulation 29 CFR 1910.120 requires that members of a hazardous materials emergency response team be trained to a minimum of the technician level. Two members of the team will be trained to the technician level and serve as Science Officer and Decontamination Officer. Item B is reasonable because to addresses the requirements of clause (2) and the requirements of 29 CFR 1910.120.

**Subpart 7. Composition of team membership.** Section 299A.50, subdivision 2 states "the commissioner may cooperate with and enter into contracts with other state departments and agencies, local units of government, other states,

Indian Tribes, the federal government, or nonpublic persons to implement the response plan."

It is conceivable that two or more public or nonpublic agencies may wish to consolidate personnel in order to form a chemical assessment team or an emergency response team. In some areas of the state such consolidation may be necessary in order to provide a sufficient number of total personnel to form a team and ensure that the minimum number of response personnel required by subparts 1, 3, 5 and 6 are available. The law does not require that teams be composed of members of a single public or non-public entity.

The only concerns expressed by the rules advisory committee dealt with contract administration and the emergency dispatching of teams composed of multiple organizations which might be located in different communities. Subpart 7 addresses these issues by requiring a single point of contact for contract administration and emergency dispatching.

The question addressed by subpart 7 has already been raised on several occasions by organizations considering responding to a request for proposal to become part of the regional response team program. Subpart 7 is included in the rules to clarify the issue.

7514.0900 **Responsibilities of Teams**

**Explanation:** Section 299A.50, subdivision 1, clause (3) requires the commissioner to establish the "responsibilities of regional hazardous materials response teams." Subparts 1 to 8 establish those responsibilities. Subparts 1, 2 and 3 are included in response to the directives of 299A.49, subdivisions 2 and 7, which define the role of emergency response teams and chemical assessment teams, and as a lead in to subparts 4 to 8 which identify additional responsibilities of the teams and actions which they are prohibited from performing. Subparts 4 to 7 are the result of discussions by the rules advisory committee. Subpart 8 is included in response to the requirements of section 299A.50, subdivision 3.

**Subpart 1. Response at commissioners direction.** The teams will be established to provide emergency response to hazardous materials incidents. This subpart clarifies that teams have a responsibility to respond to incidents when directed to do so in order to meet the purposes of the program.

**Explanation:** The hazardous materials regional response team program consists of two types of teams; hazardous materials emergency response teams, and hazardous materials chemical assessment teams. Emergency response teams are trained, staffed and equipped to mitigate the effects of the accidental release of hazardous materials. Chemical assessment teams are trained, staffed and equipped to assess the impacts of a hazardous materials incident and recommend actions which may be taken by local authorities, or an emergency

response team, to mitigate the effects of the accidental release of hazardous materials. Chemical assessment teams will also respond with, and support the response of, emergency response teams. The two types of teams are authorized by the law.

A review of the hazardous materials incidents which have occurred in Minnesota during the past several years show that the type of assistance provided by a chemical assessment team will appropriately meet the needs of the majority of incidents which occur in this state. Since a response by a chemical assessment team will involve significantly fewer resources than that of an emergency response team, cost to the responsible person will be minimized.

Incidents have also occurred which require the services provided by an emergency response team. The response needs of these types of incidents typically exceed the capabilities of local authorities, due to the amount of training required of response personnel and the high cost of response equipment. Regionally locating emergency response teams throughout the state will meet these needs without placing excessive burden on local authorities.

**Subparts 2 and 3. Primary responsibilities of emergency response team and chemical assessment team.** Subparts 2 and 3 are included to establish the primary responsibilities of the teams in keeping with the intent of the program at the time it was established in law; taking emergency actions that are immediately necessary to protect life, property and the environment from the effects of a hazardous materials incident. Subpart 2 states that emergency response teams are responsible for taking mitigating actions. Subpart 3 states that chemical assessment teams are responsible for recommending mitigating actions.

**Subpart 4. Additional responsibilities of chemical assessment teams.** The rules advisory committee determined that to properly respond to an incident which requires that an emergency response team take action to mitigate the effects of the incident, a total of twelve trained personnel would be necessary to safely perform the functions required during the response. (See discussion under part 7514.0800, subpart 1.) This subpart establishes that when such an incident occurs, a chemical assessment team will also respond to perform the functions identified in subpart 3. Chemical assessment team members are trained to the same requirements and standards as those of the emergency response team. It is reasonable to utilize chemical assessment team members to support emergency response teams because they are part of the regional response team program, have received training equal to that of the emergency response teams, and are already at the scene.

**Subpart 5. Support of clean-up operations.** Business and industry members of the rules advisory committee requested that teams be authorized to remain at the scene following completion of their emergency response functions to

provide advice and assist with the monitoring of clean up operations. Although not an emergency function, these actions would be in keeping with the primary purpose of the teams, as identified in subparts 2 and 3, to the extent that such monitoring may aid in preventing the re-occurrence of an incident and aid in the protection of life, property and the environment. Since this function would not be an emergency function, teams would not be obligated to provide such services when the team leader determines that to do so would not be in the best interests of the team. Subpart 5 is included to make clear that when teams provide this service the costs of doing so would clearly be recoverable. (See also part 7514.1700, subpart 3, item K.)

**Subpart 6. Prohibited actions.** During deliberations by the rules advisory committee, and in discussion with other interested parties, questions were raised concerning each of the functions identified in items A to C. As a result, it became clear that these functions should not be performed by the teams. Items A to C identify those functions. It is important to make it clear that teams are prohibited from performing them.

A. Item A is reasonable because it prohibits teams from taking actions normally performed by private businesses engaged in spill clean up operations and long term remediation, under contract with the responsible person. Such actions require special licensure and additional training and are not typical functions of hazardous materials teams. Performing these functions could cause a team to incur liability that is normally assigned to the person responsible for the incident.

B. Overall responsibility for protecting the public safety rests with local authorities. State assistance provided during an emergency is designed to support local emergency operations. It has been the intent of the regional response team program to continue in that role. Item B makes this clear.

C. Response to explosive substances and devices, and clandestine drug labs requires highly specialized training and equipment which is not normally provided to hazardous materials teams. In Minnesota, response to explosives incidents is provided by Minnesota Department of Public Safety authorized bomb squads. These bomb squads are fully capable of mitigating such incidents. Response to clandestine drug lab incidents is provided by local law enforcement, supported by the federal Drug Enforcement Administration (DEA). Hazardous materials releases are possible as a consequence of bomb squad and clandestine drug lab type incidents. In such cases, the teams would take actions to mitigate the effects of the release when the actions required exceed the capabilities of the bomb squads or DEA. Item C clarifies the role of the teams when they respond in cooperation with a bomb squad or local law enforcement involved a clandestine drug lab response.

**Subpart 7. Reporting and documentation.** Subpart 7 is included because it is necessary to document response actions for purposes of cost recovery and to provide a legal record of response actions that were taken. Documentation is also important for purposes of evaluating the response to determine if changes in response tactics and procedures are necessary. Items A to D identify the minimum contents of such a report necessary to meet the purposes stated above. Subpart 7 is reasonable because it is common practice following completion of a response for a team to prepare a detailed report which includes, at a minimum, items A to D hence it places little additional burden on the employer.

A. Item A requires submission of a list of equipment used during the response and the personnel responding to an incident. Item A is reasonable because it is necessary to verify equipment and personnel costs subject to recovery from the responsible person.

B. Item B requires submission of a description of the emergency actions taken. Item B is reasonable because it is necessary to document response actions for purposes of legal review, verify the adequacy and evaluate the need for changes in suggested operating guidelines, and to verify that response costs submitted for recovery from the responsible person are representative of the costs which could be expected to be incurred as a result of actions taken during the response.

C. Item C requires submission of a copy of the site safety plan required to be prepared for each response by Occupational Safety and Health Administration rule 29 CFR 1910.120. Item C is reasonable because it places no additional burden on the team, confirms that the required plan was prepared and provides documentation of the plan for legal review.

D. Item D requires the submission of cost recovery forms. Item D is reasonable because it requires that response costs eligible for recovery from the responsible person be submitted as part of the incident report so they may be confirmed in comparison to the report.

**Subpart 8. Notification upon completion of response.** Subpart 8 is included to clarify that the team leader is responsible for making the notification required by section 299A.50, subdivision 3, and is doing so on behalf of the commissioner.

Under Minnesota Statutes section 18D.105, subdivision 4, the Commissioner of the Department of Agriculture has jurisdiction over hazardous materials incidents involving agricultural chemicals. The Department of Agriculture and the Pollution Control Agency have worked closely on the monitoring of clean-up operations involving such chemicals. Since the intent of section 299A.50, subdivision 3, is to ensure that appropriate oversight of post-emergency monitoring and remedial actions is provided, it is reasonable to also notify the

Commissioner of Agriculture when teams have completed their response to incidents involving the release of agricultural chemicals.

It is reasonable for the team leader to make these notifications on behalf of the commissioner since the team will have detailed first hand knowledge of the progression of the incident from its inception through completion of the emergency response phase. It will be more efficient for the team leader to convey that information to the Commissioners of the Pollution Control Agency and the Department of Agriculture.

7514.1000 **Establishment of Suggested Operating Guidelines**

Section 299A.50, subdivision 1, clause (3), requires the commissioner to establish "the responsibilities of regional hazardous materials response teams." Occupation Safety and Health Administration rule 29 CFR 1910.120 requires the development of emergency response plans by teams prior to initiating a response. These plans establish basic strategies and techniques for responding to hazardous materials incidents.

The regional response team program will refer to the program's emergency response plan as suggested operating guidelines. The provisions of 29 CFR 1910.120 and National Fire Protection Association Standard 471, Recommended Practice for Responding to Hazardous Materials Incidents, will be used as the basis for establishing the guidelines. The term suggested operating guidelines is used so that the purpose of providing guidance to teams in implementing their response actions is met, while also providing flexibility in implementing the guidelines as necessary to address the unique conditions presented by each incident. It is important that such guidelines can be readily changed as the state of the art in response to incidents also changes, and as experience is gained from actual responses. It is recognized that the guidelines do not establish mandatory practices, and are developed with the intent of guiding not directing the team's response.

It is common for guidelines to vary slightly between individual teams. This does not present a problem when teams are working as an individual unit. It is conceivable however, that more than one regional team would respond to a single incident. When this occurs, it is important that the teams have uniform guidance so they are able to effectively work together.

It is also important that local authorities and training institutions who train or provide training to support team operations have a foundation upon which to base that training. The program's suggested operating guidelines will meet that need.

Subpart 1 requires that the guidelines be established. It is also included as a reference to the teams to clarify that the commissioner is responsible for establishing guidelines which are consistent among all the teams involved in

the program. Subpart 2 requires that the guidelines be reviewed at least annually, and revised when necessary, to ensure that they contain the most current standard of care, techniques and procedures, and that experience gained from actual responses are being incorporated.

Part 7514.1000 is reasonable because it addresses the requirements of Occupation Safety and Health Administration rule. It is also reasonable because nationally accepted standards will be used as the basis for their development.

7514.1100 **Emergency Pre-Planning**

**Explanation:** Section 299A.50, subdivision 1, clause (8), requires the commissioner to establish the means of "coordination with other state departments and agencies, local units of government, other states, Indian Tribes, the federal government, or nonpublic persons". Occupation Safety and Health Administration rule 29 CFR 1910.120 requires the development of emergency response plans by teams prior to initiating a response.

In addition to the planning described in part 7514.1000, an important aspect of emergency pre-planning is having access to information about 1) the types and quantities of chemicals stored at facilities; 2) a facility's internal plans for responding to hazardous materials incidents; 3) the hazardous materials response capabilities of local emergency response agencies, and; 4) the hazardous materials response capabilities of state agencies. Given this information they will be able to anticipate the scope of the hazardous materials problem they might face during a response to a given facility, and coordinate their response to an incident with that of the local authorities and the responsible person. Subparts 1 through 3 provide the means for obtaining the necessary information when it is requested by a team.

**Subpart 1. State agency.** Under the authority of various state and federal laws, state agencies collect information about the type and quantity of hazardous materials stored at fixed facilities throughout the state. With certain exceptions, this information is available to the public. Subpart 1 requires the commissioner to request the publicly available information from state agencies and provide it to the teams when the teams request it. Subpart 1 is reasonable because it permits the teams to request the information they deem necessary for planning purposes, and utilizes existing sources for obtaining the information.

**Subpart 2. Local government.** Teams will rely on local emergency response agencies to support the team's response and must know local plans and response capabilities in advance of an incident, including what local resources are available during a response. With this information they will be better able to coordinate their response with that of local agencies. Ideally, the teams would prepare their own preplans for each facility within their service area, however, this approach would be cost and time prohibitive and could result in duplicating work already done by local agencies.

Where necessary resources are not locally available, the teams may arrange for the provision of necessary personnel, supplies and materials from other sources. Failure to have this type of information in advance of an incident will delay the team's implementation of response actions as the necessary resources are located and delivered to the scene. Subpart 2 provides the means for obtaining that information. Items A to D list the types of information which may be requested by a team.

A. Most emergency response agencies, particularly within the fire service, prepare pre-plans of facilities located in their jurisdictions. These plans serve to familiarize those agencies with hazards present at the facility and establish basic response tactics in anticipation of an incident. These plans are prepared at the discretion of the agency and are not required by federal or state law, or these rules. Item A requires those agencies to provide a team with a copy of the plans upon the request of the commissioner. Item A is reasonable because it requires local agencies to provide copies of only those plans they have chosen to prepare, and does not require the preparation of additional plans.

B. Occupational Safety and Health Administration rule 29 CFR 1910.120 requires any emergency response organization which may respond to a hazardous materials incident to prepare and an emergency response plan for their agency which describes the agency's hazardous materials response capabilities, general response procedures and incident command system. Item B requires those agencies to provide a copy of that plan to a team upon the request of the commissioner. Item B is reasonable because it requires the provision of plans already prepared in accordance with federal rule, and does not require the preparation of additional plans.

C. Occupation Safety and Health Administration rule 29 CFR 1910.120 requires the employer of persons who respond to hazardous material incidents to provide employees with a minimum of awareness level training. This training does not permit personnel to take defensive or offensive actions during a hazardous materials incident. Additional training at the operations level is required to perform defensive actions. OSHA rules also requires that the employer document the training provided to each individual.

Teams will rely on local authorities to provide personnel trained above the awareness level to provide support to team operations. It is necessary for the teams to know in advance of an incident whether properly trained personnel are locally available to provide the necessary support. Item C is reasonable because it requires the provision of training information already maintained in accordance with federal rule, and does not require the maintenance of additional records.



D. Local authorities may have certain resources available which will assist a team in its response to an incident in a specific jurisdiction. It is important for the teams to know these resources exist in advance of an incident so those resources are not duplicated by the team. This information will also aid a team in planning its response actions in advance of an incident. Local resources have already been identified in community emergency operations plans prepared in response to the requirements of federal and state law. Item D is reasonable because it requires the provision of information which has already been collected, and adds little additional burden to local authorities.

E. Unique conditions in a specific jurisdiction, such as man-made and natural features, may present unique pre-planning considerations for the teams. Special conditions have generally been identified in locally prepared emergency operations plans. When such conditions exist, and are identified by the teams, it will be important for them to have access to information which will aid them in preparing for a potential response. Item E is necessary because teams must have access to this information in order provide for the safety of response personnel and improve the team's ability to protect the public and coordinate their actions with local authorities. Item E is reasonable because these conditions have already been identified by local emergency planning personnel, and the information is readily available with little additional burden on the employer.

Subpart 3. **Facility.** Facilities regulated by Minnesota Statutes, section 115E are required to prepare spill prevention and response plans. Section 115E.04, subdivision 1, clause (a), requires a regulated facility to provide a copy of its plan to "any of the commissioners who request it and to an official of a political subdivision with appropriate jurisdiction upon the officials request." It is important these plans be available to the teams that request them so they may become familiar with the hazards present at facilities located outside their usual geographic jurisdiction, and can plan in advance for incidents which might occur at these facilities. Subpart 3 is reasonable because it reinforces the requirements of Minnesota statutes, and places no additional burden on regulated facilities.

Subpart 4. **Disseminating information to teams.** Subpart 4 requires the commissioner to distribute information collected under subparts 1 through 3 to the teams that request it. This is reasonable so the teams have the information needed to make advance preparations for a response.

This subpart also requires that teams not distribute information collected under subpart 3 without notifying the facility. This requirement is also included at the request of facilities regulated under section 115E.04. Facility representatives on the rules advisory committee were concerned that teams which receive plans under subpart 3 might distribute those plans to other

appropriate authorities without the facilities' knowledge. Without that information, a facility which makes modifications to its plan would not be able to ensure that the revisions had been appropriately distributed. Consequently, authorities which had received the plans directly from the teams would base pre-plan decisions on inaccurate information. It is reasonable to require such notification because it places little burden on the teams, and places it only on those teams which elect to further distribute information received under subpart 3. It is also reasonable so that persons who have received information directly from the teams will have the most accurate information available upon which to make pre-planning decisions.

**7514.1200 Emergency Response Assistance**

Section 299A.50, subdivision 1, clause (8), requires the commissioner to include in the response plan methods of "coordination with other state departments and agencies, local units of government, other states, Indian Tribes, the federal government, and other non-public persons." Section 299A.50, subdivision 2 states "the commissioner may cooperate with and enter into contracts with other state departments and agencies, local units of government, other states, Indian Tribes, the federal government, or nonpublic persons to implement the response plan.

Part 7514.1200 is included because there will be times when the teams will require special technical assistance and highly specialized equipment in order to safely and effectively respond to an incident. Hazardous materials teams do not normally carry such equipment because it is cost prohibitive.

Similarly, it is not possible for any one individual to be familiar with the unique hazards associated with each chemical currently in production. When less common chemicals are encountered during a response, special technical assistance must be obtained.

This part is included to clarify that teams may coordinate and contract with outside resources to secure the necessary assistance and equipment, and that the costs of doing so should be recoverable by the team from the state and by the state from the responsible person.

When teams encounter incidents involving explosive substances or devices, the special training and equipment available from a bomb squad will be needed to mitigate them. The Department of Public Safety has authorized certain local government bomb squads to respond to incidents which occur outside their own geographical jurisdiction. Since the state is familiar with the level and quality of training received by members of these squads, the rule requires they be the first point of contact when such assistance is needed. These bomb squads are entities of local units of government and do not receive state funding to cover the actual cost of their response. The bomb squads will charge the teams for their response. Part 7514.1200 clarifies that those costs associated with a bomb

squad response should be recoverable by the team from the state and by the state from the responsible person.

Part 7514.1200 is reasonable because it permits teams to obtain highly specialized equipment and chemical specific technical expertise from outside sources. Costs for normal operations are thus reduced by permitting the teams to obtain these resources only when they are needed. It is reasonable to recover the cost of obtaining this assistance from the responsible person because such costs will be specific to the incident for which the person is responsible, and because the recovery of such costs is permitted by Section 299A.52, subdivisions 1 and 2.

**7514.1300 Review and Evaluation of Response**

Occupational Safety and Health Administration rule 29 CFR 1910.120, requires that teams conduct a critique and evaluate their response following each incident. Part 7514.1300 is included as a reference to the teams to clarify how the OSHA requirement must be implemented.

The OSHA rule does not establish a time requirement for completing the evaluation. Part 7514.1300 establishes a time requirement for emergency response teams and chemical assessment teams as recommended by the rules advisory committee. A time requirement is necessary to ensure that evaluations are conducted in a timely fashion so that documentation regarding the incident can be prepared for review and follow up corrective action taken when necessary. It is reasonable to do this so that any problems which may have been encountered during the incident are corrected before they are repeated.

Part 7514.1300 also recognizes that most incidents will involve multiple agencies including local, state and federal agencies, the responsible person, and private clean-up contractors. This part requires that teams provide an opportunity for all parties involved in the incident to participate in the evaluation process. It is necessary to do this so that inter-agency problems may be identified and coordination during a response improved when necessary.

Part 7514.1300 is reasonable because it does not place any additional burden on the teams beyond what it is already required by OSHA rule.

**7514.1400 Supplies, Equipment and Vehicles**

**Explanation:** Section 299A.50, subdivision 1, clause (4), requires the commissioner to determine the "equipment needed for regional hazardous materials response teams." Concern was raised during the rule development process that, due to the rapidly developing technology in the area of hazardous materials response equipment, including a detailed equipment list in the rules could easily result in the list becoming outdated in a short period of time. The

result would be that teams would be required to purchase and continue to carry equipment which was no longer the state of the art, and seldom used during a response. The rules advisory committee therefore, recommend that general categories of equipment be cited in the rule, rather than a detailed list of specific items.

The general categories are specifically designed to cover the broad range of equipment normally carried by existing hazardous materials teams and are representative of commonly accepted types of equipment used in hazards materials response. Since it is likely that some existing teams will become part of the regional response team program, the committee did not want to prevent those teams from using equipment they already have available, nor require them to obtain equipment of slightly a different variety that could duplicate that which they already have.

An example of equipment commonly carried by hazardous materials emergency response teams is included as Appendix A. An example of equipment commonly carried by chemical assessment teams is included as Appendix B. The sample lists reflect the equipment carried by the Oregon hazardous materials regional response teams and existing teams located in Minnesota.

Teams must have immediate access to equipment in each of the general categories. By this it is meant that a team must carry the equipment on its response vehicle so that it is accessible at the scene of an incident.

Funding already provided for the program has been used to purchase capitol equipment on the example lists. Additional purchases are in process. This equipment is in storage and will be loaned to those teams selected as a result of the process identified in part 7514.1500. Equipment will be provided to the teams for the term of their contract for services, thus reducing the impact of this part on the employer.

Funds will be provided to cover all or a part of the purchase of any additional equipment and vehicles, as described in part 7514.1500, subpart 7, further reducing the economic impact of participating in the program.

**Subpart 1. Equipment for emergency response teams.** Emergency response teams are established to mitigate by control, containment, and other means, the effects of a hazardous materials release. Items A to K identify the general categories of equipment to which they must have immediate access at the scene of an incident in order to achieve this goal. Subpart 1 is reasonable because the general categories of equipment, and the specific items that would be found under each category, are commonly accepted for hazardous materials emergency response.

A. Item A identifies chemical reference and emergency response manuals. Examples of this equipment includes the Association of

American Railroads' "Emergency Action Guides" and "Emergency Handling of Hazardous Materials in Surface Transportation". Item A is reasonable because teams must have access to information about the hazardous materials which they will encounter so that they may evaluate the hazards associated with an incident, and determine the most appropriate response to those hazards. Item A is also reasonable because the state has purchased these materials and will provide them to the teams, thereby eliminating the cost to the employer.

B. Item B identifies personal protective equipment. Examples of this equipment include chemical protective clothing, and self contained breathing apparatus. Occupational Safety and Health Administration rule requires that personal protective equipment, including respiratory equipment and chemical protective clothing suitable to safeguard team members from the health effects of the chemicals they are working with, be available to team members. Item B is reasonable because it address the requirements of OSHA rule. Item B is also reasonable because the state has purchased much of the necessary equipment and will provide it to the teams, thereby eliminating the cost to the employer. Item B is also reasonable because additional funding will be provided to the teams, by the state, to cover all or a portion of the cost of equipment not provided by the state. (See also part 7514.1500, subpart 7, item A).

C. Item C identifies leak control supplies and equipment. Examples of this equipment include chlorine cylinder kits, dome cover clamps, and drum repair kits. Item C is reasonable because it will ensure that the equipment necessary to achieve the goal of controlling a hazardous materials release is available to the teams, and because it is equipment which is readily available to the teams at minimal cost. Item C is also reasonable because the state has purchased much of the necessary equipment and will be provided to the teams, thereby reducing the cost to the employer. Item C is also reasonable because additional funding will be provided to the teams, by the state, to cover all or a portion of the cost of equipment not provided by the state. (See also part 7514.1500, subpart 7, item A).

D. Item D identifies radio and other forms of communications equipment. Examples of this equipment include cellular phones, and mobile and portable two-way radios. Teams must be able to communicate with other response agencies and personnel, and receive technical information from specialized resources not present at the scene of the emergency. Item D is reasonable because it will provide the equipment necessary for such communication. Item D is also reasonable because the state has purchased much of the necessary equipment and will provide it to the teams, thereby eliminating the cost to the employer. Item D is also reasonable because additional funding will be provided to the teams, by the state, to cover all or a portion of

the cost of equipment not provided by the state. (See also part 7514.1500, subpart 7, item A).

E. Item E identifies computer equipment and supporting software. Examples of this equipment include notebook style computers, and hazardous materials reference software. The use of computer equipment and specialized software to maintain databases of hazardous materials reference information, lists of hazardous materials stored at fixed facilities, and model or predict the effects of a hazardous materials release, as an aid in pre-incident planning and the development of response alternatives, is a common practice among hazardous materials teams. Item E is reasonable because it facilitates the use of the latest technology available in hazardous materials response, thereby improving the response capability of the teams. Item E is also reasonable because the state has purchased much of the necessary equipment and will provide it to the teams, thereby eliminating the cost to the employer. Item E is also reasonable because additional funding will be provided to the teams, by the state, to cover all or a portion of the cost of equipment not provided by the state. (See also part 7514.1500, subpart 7, item A).

F. Item F identifies monitoring and detection equipment. Examples of this equipment include chemical test kits, multiple gas electronic monitors, and radiological monitors. OSHA rule requires that, prior to and while taking mitigation action, response personnel must monitor the scene of a hazardous materials incident for the presences of toxic substances to determine the levels of exposure which might be encountered. Item F is reasonable because it would require the teams to have the equipment necessary to comply with this requirement. Item F is also reasonable because the state has purchased much of the necessary equipment and will provide it to the teams, thereby eliminating the cost to the employer. Item F is also reasonable because additional funding will be provided to the teams, by the state, to cover all or a portion of the cost of equipment not provided by the state. (See also part 7514.1500, subpart 7, item A).

G. Item G identifies basic suppression equipment. Examples of this equipment include dry chemical fire extinguishers, foam eductors, and foam application nozzles. In some cases, it will be necessary for teams to be able to extinguish small fires involving hazardous materials as part of the mitigation strategy. Item G is reasonable because it requires that the equipment necessary to perform this function is available. Item G is also reasonable because it is equipment normally carried by fire departments and can be provided to the teams at minimal additional cost to the employer. Item G is also reasonable because funding will be provided to the teams, by the state, to cover all or a portion of the cost

of equipment not provided by the state, or available locally. (See also part 7514.1500, subpart 7, item A).

H. Item H identifies spill containment supplies and equipment. Examples of this equipment include overpack drums and absorbent booms, pads and pillows. A primary function of an emergency response team is to control or contain the release of a hazardous materials. A variety of types of containers are used in hazardous materials transportation and storage. Teams must have supplies and equipment immediately available which can be used to contain these materials when they are released from their containers in order to prevent their spread and reduce the threat to the public's safety and the environment. This equipment is normally carried by hazardous materials teams. Item H is reasonable because it would require the teams to have the equipment necessary to perform their primary function. Item H is also reasonable because the state has purchased much of the necessary equipment and will provide it to the teams, thereby reducing the cost to the employer. Item H is also reasonable because additional funding will be provided to the teams, by the state, to cover all or a portion of the cost of equipment not provided by the state. (See also part 7514.1500, subpart 7, item A and D).

I. Item I identifies assorted non-sparking hand tools. Examples of this equipment include non-sparking shovels, wrenches, and hammers. Many hazardous materials may ignite in contact with a spark produced by the use of hand tools constructed of normal materials. Item I is reasonable because it requires that tools be provided which will eliminate this hazard. Item I is also reasonable because the state has purchased much of this equipment and will provide it to the teams, thereby reducing the cost to the employer. Item I is also reasonable because funding will be provided to the teams, by the state, to cover all or a portion of the cost of equipment not provided by the state. (See also part 7514.1500, subpart 7, item A).

J. Item J identifies basic first aid supplies. Examples of this equipment includes blood pressure cuffs, stethoscopes, and trauma supplies. Occupational Safety and Health Administration rule requires that team members entering the hot zone receive pre- and post-entry medical examinations. When response personnel are accidentally exposed to highly toxic substances, basic emergency medical equipment must be immediately available to provide appropriate emergency care prior to transportation to a medical facility. Item J is reasonable because it will ensure that this equipment is provided. Item J is also reasonable because the state has purchased the necessary equipment and will provide it to the teams, thereby eliminating the cost to the employer. (See also part 7514.1500, subpart 7, item A).

K. Item K identifies miscellaneous incident management and administrative supplies and equipment. Examples of this equipment includes office supplies, incident command identification vests, binoculars, flashlights, and service area maps. Occupational Safety and Health Administration rule requires that each hazardous materials incident be organized using an incident management system. Item K is reasonable because it ensures that the supplies and equipment necessary to meet this requirement are available. Item K is also reasonable because the supplies and equipment are readily available, and can be obtained at minimal cost to the employer.

**Subpart 2. Equipment for chemical assessment teams.** Chemical assessment teams are established to provide local authorities with the technical assistance necessary to assess the effects of a hazardous materials incident, and recommend mitigation actions which might be taken by local personnel in keeping with the level of their training and response capability. These teams will also work in conjunction with emergency response teams to perform a similar function, and provide the equipment and supervisory personnel necessary for the decontamination of victims and response personnel. Items A to G establish the general categories of equipment which the teams must have immediate access to at the scene in order to achieve these goals. Subpart 2 is reasonable because the general categories of equipment, and the specific items that would be found under each category, are commonly accepted for hazardous materials emergency response.

A. Item A identifies chemical reference and emergency response manuals. Examples of this equipment includes the Association of American Railroads' "Emergency Action Guides" and "Emergency Handling of Hazardous Materials in Surface Transportation". Item A is reasonable because teams must have access to information about the hazardous materials which they will encounter so that they may evaluate the hazards associated with an incident, and determine the most appropriate response to those hazards. Item A is also reasonable because the state has purchased the necessary materials and will provide them to the teams, thereby eliminating the cost to the employer.

B. Item B identifies decontamination equipment. Examples of this equipment includes scrub brushes, gross decontamination showers, neutralizing solutions, and disposable containment pools. OSHA rule requires that facilities to decontaminate response personnel be operational prior to entering the hot zone to take mitigation actions. Decontamination of victims and response personnel is a significant function of the chemical assessment teams. Special equipment is necessary in order to perform this function. This equipment should be uniform among the various teams so that all personnel receive identical training in its use and can rapidly deploy the equipment when it is needed. Item B is reasonable because it ensures that this equipment is



available to meet OSHA requirements. Item B is also reasonable because the state has purchased much of the necessary equipment and will provide it to the teams, thereby eliminating the cost to the employer. Item B is also reasonable because additional funding will be provided to the teams, by the state, to cover all or a portion of the cost of equipment not provided by the state. (See also part 7514.1500, subpart 7, item A).

C. Item C identifies personal protective equipment. Examples of this equipment include chemical protective clothing, and self contained breathing apparatus. OSHA rule requires that personal protective equipment, including respiratory equipment and chemical protective clothing suitable to safeguard team members from the health effects of the chemicals they are working with, be available to team members. Item C is reasonable because it address the requirements of OSHA rule. Item C is also reasonable because the state has purchased much of the necessary equipment and will provide it to the teams, thereby eliminating the cost to the employer. Item C is also reasonable because additional funding will be provided to the teams, by the state, to cover all or a portion of the cost of equipment not provided by the state. (See also part 7514.1500, subpart 7, item A).

D. Item D identifies radio and other forms of communications equipment. Examples of this equipment include cellular phones, and mobile and portable two-way radios. Teams must be able to communicate with other response agencies, and personnel, and receive technical information from specialized resources not present at the scene of the emergency. Item D is reasonable because it will provide the equipment necessary for such communication. Item D is also reasonable because the state has purchased much of the necessary equipment and will provide it to the teams, thereby eliminating the cost to the employer. Item D is also reasonable because additional funding will be provided to the teams, by the state, to cover all or a portion of the cost of equipment not provided by the state. (See also part 7514.1500, subpart 7, item A).

E. Item E identifies computer equipment and supporting software. Examples of this equipment include notebook style computers, and hazardous materials reference software. The use of computer equipment and specialized software to maintain databases of hazardous materials reference material, lists of hazardous materials stored at fixed facilities, and model or predict the effects of a hazardous materials release, as an aid in pre-incident planning and the development of response alternatives, is a common practice among hazardous materials teams. Item E is reasonable because it facilitates the use of the latest technology available in hazardous materials response, thereby improving the response capability of the teams. Item E is also reasonable because

the state has purchased much of the necessary equipment and will provide it to the teams, thereby eliminating the cost to the employer. Item E is also reasonable because additional funding will be provided to the teams, by the state, to cover all or a portion of the cost of equipment not provided by the state. (See also part 7514.1500, subpart 7, item A).

F. Item F identifies monitoring and detection equipment. Examples of this equipment include chemical test kits, multiple gas electronic monitors, and radiological monitors. OSHA rule requires that, prior to and while taking mitigation action, response personnel must monitor the scene of a hazardous materials incident for the presences of toxic substances to determine the levels of exposure which might be encountered. Item F is reasonable because it would require the teams to have the equipment necessary to comply with this requirement. Item F is also reasonable because the state has purchased much of the necessary equipment and will provide it to the teams, thereby eliminating the cost to the employer. Item F is also reasonable because additional funding will be provided to the teams, by the state, to cover all or a portion of the cost of equipment not provided by the state. (See also part 7514.1500, subpart 7, item A).

G. Item G identifies miscellaneous incident management and administrative supplies and equipment. Examples of this equipment includes office supplies, incident command identification vests, binoculars, flashlights, and service area maps. OSHA rule requires that each hazardous materials incident be organized using an incident management system. Item G is reasonable because it ensures that the supplies and equipment necessary to meet this requirement are available. Item G is also reasonable because the supplies and equipment are readily available, and can be obtained at minimal cost to the employer.

**Subpart 3. Emergency response vehicle requirements.** It is necessary for teams to have vehicles suitable for the transport of personnel and equipment to the scene of a hazardous materials incident. Emergencies may occur in all types of weather conditions. Personnel and equipment must be able to respond to incidents regardless of weather conditions. A wide variety of vehicles are being used by Minnesota's existing hazardous materials teams, depending on the needs and preferences of each team. Subpart 3 is reasonable because it allows the teams to maintain local discretion in determining their vehicle needs. Subpart 3 is also reasonable because it establishes general requirements which existing vehicles will be readily able to meet, and will not require the replacement of existing vehicles in order to meet a new and arbitrary standard. Subpart 3 is also reasonable because additional funding will be provided to the teams, by the state, to cover all or a portion of the cost of equipment, including vehicles. (See also part 7514.1500, subpart 7, item A).

**Explanation:** Section 299A.50, subdivision 1, clause (5) requires the commissioner to establish "procedures for selecting and contracting with local governments or nonpublic persons to establish regional hazardous materials response teams." This part establishes the process for selecting the teams and completing the second step in the process of determining the location of the teams. (See also part 7514.0500.) The rules advisory committee was concerned that all public and non-public entities interested in becoming an emergency response team or chemical assessment team have equal opportunity to do so. To accomplish this, the committee recommended that the team selection process be open and objective, and that selections be based on the quality of a proposal and the current or potential response capability of the proposed team.

This part also establishes the contractual relationship between the state and the teams.

**Subpart 1. Request for proposal to provide contract services.** This subpart begins the team selection process, using the request for proposal process. The use of this process is a common method for selecting contractors to provide services to state government. Subpart 1 permits the commissioner to issue requests for proposals as necessary to meet the needs of the program, such as at the conclusion of each team's contract period, or following the cancellation of a contract for cause. Subpart 1 is reasonable because it uses an existing method for selecting contractors as established by the Minnesota Department of Administration. Subpart 1 is also reasonable because it address the requirements of Section 299A.50, subdivision 1, clause (5).

**Subpart 2. Proposal evaluation.** This subpart establishes the second step in the team selection process. It identifies who will be responsible for evaluating the proposals received and their responsibilities. Hazardous materials emergency response is highly specialized. It is important that proposals submitted in response to subpart 1 be evaluated by persons qualified in the field so that the best teams are selected and the highest quality of service provided. Since the commissioner is required to establish the program, final selections will be made by the commissioner. The reader is also referred to subpart 4, which identifies the minimum proposal evaluation criteria. Subpart 2 is reasonable because it clarifies who will be responsible for evaluating proposals, the basis for the evaluation, and ensures that qualified individuals will perform the evaluation. Subpart 2 is also reasonable because it address the requirements of section 299A.50, subdivision 1, clause (5).

**Subpart 3. Conflict of Interest.** It is necessary to ensure that all proposals receive a fair and objective evaluation. Subpart 3 is reasonable because it is intended to prevent any undo influence during the evaluation process by

ensuring that those persons who evaluate the proposals do not receive any financial gain as a result of their recommendations.

**Subpart 4. Proposal evaluation criteria.** Subpart 4, items A through I establish the minimum criteria for the evaluation of proposals. In so doing, subpart 4 also describes the basic content of each proposal.

A. Part 7514.0800 establishes the minimum composition requirements for emergency response teams and chemical assessment teams. Part 7514.0600 establishes the qualifications of team members. Item A is necessary because it allows for the evaluation of each proposal to ensure that teams meet those requirements.

B. Part 7514.0600 establishes the qualifications of team members, including initial training and continuing education requirements. Item B is necessary because it requires respondents to state how the team proposes to meet those requirements.

C. The commissioner will establish service areas for each team in accordance with the provisions of part 7514.0500. These service areas will be finalized with the conclusion of the team selection process described in this part. It is important that all parts of the proposed service area be reasonably accessible to the teams. Item C is necessary because it is important that the commissioner know where the team would be physically located within the service area established under Part 7514.0500, in order to determine how the teams response from that location might be enhanced or impeded throughout the service area.

D. Part 7514.1400 identifies general categories of equipment which teams must have immediate access to during a response. Item D is necessary because knowing what equipment a team already has available will aid evaluators in assessing the level of experience of the team. Item D is also necessary because the state has purchased capitol equipment which will be loaned to the teams for the term of their contract. When teams have their own equipment it would not be necessary for the state to supply such equipment, thereby reducing the capitol costs of the program. When the teams do not have all the necessary equipment it may be necessary for the state to make additional purchases, or provide funding to the team for that purpose.

E. Part 7514.1500, subpart 2, requires the evaluation committee to place emphasis on the quality of the proposer's response capability. Hazardous materials emergency response is not an exact science. Much is learned based on experience. The length of time a team has been in existence, and the types of hazardous materials incidents to which it has responded, provides a direct indication of the response capability of the team. Item E is necessary because it will provide pertinent information

which will permit the committee to evaluate a team's capability to serve as a regional team.

F. Part 7514.0600 establishes the qualifications of team members, including initial and continuing education requirements. Part 7514.0700, subpart 1, requires the employer to provide that training to team members. It is important that a team have an established or proposed program for addressing the training and continuing education requirements. Item F is necessary because it requires respondents to state how they will meet those requirement.

G. Since teams do not currently exist in all areas of the state, it is recognized that not all responses to the request for proposals will be received from existing hazardous materials teams. As a result, completely new teams will have to established in order to provide appropriate response coverage to all portions of the state. In other cases, existing teams will have to provide additional training to their members, or obtain additional supplies and equipment, in order to comply with the requirements of this chapter. This may be a significant factor when evaluating the proposals of two or more teams seeking to serve the same response area. Item G is necessary because it will require respondents to provide the information necessary to evaluate the length of time before the team can meet the requirement, and begin providing service.

H. Each team will have unique costs associated with its response. Variables will be found in personnel costs for wages and benefits depending on whether the team is composed on career, part-time, volunteer, or some combination of personnel. Operating costs for vehicles will also vary depending on whether the team uses a self-contained response vehicle, or a truck pulled trailer. Part 7514.1700, subpart 3, identifies categories of costs eligible for recovery by the teams from the state, and by the state from the responsible party. The request for proposal will list these categories and require respondents to estimate costs for each category. Item H is necessary because it will allow the committee to compare the estimated response costs of each team.

I. Part 7514.1600, subpart 10, establishes an average deployment time for the teams. Item I is necessary because it will permit evaluation of the respondents proposed deployment time against the requirements of this chapter.

Subpart 4 is reasonable because it is important for persons responding to the request for proposals to know the what criteria will be used to evaluate the proposals so they can prepare their responses accordingly. Subpart 4 is also

reasonable because it addresses the requirements of section 299A.50, subdivision 1, clause (5).

**Subpart 5. Award of contracts for provision of service.** This subpart establishes the final step of the team selection process. Section 299A.50, subdivision 2, states, "the commissioner may cooperate with and enter into contracts with other state departments and agencies, local units of government, other states, Indian Tribes, the federal government, or nonpublic persons to implement the response plan." This subpart establishes the contractual relationship between the state and the teams, and cites existing state statute which provides the necessary authority. Subpart 5 is reasonable because it uses existing state statute to establish the contracts. Subpart 5 is also reasonable because it address the requirements of section 299A.50, subdivision 1, clause (5).

**Subpart 6. Term of contract for services.** Subpart 6 establishes the maximum term of the contract for services identified in subpart 5. It is necessary to establish this period of time so the employer has a clear understanding of the length of the commitment being made in contract and can evaluate the impact of that commitment on the organization. Minnesota Statutes section 16B.07, subdivision 2 states, "the term of these contracts may not exceed five years including all extensions". Subpart 6 is reasonable because it is in compliance with existing law. Subpart 6 is also reasonable because it address the requirements of section 299A.50, subdivision 1, clause (5).

**Subpart 7. Contractor compensation.** Section 299A.50, subdivision 2, states "the commissioner may cooperate with and enter into contracts with other state departments and agencies, local units of government, other states, Indian Tribes, the federal government, or non-public persons to implement the response plan." The state will purchase services from public and non-public persons to implement the response plan established by this chapter. Teams will incur additional costs for providing services outside their geographic jurisdiction. It is reasonable and customary to compensate the teams for all, or a portion of these costs in exchange for services provided. Subpart 7 requires the state to provide that compensation. Items A to F identify those costs for which the teams may negotiate compensation, subject to budget limitations. Specific costs are identified to ensure that compensation provided by the state is used for the purposes of the program. Teams will not be compensated for these costs through the response cost recovery process established in part 7514.1700.

**Explanation:** Section 299K.095, establishes in law fees to be paid by certain regulated facilities in support of the regional response team program. All fees generated are deposited in the general fund to offset the costs associated with contractor compensation. Similarly, section 221.0335, requires the Commissioner of the Department of Transportation to establish a program for registering persons engaged in the transportation of hazardous materials in

Minnesota, including the establishment of registration fees. All fees generated by that program are deposited in the general fund to offset the costs associated with contractor compensation. This chapter does not alter, or establish the provisions of either of the above referenced statutes.

A. Item A identifies the cost of equipment and vehicles. Teams will must be equipped to contain and control the release of hazardous materials. Items of capitol equipment which must be consistent from one team to the next have been purchased by the state and will be loaned to the teams for the term of their contracts. Additional equipment will be needed which will not be purchased by the state. Categories of equipment which must be available to the teams is are identified in part 7514.1400, subparts 1 and 2. Part 7514.1400, subpart 3, requires teams to have a vehicle suitable for the transportation of personnel and equipment to the scene of a hazardous materials incident. Teams which do not already have a suitable response vehicle will need to purchase them. It is reasonable to compensate teams for these costs in order to ensure that proper equipment and vehicles are available to the teams, and because the initial cost of this equipment is not recoverable as a cost of a response.

B. Item B identifies the cost of training. Team members must have special training to respond to hazardous materials incidents. This chapter requires team members to maintain specific training requirements. It is reasonable to provide compensation for training costs because the teams will incur those costs and will not recover them as a cost of a response.

C. Item C identifies the cost of annual medical examinations. Occupational Safety and Health Administration rule requires team members to meet certain medical requirements in order to serve as members of a team. It is reasonable to compensate teams for the cost of medical examinations because the teams will incur those costs and will not recover them as a cost of a response.

D. Item D identifies the initial cost of consumable supplies. Teams must provide an initial stock of consumable supplies so they are available when needed for a response. It is reasonable to provide compensation for the initial purchase of supplies to ensure they are available so the teams can perform the duties assigned to them. The cost of supplies used during a response will be recovered from the responsible person and then replaced by the teams. These funds will be used to replace the initial supply of consumables.

E. Item E identifies administrative costs. Teams will incur administrative costs as a result of the annual reporting and certifications required by this chapter. It is reasonable to provide compensation for

these costs because the teams will incur those costs and will not recover them as a cost of a response.

F. Item F identifies maintenance costs. The monitoring and other specialized equipment used by the teams requires periodic calibration in order to ensure its proper function. It is reasonable to provide compensation for these costs because the team will incur those costs and will not recover them as a cost of a response.

Subpart 7 is reasonable because it implements the commonly accepted practice of providing compensation for services provided under contract. Subpart 7 is also reasonable because it implements the authority provided the commissioner under section 299A.50, subdivision 2.

7514.1600 **Emergency Response Criteria and Dispatching**

Subpart 1. **Emergency response.** Experience has shown that local authorities are able to safely and effectively respond to incidents when provided with technical assistance by telephone or other means of communication. In other cases, local authorities are merely seeking to confirm that the actions they have taken or planned, are appropriate to the needs of the incident. Subpart 1 is included as a clarification for the teams so they know they are not required to physically respond to the scene of an incident when it is not necessary to do so.

Subpart 2. **Criteria for authorizing emergency response.** Section 299A.50, subdivision 1, clause (6), requires the commissioner to include in the plan "procedures for dispatching teams at the request of local government". Emergency response needs are a function of the location of an incident, the threat presented by the incident, and the capabilities of response personnel. Items A to E establish the criteria to be used in determining if a team may be dispatched. Items A and B identify the source and severity of the incident. Items C to D establish the need for a team response. Item E establishes the authority to request dispatch of a team. If all criteria are satisfied a team response will be automatically authorized.

A. Item A identifies the source of the release as a transportation or fixed facility. Item A is reasonable because the majority of releases come from these two sources, and because fixed facilities and the transportation industry pay annual fees in support of the program.

B. The purpose of the regional team program is to protect the public and the environment from the effects of a hazardous materials release. Item B requires that one or more of these threats be present as the result of a hazardous materials incident. Item B is reasonable because it responds to the purposes of the program.



C. Local authorities have the primary responsibility for the protection of the public's safety within their jurisdictions. Industry representatives on the rules advisory committee expressed concern that a team might be automatically dispatched when local authorities, or industry response personnel, were capable of handling the emergency. If this should occur the cost to the responsible person would be unnecessarily increased. Item C is included to ensure that local authorities are aware of the incident and have responded to assess the actual or potential threat. Item C is reasonable because it is in keeping with the purposes of the program.

D. Local hazardous materials response capabilities vary widely throughout the state. The purpose of the regional response team program is to assist and support the response of local authorities. Since teams may be requested only by local authorities, it is reasonable to require that they first determine that the needs of the incident exceed their capabilities. Item D is reasonable because it is in keeping with the purposes of the program.

E. Item E is included as a reference to the reader. It serves to reinforce the requirements of the law and subpart 5, and to place all dispatch criteria in one consistent location in the rule.

Items A to E are reasonable because they address the requirements of section 299A.50, subdivision 1, clause (6).

**Subpart 3. Alternate response criteria.** Section 299A.50, subdivision 1, clause (6), requires the commissioner to include in the plan "procedures for dispatching teams at the request of local government". The rules advisory committee recognized that every hazardous materials incident may not meet all the response criteria established in subpart 2. Local authorities may still need the assistance of the teams to provide a safe and effective response. The general public will also expect the teams to respond to any incident which presents an actual or potential threat to the public safety, property or the environment without regard to its location or circumstances.. Subpart 3 permits the commissioner to authorize a team response when such incidents occur. Subpart 3 is reasonable because it addresses the requirements of the law, and is in keeping with the purposes of the program.

**Subpart 4. Special response criteria.** Subpart 4 is included to clarify that the commissioner may authorize a team response to in support of a bomb squad or clandestine drug lab incident as described in part 7514.0900, subpart 6, item C, without regard to the criteria established in subpart 2 above. Subpart 4 is reasonable because it addresses the requirements of the law, and is in keeping with the purposes of the program.

**Subpart 5. Authority to request team response.** Section 299A.50, subdivision 1, clause (6), requires the commissioner to include in the plan "procedures for dispatching teams at the request of local government". Industry representatives on the rules advisory committee expressed concern that the teams might be dispatched by other persons when local authorities, or industry response personnel, were capable of handling the emergency without the assistance of the teams. If this should occur the cost to the responsible person would be unnecessarily increased. Subpart 5 is in response to that concern, and states that local authorities are the only persons authorized to request a team response. Subpart 5 is reasonable because it addresses the requirement of law and is in keeping with the purposes of the program.

**Subpart 6. Procedure for requesting team.** Section 299A.50, subdivision 1, clause (6), requires the commissioner to include in the plan "procedures for dispatching teams at the request of local government". Subpart 6 identifies the Minnesota Duty Officer System as the point of contact for requesting a team response. Subpart 6 is reasonable because the system is already established by law within the Department of Public Safety, serves as the contact point for reporting the occurrence of a hazardous materials incident to state agencies, and will result in coordination of the team's response with that of other state agencies.

**Subpart 7. Cancelling response en route to incident.** Section 299A.50, subdivision 1, clause (6), requires the commissioner to include in the plan "procedures for dispatching teams at the request of local government". Subpart 2, item D, requires that local authorities determine the need for a team response. Subpart 5 states that teams may be dispatch only at the request of local authorities. The local authority serving as incident commander has overall responsibility for management of the incident. The authority to cancel a dispatch is in keeping with the authority to request a dispatch. Subpart 7 is reasonable because it follows commonly accepted practice, and addresses the requirements of law.

**Subpart 8. Terminating team response actions for safety reasons.** Response personnel on the rules advisory committee expressed concern that a team might be ordered to take mitigation actions at the scene which would place team members in imminent danger. The incident management system identified in part 7514.1800, subpart 1, establishes the responsibility of the team leader and safety officer to ensure the safety of team personnel. Subpart 8 is included to establish that authority in rule. Subpart 8 is reasonable because it follows commonly accepted practice.

**Subpart 9. Terminating team response at conclusion of incident.** It is a fundamental principal of the incident management system identified in part 7514.1800, subpart 1, that response resources are released only by the incident commander. Subpart 9 is included to establish that principal in rule in order to avoid confusion during an incident.

Subpart 9 also refers the reader to subpart 8, and part 7514.0900, subpart 1, for purposes of clarification.

Subpart 10. **Deployment time.** The issue of deployment time was the subject of considerable discussion following a variety of comments received by the rules advisory committee. Some persons believed that it was not necessary to establish a time in rule because it could be reasonably expected that teams would begin their response as rapidly as possible without any direction from the rule. They also believed that delays could occur as a result of the need to summon additional personnel to duty, adverse weather conditions, or other factors beyond the control of the employer.

Others believed that a time period was necessary in order to ensure a prompt response and establish a performance standard. They further believed that the response time to be established under part 7514.0500, subpart 2, item F, did not necessarily guarantee the rapid deployment of a team. Additionally, it was felt that the establishment of a deployment time in rule would greatly assist local authorities in determining the length of time before a team could be expected to arrive at the scene. Suggested deployment times ranged from 30 seconds to 30 minutes.

After considering all comments, the rules advisory committee recommended that a deployment time be included in the rule. Members reasoned deployment time was a significant factor in coordinating team response with that of local authorities, the responsible person, and state and federal agencies, and that the emergency response nature of the program supported the need. However, no national standard could be identified. Following consultations with various emergency response organizations an average deployment time of 15 minutes was recommended. The committee recommended establishing an average deployment time because it will allow for the occasional occurrence of factors beyond the control of the employer.

Subpart 10 is reasonable because it supports the purposes of the program, and addresses the requirement that the commissioner establish methods for coordinating the team's response with local authorities, state and federal agencies and other persons.

7514.1700 **Cost Recovery**

**Explanation:** Section 299A.50, subdivision 1, clause (7), requires the commissioner include in the plan "a fee schedule for reimbursing local governments or nonpublic persons responding to an incident".

Section 299A.52, subdivision 1, assigns responsibility for "reasonable and necessary costs, including legal and administrative costs, of a response to a hazardous materials incident incurred by a regional hazardous materials response team, or local unit of government" to the responsible person.

Section 299A.52, subdivision 2, states "the commissioner shall assess the responsible person for the regional hazardous materials response team costs of response. The commissioner may bring legal action for recovery of unpaid costs, reasonable attorney fees, and any additional court costs."

It is the intent of the legislation and these rules to provide a process for recovering the reasonable and necessary costs of a response by an emergency response team or chemical assessment team from the responsible person. The rules advisory committee agreed that the actual costs of a response constituted reasonable and necessary costs. Teams will not profit from the cost recovery process at the expense of the responsible person.

**Subpart 1. Submitting claim for team response costs.** This part establishes the first step in the cost recovery process. It also directs the reader to part 7514.0900, subpart 7, which identifies the means for reporting team response costs to the commissioner. It is reasonable to do this because the teams must first identify their response costs before they can be reimbursed by the commissioner and recovered from the responsible person.

**Subpart 2. Team response costs; payment and recovery.** This part establishes the second step in the cost recovery process. Teams will be composed of public and nonpublic persons under contract with the state. Funding provided by the state under the terms of these contracts will not cover the actual costs associated with a response. It is necessary for the teams to recover the costs of a response in order to pay the wages of responding personnel and replace consumable supplies and damaged equipment. It is typical for delays to occur when recovering costs from the responsible person. This part directs the commissioner to reimburse teams for the costs of a regional response in order to avoid those delays and maintain the team's readiness to respond to future incidents. This part also requires the commissioner to recover those costs, including the states legal and additional court costs, from the responsible person. Subpart 2 is reasonable because it addresses the requirements of section 299A.52, subdivision 2, to recover the costs of a response, including the states costs, from the responsible person and allows the teams to promptly recover their costs of a response in order to maintain their readiness.

**Subpart 3. Team response costs eligible for recovery.** The rules advisory committee considered two possible options for establishing the costs eligible for recovery by the teams from the state and by the state from the responsible person. The committee was concerned that only the actual costs of a response be recovered and that neither the teams nor the state profit from a response.

The first method considered was to establish fixed costs in the rule. This proved to be a significant problem since costs will vary widely among teams, primarily in the area of personnel and vehicle operating costs. Assuming teams are based with existing fire departments, one team composed of full-time fire personnel would have personnel costs higher than a team composed of part-

time or volunteer fire personnel. Personnel costs could also vary between teams composed of full-time personnel, depending on union contract provisions. Similarly, personnel costs for teams composed of part-time or volunteer fire personnel, or combinations of part-time/volunteer and full-time personnel, also vary depending on a department's established pay scales. Given these conditions, it would be necessary to establish in rule a recoverable personnel cost which would reimburse the highest paid department for its actual personnel costs. The effect would be that the responsible person would be charged the highest cost when the actual costs could be significantly less. Some teams would then recover their actual costs while others would make a profit.

A similar situation would hold true for vehicle operating costs. A team using a self-contained hazardous materials response vehicle would experience higher operating costs than a team using a truck towed trailer. The highest cost would have to be established in rule so as to recover the operating cost of the self-contained vehicle. Again, some teams would recover their actual costs while others would make a profit from the higher charge.

The committee also consider establishing categories of costs which could be recovered, and requiring teams to identify their costs in their response to the request for proposal described in part 7514.1500, subpart 4, item 4. The actual costs incurred by each team would be billed to the state following a response. The state would then pay and recover those costs from the responsible person.

The committee recommended the second method because it will meet the original intent of recovering only the actual costs of a response, without additional profit to the team or the state. This part is reasonable because it addresses the requirements of section 299A.50, subdivision 1, clause (7), and section 299A.52, subdivisions 1 and 2.

Items A to L, establish the categories of costs eligible for recovery. Each category was established after considering the types of costs typically incurred during a hazardous materials response. Costs recovered by the state of Oregon's regional hazardous materials response team program were also considered.

A. Part 7514.0800, subparts 1 and 3, require emergency response teams and chemical assessment teams to respond with a minimum number of personnel. The employer will incur personnel costs during a team response as a result of these requirements. It is reasonable to recover these costs so the employer does not suffer a loss as a result of the response, and because they will be an actual cost of the response.

B. When a team responds outside its geographic jurisdiction, it may be necessary for the employer to call back off duty personnel to replace those no longer available to respond locally. This may be necessary in order to maintain an appropriate level of protection within the

employer's geographic jurisdiction. When this occurs, the employer may incur additional over-time costs which would not otherwise exist. Only the additional overtime costs in excess of normal personnel costs are eligible for recovery. It is reasonable to recover these costs so the employer does not suffer a loss as a result of the response, and because they will be an actual cost of the response.

C. The team will incur operating costs for vehicle(s) used by the team during a response. Vehicle operating costs include such items as fuel, oil, and tires. It will be necessary to recover these costs in order to maintain the vehicle in proper operating condition. It is reasonable to recover these costs so the employer does not suffer a loss as a result of the response, and because they will be an actual cost of the response.

D. A variety of consumable supplies may be used during a response. Depending on the hazardous material involved, such supplies may include absorbent pads and pillows, disposable protective clothing, and vapor suppressing foam. It is necessary to recover these costs so that supplies used may be replaced and available for subsequent incidents. It is reasonable to recover these costs so the employer does not suffer a loss as a result of the response, and because they will be an actual cost of the response.

E. Capitol equipment may be damaged or destroyed during a response. This generally occurs when equipment becomes contaminated by a hazardous material and can not be safely or completely decontaminated for future use. When this occurs, it will be necessary to replace the equipment so that it is available for a subsequent response. While the state will make an original purchase of much of the capitol equipment used by the teams, funding is not available for continuous replacement of this equipment whenever it is rendered unusable through appropriate application in a response setting. It will be necessary to recover the cost of such equipment so that it may be replaced for future use. It is reasonable to recover these costs so the employer and the state do not suffer a loss as a result of the response, and because they will be an actual cost of the response.

F. It will be necessary for teams to communicate with specialized resources not located at the scene of the incident in order to obtain information essential to making appropriate response decisions. Off-site communications will involve long distance land-line telephone and cellular phone/facsimile costs. It is reasonable to recover these costs so the employer does not experience a loss as a result of the response, and because they will be an actual cost of the response.

G. The employer will incur administrative costs in preparing reports and other necessary documentation following a team's response to an

incident. It will be necessary to recover these costs so the employer does not experience a loss as a result of the response. Section 299A.52, subdivision 1, assigns liability for administrative costs to the responsible person. It is reasonable to recover these costs because doing so complies with the requirements of the statute.

H. A response to a specific incident may require specialized equipment resources for containment and control not typically carried the teams. Part 7514.1200 authorizes teams to "secure for use during an emergency response any technical assistance or specialized equipment necessary to safely and properly respond to an incident". Part 7514.1200 identifies the costs of obtaining special equipment as recoverable costs. It will be necessary to recover these costs so the employer does not experience a loss as a result of the response. Item H is included as a clarification to the teams, and to consolidate references to recoverable costs in one location in the rule.

I. A response to an incident may require consultation with product specific technical experts in order to obtain information necessary to make appropriate response decisions. Part 7514.1200 authorizes teams to "secure for use during an emergency response any technical assistance or specialized equipment necessary to safely and properly respond to an incident". Part 7514.1200 identifies the costs of obtaining special technical assistance as recoverable costs. It will be necessary to recover these costs so the employer does not experience a loss as a result of the response. Item I is included to as a clarification to the teams, and to consolidate references to recoverable costs in one location in the rule.

J. Part 7514.0900, subpart 5, permits a team to remain at the scene of an incident, following completion of the emergency phase of the response, to provide assistance in monitoring clean-up operations when requested by local authorities. Teams will incur costs, primarily personnel related, when providing this assistance. Part 7514.0900, subpart 5, identifies such costs as recoverable costs. It will be necessary to recover these costs so the employer does not experience a loss as a result of the response. Item J is included as a clarification to the teams, and to consolidate references to recoverable costs in one location in the rule.

K. Part 7514.1600, subpart 4, permits the teams to provide standby technical assistance in support of a bomb squad response, or a law enforcement agency response to a clandestine drug lab incident. Teams will incur costs when providing this assistance. Part 7514.1600, subpart 4, identifies such costs as recoverable costs. Item K is included as a clarification to the teams, and to consolidate references to recoverable costs in one location in the rule.

L. Due to the highly specialized nature of a hazardous materials response, a team may incur other direct response costs which can not be categorized by items A to K. Such costs would be specific to a particular incident, and might be incurred because of the particular chemical involved or the location of the release. It is reasonable to recover these costs so the employer does not experience a loss as a result of the response.

**Subpart 4. Billing responsible person for costs.** Part 7514.1700, subpart 1, requires the teams to submit to the commissioner claims for reimbursement of costs, thereby establishing the costs of a team response. Part 7514.1700, subpart 2, requires the state to reimburse the teams for their costs and to recover those costs from the responsible person. Section 299A.52, subdivision 2, states, "the commissioner shall assess the responsible person for the regional hazardous materials response team costs of response."

Subpart 4 establishes the third step in the cost recovery process. It is generally accepted practice to submit an invoice or bill to persons in order to initiate payment for services rendered. The commissioner will bill the responsible person for a team's response costs, based on the claim filed by the team with the state. It is also commonly accepted practice to allow a period of 30 days for payment of such bills, without incurring interest charges on the amount of the bill. The committee believes the 30 day period to be in keeping with normal business practice.

After the initial 30 day period, the state would assess interest charges on the unpaid balance. It is reasonable to do this because the state has advanced payment to the teams for services rendered to the responsible person.

Section 299A.52, subdivision 2, states, "the commissioner may bring an action for recovery of unpaid costs, reasonable attorney fees, and any additional court costs". Subpart 4 also establishes a two step process for initiating with this option provided in the law, when a claim for the response costs of a team has remained unpaid for a period of 60 days. The rules advisory committee recommended a 60 day delay in initiating this process. In the first step, the commissioner is required to contact the responsible person in an attempt to resolve the claim. It is reasonable to do this so that unnecessary court actions, and costs associated with them, may be avoided. In the second step, the commissioner is authorized to initiate legal action to recover the unpaid response costs, should the first step fail to result in payment. It is reasonable to do this because the responsible person is liable for the response costs of a team, and the state must recover response costs paid to the team. It is also reasonable because authority to take this action is provided in law.

**Subpart 5. Right to appeal costs billed.** Industry representatives on the rules advisory committee requested that a procedure be established whereby the person responsible for the costs of a team response could appeal those costs if



the person believes all or a portion of the costs were not reasonable and necessary. The committee believed it was appropriate to make this provision in the rule, and recommended a two step appeals procedure.

At the first step, an appeal is filed with the commissioner. Procedures established in Minnesota Rules, Chapter 7530.5060, subpart 3, were used as a guide in developing this step. It is reasonable to include this step so that costs to the responsible person, and the state, associated with an appeal filed in accordance with Minnesota Statutes, Chapter 14, may be avoided whenever possible.

At the second step a responsible person whose appeal has been denied by the commissioner, may appeal the decision in accordance the Minnesota Statutes, Chapter 14. Since this option is already available in state statute, the second step is included as a reference to the reader.

Subpart 5 is reasonable because the responsible person is afforded the opportunity to seek review of a claim for response costs when that person believes the claim reflects costs which are not reasonable and necessary.

**Subpart 6. Costs not eligible for payment or recovery by commissioner.** Section 299A.52, subdivision 2, states "the commissioner shall assess the responsible person for the regional hazardous materials response team costs of response." It is the intent of the cost recovery provisions of the proposed rules to recover from the responsible person, only the reasonable and necessary costs of a response by an emergency response team or chemical assessment team. Subpart 6 prohibits the commissioner from paying or recovering the response costs of the local jurisdiction which requested the response of an emergency response team or chemical assessment team.

Minnesota Statutes section 115B.04 assigns to the responsible person, liability for the "all reasonable and necessary response costs incurred by the state, a political subdivision of the state or the United States". Subpart 6 is reasonable because the response costs incurred by the local jurisdiction which requested a team response may be recovered by the local jurisdiction under the authority of section 115B.04.

#### 7514.1800 **Coordination of Response Activities**

**Explanation:** Section 299A.50, subdivision 1, clause (8), requires the commissioner to establish the means of "coordination with other state departments and agencies, local units of government, other states, Indian Tribes, the federal government, and other nonpublic persons to implement the response plan." Subpart 1 describes the system which will be used to coordinate response activities at the scene of a hazardous materials incident. Subparts 2 to 6 describe the means by which the teams will coordinate their response actions with those of other state agencies, the responsible person,

other states, the federal government, and Indian tribes. Subpart 7 requires coordination of the regional response team program within the Department of Public Safety.

**Subpart 1. Incident management system.** Occupational Safety and Health Administration rule 29 CFR 1910.120 requires that a response to hazardous materials incident be coordinated through an incident management system. No particular system is specified. It is important to use a system which is familiar to all persons involved in the response. The Minnesota Incident Management System is selected because it can be used by both public and non-public persons, is based on a nationally accepted standard, and training has been provided and is readily available through the Department of Public Safety and other organizations. Subpart 1 is reasonable because it addresses the requirements of section 299A.50, subdivision 1, clause (8) and federal rule, and identifies a system which is generally accepted by the response community. (See Appendix C for a simple Minnesota Incident Management System organizational chart.)

**Subpart 2. Coordination with local authorities.** The purpose of the regional response team program is to provide support to local authorities in their response to the effects of a hazardous materials incident. Teams will function in that role as identified in part 7514.0900, however, it was never the intention of the regional team program to assume all the responsibilities normally assigned to local authorities during a response. Teams will require assistance from local authorities in order to meet their assigned responsibilities. Such assistance may include the provision a water supply, handling to protective hose lines, supplying compressed air, and providing trained personnel to assist with decontamination of response personnel and victims. Occupational Safety and Health Administration rule 29 CFR 1910.120, requires the employer, referred to in this subpart as local authorities, to determine the level of their hazardous materials response capability and to train personnel to properly function at that level. The response capability of local authorities will determine what assistance they may be able to provide to the teams during a response. Subpart 2 is reasonable because it addresses the requirements of section 299A.50, subdivision 1, clause (8). Subpart 2 is also reasonable because it requires local authorities to assist the teams in their response only to their level of training and response capability, and does not require additional training or equipment beyond that authorized by the local employer.

**Subpart 3. Coordination with state agencies.** Subpart 3 is included as a reference to the teams to clarify that state agencies have a role in the response to hazardous materials incidents, to identify where those roles are defined, and to clarify that the teams are not responding to assume the roles and authorities assigned to state agencies. Subpart 3 is reasonable because it addresses the requirements of section 299A.50, subdivision 1, clause (8). Subpart 3 is also reasonable because it recognizes the existing roles of state agencies, and does not assign them new duties.

**Subpart 4. Coordination with responsible person.** Subpart 4 is included as a reference to the teams to clarify that the responsible person has a role in the response to hazardous materials incidents, and to identify where that role is defined. Subpart 4 is reasonable because it addresses the requirements of section 299A.50, subdivision 1, clause (8). Subpart 4 is also reasonable because it recognizes the existing roles of the responsible person, and does not assign new duties.

**Subpart 5. Coordination with other states and federal government.** Subpart 5 is included as a reference to the teams to clarify that other states and the federal government have defined roles in response to hazardous materials incidents. Existing federal statutes are cited which describe the roles and responsibilities of each. Subpart 5 is reasonable because it addresses the requirements of section 299A.50, subdivision 1, clause (8). Subpart 5 is also reasonable because it recognizes the existing roles of other states and the federal government.

**Subpart 6. Coordination with Indian tribes.** Minnesota Statutes, Chapter 12, subdivision 3, clause (5), authorizes the governor, "on behalf of the state, to enter into mutual aid agreements with other states and to coordinate mutual aid plans between political subdivisions of this state". Section 299A.50, subdivision 2 states, "the commissioner may cooperate with and enter into agreements with other state departments and agencies, local units of government, other states, Indian Tribes, the federal government, or nonpublic persons to implement the response plan."

Subpart 6 recognizes the sovereignty of tribal lands located in Minnesota. The state has previously entered into an agreement with the Minnesota Chippewa Tribe for coordination of hazardous materials issues of mutual interest, specifically with regard to Minnesota Statute, section 299K. Subpart 6 is included to clarify the relationship between the state and Indian tribes. Subpart 6 is reasonable because it addresses the requirements of section 299A.50, subdivision 1, clause (8), and subdivision 2. Subpart 6 is also reasonable because it implements the authority provided in Chapter 12.

**Subpart 7. Coordination of team operations.** Section 299A.50, subdivisions 1 and 2, provide the commissioner with the authority to establish and implement the regional hazardous materials response team program. The commissioner has assigned certain responsibilities to the State Fire Marshal and the Director of the Division of Emergency Management. The rules advisory committee recommended that the commissioner formalize those assignments in a management plan in order to clarify the teams relationship with the State Fire Marshal, Director of Emergency Management, and the commissioner. Subpart 7 is reasonable because it addresses the requirements of section 299A.50, subdivision 1, clause (8).

7514.1900 **Mutual Aid Agreements**

This part is included as a reference to the teams. Minnesota Statutes, Chapter 12, subdivision 3, clause (5), authorizes the governor, "on behalf of the state, to enter into mutual aid agreements with other states and to coordinate mutual aid plans between political subdivisions of this state". Section 299A.50, subdivision 2 states, "the commissioner may cooperate with and enter into agreements with other state departments and agencies, local units of government, other states, Indian Tribes, the federal government, or nonpublic persons to implement the response plan. This part is reasonable because it implements the authority provided in existing statute.

7514.2000 **Liability and Workers' Compensation Coverage**

Section 299A.51, subdivisions 1 and 2, require the state to assume workers' compensation and liability coverage for the teams when they are engaged in operations as a team, outside their geographic jurisdiction. This part is included to clarify when this coverage is in effect. This part is reasonable because it implements the authority provided in law.

Conclusion

Based on the foregoing, the Department's proposed rules are both necessary and reasonable.

16 March 1994

Date

Michael S. Jordan

Michael S. Jordan, Commissioner  
Department of Public Safety

## APPENDIX A

State of Minnesota  
Department of Public Safety  
Hazardous Materials Regional Response Team Program

Hazardous Materials Emergency Response Teams  
Suggested Equipment List

EXAMPLE ONLY

*(Adapted from the State of Oregon Regional Hazardous Materials Response Team Program)*

A. CHEMICAL REFERENCE AND EMERGENCY RESPONSE MANUALS

ACGIH Threshold Limit Values and Biological Exposure Indices  
Agricultural Chemicals Book - Volumes 1 through 4  
American Association of Railroads Emergency Action Guides  
CHRIS Hazardous Chemical Data Manual  
Comprehensive Guide to the Hazardous Properties of Chemical Substances  
Crop Protection Chemical Reference  
DOT Emergency Response Guidebook  
Emergency Care for Hazardous Materials Exposure  
Emergency Handling of Hazardous Materials in Surface Transportation  
Farm Chemicals Handbook  
Firefighter's Handbook of Hazardous Materials  
Firefighter's Hazardous Materials Reference Book and Index  
Guidebook for the Safe Use of Hazardous Agricultural Farm Chemicals and Pesticides  
Handbook of Compressed Gases  
Hawley's Condensed Chemical Dictionary  
Hazardous Materials Desk Reference  
Matheson Gas Book  
NFPA Fire Protection Guide on Hazardous Materials  
NIOSH Pocket Guide to Chemical Hazards  
Quick Selection Guide to Chemical Protective Clothing  
SAX's Dangerous Properties of Industrial Materials  
Tank Car Manual  
The Pesticide Book

Regional Response Team Program - Administrative Procedures Manual  
Regional Response Team Program - Suggested Operating Guidelines

Chemical Protective Clothing Manufacturer's Suit Compatibility Test Reports

**B. PERSONAL PROTECTIVE EQUIPMENT**

Air Purifying Respirators, with Assorted Canisters - 9 ea.  
Chemical resistant boots - 20 pr  
Coveralls, disposable - 2 cs  
Earplugs  
Firefighting Turnouts - one set per team member

Bunker Coat  
Bunker Pants  
Firefighter Boots  
Firefighters Gloves  
Helmet  
Nomex Hood

Foot Covers, Disposable - 20 pr  
Gloves, Assorted Materials - 9 pr ea  
Goggles - 9 pair  
Hard Hats/Rescue Helmets - 9 ea  
Nomex Work Coveralls - one per team member  
PASS Device - 9 ea  
Level A Encapsulating Suits, with Flash Protection

Disposable - 9 ea  
Reusable - 9 ea

Level B Encapsulating Disposable Suit - 9 ea  
Level B Non-Encapsulating Disposable Suit - 9 ea  
Saranex/Tyvek Disposable Suite - 36 ea.  
SCBA Packs and 1 Hour Bottles - 9 ea  
SCBA Tanks, Spare 1 Hour - 18 ea  
Suit Cooling Vests - 9 ea  
Suit Test Kit, Level A - 1 ea  
Suit Repair Kit, Level A - 1 ea

**C. LEAK CONTROL SUPPLIES AND EQUIPMENT**

Air Bag System  
Anhydrous Ammonia Kit  
Chlorine Kit "A" - 1 ea  
Chlorine Kit "B" - 1 ea  
Chlorine Kit "C" - 1 ea  
Dome Cover Clamps - 4 ea size  
Drum Repair Kit - 1 ea  
Drum Roll, Assorted Sizes - 4 ea size  
Pipe Repair Kit - 1 ea  
Plug N' Dike, Petro Seal, Aqua Seal

Misc. Leak Control Equipment:

Assorted Clamps  
Assorted Fabrics - Butyl, Neoprene and Red Rubber (24 x 24)  
Assorted Pipe Unions  
Assorted Plugs  
Assorted Tapes  
Epoxy Kits  
Lead Wool (sheet lead)  
Misc. Footballs, Basketballs, Golfballs and Tennis Balls  
Misc: O-rings, Nuts, Bolts  
Misc. Silicone, Caulk  
PVC Pipe, Assorted Sizes

Sulfur Dioxide Gasket Kit

D. RADIO AND OTHER FORMS OF COMMUNICATIONS EQUIPMENT

Cellular Phone, Dual Nam - 1 ea  
Cellular Phone/Fax System - 1 ea  
Harris Radio System - 1 ea  
Mobile Radio, Min. - 100 watt, 128 Channel VHF - 1 ea  
Portable Radio, Min. - 5 watt 14 Channel VHF Intrinsically Safe - 9 ea  
Portable Radio Gang Charger, 12 volt - 6 unit - 3 ea  
Portable Radio Spare Batteries - 9 ea  
Suit-to-Suit Communication - 9 ea

E. COMPUTER EQUIPMENT AND SUPPORTING SOFTWARE

ALOHA Software  
ARCHIE Software  
CAMEO II DOS Software and Supporting Maps  
Chemical Database Software  
IBM PC or Compatible Computer, Printer, and Modem

F. MONITORING AND DETECTION EQUIPMENT

Ammonia and Dispenser  
Chemical Test Kit (i.e. SpilFyter Kit), Multi-Chemical - 1 ea  
Chemical Test Kit (i.e. HazCat Kit) - 1 ea  
Colorimetric Detection Tube Kit - 1 ea  
Dosimeter - 9 ea  
Drum Sampler  
Four Gas Electronic Monitoring Instrument - 1 ea  
Multi-Gas Electronic Monitoring Instrument - 1 ea  
PH Paper  
Radiological Monitor

Sampling Containers, Assorted Sizes  
Tracing Dye, Solid and Liquid  
WeatherPak Meteorological Station - 1 ea

G. BASIC SUPPRESSION EQUIPMENT

ABC Dry Chemical Extinguisher, 20 Lb - 1 ea  
Polar/Non-Polar (i.e. AFFF/ATC) Foam - 50 gl  
Class D Powder  
CO<sub>2</sub> Extinguisher, 20 lb - 1 ea  
Foam Eductor - 1 ea  
Foam Application Nozzles, 20:1 and 50:1 - 1 ea  
HazMat Foam, Type I - 25 gl  
HazMat Foam, Type II - 25 gl

H. SPILL CONTAINMENT SUPPLIES AND EQUIPMENT

Absorbent Booms/Pads/Pillows  
Drain/Manhole Covers, Assorted Sizes  
Drysorb Type Absorbent - 2/50 lb bags  
Lab Packs  
Neutralizer:

Soda Ash - 20 lb  
Lime- 20 lb  
Chlorine Bleach - 4 gl  
Clear Distilled Vinegar - 2 gl

Overpack drums (85, 65, 35) - 1 ea  
Visqueen

I. ASSORTED NON-SPARKING AND HAND TOOLS

Air Hose with Regulator  
Air Impact Wrench, Assorted Sockets - 1 ea  
Arc Joint Pliers - 1 ea  
Aviation Shears, Left - 1 ea  
Aviation Shears, Right - 1 ea  
Aviation Shears, Straight - 1 ea  
Axe, pickhead, single bit - 1 ea  
Basic 215 Piece Set - 1 ea  
Bolt Cutters, 18" - 1 ea  
Canvas Tool Bag - 1 ea  
Chisel and Punch Set - 1 ea  
Come-along (pulley) - 1 ea  
Cribbing, Assorted sizes  
Crowbar, 24" - 1 ea



Drill Index/Drill Bit Set - 1 ea  
Drum Truck - 1 ea  
Drum Up Ender - 1 ea  
Easy-outs/Stud Extractors  
Equipment Lines  
Explosion Proof Fan - 1 ea  
Funnels, assorted sizes  
Grounding/Bonding Equipment  
Hand Saw - 1 ea  
Hand Truck - 1 ea  
Hydraulic Jack - 1 ea  
Locking Pliers - 1 ea  
Measuring Tapes - 2 ea  
Measuring Wheel - 1 ea  
Non-Sparking Tools:

Crescent Wrench, 12" - 1 ea  
Dead Blow Hammer - 1 ea  
Drum Bung Wrench, 55 gl - 2 ea  
Maul, 2 lb - 1 ea  
Pinch Bar, 18"- 1 ea  
Pipe Wrench, 24" - 2 ea  
Pipe Wrench, 36" - 2 ea  
Scoop Shovel, Aluminum - 2 ea  
Scoop Shovel, Plastic - 2 ea  
Scraper - 1 ea  
Screw Driver, Straight Tip - 1 ea  
Tool Box - 1 ea

Open End/Box End Wrenches, Large - 6 ea  
Plastic Bags, Assorted Sizes  
Plastic Milk Crates  
Pliers - 1 ea  
Pry Bar, 54" - 1 ea  
Pulaski - 2 ea  
Putty Knife - 1 ea  
Scissors - 1 ea  
Screwdriver Set - 1 ea  
Shovel, Roundpoint - 1 ea  
Shovel, Squarepoint - 1 ea  
Siphon Pump - 1 ea  
Sledge Hammer, 8 lb. - 1 ea  
Straight Claw Framing Hammer, 28 oz - 1 ea  
Tire Pump, Electric - 1 ea  
Utility Knife - 1 ea  
Wheel Chocks - 2 ea  
Wire Brush - 1 ea

J. BASIC FIRST AID SUPPLIES

Blood Pressure Cuff - 2 ea  
Disposable Bag Mask Resuscitator - 1 ea  
Disposable Oxygen Administration Masks and Tubing  
Electronic Blood Pressure Cuff with Print Out - 1 ea  
Emergency Medical Trauma/Medical Kit and Supplies - 1 ea  
Portable Demand Valve Resuscitator, with Spare Cylinder - 1 ea  
Portable Suction Device - 1 ea  
Stethoscope - 2 ea

K. INCIDENT MANAGEMENT AND ADMINISTRATIVE SUPPLIES AND EQUIPMENT

Barricade Tape - 6 rolls  
Binoculars - 1 ea  
Calculator - 2 ea  
Camera, 35 mm - 1 ea  
Camera, Polaroid - 1 ea  
Camera, Video and Tripod - 1 ea  
Chemical Toilet - 1 ea  
Cyalume Light Sticks, Red, Yellow, Green - 2 doz. ea color  
Drinking Water Container/Ice Chest - 1 ea  
Extension Cords, 50 ft - 2 ea  
Extension Cords, 100 ft - 2 ea  
Extra Batteries, Appropriate Sizes  
Flashing Strobe Lights, Red, Yellow, Green, Battery Operated - 4 ea color  
Flashlights, Rechargeable - 3 ea  
Flood Lights  
Hand Cleaner  
ICS Vest System  
Lanterns, Rechargeable - 3 ea  
Microcassette Recorder - 2 ea  
Office Supplies  
Plexiglas White Board - 2 ea  
Plotting Board - 1 ea  
Service Area Maps  
Spotting Scope - 1 ea  
Traffic Cones - 20 ea

## APPENDIX B

State of Minnesota  
Department of Public Safety  
Hazardous Materials Regional Response Team Program

Hazardous Materials Chemical Assessment Teams  
Suggested Equipment List

### EXAMPLE ONLY

*(Adapted from the State of Oregon Regional Hazardous Materials Response Team Program)*

#### A. CHEMICAL REFERENCE AND EMERGENCY RESPONSE MANUALS

ACGIH Threshold Limit Values and Biological Exposure Indices  
Agricultural Chemicals Book - Volumes 1 through 4  
American Association of Railroads Emergency Action Guides  
CHRIS Hazardous Chemical Data Manual  
Comprehensive Guide to the Hazardous Properties of Chemical Substances  
Crop Protection Chemical Reference  
DOT Emergency Response Guidebook  
Emergency Care for Hazardous Materials Exposure  
Emergency Handling of Hazardous Materials in Surface Transportation  
Farm Chemicals Handbook  
Firefighter's Handbook of Hazardous Materials  
Firefighter's Hazardous Materials Reference Book and Index  
Guidebook for the Safe Use of Hazardous Agricultural Farm Chemicals and Pesticides  
Handbook of Compressed Gases  
Hawley's Condensed Chemical Dictionary  
Hazardous Materials Desk Reference  
Matheson Gas Book  
NFPA Fire Protection Guide on Hazardous Materials  
NIOSH Pocket Guide to Chemical Hazards  
Quick Selection Guide to Chemical Protective Clothing  
SAX's Dangerous Properties of Industrial Materials  
Tank Car Manual  
The Pesticide Book

Regional Response Team Program - Administrative Procedures Manual  
Regional Response Team Program - Suggested Operating Guidelines

Chemical Protective Clothing Manufacturer's Suit Compatibility Test Reports

**B. DECONTAMINATION EQUIPMENT**

Blankets - 6 ea  
Brushes - Short Handle, Long Handle  
Decontamination Shelter System - Complete

Air Bottle Regulator - 1 ea  
Hot Water Heater - 1 ea  
Disposable Pool - 4 ea  
Garden Hose, 25 ft. Section with Connector - 2 ea  
Heating Units - 2 ea  
Multiple Shelter Connecting Unit - 1 ea  
Pressure Control Unit - 2 ea  
Shelter, Compartmentalized - 1 ea  
Shelter, Open Interior - 1 ea  
Shower, Inside - 1 ea  
Shower, Outside - 1 ea  
Spare Propane Bottle, 25 lb - 2 ea  
Water Supply Manifold - 1 ea

Decontamination/Neutralization Solution Ingredients  
Drum, 30 and 55 gl, with Plastic Liners - 2 ea size  
Emergency Eyewash Kit - Saline Solution - 1 ea  
Folding Chairs or Stools - 6 ea  
Folding Table, 6 ft. - 1 ea  
Folding Table, 4 ft x 4 ft - 1 ea  
Lighting System - Flood, with Generator - 1 ea  
Pails, 5 gl - 6 ea  
Towels, Bar Soap, Shampoo  
Visqueen, 40 ft x 100 ft roll - 2 ea

**C. PERSONAL PROTECTIVE EQUIPMENT**

Air Purifying Respirators, with Assorted Canisters - 3 ea.  
Chemical resistant boots - 6 pr  
Coveralls, disposable - 2 cs  
Earplugs  
Firefighting Turnouts - one set per team member

Bunker Coat  
Bunker Pants  
Firefighter Boots  
Firefighters Gloves  
Helmet  
Nomex Hood

Foot Covers, Disposable - 20 pr

Gloves, Assorted Materials - 3 pr ea  
Goggles - 3 pair  
Hard Hats - 3 ea  
Nomex Work Coveralls - one per team member  
PASS Device - 3 ea  
Level B Encapsulating Suit - 3 ea  
Level B Non-Encapsulating Suit - 3 ea  
Saranex/Tyvek Disposable Suit - 36 ea  
SCBA Packs and 1 Hour Bottles - 3 ea  
SCBA Tanks, Spare 1 Hour - 6 ea

D. COMMUNICATIONS EQUIPMENT

Cellular Phone, Dual Nam - 1 ea  
Cellular Phone/Fax System - 1 ea  
Harris Radio System - 1 ea  
Mobile Radio, Min. - 100 watt, 128 Channel VHF - 1 ea  
Portable Radio, Min. - 5 watt, 14 Channel VHF Intrinsically Safe - 3 ea  
Portable Radio Gang Charger, 12 volt - 6 unit - 1 ea  
Portable Radio Extra Batteries - 3 ea

E. COMPUTER EQUIPMENT/SOFTWARE

ALOHA Software  
ARCHIE Software  
CAMEO II DOS Software and Supporting Maps  
Chemical Database Software  
IBM PC or Compatible Computer, Printer, and Modem

F. MONITORING AND DETECTION EQUIPMENT

Ammonia and Dispenser  
Chemical Test Kit (i.e. SpilFyter Kit), Multi-Chemical - 1 ea  
Chemical Test Kit (i.e. HazCat Kit) - 1 ea  
Colorimetric Detection Tube Kit - 1 ea  
Dosimeter - 9 ea  
Drum Sampler  
Four Gas Electronic Monitoring Instrument - 1 ea  
Multi-Gas Electronic Monitoring Instrument - 1 ea  
PH Paper  
Radiological Monitor  
Sampling Containers, Assorted Sizes  
Tracing Dye, Solid and Liquid  
WeatherPak Meteorological Station - 1 ea

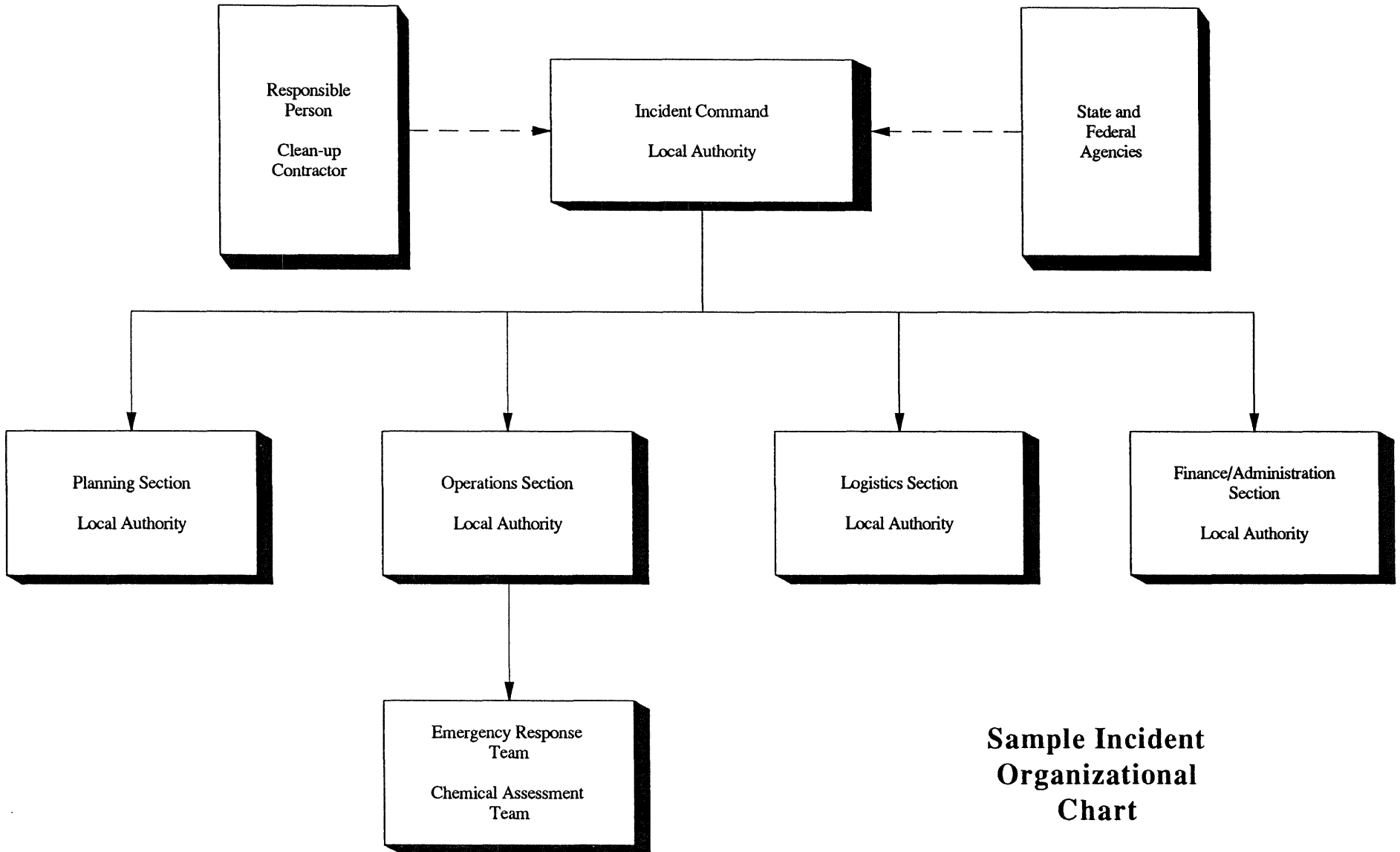
G. INCIDENT MANAGEMENT/ADMINISTRATIVE SUPPLIES AND EQUIPMENT

Barricade Tape - 6 rolls  
Binoculars - 1 ea

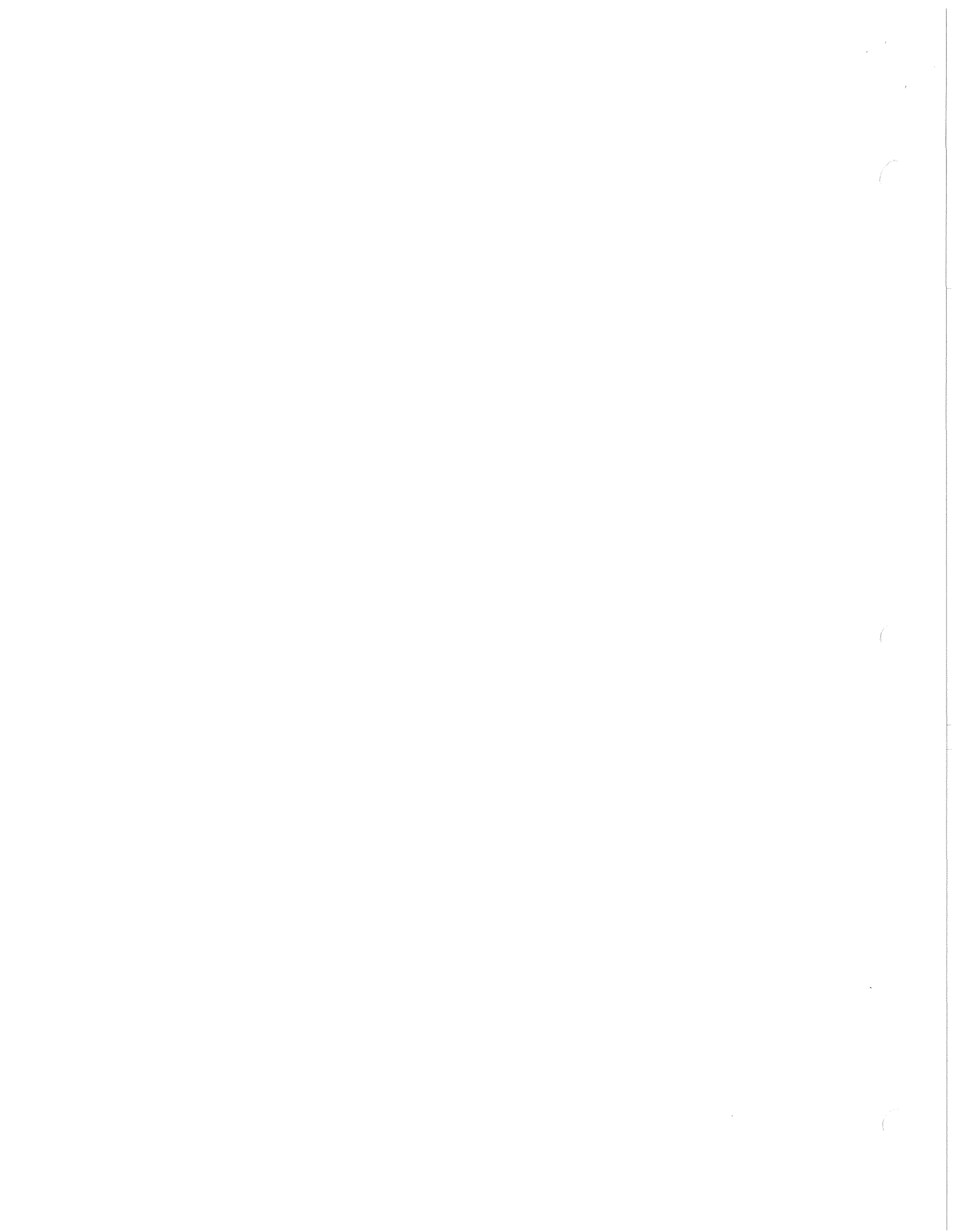
Calculator - 2 ea  
Camera, 35 mm - 1 ea  
Camera, Polaroid - 1 ea  
Camera, Video and Tripod - 1 ea  
Chemical Toilet - 1 ea  
Cyalume Light Sticks, Red, Yellow, Green - 2 doz. ea color  
Drinking Water Container/Ice Chest - 1 ea  
Extension Cords, 50 ft - 2 ea  
Extension Cords, 100 ft - 2 ea  
Extra Batteries, Appropriate Sizes  
Flashing Strobe Lights, Red, Yellow, Green, Battery Operated - 4 ea color  
Flashlights, Rechargeable - 3 ea  
Flood Lights  
Hand Cleaner  
ICS Vest System  
Lanterns, Rechargeable - 3 ea  
Microcassette Recorder - 2 ea  
Office Supplies  
Plexiglas White Board - 2 ea  
Plotting Board - 1 ea  
Service Area Maps  
Spotting Scope - 1 ea  
Traffic Cones - 20 ea

# Appendix C

## Minnesota Incident Management System



**Sample Incident  
Organizational  
Chart**





Department: of Finance

# Office Memorandum

Date: March 2, 1994

To: Frank Ahrens, Director of Fiscal Admin. Services  
Public Safety

From: Michelle Harper  
Budget Operations

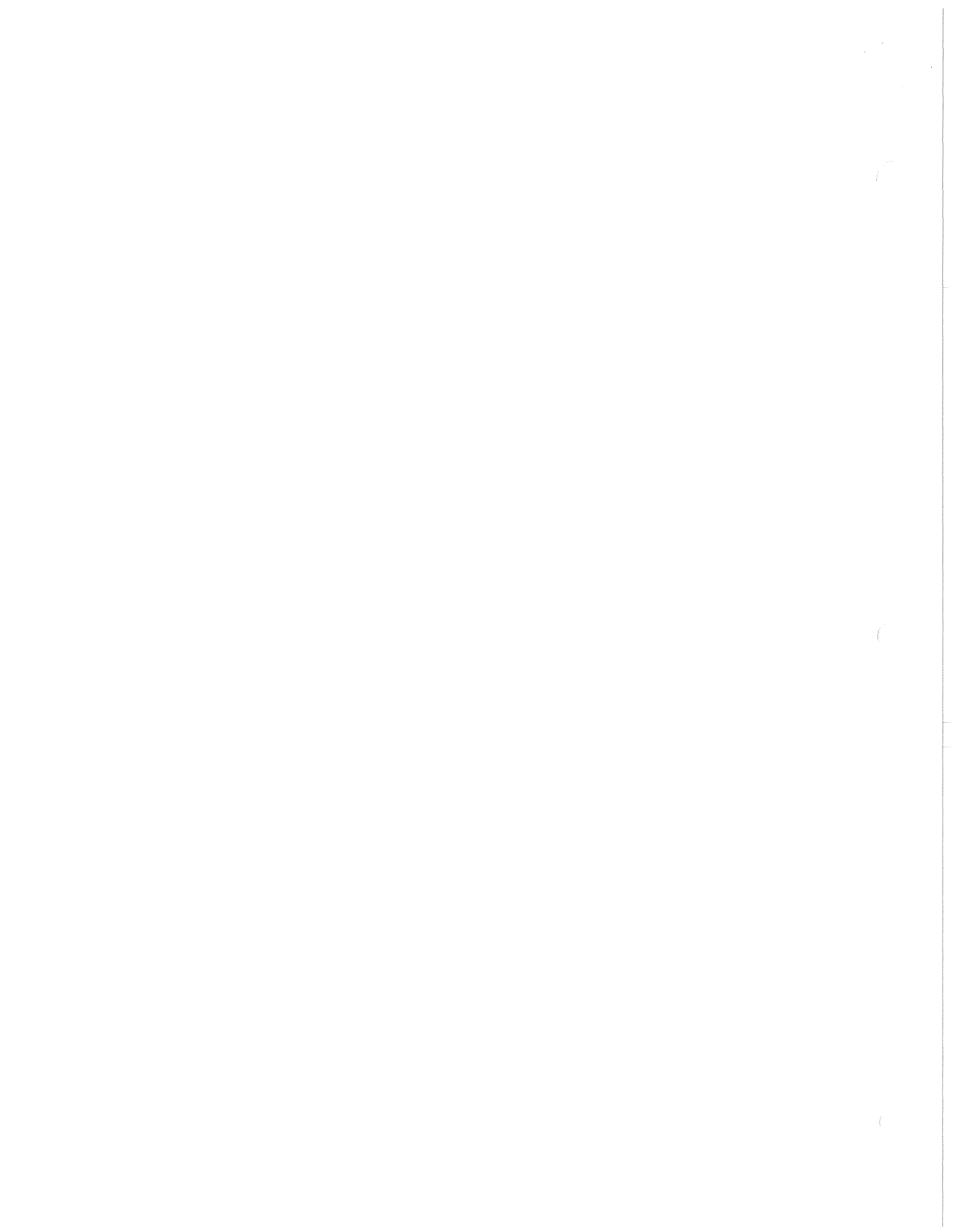
Phone: 296-7838

Subject: Departmental Earnings Rate Change Response-Hazardous Materials Response Teams

Pursuant to provisions of Laws 1993, sec. 56, subd. 5 (M.S. 16A.1285), the Department of Finance has reviewed and approved the attached departmental earnings proposal submitted by Public Safety on 2/22/94. If you have any questions or concerns, please call me at the above number.

cc Bruce Reddemann  
Bob Dahm

*Michelle*



Department of Finance  
**Departmental Earnings: Reporting/Approval**

Part A: Explanation

<b>Earnings Title:</b> Cost Recovery Hazardous Materials Response	<b>Statutory Authority:</b> 299A.52 Subd.2	<b>Date:</b> 22 February 1994
<p><b>Brief Description of Item:</b> The recovery of costs from the responsible person(s) for costs incurred by an authorized Hazardous Materials Response Team in responding to a hazardous materials incident is required under Minn. Stat. 299A.52. Costs that may be recovered by the teams under contract with the State are provided under the proposed rules 7514.1700, Cost Recovery.</p>		
<p><b>Earnings Type (check one):</b></p> <p>1. <input type="checkbox"/> Service/User      2. <input type="checkbox"/> Business/Industry Regulating      3. <input type="checkbox"/> Occupational Licensure          4. <input type="checkbox"/> Special Tax/Assessment      5. <input checked="" type="checkbox"/> Other (specify): Recovery of actual cost (time and materials) for a response</p>		
<p><b>Submission Purpose (check one):</b></p> <p>1. <input checked="" type="checkbox"/> Chap. 14 Review and Comment      2. <input type="checkbox"/> Approval of Allowable Inflationary Adjustment          3. <input type="checkbox"/> Reporting of Agency Initiated Change in Departmental Earnings Rate          4. <input type="checkbox"/> Other (specify):</p>		
<p><b>If reporting an agency initiated action (option 3 above), does agency have explicit authority to retain and spend receipts?</b>      <input type="checkbox"/> Yes      <input type="checkbox"/> No  <b>If yes, cite pertinent statutes:</b></p>		
<p><b>Impact of Proposed Change</b> (change in unit rate, number of payees impacted, etc.): SPECIAL COMMENTS When the Hazardous Materials Response Team program was established, it was determined that the cost of an actual response would be billed to and collected from the responsible person. The proposed rules have established several categories in which the State can recover the actual cost of a teams' response.</p> <p>The State will enter into contracts with selected hazardous response teams for responding to hazardous materials incidents outside of their geographic jurisdiction. As provided in the contracts, the State will reimburse the hazardous response teams for allowable costs associated with a response to a hazardous materials incident. The State will then bill the responsible party(s) for the full recovery of the costs billed the State by the hazardous response teams and any costs incurred by the State. The commissioner may bring an action for recovery of unpaid costs, reasonable attorney fees, and any additional court costs. The total amount of money collected will vary from year to year based on the size and type of hazardous materials incidents responded to by the teams. The impact of this program is difficult to assess because there are so many variables.</p>		



Department of Finance

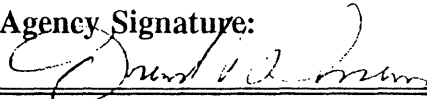
**Departmental Earnings: Reporting/Approval (Cont.)**

(\$1,000,000 = 1,000)

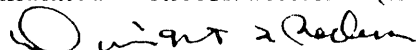
Part B: Fiscal Detail

APID: 23200:01-10		AID:530998		Rev. Code(s):830		<input checked="" type="checkbox"/> Dedicated <input type="checkbox"/> Non-Dedicated <input type="checkbox"/> Both	
Item	F.Y. 1991	F.Y. 1992	F.Y. 1993	F.Y. 1994	F.Y. 1995	F.Y. 1994	F.Y. 1995
	Revenues:			As Shown in Biennial Budget	As Shown in Biennial Budget	As Currently Proposed	As Currently Proposed
COST RECOVERY HAZMA	0	0	0	0	0	0	191
	Expenditures:						
Direct							191
Indirect							
Total							191
Current Deficit/Excess						0	0
Accumulated Excess/Deficit*						0	0

As necessary, attach detailed schedule/listing of proposed changes in departmental earnings rates.

Agency Signature:  2/22/94

\* F.Y. 1991 beginning accumulated balance to include amount of accumulated excess/deficit (if any) carried

 3/2/94



## ESTIMATED COST RECOVERY REVENUES FOR ONE YEAR

We have estimated the type and number of responses we expect the State Hazardous Materials Response Teams will have in a given year. Looking at past incidents we have determined three typical levels of response to incidents that are small, medium, and large.

We anticipate 35 small incidents costing \$804.10 per incident, 10 medium size incidents costing \$12,952. per incident, and 1 large incident costing \$33,492. resulting in an estimated revenues and expenditures of \$191,155.50 annually.

The formula for determining the cost of a response is as follows;  
Contracted Personnel Costs x Number of Personnel That Responded x Length of Incident + Vehicle Operating Cost + Cost of Supplies Used + Cost of Damaged or Destroyed Equipment + Communications Costs + Administrative Costs + Cost of Specialized Equipment + Cost of Technical Assistance + Standby Costs + Other Direct Costs = The Actual Cost of The Response that is paid to a team and billed to the responsible person.

Sample cost recovery work sheets for the three sizes of incidents are attached along with a copy of the team cost recovery package.






STATE OF MINNESOTA  
Office of the Attorney General

---

TO : THOMAS BRACE  
State Fire Marshal

DATE : March 16, 1994

FROM : JEFFREY S. BILCIK   
Assistant Attorney General

PHONE : 297-5909 (Voice)  
282-2525 (TDD)

SUBJECT : Rules Related to Hazardous Materials  
Incident Response Plan and System

I have reviewed the draft of proposed rules dated March 8, 1994, and the accompanying statement of need and reasonableness. It is our opinion that the proposed rules and statement of need and reasonableness are in compliance with the applicable rules and statutes.

JSB:kjr.bilc.nx3



**State Of Minnesota  
Department Of Public Safety  
State Fire Marshal Division**

**Proposed Permanent Rules Relating To Hazardous Materials Incident Response Plan and System**

**Dual Notice: Notice Of Intent To Adopt Rules Without A Public Hearing Unless 25 Or More Persons Request A Hearing, And Notice Of Hearing If 25 Or More Requests For Hearing Are Received**

**Introduction.** The Minnesota Department of Public Safety intends to adopt permanent rules without a public hearing following the procedures set forth in the Administrative Procedure Act, Minnesota Statutes, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules within 30 days or by 4:30p.m. on May 4, 1994, a public hearing will be held on Thursday, June 9, 1994. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after May 4, 1994, and before June 9, 1994.

**Agency Contact Person.** Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to: Robert Dahm, State Fire Marshal Division, 450 North Syndicate Street, #285, St. Paul, Minnesota, 55104, telephone 612-643-3089.

**Subject Of Rules And Statutory Authority.** The proposed rules relate to a hazardous materials incident response plan and system. The statutory authority to adopt the rules is Minnesota Statutes, section 299A.50, subdivision 1. A copy of the proposed rules is published in the State Register. The proposed rules implement Minnesota Statutes 299A.48 through 299A.52, which sets up a framework for the establishment of a regional system of hazardous materials emergency response teams and hazardous materials chemical assessment teams. The rules set out factors to be considered in establishing the service area locations of teams, requirements for designating teams in each service area, the number and qualifications of team members, procedures for establishing equipment requirements for each team, procedures for selecting and contracting for establishing teams, procedures for dispatching teams, categories of response costs to be recovered from the person responsible for causing a hazardous materials emergency, procedures for the reimbursement of teams for their costs of response, and methods of coordinating team response with other state departments and agencies, local units of government, other states, Indian Tribes, the federal government, and other nonpublic persons. A free copy of the rules is available upon request from Robert Dahm.

**Comments.** You have until 4:30p.m., Wednesday, May 4, 1994, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

**Request For A Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on May 4, 1994. Your written request for a public hearing must include your name, address, and telephone number. You are encouraged to identify the portion of the proposed rules which caused your request, the reason for the request, and any changes you want made to the proposed rules. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing.

**Modifications.** The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must not result in a substantial change in the proposed rules as printed in the State Register and must be supported by data and views submitted to the Department or presented at the hearing. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

**Cancellation Of Hearing.** The hearing scheduled for June 9, 1994, will be canceled if the Department does not receive requests from 25 or more persons that a hearing be held on the rules. If you request a public hearing, the Department will notify you before the scheduled hearing whether or not the hearing will be held. You may also call Robert Dahm at 612-643-3089 after May 4, 1994, to find out whether the hearing will be held.

**Notice Of Hearing.** If 25 or more persons submit written requests for a public hearing on the rules, a hearing will be held following the procedures in Minnesota Statutes, sections 14.131 to 14.20. The hearing will be held on Thursday, June 9, 1994, in Room 15, Minnesota State Capitol, 77 Constitution Avenue, St. Paul, Minnesota, 55155, beginning at 9:00 am and will continue until all interested persons have been heard. The hearing will continue, if necessary, at additional times and places as determined during the hearing by the Administrative Law Judge. The Administrative Law Judge assigned to conduct the hearing is Jon Lunde. Judge Lunde can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone 612-341-7645.

**Hearing Procedure.** If a hearing is held, you and all interested or affected persons including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should relate to the proposed rules. You may also mail written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Comments received during this period will be available for review at the Office Of Administrative Hearings. You and the Department may respond in writing with rebuttal arguments or material within five business days after the submission period ends to any new information submitted after the hearing. All written materials and responses submitted to the Administrative Law Judge during the rebuttal period must be received at the Office Of Administrative Hearings no later than 4:30p.m. on the due date. No additional evidence may be submitted during the five-day rebuttal period. This rule hearing procedure is governed by Minnesota Rules, parts 1400.0200 to 1400.1200,

and Minnesota Statutes, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

**Statement Of Need And Reasonableness.** A Statement Of Need And Reasonableness is now available. This Statement describes the need for and reasonableness of each provision of the proposed rules. It also includes a summary of all the evidence and argument which the Department anticipates presenting at the hearing, if one is held. A free copy of the Statement may be obtained from Robert Dahm at the address and telephone number listed above. The Statement may also be reviewed and copies obtained at the cost of reproduction from the Office Of Administrative Hearings.

**Small Business Considerations.** In preparing these rules, the Department has considered the requirements of Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small businesses. The rules will have a direct effect on a small business which manufactures, uses, stores, or transports hazardous materials and experiences an accidental release of those materials in a way which necessitates an emergency response by local authorities and components of the regional response team program. The rules will also have an impact on those small businesses which elect to submit a proposal to participate in the hazardous materials regional response team program, and are selected as a contract for service provider by the commissioner. The Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed further in the Statement Of Need And Reasonableness.

**Expenditure Of Public Money By Local Public Bodies.** Local public bodies are not mandated to participate in the regional response team program established by these rules and thus will not incur costs exceeding \$100,00.00 in either of the two years following their adoption. Local public bodies may elect to participate in the program as a contract for service provider, in which case some costs will be incurred. Part 7514.1500, subpart 7, establishes contractor compensation in an amount subject to negotiations between the contractor and the state, and budget appropriations by the state legislature, which will cover all or a portion of those costs.

**Impact On Agriculture Lands.** Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

**Notice To Department Of Finance.** In accordance with Minnesota Statutes, section 16A.1285, subdivision 5, pertaining to departmental charges, the Department has notified the Commissioner of Finance of the Department's intent to adopt rules in the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's comments and recommendations are included in the Statement Of Need And Reasonableness.

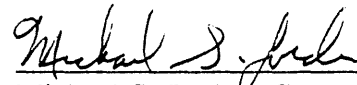
**Notice To Chairs Of Certain Legislative Committees.** In accordance with Minnesota Statutes, section 16A.1285, subdivision 4, the Department has sent a copy of this notice and a copy of the proposed rules to the Chairs of the House Ways And Means Committee and the Senate Finance Committee prior to submitting this notice to the State Register.

**Lobbyist Registration.** Minnesota Statutes, chapter 10A, requires each lobbyist to register with the Ethical Practices Board. Questions regarding this requirement should be directed to the Ethical Practices Board at First Floor South, Centennial Building, 658 Cedar Street, St.Paul, Minnesota 55155, telephone (612)-296-5148 or 1-800-657-3889.

**Adoption Procedure If No Hearing.** If no hearing is required, after the end of the comment period the Department may adopt the rules. The rules and supporting documents will then be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rules are submitted to the Attorney General or be notified of the Attorney General's decision on the rules. If you want to be so notified, or wish to receive a copy of the adopted rules, submit your request to Robert Dahm at the address listed above.

**Adoption Procedure After A Hearing.** If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may request to be notified of the date on which the Administrative Law Judge's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. If you want to be notified about the report, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. You may also request notification of the date on which the rules are adopted and filed with the Secretary of State. The Department's Notice Of Adoption must be mailed on the same day that the rules are filed. If you want to be notified of the adoption, you may so indicate at the hearing or send a request in writing to the agency contact person at any time prior to the filing of the rules with the Secretary of State.

21 March 1994  
Date

  
\_\_\_\_\_  
Michael S. Jordan, Commissioner  
Department of Public Safety

- 1 Department of Public Safety
- 2 State Fire Marshal Division
- 3
- 4 Proposed Permanent Rules Relating to Hazardous Materials
- 5 Incident Response Plan and System
- 6
- 7 Rules as Proposed (all new material)

8 7514.0100 DEFINITIONS.

9 Subpart 1. Scope. The terms used in this chapter have the  
10 meanings given them in this part.

11 Subp. 2. Activated by the state. "Activated by the state"  
12 means dispatched via the Minnesota duty officer system for  
13 purposes of emergency response or authorized in writing by the  
14 commissioner in advance of training exercises.

15 Subp. 3. Chemical assessment team. "Chemical assessment  
16 team" has the meaning given it in Minnesota Statutes, section  
17 299A.49, subdivision 2.

18 Subp. 4. Commissioner. "Commissioner" means the  
19 Commissioner of the Minnesota Department of Public Safety acting  
20 directly or through an authorized agent.

21 Subp. 5. Deployment time. "Deployment time" means the  
22 period of time beginning when the decision is made to dispatch a  
23 team and ending at the time the complete team begins its  
24 response to the scene of the incident.

25 Subp. 6. Emergency response team. "Emergency response  
26 team" means a regional hazardous materials response team, as  
27 defined in Minnesota Statutes, section 299A.49, subdivision 7.

28 Subp. 7. Employer. "Employer" has the meaning given it in  
29 Minnesota Statutes, section 182.651, subdivision 7.

30 Subp. 8. Facility. "Facility" has the meaning given it in  
31 Minnesota Statutes, section 115E.01.

32 Subp. 9. Local authority. "Local authority" means the  
33 local unit of government's public safety agency in overall  
34 command at the scene of a hazardous materials incident.

35 Subp. 10. Minnesota duty officer system. "Minnesota duty

1 officer system" means the single answering point system  
2 established under Minnesota Statutes, section 115E.09.

3 Subp. 11. Minnesota emergency operations plan. "Minnesota  
4 emergency operations plan" means the document that guides state  
5 agencies in their response to emergencies and disasters, in  
6 accordance with their general responsibilities as assigned in  
7 Governor's Executive Order 93-27, and any subsequent revisions  
8 to that order.

9 Subp. 12. Minnesota incident management system.  
10 "Minnesota incident management system" means a combination of  
11 facilities, equipment, personnel, procedures, and communications  
12 operating within a common organizational structure with  
13 responsibility for management of assigned resources to  
14 effectively accomplish stated objectives at the scene of an  
15 incident.

16 Subp. 13. Mitigation. "Mitigation" means those actions  
17 necessary to alleviate the immediate threat from a hazardous  
18 materials release.

19 Subp. 14. Operations authorized by the state. "Operations  
20 authorized by the state" means activities listed in this chapter  
21 and the "Minnesota Hazardous Materials Incident Response Act,"  
22 Minnesota Statutes, sections 299A.48 to 299A.52, and suggested  
23 operating guidelines, including authorized training exercises  
24 when a team is operating outside its geographic jurisdiction.

25 Subp. 15. Primary service area. "Primary service area"  
26 means the geographic portion of the state to which a team has  
27 been assigned to provide the principal response to an incident.

28 Subp. 16. Regional response team program. "Regional  
29 response team program" means the system of regionally located  
30 hazardous materials emergency response teams and hazardous  
31 materials chemical assessment teams.

32 Subp. 17. Response time. "Response time" means the period  
33 of time beginning when the decision is made to dispatch a team  
34 and ending when the complete team arrives at the scene of the  
35 incident.

36 Subp. 18. Responsible person. "Responsible person" has



1 the meaning given it in Minnesota Statutes, section 299A.52,  
2 subdivision 1.

3 Subp. 19. Secondary service area. "Secondary service  
4 area" means the geographic portion of the state to which a team  
5 has been assigned to provide the alternate response to an  
6 incident.

7 Subp. 20. Suggested operating guidelines. "Suggested  
8 operating guidelines" means the written guidance covering those  
9 aspects of an emergency response that lend themselves to a  
10 general direction, yet require flexibility in their application  
11 so as to meet the unique circumstances of each individual  
12 emergency.

13 7514.0200 PURPOSE.

14 The purpose of parts 7514.0100 to 7514.2000 is to implement  
15 a statewide plan and system for responding to hazardous  
16 materials incidents.

17 7514.0300 SCOPE.

18 Parts 7514.0100 to 7514.2000 are intended to provide  
19 direction to state and local government and business and  
20 industry regarding the implementation of a statewide system of  
21 regional hazardous materials emergency response teams and  
22 hazardous materials chemical assessment teams. Provisions of  
23 this chapter include, but are not limited to, factors to be  
24 considered in establishing the service area locations of  
25 hazardous materials emergency response teams and hazardous  
26 materials chemical assessment teams; requirements for  
27 designating teams in each established service area; number and  
28 qualifications of team members; procedures for establishing  
29 equipment requirements for each team; procedures for selecting  
30 and contracting for establishing teams; procedures for  
31 dispatching teams at the request of local governments;  
32 categories of costs to be used to establish fee schedules for  
33 reimbursing teams for costs arising from hazardous materials  
34 emergencies and for state recovery of response costs from the  
35 person responsible for causing a hazardous materials emergency;

1 and methods of coordinating team response with other state  
2 departments and agencies, local units of government, other  
3 states, Indian tribes, the federal government, and other  
4 nonpublic persons.

5 7514.0400 AUTHORITY.

6 This chapter is adopted pursuant to Minnesota Statutes,  
7 section 299A.50, subdivision 1.

8 7514.0500 TEAM SERVICE AREAS.

9 Subpart 1. Establishing service areas. The commissioner  
10 shall establish up to five service areas for hazardous materials  
11 emergency response based on the factors identified in subpart 2.

12 Subp. 2. Factors for establishing service areas. The  
13 commissioner shall consider the following factors in  
14 establishing service areas:

15 A. the number and geographic location of fixed  
16 facilities that manufacture, use, or store hazardous materials,  
17 the accidental release of which may pose a threat to public  
18 safety or the environment;

19 B. the number of miles of primary transportation  
20 routes including highways, rail lines, commercially navigable  
21 waterways, pipelines, and airports;

22 C. the population of each county as reported by the  
23 most recently available United States Census Bureau information;

24 D. any special conditions that may be present in a  
25 given area of the state, and the need for specialized equipment  
26 unique to those conditions that might impact emergency response  
27 capability;

28 E. other factors the commissioner considers  
29 appropriate, to the extent they may contribute to the potential  
30 for a hazardous materials release that could threaten the public  
31 safety or the environment and thus merit an emergency response;  
32 and

33 F. after considering the factors listed in items A to  
34 E, a maximum acceptable response time for 90 percent of each  
35 primary service area when a team is responding in the service

1 area under favorable weather conditions.

2 Subp. 3. Assigning primary service areas. Following  
3 completion of the team selection process identified in part  
4 7514.1500, the commissioner shall select a primary emergency  
5 response team for each service area. A service area is the  
6 primary service area for the team so selected for that service  
7 area.

8 Subp. 4. Serving as chemical assessment team. Each  
9 emergency response team shall also serve as a chemical  
10 assessment team for all or a portion of its primary service  
11 area, as assigned by the commissioner.

12 Subp. 5. Designating additional chemical assessment teams.  
13 The commissioner may select additional chemical assessment teams  
14 for a service area, as necessary to provide appropriate  
15 emergency response capability, in keeping with maximum  
16 acceptable response time considerations.

17 Subp. 6. Assigning secondary service areas. The  
18 commissioner shall select a secondary emergency response team  
19 and a secondary chemical assessment team for each service area  
20 or portion of an area to provide additional response capability  
21 within a service area when necessary. A service area is the  
22 secondary service area for the teams selected for that service  
23 area. A team may have more than one secondary service area.

24 Subp. 7. Reviewing service area designations. At least  
25 once every two years from the effective date of this chapter,  
26 the commissioner shall review service area boundaries and  
27 primary and secondary service area designations.

28 Subp. 8. Adjusting service area boundaries. Following  
29 review under subpart 7, the commissioner shall adjust service  
30 area boundaries and primary and secondary service area  
31 designations as necessary to ensure that the most appropriate  
32 response is provided statewide. The commissioner shall  
33 negotiate with teams affected by an adjustment to modify the  
34 team contracts accordingly. If the commissioner and a team  
35 cannot agree on the terms of modifying a contract, the  
36 commissioner and the team shall submit to binding arbitration

1 conducted under Minnesota Statutes, chapter 572.

2 Subp. 9. Statewide response. An emergency response team  
3 or chemical assessment team shall respond to any service area in  
4 the state when directed to do so by the commissioner.

5 7514.0600 QUALIFICATIONS OF TEAM MEMBERS.

6 Subpart 1. Qualifications of all members. Each emergency  
7 response team member and chemical assessment team member must be  
8 in compliance with the requirements of Code of Federal  
9 Regulations, title 29, section 1910.120, and in substantial  
10 compliance with NFPA 472, "Standard for Professional Competence  
11 of Responders to Hazardous Materials Incidents," published by  
12 the National Fire Protection Association, 1 Batterymarch Park,  
13 Quincy, Massachusetts (1992). NFPA 472 is incorporated by  
14 reference, is located at the state law library, is conveniently  
15 available to the public, and is not subject to frequent change.

16 Subp 2. Medical support team member. Emergency response  
17 team members assigned to provide on-scene emergency medical  
18 support to the team must be in compliance with the requirements  
19 of Code of Federal Regulations, title 29, section 1910.120, and  
20 in substantial compliance with NFPA 473, "Standard for  
21 Professional Competencies for EMS Personnel Responding to  
22 Hazardous Materials Incidents," published by the National Fire  
23 Protection Association, 1 Batterymarch Park, Quincy,  
24 Massachusetts (1992), as an Emergency Medical Service/Hazardous  
25 Materials Level II Responder. NFPA 473 is incorporated by  
26 reference, is located at the state law library, is conveniently  
27 available to the public, and is not subject to frequent change.

28 Subp. 3. Continuing education requirements. Each  
29 emergency response team member and chemical assessment team  
30 member shall successfully complete annual refresher training  
31 that meets or exceeds the continuing education requirements of  
32 Code of Federal Regulations, title 29, section 1910.120.

33 Subp. 4. Team training. Each emergency response team  
34 member and chemical assessment team member shall successfully  
35 complete a course of instruction designed to familiarize each

1 team member with the suggested operating guidelines and other  
2 administrative and operational policies and procedures of the  
3 regional response team program. A team member must complete  
4 this training before being assigned to duty as an emergency  
5 response team member or chemical assessment team member.

6 Subp. 5. Reviewing training and continuing education  
7 records. Upon request by the commissioner, the employer of  
8 emergency response team members and chemical assessment team  
9 members shall make available the hazardous materials training  
10 and continuing education records of all team members.

11 Subp. 6. Certifying compliance with qualification  
12 requirements. The employer of each emergency response team  
13 member and chemical assessment team member shall annually  
14 certify to the commissioner that the team member has received  
15 training that meets the requirements set out in subparts 1 to 4.

16 Subp. 7. Certifying compliance with medical requirements.  
17 The employer of each emergency response team member and chemical  
18 assessment team member shall annually certify to the  
19 commissioner that the team member has met the medical  
20 requirements of Code of Federal Regulations, title 29, section  
21 1910.120.

22 Subp. 8. Substitution of training requirements. Upon the  
23 request of the employer of emergency response team members and  
24 chemical assessment team members, the commissioner shall waive a  
25 training requirement specified in this part and replace it with  
26 a requirement or standard issued by the Occupational Safety and  
27 Health Administration or the National Fire Protection  
28 Association when the new requirement or standard replaces,  
29 meets, or exceeds the requirement to be replaced.

30 Subp. 9. Reviewing training requirements. At least once  
31 every two years from the effective date of this chapter, the  
32 commissioner shall review Occupational Safety and Health  
33 Administration and National Fire Protection Association  
34 hazardous materials training requirements and standards to  
35 ensure that training provided to team members meets the most  
36 current requirements and standards.

## 1 7514.0700 TRAINING PROGRAMS.

2 Subpart 1. Training provided by employer. The employer of  
3 emergency response team members and chemical assessment team  
4 members shall select training programs and instructional staff  
5 that are in compliance with the requirements of this chapter and  
6 shall provide that training to team members.

7 Subp. 2. Training provided by commissioner. The  
8 commissioner shall develop and provide each emergency response  
9 team and chemical assessment team with a course of instruction  
10 in applying suggested operating guidelines of the regional  
11 response team program and other administrative and operational  
12 procedures as may be necessary and appropriate.

## 13 7514.0800 COMPOSITION OF TEAMS.

14 Subpart 1. Composition of emergency response team. Except  
15 as permitted under subpart 2, a hazardous materials emergency  
16 response team must be composed of at least 30 qualified  
17 members. Twelve members of the team must be available for  
18 response at all times. Nine of the 12 members must be available  
19 as an emergency response team. Three of the 12 members must be  
20 available as a chemical assessment team.

21 Subp. 2. Waiver of minimum composition. The commissioner  
22 shall permit an emergency response team to be composed of fewer  
23 than 30 qualified members when the team's employer can prove to  
24 the commissioner's satisfaction that 12 members of the team will  
25 be available for response at all times.

26 Subp. 3. Composition of chemical assessment team. Except  
27 as permitted under subpart 4, a team designated solely as a  
28 chemical assessment team must be composed of at least nine  
29 qualified members. Three members of the team must be available  
30 for response at all times.

31 Subp. 4. Waiver of minimum composition. The commissioner  
32 shall permit a chemical assessment team to be composed of fewer  
33 than nine qualified members when the team's employer can prove  
34 to the commissioner's satisfaction that three members of the  
35 team will be available for response at all times.

1 Subp. 5. Training required to respond as emergency  
2 response team. The nine members of an emergency response team  
3 available to respond as an emergency response team must have the  
4 levels of training certification described in items A to C:

5 A. At least four members must be certified by the  
6 employer at the highest level of hazardous materials training as  
7 defined by Code of Federal Regulations, title 29, section  
8 1910.120.

9 B. The member assigned to provide emergency medical  
10 support to the team must be certified by the employer at a  
11 minimum of the operations level as defined by Code of Federal  
12 Regulations, title 29, section 1910.120, and currently certified  
13 or registered as an emergency medical technician by the  
14 Minnesota Department of Health, in compliance with Minnesota  
15 Statutes, sections 144.801 to 144.809, and rules adopted  
16 pursuant to those sections.

17 C. The remaining members must be certified by the  
18 employer at a minimum of the technician level as defined by Code  
19 of Federal Regulations, title 29, section 1910.120.

20 Subp. 6. Training required to respond as chemical  
21 assessment team. The three members of a chemical assessment  
22 team, or of an emergency response team available for response as  
23 a chemical assessment team must have the levels of training  
24 certification described in items A and B:

25 A. At least one member must be certified by the  
26 employer at the highest level of hazardous materials training as  
27 defined by Code of Federal Regulations, title 29, section  
28 1910.120.

29 B. The remaining members must be certified by the  
30 employer at a minimum of the technician level as defined by Code  
31 of Federal Regulations, title 29, section 1910.120.

32 Subp. 7. Composition of team membership. Emergency  
33 response teams and chemical assessment teams may be composed of  
34 personnel from one or more public or nonpublic agencies. Teams  
35 composed of personnel from more than one agency must designate a  
36 single point of contact for purposes of emergency dispatch and

1 contract administration.

2 7514.0900 RESPONSIBILITIES OF TEAMS.

3 Subpart 1. Response at commissioner's direction. An  
4 emergency response team and a chemical assessment team shall  
5 respond when directed by the commissioner to do so.

6 Subp. 2. Primary responsibilities of emergency response  
7 team. As its primary responsibility, an emergency response team  
8 shall assist local authorities by taking emergency actions  
9 necessary to protect life, property, and the environment from  
10 the effects of a release of a hazardous material. These  
11 emergency actions include, but are not limited to, preventing  
12 the release, mitigating the effects of the release, and  
13 stabilizing the emergency situation.

14 Subp. 3. Primary responsibilities of chemical assessment  
15 team. As its primary responsibility, a chemical assessment team  
16 shall assist local authorities by providing technical advice to  
17 local incident commanders, and recommending mitigation actions  
18 necessary to protect life, property, and the environment that  
19 are in keeping with locally available levels of hazardous  
20 materials training and response capability.

21 Subp. 4. Additional responsibilities of chemical  
22 assessment teams. A chemical assessment team shall assist an  
23 emergency response team by responding, in conjunction with the  
24 emergency response team, to assess an incident, develop and  
25 recommend mitigation strategies, and assist with response  
26 operations.

27 Subp. 5. Support of clean-up operations. When requested  
28 by the incident commander, an emergency response team and a  
29 chemical assessment team may remain at the scene of a hazardous  
30 materials incident to assist local authorities with the  
31 monitoring of clean-up activities conducted by local, state, or  
32 federal agencies or the responsible person. The team leader  
33 will decide whether the team will remain. A team is not  
34 obligated to remain. If a team does remain, its costs are  
35 recoverable costs.



1 Subp. 6. Prohibited actions. An emergency response team  
2 and a chemical assessment team shall not:

3 A. transport, store, dispose of, or perform remedial  
4 clean-up of hazardous materials, except as may be incidentally  
5 necessary to mitigate an emergency;

6 B. assume overall command of the hazardous materials  
7 emergency; or

8 C. mitigate incidents involving explosives, explosive  
9 devices, incendiary devices, shock-sensitive explosive  
10 chemicals, or clandestine drug labs, except to respond to the  
11 effects of a hazardous materials release that might occur as a  
12 consequence of these incidents or to provide technical  
13 assistance in support of the local authority.

14 Subp. 7. Reporting and documentation. An emergency  
15 response team and a chemical assessment team shall submit to the  
16 commissioner a detailed report of its response to an incident.  
17 The report must be prepared in a manner and form prescribed by  
18 the commissioner and, at the minimum, must include:

19 A. a list of all equipment used and personnel who  
20 responded;

21 B. a description of all emergency actions taken;

22 C. a copy of the site safety plans developed during  
23 the response; and

24 D. completed cost recovery forms.

25 Subp. 8. Notification upon completion of response. When  
26 an emergency response team or chemical assessment team has  
27 completed its response to an incident, the team leader, acting  
28 on behalf of the commissioner, shall notify the commissioner of  
29 the Pollution Control Agency as required under Minnesota  
30 Statutes, section 299A.50, subdivision 3. The commissioner of  
31 agriculture must also be notified for incidents where the  
32 Department of Agriculture has jurisdiction.

33 7514.1000 ESTABLISHMENT OF SUGGESTED OPERATING GUIDELINES.

34 Subpart 1. Initial guidelines. Before implementing the  
35 team program, the commissioner shall establish suggested

1 operating guidelines that will guide the response actions of  
2 emergency response teams and chemical assessment teams. The  
3 guidelines must comply with the requirements of Code of Federal  
4 Regulations, title 29, section 1910.120, and substantially  
5 comply with the requirements of NFPA 471, "Recommended Practice  
6 for Responding to Hazardous Materials Incidents," published by  
7 the National Fire Protection Association, 1 Batterymarch Park,  
8 Quincy, Massachusetts (1992). NFPA 471 is incorporated by  
9 reference, is located at the state law library, is conveniently  
10 available to the public, and is not subject to frequent change.

11 Subp. 2. Review and revision. At least annually, the  
12 commissioner shall review and, when necessary, revise the  
13 suggested operating guidelines established under subpart 1.

14 7514.1100 EMERGENCY PREPLANNING.

15 Subpart 1. State agency. Upon a request by the  
16 commissioner, a state agency shall give the commissioner  
17 hazardous materials storage information that the agency has  
18 collected from regulated facilities. The commissioner shall  
19 make a request under this subpart when the request is initiated  
20 by a team. The commissioner may direct the agency to give the  
21 information directly to the appropriate team or teams. This  
22 subpart does not apply if the agency is prohibited from  
23 disclosing this information by federal or state law.

24 Subp. 2. Local government. Upon a request by the  
25 commissioner, a local emergency response agency shall give the  
26 commissioner information necessary to support a team response to  
27 an incident within the agency's jurisdiction. The commissioner  
28 shall make a request under this subpart when the request is  
29 initiated by a team. The commissioner may direct the agency to  
30 give the information directly to the appropriate team or teams.  
31 Information that may be requested by the team includes:

32 A. copies of any facility preplans prepared at the  
33 discretion of the agency;

34 B. a copy of the agency's hazardous materials  
35 emergency response plan prepared in accordance with Code of

1 Federal Regulations, title 29, section 1910.120;

2 C. a statement describing the agency's level of  
3 hazardous materials training;

4 D. resources available locally to support hazardous  
5 materials response actions; and

6 E. any other information reasonably needed by the  
7 teams.

8 Subp. 3. Facility. Upon a request by the commissioner, a  
9 facility required to prepare a spill prevention and response  
10 plan under Minnesota Statutes, section 115E.04, shall give a  
11 copy of the plan to the commissioner. The commissioner shall  
12 make a request under this subpart when the request is initiated  
13 by a team. The commissioner may direct the facility to give the  
14 information directly to the appropriate team or teams.

15 Subp. 4. Disseminating information to teams. The  
16 commissioner shall give information collected under subparts 1  
17 to 3 to any team that requests the information. When the  
18 commissioner gives the information collected under subpart 3 to  
19 a team, the commissioner shall provide the facility with the  
20 name and address of each team the information has been given  
21 to. A team may not distribute the information collected under  
22 subpart 3 without informing the facility from which the  
23 information was obtained.

24 7514.1200 EMERGENCY RESPONSE ASSISTANCE.

25 Emergency response teams and chemical assessment teams are  
26 authorized to secure for use during an emergency response any  
27 technical assistance or specialized equipment necessary to  
28 safely and properly respond to an incident. When the incident  
29 involves explosives, explosive devices, incendiary devices, or  
30 shock-sensitive explosive chemicals, the teams must first  
31 request assistance from a Minnesota Department of Public  
32 Safety-authorized bomb squad. The cost of this assistance and  
33 equipment will be considered an actual cost of the team's  
34 response, recoverable from the responsible party.

35 7514.1300 REVIEW AND EVALUATION OF RESPONSE.

1 An emergency response team or chemical assessment team  
2 shall conduct an evaluation of a response to an incident within  
3 30 days after termination of the team's response. The team  
4 shall give all public and private agencies involved in the  
5 response the opportunity to participate in the evaluation.

6 7514.1400 SUPPLIES, EQUIPMENT, AND VEHICLES.

7 Subpart 1. Equipment for emergency response teams. An  
8 emergency response team must have immediate access to the  
9 following general categories of supplies and equipment in  
10 suitable quantities to respond to anticipated hazardous  
11 materials incidents:

- 12 A. chemical reference and emergency response manuals;
- 13 B. personal protective equipment;
- 14 C. leak-control supplies and equipment;
- 15 D. radio and other forms of communications equipment;
- 16 E. computer equipment and supporting software;
- 17 F. monitoring and detection equipment;
- 18 G. basic suppression equipment;
- 19 H. spill containment supplies and equipment,
- 20 I. assorted nonsparking hand tools;
- 21 J. basic first aid supplies; and
- 22 K. miscellaneous incident management and  
23 administrative supplies and equipment.

24 Subp. 2. Equipment for chemical assessment teams. A  
25 chemical assessment team must have immediate access to the  
26 following general categories of supplies and equipment in  
27 suitable quantities to respond to anticipated hazardous  
28 materials incidents:

- 29 A. chemical reference and emergency response manuals;
- 30 B. decontamination equipment;
- 31 C. personal protective equipment;
- 32 D. radio and other forms of communications equipment;
- 33 E. computer equipment and supporting software;
- 34 F. monitoring and detection equipment; and
- 35 G. miscellaneous incident management and

1 administrative supplies and equipment.

2 Subp. 3. Emergency response vehicle requirements.

3 Hazardous materials emergency response vehicles used by a team  
4 must be of sufficient size and capacity to safely transport team  
5 personnel with properly stowed equipment and supplies to the  
6 scene of a hazardous materials incident under reasonably  
7 anticipated travel conditions.

8 7514.1500 SELECTION OF TEAMS.

9 Subpart 1. Request for proposal to provide contract  
10 services. The commissioner shall issue a request for proposal  
11 in the form and manner established by the Minnesota Department  
12 of Administration to provide contract service as an emergency  
13 response team or chemical assessment team. Requests for  
14 proposal may be issued as necessary to provide for the needs of  
15 the team program.

16 Subp. 2. Proposal evaluation. The commissioner shall  
17 establish an evaluation committee consisting of at least five  
18 technically qualified individuals. The committee shall evaluate  
19 all proposals received on the basis of the criteria set out in  
20 subpart 4, with emphasis placed on the quality of the proposer's  
21 response capability. After the evaluation, the committee shall  
22 recommend proposals to the commissioner for designation as  
23 service providers.

24 Subp. 3. Conflict of interest. Members of the evaluation  
25 committee must not have any direct financial interest between  
26 any aspect of the team program and any respondent to the request  
27 for proposals.

28 Subp. 4. Proposal evaluation criteria. Proposals received  
29 in response to the request for proposal must be evaluated based  
30 upon, but not limited to, the following criteria:

31 A. the number and qualifications of each member of  
32 the team;

33 B. a plan for maintenance of minimum required levels  
34 of staffing;

35 C. the location of the proposed team within the

1 designated primary service area, including response time  
2 considerations such as access to major transportation routes,  
3 and geographic and other physical barriers to a response;

4 D. hazardous materials emergency response supplies  
5 and equipment, including vehicles, and personnel resources  
6 immediately available to the team, whether owned, leased, or  
7 available by arrangement;

8 E. hazardous materials emergency response experience,  
9 including the length of time the team has been in existence and  
10 the number and variety of actual responses made;

11 F. existing and proposed training and exercise  
12 programs;

13 G. the length of time necessary for further  
14 development to bring the team to the point where it will be  
15 ready to respond;

16 H. the estimated actual costs of team response; and

17 I. the estimated period of time necessary for the  
18 deployment of the team.

19 Subp. 5. Award of contracts for provision of service.  
20 Emergency response teams and chemical assessment teams will  
21 operate under contract with the state of Minnesota, in  
22 accordance with Minnesota Statutes, sections 15.061 and 299A.50,  
23 subdivisions 1 and 2.

24 Subp. 6. Term of contract for services. A contract for  
25 service may be executed for a period of up to five years.

26 Subp. 7. Contractor compensation. Contractor compensation  
27 must include an annual amount for the term of the contract,  
28 subject to negotiations between the contractor and the state and  
29 budget appropriations by the state legislature. Contractor  
30 compensation may include an amount sufficient to cover all or a  
31 portion of:

32 A. the cost of capital equipment including vehicles;

33 B. the annual cost of training team personnel;

34 C. the cost of annual medical examinations for team  
35 personnel;

36 D. the initial cost of consumable supplies;

1 E. program administration costs; and

2 F. equipment maintenance costs.

3 7514.1600 EMERGENCY RESPONSE CRITERIA AND DISPATCHING.

4 Subpart 1. Emergency response. An emergency response  
5 authorized by the commissioner may include technical assistance  
6 provided by a team via telephone and other means of  
7 communication or the deployment of team personnel and equipment  
8 to the scene of a hazardous materials incident.

9 Subp. 2. Criteria for authorizing emergency response.  
10 Except as provided in subparts 3 and 4, the commissioner shall  
11 use the provisions of this subpart to determine whether to  
12 authorize a team response. The commissioner shall authorize a  
13 team response when all the following criteria are met:

14 A. there is a release or potential release from a  
15 transportation incident or fixed facility;

16 B. the release presents an actual or potential threat  
17 to public safety or the environment;

18 C. local emergency response personnel have been  
19 dispatched, are on the scene, and have made an initial  
20 assessment of the incident;

21 D. local authorities have determined that the  
22 response needs of the incident exceed local capabilities; and

23 E. local authorities have requested a team response.

24 Subp. 3. Alternate response criteria. The commissioner  
25 shall authorize a team response when the commissioner considers  
26 the response to be necessary.

27 Subp. 4. Special response criteria. The commissioner  
28 shall authorize an emergency response team or a chemical  
29 assessment team response to provide standby technical assistance  
30 in support of a bomb squad response when the commissioner  
31 considers it necessary. A response under this subpart is  
32 limited to incidents involving explosives, explosive devices,  
33 incendiary devices, shock-sensitive explosive chemicals, or a  
34 law enforcement agency response to clandestine drug lab  
35 incidents. When a team responds, its costs are recoverable

1 costs.

2 Subp. 5. Authority to request team response. Authority to  
3 request the response of an emergency response team and a  
4 chemical assessment team resides with local authorities whose  
5 jurisdiction includes the scene of the hazardous materials  
6 incident.

7 Subp. 6. Procedure for requesting team. The Minnesota  
8 duty officer system is the point of contact for requesting a  
9 response by an emergency response team or a chemical assessment  
10 team.

11 Subp. 7. Canceling response en route to incident. Team  
12 response may be canceled en route to an incident only by the  
13 local authority that initially requested the response.

14 Subp. 8. Terminating team response actions for safety  
15 reasons. The team may terminate response actions at an incident  
16 without direction from the incident commander when the team  
17 leader or safety officer determines that the ordered response  
18 actions would place team personnel in imminent danger.

19 Subp. 9. Terminating team response at conclusion of  
20 incident. Team response may be terminated at an incident upon  
21 the direction of the local incident commander, or as provided in  
22 subpart 8 or part 7514.0900, subpart 5.

23 Subp. 10. Deployment time. The average deployment time  
24 for emergency response teams and chemical assessment teams must  
25 not exceed 15 minutes.

26 7514.1700 COST RECOVERY.

27 Subpart 1. Submitting claim for team response costs.  
28 Regional teams shall submit to the commissioner claims for  
29 reimbursement of reasonable and necessary costs incurred as a  
30 result of a regional response in the manner and form identified  
31 in part 7514.0900, subpart 7.

32 Subp. 2. Team response costs; payment and recovery. The  
33 state shall reimburse regional teams for reasonable and  
34 necessary costs of a regional response after receipt of a  
35 properly filed claim. The state shall recover the team's costs,



1 and the state's legal and additional court costs, from the  
2 responsible person.

3 Subp. 3. Team response costs eligible for recovery.

4 Reasonable and necessary team response costs associated with an  
5 actual response by a team may be recovered by the team from the  
6 state and by the state from the responsible person. Costs  
7 eligible for recovery include:

8 A. team personnel costs;

9 B. additional wage costs for local callback  
10 personnel;

11 C. vehicle operating costs;

12 D. cost of consumable supplies used;

13 E. repair or replacement of damaged or destroyed  
14 capital equipment;

15 F. communications costs, including long distance and  
16 cellular telephone charges;

17 G. administrative costs;

18 H. cost of specialized equipment;

19 I. cost of special technical assistance;

20 J. costs associated with providing support to  
21 clean-up operations when requested in accordance with part  
22 7514.0900, subpart 5;

23 K. costs associated with providing standby technical  
24 assistance when requested in accordance with part 7514.1600,  
25 subpart 4; and

26 L. other direct costs incurred by the team as a  
27 result of the response.

28 Subp. 4. Billing responsible person for costs. The  
29 commissioner shall bill the responsible person for eligible  
30 response costs after receipt of a properly filed claim. If the  
31 responsible person fails to pay the bill in full within 30 days  
32 of its issuance, the commissioner shall issue subsequent  
33 billings. Billings must include interest, at the rate currently  
34 charged by the state, per month on the unpaid balance. If  
35 payment in full is not made within 60 days of the issuance of  
36 the first bill, the commissioner:

1 A. shall contact the responsible person in an attempt  
2 to resolve the claim; and

3 B. may bring legal action to recover any unpaid  
4 balance.

5 Subp. 5. Right to appeal costs billed. A responsible  
6 person that disagrees with a billing for response costs may file  
7 a written appeal with the commissioner. The appeal must be  
8 filed within 15 days of the billing. The written appeal must  
9 clearly state what portions of the billing are being appealed  
10 and the basis of the appeal. The commissioner shall review each  
11 appeal and issue a written determination within a reasonable  
12 time affirming, amending, or rescinding the disputed costs. A  
13 responsible person may withhold the amount of the billing in  
14 dispute while an appeal is pending. The responsible person must  
15 not be assessed interest on the disputed amount while the appeal  
16 is in process, unless the commissioner determines that the  
17 appeal is solely for the purpose of delay. The decision to  
18 dispatch a team, and the response decisions made by a team, are  
19 not subject to appeal. Any person aggrieved by a decision made  
20 by the commissioner under this subpart may proceed before the  
21 commissioner as with a contested case in accordance with the  
22 administrative procedure act.

23 Subp. 6. Costs not eligible for payment or recovery by  
24 commissioner. The commissioner shall not pay or recover from  
25 the responsible person response costs incurred by the local  
26 jurisdiction that requested the response of a regional team.

27 7514.1800 COORDINATING RESPONSE ACTIVITIES.

28 Subpart 1. Incident management system. The team leader  
29 shall coordinate the on-scene emergency response operations of  
30 the teams with local, state, and federal agencies, Indian  
31 tribes, and private response organizations through the Minnesota  
32 incident management system.

33 Subp. 2. Coordination with local authorities. A local  
34 authority shall provide assistance to team operations in the  
35 authority's jurisdiction, which are necessary to the response

1 and in keeping with local emergency operations plans, local  
2 emergency response plans, and the level of hazardous materials  
3 training required of the authority by the Occupational Safety  
4 and Health Administration.

5 Subp. 3. Coordination with state agencies. A state agency  
6 shall provide assistance to team operations that is necessary to  
7 the response and is in keeping with the agency's role as  
8 identified in Governor's Executive Order 93-27, "Assigning  
9 Emergency Responsibilities to State Agencies," and any future  
10 orders replacing or revising this order, and implemented by the  
11 Minnesota emergency operations plan.

12 Subp. 4. Coordination with responsible person. A  
13 responsible person shall provide assistance to team operations  
14 that is necessary to the response, upon a request by the  
15 incident commander or team leader, in keeping with the  
16 responsible person's level of training and emergency response  
17 plans.

18 Subp. 5. Coordination with other states and federal  
19 government. The emergency response actions of the teams must be  
20 coordinated with those of federal agencies and other states in  
21 accordance with the emergency response plans authorized by  
22 United States Code, title 42, section 9605, National Contingency  
23 Plan, as amended; United States Code, title 33, section  
24 311(c)(2), Clean Water Act, as amended; and United States Code,  
25 title 33, section 2701, Oil Pollution Act of 1990.

26 Subp. 6. Coordination with Indian tribes. Subject to  
27 negotiations with Indian tribes located in the state of  
28 Minnesota, the commissioner shall enter into agreements with the  
29 tribes as necessary and appropriate to establish procedures for  
30 team response to incidents occurring on tribal lands.

31 Subp. 7. Coordination of team operations. The  
32 commissioner, in consultation with the State Fire Marshal and  
33 director of the Division of Emergency Management, shall develop  
34 and implement a management plan that identifies the primary and  
35 support responsibilities of each, and clear lines of  
36 accountability.

1 7514.1900 MUTUAL AID AGREEMENTS.

2       The commissioner may enter into mutual aid agreements with  
3 federal agencies, other states, Indian tribes, and Canadian  
4 provinces for the purpose of supporting the hazardous materials  
5 response of either jurisdiction, as provided in Minnesota  
6 Statutes, section 299A.50, subdivision 2.

7 7514.2000 LIABILITY AND WORKERS' COMPENSATION COVERAGE.

8       For the purposes of Minnesota Statutes, chapter 176, and  
9 section 3.736, coverage is initiated once a team is activated by  
10 the state, for operations authorized by the state, and is  
11 extended until the team is back in quarters and out of service  
12 from the original call.

# Office of the Revisor of Statutes

## Administrative Rules



**TITLE:** Proposed Permanent Rules Relating to Hazardous Materials Incident Response Plan and System

**AGENCY:** Department of Public Safety

**DIVISION:** State Fire Marshal Division

**MINNESOTA RULES:** Chapter 7514

**INCORPORATIONS BY REFERENCE:**

Part 7514.0600: NFPA 472, "Standard for Professional Competence of Responders to Hazardous Materials Incidents," published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts (1992). NFPA 472 is incorporated by reference, is located at the state law library, is conveniently available to the public, and is not subject to frequent change. NFPA 473, "Standard for Professional Competencies for EMS Personnel Responding to Hazardous Materials Incidents," published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts (1992), as an Emergency Medical Service/Hazardous Materials Level II Responder. NFPA 473 is incorporated by reference, is located at the state law library, is conveniently available to the public, and is not subject to frequent change.

Part 7514.1000: NFPA 471, "Recommended Practice for Responding to Hazardous Materials Incidents," published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts (1992). NFPA 471 is incorporated by reference, is located at the state law library, is conveniently available to the public, and is not subject to frequent change.

The attached rules are approved for  
publication in the State Register

---

Ron Ray  
Senior Assistant Revisor