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MINNESOTA DEPARTMENT OF
LABOR & INDUSTRY

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September 15, 2006

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

Re: In The Matter Of The Proposed Rules Of The State Department Of Labor and Industry
Relating To Minnesota Accessibility Code; Governor's Tracking Number AR024

Dear Librarian:

The Minnesota Department of Labor and Industry intends to adopt rules relating to the Minnesota Accessibility Code, *Minnesota Rules*, chapter 1341. We plan to publish a Dual Notice in the September 25, 2006, *State Register*.

The Department has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Department is sending the Library a copy of the Statement of Need and Reasonableness at the time we are mailing our Notice of Intent to Adopt Rules.

If you have any questions, please contact me at 651-284-5126.

Very truly yours,

A handwritten signature in black ink that reads "Wendy Willson Legge". The signature is written in a cursive style.

Wendy Willson Legge
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Minnesota Department of Labor and Industry
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Enclosure: Statement of Need and Reasonableness

**Minnesota Department of Labor and Industry
Construction Codes and Licensing Division**

STATEMENT OF NEED AND REASONABLENESS

Proposed Rules Governing Building Accessibility, Minnesota Rules, Chapter 1341.

INTRODUCTION

The current Minnesota Accessibility Code, Chapter 1341, which is based on the Americans with Disabilities Act Accessibility Guidelines (ADAAG), is being deleted in its entirety and replaced with a new Chapter 1341 consisting of: 1) adoption of Chapter 11 of the 2006 International Building Code (IBC), which provides scoping provisions; 2) ICC/ANSI A117.1-2003, which contains technical criteria (Chapter 11 adopts by reference ICC/ANSI A117.1); and, 3) state amendments. The IBC is promulgated by the International Code Council (ICC). ICC/ANSI A117.1 is promulgated by the American National Standards Institute (ANSI). ICC serves as secretariat for A117.1.¹

The code/standard development process for the IBC and A117.1 is an ongoing process. These standards are routinely reviewed, modified, and updated to provide the most current and complete criteria relating to accessibility. This is done with input and comment from the federal Architectural and Transportation Barriers Compliance Board (Access Board). The Access Board is the federal agency responsible for development of the ADAAG. The Access Board's process of revision and publication of improved standards for accessible design occurs less frequently than does the ICC and ANSI processes. The result is that the IBC and A117.1 offer a more current set of criterion than does ADAAG.² For this reason, the Minnesota Department of Labor and Industry has determined that a new Chapter 1341, incorporating IBC and A117.1, is warranted.

The Americans with Disabilities Act (ADA) authorizes the Department of Justice (DOJ) to review state building code requirements that concern accessibility to determine whether those requirements are equivalent to the ADA standards for accessibility in new construction and alterations. If the DOJ determines that the state accessibility requirements are equivalent to the ADA accessibility standards, they can issue a certification to that effect.³ The Minnesota

¹ The IBC and ICC/ANSI A117.1 are available for review at the Minnesota Department of Labor and Industry by contacting Curtis Wiehle, Construction Codes and Licensing Division, 443 Lafayette Road N., St. Paul, MN 55155-4341; phone: (651) 284-5877; fax: (651) 284-5749. TTY users may call the Department of Labor and Industry at (651) 297-4198.

² The most current version of the guidelines was published in the Federal Register on July 23, 2004 (69 F.R. 44083), and amended August 5, 2005 (70 F.R. 45283). These guidelines will be codified at 36 C.F.R. Part 1191. *See also* <http://www.access-board.gov/ada-aba/final.htm>

³ *See* 28 C.F.R. § 36.602 (2005).

Department of Labor and Industry intends to submit the new Chapter 1341 to the DOJ for their consideration.

ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Curtis Wiehle at the Department of Labor and Industry, Construction Codes and Licensing Division, 443 Lafayette Road N., St. Paul, MN 55155-4341; phone: (651) 284-5877; fax: (651) 284-5749. TTY users may call the Department of Labor and Industry at (651) 297-4198.

STATUTORY AUTHORITY

Until May 16, 2005, the State Building Code was adopted, administered, and amended by the Department of Administration pursuant to Minnesota Statutes, sections 16B.59 to 16B.76. By Executive Order (Department of Administration Reorganization Order No. 193), Governor Pawlenty transferred the responsibility for the State Building Code to the Department of Labor and Industry, effective May 16, 2005. This reorganization order was issued under Minnesota Statutes, section 16B.37, and is effective until amended or superseded. Because the reorganization order has not been amended or superseded, the Department of Labor and Industry has the same authority to amend the State Building Code that the Department of Administration had before May 16, 2005.

Minnesota Statutes, section 16B.59 provides that “the State Building Code governs the construction, reconstruction, alteration and repair of buildings and other structures to which the code is applicable. The commissioner [of administration] shall administer and amend a state code of building construction which will provide basic and uniform performance standards, establish reasonable safeguards for health safety, welfare, comfort, and security of the residents of this state and provide for the use of modern methods, devices, materials, and techniques which will in part tend to lower construction costs. The construction of buildings should be permitted at the least possible cost consistent with recognized standards of health and safety.”

Minnesota Statutes, section 16B.61, subdivision 1 provides that “subject to sections 16B.59 to 16B.75, the commissioner [of administration] shall by rule establish a code of standards for the construction, reconstruction, alteration, and repair of buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety, including design and construction standards regarding heat loss control, illumination, and climate control. The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States, including a code for building conservation. In the preparation of the code, consideration must be given to the existing statewide specialty codes presently in use in the state. Model codes with necessary modifications and statewide specialty codes may be adopted by reference. The code must be based on the application of scientific principles, approved tests, and professional judgment. To the extent possible, the code must be adopted in terms of desired results instead of the means of achieving those results, avoiding wherever possible the incorporation of specifications of particular methods or materials. To that

end the code must encourage the use of new methods and new materials. Except as otherwise provided in sections 16B.59 to 16B.75, the commissioner [of administration] shall administer and enforce the provisions of those sections.”

Minnesota Statutes, section 16B.64, subdivision 6, states that “[t]he commissioner [of administration] shall approve any proposed amendments deemed by the commissioner [of administration] to be reasonable in conformity with the policy and purpose of the code and justified under the particular circumstances involved. Upon adoption, a copy of each amendment must be distributed to the governing bodies of all affected municipalities.”

Under these statutes and the reorganization order, the Department of Labor and Industry has the necessary authority to adopt the proposed rules.

All sources of statutory authority were adopted and effective before January 1, 1996, and so Minnesota Statutes, section 14.125, does not apply.

REGULATORY ANALYSIS

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

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

Persons who will be affected by these rules include: state historic preservation officers; municipal building inspection department personnel; building contractors; architects; engineers; fire inspection personnel; building owners and managers; users of the facilities; and ultimately, the general public.

Persons who will bear the costs of these rules include: primarily, building owners who must pay for the construction costs, and, where businesses pay the construction costs, the consumers to whom these businesses pass the costs.

Persons who will benefit from these rules include: the general public, both those with and without disabilities; and building owners who want to ensure access to and usability of their facilities.

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

There are no costs to the agency or any other agency with respect to the implementation and enforcement of the proposed rule, and no anticipated effect on state revenues.

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

There are no less costly or intrusive methods for achieving the purpose of this rule. The adoption of this code will provide uniform application of accessibility standards which parallel very closely those found in federal guidelines. The uniform application of these standards will provide predictable code application for building owners, which will tend to lower costs.

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

The Accessibility Advisory Committee⁴ discussed the continued use of an ADAAG based rule. That option was determined to be less beneficial to builders, designers and building owners because the IBC and A117.1 provide the newest and most comprehensive standards available. The proposed rule, through state amendment, includes issues from the new ADAAG that are not addressed in the model code documents.

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

The proposed rule does not require any changes at all to existing buildings. The proposed rule only affects new construction or remodeling. It is difficult to quantify actual cost for compliance in connection with construction or remodeling of a building since these costs depend upon the building's design, use, age, condition, and intended future use. The Department asked the Accessibility Advisory Committee members to identify any costs of complying with the proposed rule. The Department received only one response to this request; the responding committee member stated that, although there would be cost issues to certain affected parties, he was unable to identify either the affected parties or the costs.

Although it is difficult to quantify costs, the Department anticipates that the global costs associated with this rule will be indistinguishable from the rule it is replacing. While some specific requirements of this rule may be considered more restrictive than current rule, others are clearly less restrictive. In any particular case, the cost savings associated with the less restrictive provisions could outweigh any increased cost based on a more restrictive requirement; however, the actual costs for compliance on any one particular building could vary.

⁴ The Department of Administration formed the Accessibility Advisory Committee to consider changes to the Accessibility Code. Members of the Committee are listed in Exhibit A. Meetings of this committee were held before the responsibility for the State Building Code was transferred to the Department of Labor and Industry. After the transfer, staff of the Department of Labor and Industry have been in touch with committee members by e-mail.

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

The Department asked the Accessibility Advisory Committee members to identify any costs or consequences of not adopting the proposed rule. The Department received only one response to this request; the responding committee member stated that, although there would be cost issues to certain affected parties, he was unable to identify either the affected parties or the costs. Here again, the Department anticipates that the costs of not adopting the proposed rule would be indistinguishable from the costs of adopting the proposed rule. The costs of not adopting the less restrictive portions of the proposed rule would be comparable to the cost savings of not adopting the more restrictive portions of the proposed rule.

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

While not a building code, the federal ADAAG does establish design criteria for the construction and alteration of buildings and facilities. It is not mandated that the state code be consistent with the federal rule. However, the standards incorporated into this rule (the IBC and A117.1) were developed with input from the Access Board. The federal ADAAG states: “Nothing in these requirements prevents the use of designs, products, or technologies as alternatives to those prescribed, provided they result in substantially equivalent or greater accessibility and usability.”⁵

The DOJ has responsibility for enforcement of the ADA and it is not possible to determine how the DOJ will interpret a particular situation. The ADA authorizes the DOJ to review state building code requirements that concern accessibility to determine whether those requirements are equivalent to the ADA standards for accessibility in new construction and alterations. If the DOJ determines that the state accessibility requirements are equivalent to the ADA accessibility standards, they can issue a certification to that effect.⁶ The Department of Labor and Industry intends to submit the new Chapter 1341 to the DOJ for their consideration.

PERFORMANCE-BASED RULES

Minnesota Statutes, section 16B.61 authorizes the Department to establish, by rule, a code of standards for construction. This statute also mandates, to the extent possible, that the code must be adopted in terms of desired results instead of the means of achieving those results, avoiding wherever possible, the incorporation of particular methods or materials.

⁵ ADAAG section 103 (2005).

⁶ See 28 C.F.R. § 36.602 (2005).

It would not be economically feasible to make the Minnesota Accessibility Code a performance-based code, because the code is based on federal law and guidelines. These federal standards are not performance based.

ADDITIONAL NOTICE

This Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in a September 7, 2006, letter by Administrative Law Judge Beverly Jones Heydinger.

We will e-mail or send by United States mail the Dual Notice to the following interested parties:

- a. All municipal code officials and others involved in code administration. This list has over 800 names and includes: all municipal building officials responsible for administration of the state building code; officials from other cities, towns, and counties who need to be aware of these proposed rules as they apply to public buildings within their jurisdiction; and University of Minnesota and MSP airport building officials;⁷
- b. Members of the Accessibility Advisory Committee;
- c. Metropolitan Council;
- d. Minnesota Historical Society;
- e. Minnesota State Fire Marshal;
- f. Minnesota State Fire Chiefs Association (MSFCA), including members of the MSFCA Code Committee;
- g. Fire Marshals Association of Minnesota;
- h. Minnesota Health & Housing Alliance;
- i. Minnesota Electrical Association;
- j. IBEW Local 110 and Local 292;
- k. Minnesota Housing Finance Agency;
- l. American Society of Civil Engineering;
- m. Minnesota Utility Contractors Association;
- n. American Council of Engineering Companies of Minnesota;
- o. Minnesota Association of Plumbing, Heating and Cooling Contractors;
- p. Minnesota Mechanical Contractors Association;
- q. Builders Association of Minnesota;
- r. Builders Association of the Twin Cities;
- s. Minnesota Multi-Housing Association; and
- t. League of Minnesota Cities.

We will also publish the proposed rules, Statement of Need and Reasonableness, and Dual Notice on the Department of Labor and Industry's Web site.

⁷ Each building official is responsible for enforcing compliance with the building code within his or her jurisdiction. See Minn. R. 1300.0110 (2005).

Our Notice Plan also includes giving notice required by statute. We will mail the Dual Notice to everyone who has registered to be on the Department's accessibility code rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a. Those persons include:

- a. Building Owners and Managers Association
- b. Minneapolis Building Trades Council
- c. Association of Minnesota Counties
- d. Minnesota Association of Townships
- e. AIA Minnesota
- n. Plumbers and Pipefitters Local 11

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

CONSULT WITH FINANCE ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Department has consulted with the Commissioner of Finance. We did this by sending to Keith Bogut, Executive Budget Officer at the Department of Finance, copies of the documents sent to the Governor's Office for review and approval by the Governor's Office prior to the Department publishing the Notice of Intent to Adopt. We sent the copies on July 12, 2006. The documents included: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the almost final SONAR. Mr. Bogut sent a memorandum dated July 17, 2006, which included the following comments:

As part of the rulemaking process, DLI has included several representatives of local governments on the Accessibility Advisory Committee. According to the SONAR, they also intend to notify all municipal code officials in the state of the proposed changes.

In my opinion, the proposed notifications will enable local governments to have input to the proposed changes and to analyze them for potential fiscal impacts.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

Agency Determination of Cost

As required by Minnesota Statutes, section 14.127, the Department has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Department has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city because the proposed rules do not require any modification of existing structures. The proposed rules only affect new construction and remodeling. Any small city or small business contemplating new construction or remodeling will decide whether and when the new construction or remodeling will occur. Because no new construction or remodeling is required by the proposed rules, no new construction or remodeling needs to be undertaken during the first year after the rules take effect.

LIST OF WITNESSES

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

1. Department of Labor and Industry, Construction Codes and Licensing Division staff as to the reasonableness of the rules.
2. State Council on Disability staff as to the reasonableness of the rules.
3. Advisory Committee members representing public interests, building owners and managers, and architects as to the reasonableness of the rules.

RULE-BY-RULE ANALYSIS

1341.0005 - INCORPORATION OF CHAPTER 11 OF THE 2006 INTERNATIONAL BUILDING CODE BY REFERENCE.

This amendment is necessary to adopt Chapter 11 of the 2006 International Building Code (IBC) into the State Building Code.⁸ This represents a shift from an accessibility code based on the federal ADAAG to one based on requirements developed by model code groups. This is warranted as this rule has been thoroughly reviewed, modified, and updated to provide the most current and complete set of criteria relating to accessibility. This is done with input and comment from the federal Access Board which is the federal agency responsible for development of the ADAAG. The Access Board's process of revision and publication of improved standards for the ADAAG occurs less frequently than does the ICC process. The result being that the IBC presents a more current representation of accepted standards; and in that regard, Chapter 11 of the IBC provides a better set of criteria for accessible design. For this reason, the Building Codes and Standards Unit has determined that a new Chapter 1341, incorporating Chapter 11 of the IBC is needed and reasonable.

1341.0010 – REFERENCED STANDARD.

This amendment is necessary to adopt ICC A117.1-2003 into the State Building Code as referenced in Chapter 11 of the 2006 International Building Code (IBC).⁹ This represents a shift from an accessibility code based on the federal ADAAG to one based on requirements developed by model code groups. This is warranted as this rule has been thoroughly reviewed, modified, and updated to provide the most current and complete set of criteria relating to accessibility. This is done with input and comment from the federal Access Board which is the federal agency responsible for development of the ADAAG. The Access Board's process of revision and publication of improved standards for the ADAAG occurs less frequently than does the ICC

⁸ All documents incorporated into this rule by reference are available for review at the Minnesota Department of Labor and Industry by contacting Curtis Wiehle, Construction Codes and Licensing Division, 443 Lafayette Road N., St. Paul, MN 55155-4341; phone: (651) 284-5877; fax: (651) 284-5749. TTY users may call the Department of Labor and Industry at (651) 297-4198.

⁹ The 2003 version of the ICC A117.1 is the document referenced in the IBC, and is the current, latest version of the ICC A117.1.

process. The result being that the ICC A117.1 presents a more current representation of accessibility concepts than does ADAAG; and in that regard, the ICC A117.1 provides a better set of criteria for accessible design. For this reason, the Building Codes and Standards Unit has determined that a new Chapter 1341, incorporating ICC A117.1 is needed and reasonable.

1341.0011 SUBPART 1 - SECTION 1101.3 EQUITY [NEW SECTION]

A new Section 1101.3 Equity is added to address situations where not all similar type facilities are required to be accessible. The addition of this section will ensure that accessible facilities are provided with the same amenities and elements as provided in similar type facilities not required to be accessible. Not providing similar elements and amenities to people with disabilities as provided to individuals without disability is a violation of civil rights laws. It is therefore reasonable that this section be added.

1341.0011 SUBPART 2- IBC SECTION 1102 DEFINITIONS [NEW DEFINITION]

A definition is added for technically infeasible. This is a term used in reference to existing buildings. This definition is necessary as IBC chapter 34, which addresses existing buildings, has not been adopted by the state. New Sections 1112 through 1114 are added to this chapter to address existing buildings and these sections reference the term technically infeasible.

1341.0011 SUBPART 3, ITEM A – IBC SECTION 1103.2.1 SPECIFIC REQUIREMENTS

It is necessary to amend the number of the referenced sections due to the inclusion of additional scoping sections.

1341.0011 SUBPART 3, ITEM B – IBC SECTION 1103.2.2 EXISTING BUILDINGS

It is necessary to amend the referenced section numbers of this section as chapter 34 of the IBC for existing buildings has not been adopted by the state and new sections which provide scoping requirements for existing buildings are added to this chapter.

1341.0011 SUBPART 3, ITEM C - IBC SECTION 1103.2.12 DAY CARE FACILITIES

This section is being deleted as there are many types of residential based businesses. It is not appropriate for the building code to single out one particular type of home based business for accessibility. The code has historically not addressed access to businesses located within dwelling units.

1341.0011 SUBPART 3, ITEM D - IBC SECTION 1103.2.14 FUEL-DISPENSING SYSTEMS

This section is being deleted because fuel-dispensing systems are outside the scope of the building code. Additionally, it is unknown if products meeting the accessibility requirements are readily available from fuel-dispensing system manufactures.

1341.0011 SUBPART 4, ITEM A - IBC SECTION 1104.4 MULTILEVEL BUILDINGS AND FACILITIES

Deleting "accessible" in the charging statement is necessary as this is the section that determines which levels are required to be accessible.

Changes to Exception 1.1 will require all public areas of all Group M occupancies to be located on an accessible route. It is reasonable to provide access to any area where goods are being offered to the public. The deleted reference to "five or more tenant spaces" is a carryover from the ADAAG. It is neither reasonable nor logical to base this provision on five tenant spaces. There is no reason why five small retailers should require a higher level of access than four, or even one, extremely large retailer. A reasonable approach is as proposed, that an accessible route is required whenever the public/customer has access to the space. Changes to 1.2, 1.3 and the addition of 1.4 are similar in logic and reason to 1.1. The provision of an accessible route for the public/patients should be the primary concern. The purpose of the addition of 1.5 is to establish a limit on the number of people that can congregate in an inaccessible area. The 3,000 square foot criteria in Exception 1 is a carryover from ADAAG. It is much more reasonable and logical to establish an occupant load criteria for access. A 3,000 square foot assembly space with an occupant load of over 400 should not be treated the same as a 3,000 square foot business use with an occupant load of 30. It is reasonable to reference an occupant load of 30 in this rule because this same reference is used in the current Minnesota accessibility code. Specifically, current part 1341.0405(E) exempts floors and mezzanines from elevator requirements if the occupant load is not more than 30.

Section 1104.4.1 is added to address musical riser platforms where it is impracticable to provide access to each level. This proposed change essentially maintains Minnesota's current accessible route requirement to these spaces. *See* Minn. R. 1341.0405(A) (2005).

Section 1104.4.2 is added to address multilevel assembly areas without fixed seats. This section is necessary as areas without fixed seats are not addressed.

Section 1104.4.2.1 is added to address areas with no more than 5 tiers and no more than 300 occupants where the floor area at the base of the tier assembly is used in the same manner as the tiers. Due to the difficulty of providing accessible routes to tiered areas, it is reasonable to limit the requirement to the floor level in smaller facilities where the floor provides the same use. For consistency with the existing law, it is reasonable to limit this section to areas where there are no more than 5 tiers and no more than 300 occupants. The current rule (Minn. R. 1341.0482, subp. 3 (2005)) allows wheelchair spaces to be congregated in one area when the occupant load of the space is 300 maximum. Section 802.10.2 of ICC A117.1-2003 requires wheelchair spaces to be separated by 5 rows. This new section on tiered areas without fixed seats is designed to be similar to the code sections that deal with assembly areas with fixed seats.

Section 1104.4.2.2 is added to address areas other than those covered in the previous section. It is reasonable to require additional accessible routes in larger facilities that offer additional choices for occupants of the tiered area. It is also reasonable to require access to tiers where the floor level at the base of the tier does not provide the same use as the tier. The

Advisory Committee recommended access to 10% of the tiered levels. It is reasonable to separate accessible tiers by a minimum of five intervening tiers for consistency with section 802.10.2 of ICC A117.1-2003, which requires wheelchair spaces to be separated by 5 rows. An exception is included for tiered areas with narrow tiers, because a 36 inch or less tier is only wide enough for individuals to occupy in a single line. This design is similar to bleacher seating which is not required to provide accessible routes to levels other than points of entry. *See* ICC A117.1, section 802.10.2. A second exception is provided where the tier is designed to allow a wheelchair user to transfer onto a tier.

1341.0011 SUBPART 4, ITEM B - IBC SECTION 1104.5 LOCATION

The modification to Exception 1 is necessary where dwelling units with attached private garages provide required accessible parking spaces. Where dwelling units with attached garages are not required to provide accessible parking and those garages have direct interior access into the dwelling unit, it is reasonable to provide an interior accessible route to dwelling units with required accessible parking. This modification maintains Minnesota's current requirement and therefore does not increase cost. Specifically, Minnesota Rule 1341.1630 currently states, in pertinent part: "If an enclosed route of travel is provided from dwelling units to parking spaces, an enclosed accessible route of travel must be provided to the accessible parking spaces required by part 1341.0403, item E."

1341.0011 SUBPART 5, ITEM A - IBC SECTION 1105.1 PUBLIC ENTRANCES

The number of the section referenced in this section is changed to reflect an amendment that renumbers Section 1105.1.6. It is reasonable to require that each building, facility and tenant space be treated equally and have the same requirement for accessible entrances.

1341.0011 SUBPART 5, ITEM B - IBC SECTION 1105.1.6 TENANT SPACES, DWELLING UNITS AND SLEEPING UNITS [SECTION RENUMBERED 1105.2 AND RETITLED "DWELLING UNIT AND SLEEPING UNIT ENTRANCES"]

Entrances to tenant spaces are generally public entrances and therefore it is appropriate that tenant spaces be relocated to Section 1105.1. Note that exception 2 in 1105.1 already addresses tenant spaces.

Entrances to dwelling units are generally not considered to be public entrances and therefore they should not be included in Section 1105.1 which is for public entrances. Exception 2 can be deleted by adding the types of units referenced to the charging statement.

Exception 1 must be deleted as the new Section 1105.2 does not address tenant spaces and Exception 1 in 1105.1 provides the same criteria.

1341.0011 SUBPART 6, ITEM A –IBC SECTION 1107.4 ACCESSIBLE ROUTE

Exception 1 as written provides criteria intended to parallel the Federal Fair Housing Accessibility Guidelines and applies it broadly to all Group I and R occupancies. This creates a conflict with the Americans with Disabilities Act Accessibility Guidelines. As modified, this section limits the exception to dwelling units as was the original intent. The modification also reflects current Minnesota rule and therefore does not increase cost.

Exception 2 is modified to provide the ability to modify the route of travel to a deck while addressing the issue of water penetration. Providing a ramp for a four inch rise on what is typically a relatively small deck area is not reasonable or many times possible. At two inches, a steep bevel, while not desirable, is possible. Two inches will be sufficient to control water penetration into the dwelling unit which is the purpose of allowing the elevation change. This proposal does not increase cost compared to the existing accessibility code as the current code allows a ¾ inch maximum threshold.

1341.0011 SUBPART 6, ITEM B - IBC SECTION 1107.5.2.1 ACCESSIBLE UNITS

The exception is added to better serve the residents of the facility by providing designs which facilitate assisted use. While the accessibility rules are designed to provide independent use of facilities, many nursing home residents are not capable of independent use and require assistance. Therefore, the rules as written do not meet the needs of many nursing home residents. The exception maintains a minimum number of Accessible units to serve those residents capable of independent use and provides the flexibility to accept other designs.

1341.0011 SUBPART 6, ITEM C – IBC SECTION 1107.6 GROUP R

This section is modified to reflect the addition of units with communication features, which are described in detail in connection with proposed item F below.

1341.0011 SUBPART 6, ITEM D – IBC SECTION 1107.6.1 GROUP R-1

This section is modified to reflect the addition of new subsections and units with communication features, which are described in detail in connection with proposed item F below.

1341.0011 SUBPART 6, ITEM E – IBC SECTION 1107.6.1.1 ACCESSIBLE UNITS

The sentence addressing dispersion is deleted due to the addition of a new Section 1107.6.1.4 that expands the requirements for dispersion in harmonization with the new ADAAG 224.5 and with current Minnesota rule 1341.0910, Item A. The deleted sentence addressing shower seats is not necessary due to an amendment to ICC A117.1 requiring seats in accessible showers. *See* ICC A117.1, section 608.4.

A new section 1107.6.1.1.1 Accessible Unit Facilities is added to address the spaces associated with the accessible unit that are required to be accessible. This new section is similar to the current Minnesota accessibility code (Minn. R. 1341.0920, subp. 2(F), (G)) and is in harmony

with the new ADAAG section 806.2. The five percent requirement is comparable to new ADAAG section 224.3.

1341.0011 SUBPART 6, ITEM F – SECTION 1107.6.1.3 COMMUNICATION FEATURES [NEW SECTION]

This section is added to harmonize with section 224.4 of the new ADAAG, which requires rooms providing accessible communication features. This section is similar to current Minnesota Rule 1341.0910(C). Under the proposed rule, there would be a decrease in the number of rooms with communication features. Currently, all wheelchair accessible rooms require communication features and an additional number of rooms only require the communication features. The proposed rule would require a reduced number of rooms with both wheelchair access and communication access and therefore, an overall reduced number of rooms with communication features.

1341.0011 SUBPART 6, ITEM G- SECTION 1107.6.1.4 DISPERSION [NEW SECTION]

This section is added to ensure equitable dispersion of units and to harmonize with section 224.5 of the new ADAAG. This section is similar to current Minnesota rule 1341.0910, Item (D)(1) and Item A, Exception 2.

1341.0011 SUBPART 6, ITEM H - SECTION 1107.6.1.5 PASSAGE DOORS [NEW SECTION]

This section is added to harmonize with section 224.1.2 of the new ADAAG, which requires all rooms be provided with doors wide enough for wheelchair passage. This section is similar to current Minnesota rule 1341.0940, and as such does not increase cost.

1341.0011 SUBPART 6, ITEM I – IBC SECTION 1107.6.2 GROUP R-2

This section is modified to reflect the addition of units with communication features.

1341.0011 SUBPART 6, ITEM J - IBC SECTION 1107.6.2.1.1 TYPE A UNITS

Minnesota has always required accessible units where there are 8 or more units provided. *See* Minn. R. 1341.1620, Table 16.2 (2005). It is reasonable to maintain this requirement because the number of persons benefiting from accessible units will increase as the population ages. Nearly all power wheelchair users who are unable to bear weight will benefit from a roll-in shower. Providing a roll-in shower will increase accessibility of the dwelling units to a large number of individuals.

This change retains Minnesota's current requirement for units with roll-in showers (rule 1341.1640(E)(5)) and as such does not increase cost.

1341.0011 SUBPART 6, ITEM K – IBC SECTION 1107.6.2.2 GROUP R-2 OTHER THAN APARTMENT HOUSES, MONASATERIES AND CONVENTS

This section is amended to reflect the addition of units with communication features and to refer these types of units to the Group R-1 section. This is appropriate as the types of units covered in this section are transient in nature and should be designed as Group R-1. The subsections 1107.6.2.2.1 and 1107.6.2.2.2 are deleted as the new referenced sections address these issues.

1341.0011 SUBPART 6, ITEM L - IBC SECTION 1107.7 GENERAL EXCEPTIONS

The section reference number is changed to reflect the newly added section.

1341.0011 SUBPART 6, ITEM M- SECTION 1107.7.6 OWNER OCCUPIED UNITS [NEW SECTION]

This proposal retains some property rights of the dwelling owner. The units are still subject to the requirements of Type B units per the provisions of the federal Fair Housing Act.

1341.0011 SUBPART 7 – IBC SECTION 1108.2.8 DINING AREAS

Level changes can be of any dimension. The exception is intended to address when access must be provided between stories, not lesser elevation changes. Therefore, the term “levels” is replaced with “stories.” “Stories” is also the term used in ADAAG.

1341.0011 SUBPART 8, ITEM A - IBC SECTION 1109.1 GENERAL

The section reference change is necessary to reflect the addition of new Sections 1109.15, 1109.16 and 1109.17.

1341.0011 SUBPART 8, ITEM B - IBC SECTION 1109.2.1.5 PROHIBITED LOCATION

The concept of not allowing the toilet room to be located through a secured area is a good one. There is therefore no reason to limit the requirement to transportation facilities. Security is an ever-increasing concern and this situation is likely to become more prevalent.

1341.0011 SUBPART 8, ITEM C - IBC SECTION 1109.2.2 WATER CLOSET COMPARTMENT

The number of fixtures provided in the men’s and women’s toilet rooms are not always equal. This can be the case even when the gender split of the occupancy is assumed to be 50/50. The new sentence will ensure that when only one gender specific room triggers the additional compartment, the opposite gender room will be provided with the additional compartment as well.

1341.0011 SUBPART 8, ITEM D - IBC SECTION 1109.3 SINKS

The exception is deleted as it provides too broad of an exception for service sinks. The proposed amendment of A117.1 Section 606.2 would provide a limited exception for service sinks. *See* proposed part 1341.0606. Additionally, the exception could be considered redundant as mop sinks are for employee use and are exempt via a general exception for employee work areas. *See* IBC section 1103.2.3.

1341.0011 SUBPART 8, ITEM E - IBC SECTION 1109.6 ELEVATORS

The section reference is changed to incorporate chapter 1307. An exception is added to limit the use of limited-use/limited-access elevators in new construction as these devices are smaller and slower than other elevators.

1341.0011 SUBPART 8, ITEM F - IBC SECTION 1109.7 LIFTS

The section reference is changed to incorporate chapter 1307.

1341.0011 SUBPART 8, ITEM G - IBC SECTION 1109.9 DETECTABLE WARNINGS

This section is amended by incorporating crossings at rail tracks. As amended, this section is essentially equivalent to existing Minnesota rule 1341.1030, subp. 1(M), and as such will not increase cost.

1341.0011 SUBPART 8, ITEM H - IBC SECTION 1109.10 ASSEMBLY AREA SEATING

This section is given a new heading and new subsections to address routes to performance areas and assistive listening systems in assembly areas without fixed seating. Assembly seating in areas with fixed seats is already addressed at 1008.2 and does not need to be referenced here. This change conforms with the new ADAAG sections 206.2.6 and 219.2.

1341.0011 SUBPART 8, ITEM I - IBC SECTION 1109.12.3 POINT OF SALE AND SERVICE COUNTERS

Modification to the first sentence is necessary to ensure that an accessible counter is provided in each area of a facility such as a department store with sales counters provided in each department. Each department may have the same "type" of counter and the dispersion requirement will not ensure that each area or department will have an accessible counter. The new last sentence is necessary to ensure that the accessible counter is not remotely located. This proposal is comparable to how this issue is addressed in current Minnesota Rule 1341.0720.

1341.0011 SUBPART 8, ITEM J - SECTION 1109.15 AUTOMATIC TELLER AND FARE VENDING MACHINES, SECTION 1109.16 PUBLIC TELEPHONES, SECTION 1109.17 TWO-WAY COMMUNICATION SYSTEMS [NEW SECTIONS]

Section 1109.15 is added to harmonize with section 228.1 of the new ADAAG. This section is similar to current Minnesota Rule 1341.0405(T), and as such does not increase cost.

Section 1109.16 is added to harmonize with section 217 of the new ADAAG. This section is similar to current Minnesota Rule 1341.0405(Q), and as such does not increase cost.

Section 1109.17 is added to harmonize with section 230 of the new ADAAG. This section is similar to current Minnesota Rule 1341.0405(W), and as such does not increase cost.

1341.0011 SUBPART 9 - IBC SECTION 1110 SIGNAGE

The entire IBC section is deleted and replaced with new language to harmonize with section 216 of the new ADAAG. The new section is similar to current Minnesota rule 1341.0405(P), and as such does not increase cost.

1341.0011 SUBPART 10 - SECTION 1111 SWIMMING POOLS, WADING POOLS, SPAS, SAUNAS AND STEAM ROOMS [NEW SECTION]

The current Minnesota Accessibility Code contains provisions for pool access. *See* Minn. R. 1341.0405(V); 1341.0488 (2005). The proposed new section incorporates language from sections 4.1.3(22) and 15.8 of the US Access Board's accessibility standards. *See* <http://www.access-board.gov/recreation/index.htm>. It is reasonable to maintain the access requirements in the current rule and to introduce the standards from the US government. The language introduced from the Access Board provides options in addition to those provided by the current state code, which may decrease the cost of compliance.

1341.0011 SUBPART 11 - SECTION 1112 ADDITIONS [NEW SECTION]

Section 1112.1 is added to provide accessibility requirements for additions. It is necessary to add this section because IBC chapter 34 is not being proposed for adoption by the state. This section is similar to existing Minnesota rule 1341.0409 and IBC 3409.

Section 1112.2 is added to clarify that only the units included in the addition are considered in determining the number of accessible units required. This section is similar to IBC 3409.

1341.0011 SUBPART 12 - SECTION 1113 ALTERATIONS [NEW SECTION]

This section is added to provide accessibility requirements for alterations. It is necessary to add this section as IBC chapter 34 is not being proposed for adoption by the state. This section is similar to existing Minnesota rule 1341.0411 with the following new provisions:

Section 1113.10.1 requires that all elevators responding to a common call button receive the same alterations. This requirement is added to harmonize with section 206.6.1 of the new ADAAG.

Section 1113.10.2 allows the use of lifts in alterations to existing buildings. Standby power is required at certain locations to reduce the chance of entrapment in the space accessed by the lift.

Section 1113.10.6 clarifies that only the units included in the alteration are considered in determining the number of accessible units required. This section is similar to IBC 3409.

1341.0011 SUBPART 13 - SECTION 1114 CHANGE IN USE [NEW SECTION]

This section is added to provide accessibility requirements for change in use. The section is similar to existing Minnesota rule 1311.0501, subp. 2, and is essentially being relocated from 1311 to 1341 to provide consistency in the format of the code. The concept of technically infeasible is added to the new scoping which provides more flexibility than current 1311.0501, subp. 2. This will have the effect of reducing cost.

Section 1114.1 provides general requirements that apply to both a change in use to the entire building and to a portion of the building. This section allows the use of platform lifts in change in use. This allowance is not new but is clarified in this rule. An exception for owner occupied dwelling units is provided which allows individual unit owners to decline the Type A and Type B provisions. This is reasonable because it maintains individual rights of ownership and does not conflict with the Fair Housing Act as implemented by 24 CFR § 100.205 of the Fair Housing regulations.

Section 1114.1.1 addresses change in use to an entire building and is similar to existing Minnesota rule 1311.0501, subp. 2 except that the signage requirement is from IBC 3409.4. The concept of technically infeasible is included, ~~in the new scoping~~ which provides more flexibility than current part 1311.0501, subp. 2. This will have the effect of reducing cost.

Section 1114.1.2 addresses change in use to a portion of a building and is similar to existing Minnesota rule 1311.0501, subp. 2, except that toilet facilities are required. This is necessary because toilet facilities are a basic component and convenience provided in buildings and it is reasonable that accessible facilities be provided. The concept of technically infeasible is included, which provides more flexibility than current part 1311.0501, subp. 2. This will have the effect of reducing cost.

1341.0104 SUBPART 1 – A117.1 SECTION 104.2 DIMENSIONS

This section is modified to harmonize with section 104.1.1 of the new ADAAG. Locations stated with a minimum and maximum dimension are not allowed additional tolerance as the tolerance is provided within the dimension range.

**1341.0104 SUBPART 2 – A117.1 SECTION 104.6 CALCULATION OF PERCENTAGES
[NEW SECTION]**

This section is added to harmonize with section 104.2 of the new ADAAG. It provides clarification for the practice of rounding up or down when calculations result in fractions.

**1341.0105 SUBPART 1 - A117.1 SECTION 105.2.5 SAFETY CODE FOR ELEVATORS
AND ESCALATORS.**

This section is deleted as all elevator references will be to Minnesota Rules, chapter 1307, Minnesota Elevator and Related Devices Code.

**1341.0105 SUBPART 2 - A117.1 SECTION 105.2.6 SAFETY STANDARD FOR PLATFORM
LIFTS AND STAIRWAY CHAIRLIFTS**

This section is deleted as all platform lift references will be to Minnesota Rules, chapter 1307, Minnesota Elevator and Related Devices Code.

1341.0201 - A117.1 SECTION 201 GENERAL

This section is changed because the A117.1 standard only provides technical design criteria and is designed to be used with any scoping document. Since the scoping document, which determines if and when an element must be accessible, has been defined by the state as the 2006 IBC, it is necessary to replace the general scoping reference with a reference to the state building code.

1341.0202 - A117.1 SECTION 202 DWELLING AND SLEEPING UNITS

This section is changed because the A117.1 standard only provides technical design criteria and is designed to be used with any scoping document. Since the scoping document, which determines if and when an element must be accessible, has been defined by the state as the 2006 IBC, it is necessary to replace the general scoping reference with a reference to the state building code.

1341.0203 - A117.1 SECTION 203 ADMINISTRATION

This section is deleted because Minnesota Rules, chapter 1300, provides administration provisions.

1341.0402 - A117.1 SECTION 402.2 COMPONENTS

This section is modified to maintain Minnesota's current slope requirement for exterior accessible routes connecting parking access aisles and accessible loading zones to building entrances, and for exterior routes connecting multiple buildings provided on the same site.

See Minn. R. 1341.0422, subp. 7(B) (2005). This modification is less restrictive than the rule it is replacing in that other exterior accessible routes are permitted to have steeper slopes. The third exception allows ramps to residential Type A and Type B units where the provision of a 1:20 slope is not possible. These three exceptions have the effect of reducing costs as compared to the current rule.

1341.0403 - A117.1 SECTION 403.5 CLEAR WIDTH

Existing section 1341.0403 ACCESSIBLE SITES AND EXTERIOR FACILITIES; NEW CONSTRUCTION is deleted in its entirety and replaced with an amendment to A117.1 SECTION 403.5 CLEAR WIDTH.

A117.1 Section 403.5 is modified to maintain, in section 403.5.3, Minnesota's current width requirement for exterior accessible routes. *See* Minn. R. 1341.0422, subp. 3(B) (2005). This change will not increase cost as it reflects Minnesota's current requirement.

1341.0404 – A117.1 SECTION 404 DOORS AND DOORWAYS

1341.0404 SUBPART 1 – A117.1 SECTION 404.3.2 MANEUVERING CLEARANCES

This section is modified to harmonize with section 404.3.2 of the new ADAAG. Fully automatic doors do not require maneuvering clearance when: 1) they are not on an accessible means of egress; 2) if on an accessible means of egress, they are provided with standby power; or, 3) if on an accessible means of egress, the door is in the open position in the power off condition.

1341.0404 SUBPART 2 – A117.1 SECTION 404.3.5 CONTROL SWITCHES

This section is modified to ensure that exterior located manual control switches for automatic doors are functional and usable by those relying on them. This section, as modified, is similar to Minnesota's current rule 1341.0442, subp. 12, except that the modified criteria only apply to exterior located controls.

1341.0407 - A117.1 SECTION 407 ELEVATORS

1341.0407 SUBPART 1 - A117.1 SECTION 407.1 GENERAL

References are changed to Minnesota Rules Chapter 1307, the Minnesota Elevator Code, because all lifting devices must comply with the Minnesota Rules. This section is also amended to clarify that key operation is not allowed. This is consistent with the state's long-standing interpretation of the requirement that elevators be "automatic." *See* Minn. R. 1341.0436, subp. 2 (2005). An exception for attendant and key operation is added to provide the code official the means to approve such use in certain conditions such as correctional facilities where movement is restricted or controlled.

1341.0407 SUBPART 2 - A117.1 SECTION 407.4.3 PLATFORM TO HOISTWAY CLEARANCE

Reference is changed to Minnesota Rules Chapter 1307, the Minnesota Elevator Code, because all lifting devices must comply with the Minnesota Rules.

1341.0407 SUBPART 3 - A117.1 SECTION 407.4.10 EMERGENCY COMMUNICATIONS

Reference is changed to Minnesota Rules Chapter 1307, the Minnesota Elevator Code, because all lifting devices must comply with the Minnesota Rules.

1341.0408 - A117.1 SECTION 408 LIMITED-USE/LIMITED-APPLICATION ELEVATORS

1341.0408 SUBPART 1 - A117.1 SECTION 408.1 GENERAL

Reference is changed to Minnesota Rules Chapter 1307, the Minnesota Elevator Code, because all lifting devices must comply with the Minnesota Rules. This section is also amended to clarify that key operation is not allowed. This is consistent with the state's long-standing interpretation of the requirement that elevators be "automatic." See Minn. R. 1341.0436, subp. 2 (2005). An exception for attendant and key operation is added to provide the code official the means to approve such use in certain conditions such as correctional facilities where movement is restricted or controlled.

1341.0408 SUBPART 2 - A117.1 SECTION 408.3.3 DOOR LOCATION AND WIDTH

This section is modified to allow for the addition of two new sections to provide criteria for door location.

Section 408.3.3.1 relocates criteria provided in A117.1 Section 408.3.3 for cars with a single door. This section also addresses cars with doors on opposite ends and sets the same criteria for the doors.

Section 408.3.3.2 recognizes Minnesota's current requirement for doors on adjacent sides of a platform lift (part 1307.0065, subp. 21) and applies the criteria to limited-use/limited-application elevators. The current configuration has proven to be effective for lifts requiring a 90-degree turn. This proposal requires that the side door be increased in width from a 32 inch door to a 42 inch door but is necessary to provide a functional elevator under these conditions.

1341.0408 SUBPART 3 - A117.1 SECTION 408.4.1 INSIDE DIMENSIONS OF ELEVATOR CARS

As written, Exception 1 allows a car size of 51 inches by 51 inches. However, car sizes of 50 inches by 52 inches and 49 inches by 53 inches are not allowed. It is reasonable to modify this section to allow additional car configurations with similar total areas. The modification to Exception 2 recognizes Minnesota's current requirement for doors on adjacent sides of a

platform lift (part 1307.0065, subp. 21) and applies the criteria to limited-use/limited-application elevators installed in existing buildings. The current configuration has served well for lifts requiring a 90-degree turn. This proposal requires that the size of the car be maximized but is necessary to provide a functional elevator under these conditions.

1341.0408 SUBPART 4 - A117.1 SECTION 408.4.3 PLATFORM AND HOISTWAY CLEARANCE

Reference is changed to Minnesota Rules Chapter 1307, the Minnesota Elevator Code, because all lifting devices must comply with the Minnesota Rules.

1341.0409 - A117.1 SECTION 409.1 GENERAL

Existing section 1341.0409 ACCESSIBLE BUILDINGS; ADDITIONS is deleted in its entirety and replaced with an amendment to A117.1 SECTION 409.1 GENERAL

Reference is changed to Minnesota Rules Chapter 1307, the Minnesota Elevator Code, because all lifting devices must comply with the Minnesota Rules.

1341.0410 - A117.1 SECTION 410 PLATFORM LIFTS

1341.0410 SUBPART 1 - A117.1 SECTION 410.1 GENERAL

Reference is changed to Minnesota Rules Chapter 1307, the Minnesota Elevator Code, because all lifting devices must comply with the Minnesota Rules. This section is also amended to clarify that lifts with key operation are not allowed. This is consistent with the state's long-standing interpretation of the requirement that elevators be "automatic." See Minn. R. 1341.0436, subp. 2 (2005). An exception for attendant and key operation is added to provide the code official the means to approve such use in certain conditions such as correctional facilities where movement is restricted or controlled.

1341.0410 SUBPART 2 - A117.1 SECTION 410.2.1 DOORS AND GATES

The clear width of end doors on lifts with side doors is increased to provide 36 inch clear width as the actual turn may need to occur within the door opening, i.e., the wheelchair user may still be maneuvering their turn within the doorway. Side door location must be addressed in order to provide the most maneuvering space possible.

Exception 1 is modified because doors with ramps are difficult to operate and to maneuver through. It is reasonable to provide an automatic door on any door having a ramp.

Exception 2 is added to address lifts with manual doors on adjacent sides. Door swing and location must be addressed in order to ensure usability by wheelchair users.

Exception 3 coordinates with Section 408.3.3 and maintains similar requirements for limited-use/limited-application elevators and platform lifts.

This proposal may reduce costs by providing additional design options. Costs will increase when automatic doors are required.

1341.0410 SUBPART 3 - A117.1 SECTION 410.2.2 RAMPS

This section is modified to conform to the modification to the previous Section 410.2.1 in which certain door widths are increased to 36 inches. It is reasonable to modify the width of the ramp based on the width of the door served by the ramp.

1341.0410 SUBPART 4 - A117.1 SECTION 410.5 CLEAR FLOOR SPACE

Section 410.5 is modified to reference two new sections.

Section 410.5.1 is added to specify the minimum platform size on lifts with a single door or with doors on opposite ends. This proposal modifies the platform size to a minimum width of 32 inches because this is the minimum clear width allowed for an accessible route at section 403.5 (although this proposal is modified to allow the 32 inch width to extend beyond the 24 inch limitation in length allowed in section 403.5). Also, section 410.2.1 requires a 32-inch clear width door. It is reasonable that the platform be at least as wide as the door serving it and comply with the minimum width of an accessible route.

Section 410.5.2 is added to retain Minnesota's current requirement for doors on adjacent sides of a platform lift. *See* Minn. R. 1307.0065, subp. 21 (2005). The current configuration has proven to be effective for lifts requiring a 90-degree turn.

1341.0502 - A117.1 SECTION 502, PARKING SPACES

1341.0502 SUBPART 1 - A117.1 SECTION 502.2 VEHICLE SPACE SIZE

This proposal maintains the current size of car and van parking spaces. *See* Minn. R. 1341.0428, subp. 3 (2005). This is necessary and reasonable because of the requirement to center the parking sign on the parking space, currently in part 1341.0428, subp. 4, which is proposed to be retained as part 1341.0502, subpart 3. The purpose of centering the sign on the parking space is to allow the vehicle to be centered on the sign thereby ensuring the proper alignment with the parking space and access aisle. This is beneficial when the surface of the parking and access aisle are obscured by snow or debris. Centering the sign on a parking space that is 132 inches in width defeats the purpose of the wider parking space. The wider parking space is intended to be served by a 5 foot wide access aisle. The driver of the vehicle is supposed to position the vehicle within the parking space in relation to the access aisle so that they have sufficient space to transfer into and out of the vehicle. The State's approach to this issue, through this proposal and proposed subpart 2, is to provide parking spaces and access aisles that are each 8 feet wide.

1341.0502 SUBPART 2 – A117.1 SECTION 502.4 ACCESS AISLE

This section is amended to require both car and van access aisles to be 8 feet wide. This provides better equity to persons seeking van accessible parking spaces because all access aisles are wide enough for wheelchair loading and unloading. In order to maintain a clear access aisle, the aisles must be marked with a “no parking” designation.

1341.0502 SUBPART 3 – A117.1 SECTION 502.7 IDENTIFICATION

This modification maintains the current Minnesota requirement for placement of the parking sign at the center of the parking space, which serves to locate the parking space when the parking surface is covered with snow or debris. *See* Minn. R. 1341.0428, subp. 4 (2005).

Due to the amendment in proposed subpart 2 requiring all access aisles to be 8 feet wide, the sign indicating “van accessible” is only required where all spaces do not provide the minimum clear height.

The Advisory Committee discussed providing more flexibility in the mounting height of the sign. The 60-inch minimum dimension above the parking surface is established in A117.1 section 502.7. Allowing a lower height will create a conflict with this national standard. Allowing the sign to be mounted higher than 66 inches creates a potential conflict with Minnesota Statutes Section 169.346 requiring that the sign “must be visible from inside a vehicle parked in the space.”

The exception was added based on Advisory Committee discussion on parallel parking and the need to specify the location of the sign. This exception was in the 1996 Accessibility Code. *See* Minn. R. 1340.1120, subp. 1 (1997).

1341.0603 - A117.1 SECTION 603 TOILET AND BATHING ROOMS

1341.0603 SUBPART 1 - A117.1 SECTION 603.3 MIRRORS

The added exception is comparable to Minnesota Rules 4658.4150(L) and is added to avoid conflict.

1341.0603 SUBPART 2 - SECTION 603.5 DIAPER CHANGING TABLES [NEW SECTION]

This section is added to maintain a current code requirement for an element not addressed in the ICC A117.1 standard. The current code sets the maximum height of the diaper-changing table at 34 inches, as does A117.1 section 902.3. *See* Minn. R. 1341.0460, subp. 8 (2005). Because a changing table is a fixed table, it also must currently comply with part 1341.0480. There is no cost impact from this proposal as the requirement currently exists in the Minnesota Rules.

1341.0604 - A117.1 SECTION 604 WATER CLOSETS AND TOILET COMPARTMENTS

1341.0604 SUBPART 1 - A117.1 SECTION 604.3.1 SIZE

This modification retains Minnesota's current clearance requirement which provides a wheelchair space directly in front of the water closet. *See* Minn. R. 1341.0448, subp. 2 (2005). The need for 48 inches of clear floor space in front of the water closet is supported by the Access to Toilet and Bathing Facilities report prepared for the US Access Board, dated March 31, 1998 (see pages 13-16).¹⁰ As written, this proposal will allow a measurement irrespective of the water closet or may allow less overall depth of the compartment if measured from the water closet.

1341.0604 SUBPART 2 - A117.1 SECTION 604.5.1 FIXED SIDE WALL GRAB BARS

The added exception is from Minnesota Rules 4658.4150(G) and is added to avoid conflict.

1341.0604 SUBPART 3 - A117.1 SECTION 604.7 DISPENSERS

The section title has been changed to incorporate the added reference to sanitary product disposals. Sanitary product disposal location is not addressed without amendment.

The existing requirement that the dispenser be centered in front of the water closet is inadequate as it does not limit the size of the dispenser and allows a large dispenser to be out of reach. This proposal provides some flexibility in placement and still ensures usability of the dispenser.

The added exception is from Minnesota Rules 4658.4150(F) and is added to avoid conflict.

1341.0604 SUBPART 4 - A117.1 SECTION 604.8.2 SIZE

This proposal coordinates clear floor space requirements for water closets with the requirements in A117.1 section 604.3, as amended by proposed part 1341.0604, subpart 1.

1341.0604 SUBPART 5 - A117.1 SECTION 604.8.3 DOORS

This section provides for more design options for placement of the door while maintaining minimum door clearance requirements. This is especially applicable in larger sized compartments.

¹⁰ A copy of this document is available for review at the Minnesota Department of Labor and Industry by contacting Curtis Wiehle, Construction Codes and Licensing Division, 443 Lafayette Road N., St. Paul, MN 55155-4341; phone: (651) 284-5877; fax: (651) 284-5749. TTY users may call the Department of Labor and Industry at (651) 297-4198.

Criteria have been added which will allow doors to swing into compartments, thus allowing more flexibility in design.

1341.0604 SUBPART 6 - A117.1 SECTION 604.10.7 DISPENSERS.

The existing requirement that the dispenser be centered in front of the water closet is inadequate as it does not limit the size of the dispenser and allows a large dispenser to be out of reach. This proposal provides some flexibility in placement and still ensures usability of the dispenser.

1341.0606 - A117.1 SECTION 606.2 CLEAR FLOOR SPACE

An Exception 7 is added to address access to sinks which, due to the nature of their use and function, necessitate a deep bowl and therefore do not allow for forward approach and knee clearance. The exception will allow a parallel approach to such sinks.

1341.0607 - A117.1 SECTION 607.2 CLEARANCE

The added exception is intended to comport to Minnesota Rule 4658.4155, Subpart 2, Item C, and Subpart 4, Items (A) and (D), and is added to avoid conflict.

1341.0608 - A117.1 SECTION 608 SHOWER COMPARTMENTS

1341.0608 SUBPART 1 - A117.1 SECTION 608.2.2 STANDARD ROLL-IN-TYPE SHOWER COMPARTMENT

This modification requires that a seat be provided in a standard roll-in shower. All other type shower facilities are required to have a seat. Shower facilities are not usable by a majority of individuals who use wheelchairs without a seat provided.

1341.0608 SUBPART 2 - SECTION 608.2.4 NURSING HOME SHOWER COMPARTMENT [NEW SECTION]

The added section is from Minnesota Rule 4658.4155, subp. 3(A), and is added to avoid conflict.

1341.0608 SUBPART 3 - A117.1 SECTION 608.3 GRAB BARS

The added exception is from Minnesota Rule 4658.4155, subp. 3(C), and is added to avoid conflict.

1341.0608 SUBPART 4 - A117.1 SECTION 608.3.2 STANDARD ROLL-IN-TYPE SHOWERS

This section is modified to eliminate the criteria for location of grab bars in compartments without seats because proposed part 1341.0608, subp. 1, would require that a seat be provided.

The exception is added to address the condition where the roll-in shower is excessively deep. Grab bars are not functional and hence unnecessary when located a great distance from the controls.

1341.0608 SUBPART 5 - A117.1 SECTION 608.4 SEATS

This modification requires a folding seat in both standard and alternate roll-in type showers. A folding seat is necessary to maintain the roll-in aspect of the shower and to ensure access to the controls.

1341.0608 SUBPART 6 - A117.1 SECTION 608.5.1 TRANSFER-TYPE SHOWERS

This section is modified to harmonize with section 608.5.1 of the new ADAAG. It ensures that the controls are reachable from outside the shower compartment. This change essentially retains the current requirement for location of controls. *See* Minn. R. 1341.0470, subp. 2; 1341.0420, subp. 5 (2005).

1341.0608 SUBPART 7 - A117.1 SECTION 608.5.2 STANDARD ROLL-IN SHOWERS

This section is modified to eliminate the criteria for location of controls in compartments without seats because proposed part 1341.0608, subp. 1, would require that a seat be provided.

1341.0608 SUBPART 8 - A117.1 SECTION 608.5.3 ALTERNATE ROLL-IN SHOWERS

The exception provided at this section is deleted as it creates a conflict with section 608.5.3 of the new ADAAG. Shower heads are generally required to be hand held. There is a general exception for fixed shower heads at Section 608.6.

1341.0608 SUBPART 9 - A117.1 SECTION 608.6 HAND SHOWERS

The exception is modified to give the administrative authority direction as to when a fixed shower head can be provided. Generally, shower heads are required to be hand held. However, there are situations such as in a correctional facility where the hose poses a threat and hazard.

1341.0609 - A117.1 SECTION 609.4 POSITION OF GRAB BARS

The modification of 609.4.1 deletes the criteria for children's grab bars. These criteria are relocated to 609.4.2.

A new Section 609.4.2 provides criteria specifically for grab bars at children's facilities. The location of horizontal grab bars for children's toilet facilities is relocated from Section 609.4.1 to section 609.4.2. Section 609.4.2 adds criteria for placement of the vertical grab bar at children's toilet fixtures. The vertical grab bar heights allow for a 3 inch separation between the top of the horizontal bar and the bottom of the vertical bar. The distance from the rear wall to the vertical bar places the bar within reach of the fixture.

1341.0610 - A117.1 SECTION 610.3 SHOWER COMPARTMENT SEATS

Existing section 1341.0610 GENERAL is deleted in its entirety and replaced with an amendment to A117.1 SECTION 610.3 SHOWER COMPARTMENT SEATS

The criteria for seats in roll-in showers are deleted because they are addressed in section 608.4, as amended by proposed part 1341.0608, subp. 5.

1341.0805 - A117.1 SECTION 805 TRANSPORTATION FACILITIES

1341.0805 SUBPART 1 - A117.1 SECTION 805.9 ESCALATORS

The reference to the technical standard is changed to Minnesota Rules Chapter 1307, the Minnesota Elevator Code, as that is where the reference to ASME A17.1 is provided.

1341.0805 SUBPART 2 - A117.1 SECTION 805.10 TRACK CROSSINGS

A requirement for detectable warning at track crossings currently exists in part 1341.1030, subp. 1(M), which parallels a requirement in section 10.3.1(13) of the prior ADAAG. The federal Access Board in updating its standard has, while maintaining this requirement, relocated it to a document for Public Rights of Way. See <http://www.access-board.gov/provac/index.htm>. This change harmonizes with the federal rules for track crossings. This change does not increase cost because it is essentially the same as current rule.

1341.1002 - A117.1 SECTION 1002 ACCESSIBLE UNITS

A new section 1002.15 is added to address the requirement for an accessible bed. This new section is similar to current Minnesota rule 1341.0920, subp. 2(A), and harmonizes with section 806.2.3 of the new ADAAG.

1341.1003 – A117.1 SECTION 1003 TYPE A UNITS

1341.1003 SUBPART 1 – A117.1 SECTION 1003.5 DOORS AND DOORWAYS

Exception 2 is amended to reference Sections 1003.11.5 through 1003.11.9 instead of Section 1003.11. This modification is to correct an error in the original text. *See* <http://www.iccsafe.org/cs/standards/a117/2003Errata.pdf>. All toilet and bath rooms are required to comply with at least one section in 1003.11. Therefore, the original reference to 1003.11 does not provide the intended exception.

1341.1003 SUBPART 2 - A117.1 SECTION 1003.9 OPERABLE PARTS

This section is modified by replacing the laundry list of covered elements with a general provision for operable parts. This is done in order to apply the section to elements that may be missed in the laundry list – such as electric panel boxes. While this represents a new application of the code, it does not increase cost. An exception to the requirements of section 309.4 is added for panel boxes so that individual breakers are not required to comply with the requirements for operation.

1341.1003 SUBPART 3 - A117.1 SECTION 1003.11.7.3 OVERLAP

The standard does not provide a maximum depth of a lavatory. When an obstruction is allowed next to a water closet, a maximum depth must be established. A maximum depth of 24 inches is reasonable because it will allow the water closet to be accessible and useable.

1341.1004 - A117.1 SECTION 1004 TYPE B UNITS

1341.1004 SUBPART 1 - A117.1 SECTION 1004.4.2 CHANGES IN LEVEL

This section is modified to provide the ability to modify the route of travel to a deck while addressing the issue of water penetration. Providing a ramp for a four-inch rise on what is typically a relatively small deck area is not reasonable or many times possible. At two inches, a steep bevel, while not desirable, is possible. Two inches should be sufficient to control water penetration into the dwelling unit, which is the purpose of allowing the elevation change. This proposal does not increase cost compared to the existing accessibility code, because the current code requires a ¾ inch maximum threshold for exterior sliding doors. *See* Minn. R. 1341.1640(B) (2005).

1341.1004 SUBPART 2 – A117.1 SECTION 1004.9 OPERABLE PARTS

This section is modified to include electric panel boards to the list of covered items. This is reasonable because dwelling unit occupants require access to the electric panel. While this is a new element to the code, it does not increase cost.

1341.1004 SUBPART 3 - A117.1 SECTION 1004.11 TOILET AND BATHING FACILITIES

1341.1004 SUBPART 3, ITEM A - A117.1 SECTION 1004.11.3.1.1 LAVATORY

The exceptions are modified into one exception to clarify that removable cabinets are only required when a forward approach is the only approach to the lavatory.

1341.1004 SUBPART 3, ITEM B - A117.1 SECTION 1004.11.3.1.2 WATER CLOSET

This section is modified to provide more design options. Specifically, this modification addresses the perpendicular and forward approach options as well as the condition where walls are provided on both sides of the water closet.

1341.1004 SUBPART 3, ITEM C - A117.1 SECTION 1004.11.3.1.2.1 PARALLEL APPROACH

This section is modified to provide more design options. Specifically, this modification allows obstructions other than lavatories and vanities to overlap the clearance for the water closet. An obstruction other than a lavatory or vanity is no more of a barrier than is the lavatory or vanity. Therefore, there is no reason to limit the obstruction to only a lavatory or vanity.

1341.1004 SUBPART 3, ITEM D - A117.1 SECTION 1004.11.3.1.2.2 FORWARD APPROACH

This section is modified to provide more design options. Specifically, this modification allows obstructions other than lavatories and vanities to overlap the clearance for the water closet. An obstruction other than a lavatory or vanity is no more of a barrier than is the lavatory or vanity. Therefore, there is no reason to limit the obstruction to only a lavatory or vanity.

1341.1004 SUBPART 3, ITEM E - SECTION 1004.11.3.1.2.3 PARALLEL OR FORWARD APPROACH

The existing section heading, Parallel or Forward Approach, and text is deleted and replaced with language addressing obstructions next to the water closet. The existing text is not needed as the previous two sections establish the minimum requirements for the two possible approaches to the water closet.

The text of the new section, Obstructions, establishes criteria for the obstruction allowed to overlap the clearance at the water closet in Sections 1004.11.3.1.2 and 1004.11.3.1.2.2. It is essential to address the depth of the obstruction so that access to the water closet is maintained. The 24 inch maximum dimension is the same as provided in the current Minnesota Rule 1341.1640(E)(2)(c).

1341.1004 SUBPART 3, ITEM F - A117.1 SECTION 1004.11.3.1.3.1 PARALLEL APPROACH BATHTUBS

This section is modified to provide more design options. This modification clarifies that the installation of a lavatory or water closet is allowed at either end of a bathtub having 48 inches of unobstructed floor space. Where the space is less than 48 inches, an accessible lavatory is allowed at the control end of the tub.

1341.1004 SUBPART 3, ITEM G - A117.1 SECTION 1004.11.3.1.3.2 FORWARD APPROACH BATHTUBS

This section is modified to provide more design options. Specifically, this modification provides for the installation of a lavatory or water closet at either end of a bathtub.

1341.1004 SUBPART 3, ITEM H - A117.1 SECTION 1004.11.3.2.1.1 CLEAR FLOOR SPACE

The exceptions are modified into one exception to clarify that removable cabinets are only required when a forward approach is the only approach to the lavatory.

1341.1005 - A117.1 SECTION 1005.6.1 PUBLIC OR COMMON-USE INTERFACE

This section allows for flexibility in providing the communication system recognizing that the system may not always be necessary. However, when necessary, providing the system is no different than any other accessible element required by this chapter. The cost of compliance is not borne by the user of the facility. The proposed rule is comparable to current Minnesota Rule 1341.0405, Item W.

1341.1100 - CHAPTER 11 SWIMMING POOLS, WADING POOLS, SPAS, SAUNAS AND STEAM ROOMS [NEW SECTION]

This section is added to provide technical criteria for the scoping provision contained in proposed part 1341.0011, subp. 10. The current Minnesota Accessibility Code contains provisions for pool access in Minnesota Rule 1341.0405(V). The proposed new section incorporates language from sections 4.36 and 15.8 of the US Access Board's accessibility standards. See <http://www.access-board.gov/recreation/index.htm>. A modification has been made to the Board's language in proposed section 1102.6 to retain Minnesota's current requirement for a stable seat, which is necessary for transfer. See Minn. R. 1341.0488 (2005). It is reasonable to maintain this access requirement and to introduce the standards from the US government. This provision may reduce costs compared to the current Minnesota code as it provides additional compliance options.


REPEALER

The proposed repealer would repeal all rule parts in the current Accessibility Code except parts 1341.0403, 1341.0409, and 1341.0610, which are amended. This is necessary and reasonable because the proposed rule would replace the Accessibility Code with the IBC and the ICC A117.1, as amended by the proposed rule.

CONCLUSION

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

September 8, 2006



M. Scott Brener
Commissioner of Labor and Industry

Exhibit A

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