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Register

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Rudy Perpich
Governor

Richard L. Brubacher,
Commissioner,
Department of Administration

George T. Morrow, II,
Director,
Office of the State Register

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EXECUTIVE ORDERS

Executive Order No. 142

Establishing a Standard of Conduct for Officials and Employees of the Executive Branch of the State of Minnesota

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, effective government is premised upon public confidence in the integrity and objectivity of government officials; and

WHEREAS, a public official of a free government is entrusted with the welfare, property, security and safety of the people he or she serves; and

WHEREAS, in return for the trust of the public, the people are entitled to know that no conflict exists between private interests and official duties in those who serve them; and

WHEREAS, there is a need to provide standards of conduct uniformly applicable to all officials and employees of the executive branch of state government in order that government integrity remain preserved:

NOW, THEREFORE, I order:

1. That officials and employees of the executive branch of the State of Minnesota should endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of the public trust. Each of us should remain conscious that the appearance as well as the reality of high ethical standards is vital.
2. That no official or employee of the executive branch of the State of Minnesota shall accept part-time employment which will impair his or her independence of judgment in the exercise of official duties. Each of us in evaluating whether or not to accept part-time employment should consider the appearance as well as the reality of a conflict of interest. If an individual has doubt about the propriety, an advisory opinion should be sought from the Minnesota Ethical Practices Commission.
3. That officials and employees of the executive branch of the State of Minnesota shall abstain from making personal investments in enterprises which they have reason to believe may be directly involved in decisions to be made by them.
4. That no official or employee of the executive branch of the State of Minnesota shall solicit, sell or otherwise engage in a substantial financial transaction with a subordinate or a person or business whom he or she inspects or supervises in his or her official capacity. Private financial transactions are not prohibited per se; however, careful and thoughtful consideration should be given as to how the private financial transaction relates to public employment.
5. That no official or employee of the executive branch of the State of Minnesota shall receive or agree to receive any compensation, reward or gift with a monetary value of greater than \$5.00 except

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from the State of Minnesota for any service, advice, assistance or other matter related to state government employment. While not prohibited each of us should avoid the acceptance of any gratuity of any amount.

This order shall be effective upon publication in the *State Register* and shall remain in effect until rescinded by the proper authority.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 23rd day of February, 1977.



RULES

Energy Agency Certificate of Need and Criteria for Assessment of Need for Large Coal Storage Facilities

Chapter Nine

EA 901 Purpose of rules. The purpose of these rules is to specify the contents of applications for certificates of need and to specify criteria for assessment of need for large coal storage facilities for coal suppliers and coal transshipment facilities. In accordance with Minn. Stat. § 116H.13 subd. 4, a coal supplier shall apply for a certificate of need to construct a new large energy facility.

EA 902 Applicability of rules.

A. Each coal supplier applying for a certificate of need for a large coal storage facility or any person applying for a certificate of need for a coal transshipment facility shall provide all information required by these rules. A certificate of need is required for each new large coal storage facility, each new coal transshipment facility, and for each expansion of either such facility, which expansion is itself of sufficient size to come within the definition in either rule EA 904 E. or rule EA 904 L.

B. Exception. Any person who as of the effective date of these rules has begun or has completed construction of a large coal facility shall not be subject to these rules for that facility.

EA 903 Application procedures and timing.

A. Each applicant for a certificate of need shall apply in a form prescribed by the director.

B. A minimum of seven (7) bound copies and one (1) unbound copy of the application must be filed with the director. The director may require additional bound copies. All documents, forms, and schedules filed with the application must be typed on 8½" × 11" paper except for blueprints, engineering drawings, maps, and similar materials. The date of preparation and the applicant's name shall appear on each page of the application, as well as on each document filed with the application. Each application shall contain a title page and a complete table of contents which includes the applicable rule by the titles and numbers given in these regulations.

C. Subsequent to the filing of an application, any changes or corrections to the application shall comply with rule EA 903 B. as to the number of copies and size

of documents. In addition, each page of a change or correction to a previously filed page shall be marked with the word "REVISED" and with the date the revision was made. The original copy of the changes or corrections shall be filed with the hearing examiner, and the remaining copies shall be submitted to the director.

D. Each application for a certificate of need shall be accompanied by a cover letter signed by an authorized officer or agent of the applicant. The cover letter shall specify the type of facility for which a certificate of need is requested, the number of copies filed, and the rules and subdivisions thereof to which the applicant has responded.

E. A hearing examiner shall be appointed and a public hearing shall be scheduled to commence no later than eighty days after the receipt of the application, in accordance with Minnesota Energy Agency Rules of Procedure Governing Certificate of Need Program, EA 500 et seq., and the Hearing Examiner Rules for Contested Case Procedures, HE 201 et seq.

F. A decision on an application for a certificate of need shall be made by the director no later than six months from the receipt of the application, provided that the application as filed is substantially complete.

G. The director shall notify the applicant within 15 days of the receipt of an application if the application is not substantially complete. Upon such notification, the applicant may correct any deficiency and may resubmit the application. A decision shall be made upon the revised application within six months of the date of resubmission, assuming it is substantially complete.

H. Prior to the submission of an application, a person may be exempted from any data requirement of these rules upon a written request to the director for exemption from specified rules and a showing by that person in the request that the data requirement 1) is unnecessary to determine the need for the proposed facility or 2) may be satisfied by submission of another document. A request for exemption must be filed at least 20 days prior to submission of an application. The director shall respond in writing to each such request within 15 days of receipt including reasons for his decision. The director shall file a statement of exemptions granted and reasons therefor prior to commencement of the hearing.

EA 904 Definitions. For purposes of these rules, the following definitions shall apply:

- A. "Agency" means the Minnesota Energy Agency;
- B. "Applicant" means the person or persons submitting a certificate of need application;

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C. "Application" means a document, the contents of which are described in these rules, submitted by a person or persons to the director for the purpose of obtaining a certificate of need;

D. "Coal Supplier" means an entity engaged in this state in the wholesale distribution of coal or transportation into this state of any coal intended for use or distribution in the state or transshipment from the state;

E. "Coal Transshipment Facility" means a facility designed for or capable of transferring more than 300 tons of coal per hour or with an annual throughput of more than 500,000 tons of coal from one mode of transportation to a similar or different mode of transportation;

F. "Construction" means significant physical alteration of a site to install or enlarge a large energy facility, but not including activities incident to preliminary engineering or environmental studies;

G. "Demand" means that quantity of an energy product from the applicant's facilities for which there are willing and able purchasers;

H. "Director" means the director of the Agency;

I. "Energy Product" means a product which may be used to provide energy;

J. "Forecast" means a prediction of future demand for some specified time period;

K. "Joint Application" means an application submitted to the director by two or more persons;

L. "Large Coal Storage Facility" means a facility designed for or capable of storing more than 7500 tons of coal or with an annual throughput of more than 125,000 tons of coal;

M. "Minnesota Service Area" means that portion of the service area which is within Minnesota;

N. "Person" means an individual, partnership, corporation, joint stock company, unincorporated association or society, municipal corporation, or a government or governmental subdivision, unit or agency, other than a court of law;

O. "Service Area" means that geographical area in which the applicant has customers;

P. "Substantially Complete Application" means an application which is deemed by the director to be in substantial compliance with the informational requirements of these rules; and

Q. "Ton" means 2000 pounds.

EA 905 Filing fees and payment schedule. The fee for processing an application shall be:

A. \$1,500 plus \$10 per thousand tons of design annual throughput for a large coal storage facility; or

B. \$10,000 plus \$200 per one hundred thousand tons of design annual throughput for a coal transshipment facility; plus such additional fees as are reasonably necessary for completion of the evaluation of need for the proposed facility. In no event shall the total fee required of any applicant exceed \$50,000. Fifty percent of the fee set according to either item A. or B. of rule EA 905 shall accompany the application and the balance shall be paid 90 days after submission of the application. The applicant shall be notified when any additional fees are due and shall pay them within 30 days of notification. The billing for such additional fees shall be accompanied by an itemized statement. No certificate of need shall be issued unless all fees are paid in full.

EA 911 Criteria for assessment of need.

A. Purpose of the criteria. The criteria for assessment of need will be used by the director in the determination of the need for a proposed large energy facility pursuant to Minn. Stat. §§ 116H.01 through 116H.15. The factors listed under each of the criteria below will be evaluated to the extent that the director deems them applicable and pertinent to each facility proposed pursuant to these rules.

B. A certificate of need shall be granted to the applicant if it is determined that:

1. the probable result of denial would adversely affect the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states. In making this determination, the director shall consider:

a. the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;

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b. the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;

c. the effects of promotional practices which may have given rise to the increase in the energy demand, particularly promotional practices which have occurred since 1974;

d. the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand; and

e. the effect of the proposed facility in making more efficient use of resources;

2. a more reasonable and prudent alternative to the proposed facility has not been demonstrated. In making this determination, the following factors shall be considered:

a. the appropriateness of the size, type, and the timing of the proposed facility compared to those of reasonable alternatives;

b. the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives;

c. the impact of the proposed facility upon the natural and socioeconomic environments compared to the impacts of reasonable alternatives; and

d. the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives;

3. the consequences of granting the certificate of need outweigh the consequences of denying the certificate, considering:

a. the relationship of the proposed facility to overall state energy needs;

b. the impact of the proposed facility upon the natural and socioeconomic environments compared to the impact of not building the facility;

c. the effects of the proposed facility in inducing future development; and

d. socially beneficial uses of the output of the proposed facility, including its uses to protect or enhance environmental quality; and that

4. it has not been demonstrated on the record that the design, construction or operation of the proposed facility will fail to comply with those relevant policies, rules and regulations of other state and federal agencies and local governments which have been considered during the hearing process.

EA 921 Contents of application.

A. Each application for a certificate of need for a large coal storage facility or a coal transshipment facility shall provide the information required by rules EA 931-934 and 941-945.

B. An application for a certificate of need may contain information in response to rule EA 971, if desired by the applicant.

C. Joint application. If the proposed application for a certificate of need is jointly submitted by two or more persons, then, when specified in these rules, each such person shall submit the information required by these rules.

D. Multi-Party ownership and use. Each application for a certificate of need for a facility which is owned and used by two or more persons shall be considered as a joint application for purposes of these rules.

EA 931 General information.

A. Each application shall contain a general information section which shall include the following information:

1. the applicant's complete name and address, telephone number, and standard industrial classification code(s);

2. the complete name, title, address, and telephone number of the official or agent to be contacted concerning the applicant's filing;

3. a brief description of the nature of the applicant's business and of the services rendered;

4. a brief description of the proposed facility, its complete address (if known) or general location, a brief description of its planned use, its estimated cost, its planned in-service date, its design capacity in tons of coal and its design annual throughput in tons;

5. the total fee for the application as prescribed by rule EA 905, and the amount of the fee submitted with the application; and

6. the signature(s) and title(s) of the applicant's

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officer(s) or executive(s) authorized to sign the application and the signature of the preparer of the application if prepared by an outside agent.

B. Each application shall contain a schedule in the general information section which shall list all known federal, state, and local agencies or authorities with which the applicant must file for the proposed facility. The following information shall be included on the schedule:

1. the names of all known federal, state, or local agencies or authorities with which the applicant must file;

2. the title of each required permit or certificate issued by each authority named in response to rule EA 931 B. 1. and needed by the applicant;

3. for each permit or certificate listed in response to rule EA 931 B. 2., the date an application was filed or the projected date of future application;

4. for each permit or certificate listed in response to rule EA 931 B. 2., the actual date a decision was made on the application, or the anticipated decision date; and

5. for each permit or certificate listed in response to rule EA 931 B. 2., for which an application was filed, the disposition or status of the permit or certificate.

EA 932 Need summary. Each application shall contain a section which summarizes the major factors which justify the need for the proposed facility. The summary shall not exceed, without the approval of the director, 15 pages in length, including text, tables, schedules, graphs, and figures.

EA 933 Summary of additional considerations. Each application shall contain a section which discusses the socioeconomic considerations listed below. The applicant shall explain the relationship of the proposed facility to each of the following:

A. socially beneficial uses of the output of the facility, including its uses to protect or enhance environmental quality;

B. promotional activities which may have given rise to the demand for the facility; and

C. the effects of the facility in inducing future development.

EA 934 Conservation programs. Each application shall contain a section which relates to conservation of energy. Separate responses are required from each person submitting a joint application.

A. Does the applicant have an energy committee or an individual responsible for determination of its energy needs?

B. Has the applicant defined energy or conservation goals or objectives?

C. What specific energy or conservation programs has the applicant considered?

D. Have any energy or conservation programs been implemented? If so, explain the program and the measured results achieved to date.

E. Has the applicant measured or studied the energy efficiency of its facilities? What were the results?

F. What major accomplishments in energy efficiency or conservation have been made by the applicant within the past five years?

EA 941 Historical energy data.

A. Each applicant for a large coal storage facility or a coal transshipment facility who plans to expand or replace an existing facility shall provide the following information. In a joint application separate responses shall be provided by each person. Applicants who have operated for less than five years shall provide data for each year of operation.

1. If there is an existing coal storage facility at the site where the proposed facility will be located, list the existing facility's capacity in tons, its maximum annual throughput in tons, the type(s) of coal normally stored, the year in which it was first placed in service and its use in the applicant's business.

2. For the facility listed in response to rule EA 941 A. 1., describe the system for inloading and unloading or the transferring of coal, including a description of facilities for hopper cars, unit trains, trucks, barges, and the distribution system.

3. For the facility listed in response to rule EA 941 A. 1., describe the normal inventory cycle, including the applicant's policies, if any, of building inventories of

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specific types of coal during certain seasons of the year, and the ways in which the mix of product or inventory cycle has been changing over the past five years.

4. For the facility listed in response to rule EA 941 A. 1., provide the average percentage of use of its design capacity during the winter season and during the summer season for each of the five most recent calendar years.

5. For each type of coal stored in the facility, list the annual throughput in tons for the five most recent calendar years.

6. For each type of coal listed in response to rule EA 941 A. 5., provide the following information for each of the five most recent calendar years:

a. the geographical location of each source of coal purchased or transshipped;

b. the annual tonnage from each geographical location; and

c. the mode(s) of transportation from each geographical location.

7. For each of the five most recent calendar years, list the percentage of the facility's annual coal throughput which has been distributed within the Minnesota service area.

B. Each applicant for a new coal transshipment facility or a new large coal storage facility shall provide to the best of its knowledge the following information on the historical use of coal in the geographic service area of the proposed facility.

1. Market. For each of the five most recent calendar years, describe the historical market for coal in the geographic service area of the proposed facility, including:

a. the types of coal used and the annual tonnage supplied; and

b. a description of the types of customers which used the coal and the annual usage in tons by type of customer. At a minimum, the types of customers shall include:

(1) electric utilities;

(2) other utilities;

(3) mining;

(4) industrial users; and

(5) other users.

2. Distribution channels. Describe the existing distribution or transshipment channels in the geographic service area of the proposed facility, including:

a. the names of the top ten distributors or transshipment facilities and the annual tonnage by type of coal distributed or transshipped by each during the five most recent calendar years; and

b. the modes of transportation which are used to distribute the coal and the percentage of coal volume transported by each.

3. Supply areas. Provide information regarding the general geographic location or source of the coal which was supplied to the geographic service area of the proposed facility, including:

a. the type of coal supplied from each geographic location;

b. the annual tonnage supplied for each year during the past five most recent calendar years from each geographic location; and

c. the mode(s) of transportation from each geographic location.

EA 942 Forecast data. Each applicant for a large coal storage or a coal transshipment facility shall provide the following information on the forecast of coal usage in the geographic service area of the proposed facility. Each answer shall include a discussion of the methods, assumptions and factors upon which the answer is based.

A. Market. For each of the first ten years of operation describe the forecast market for coal in the geographic service area of the proposed facility, including:

1. a list of the types of coal expected to be used and the annual tonnage for each type of coal;

2. a list of the types of customers which will use the coal and the annual usage in tons. At a minimum, the types of customers shall include:

a. electric utilities;

b. other utilities;

c. mining;

d. industrial users; and

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e. other users; and

3. a description of the impact of the proposed facility upon users of other energy products who are considering coal as an alternate source of energy.

B. Distribution channels. For each of the first ten years of operation describe the channels of distribution for the geographic service area of the proposed facility, including:

1. the mode(s) of transportation used in the distribution or transshipment of coal from the proposed facility and the percentage of coal volume transported by each;

2. the expected annual percentage of coal from the proposed facility to be distributed within the state of Minnesota;

3. the impact of the proposed facility upon the throughput of existing channels of distribution; and

4. the ability of existing and planned transportation systems to accommodate the increase in usage, if any, caused by the proposed facility.

C. Supply areas. For each of the first ten years of operation provide information regarding the general geographic locations of the sources of coal to be used by the proposed facility, including:

1. the type(s) of coal to be supplied from each geographic location;

2. the annual tonnage by type of coal from each geographic location;

3. the mode(s) of transportation to the proposed facility from each geographic location; and

4. the effect of the proposed facility in ensuring a reliable and stable supply of coal to its geographic service area.

D. Operations. For the first ten years of operation provide the following information on the operations of the proposed facility:

1. a list of the expected annual tonnage of coal by type(s) to be stored in the proposed facility;

2. a description of the expected inventory cycle, in-

cluding the policies, if any, of building inventories of specific types of coal during certain seasons of the year;

3. a discussion of the impact of the proposed facility upon the applicant's ability:

a. to maintain an adequate inventory;

b. to provide operating efficiencies or economies of scale to its users or customers; and

c. to supply its users or customers;

4. the expected cost of handling coal per ton at the proposed facility in comparison with the costs of handling coal for existing forms of coal distribution; and

5. the expected delivered cost of coal per ton for the proposed facility in comparison with the delivered costs of existing distribution sources.

EA 943 Description of proposed facility.

A. Purpose. Each applicant shall explain the purpose and planned use of the proposed facility.

B. Design. Each applicant shall provide the following information on the design of the proposed facility:

1. the complete name and address, if known, of the engineer or firm which designed the facility;

2. the estimated cost of the proposed facility and its expected economic life; and

3. a description of the proposed facility, including:

a. its design throughput in tons and its design storage capacity in tons;

b. its dimensions;

c. preliminary drawings or blueprints which show the proposed facility and its basic components in relationship to one another and to the natural terrain;

d. a description of the facilities for the in-loading and out-loading of coal and the mode(s) of transportation which they may service; and

e. a description of planned roads, railroad trackage, landfill or dredging at the proposed facility.

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C. Safeguards. Each applicant shall provide a description of the safeguard facilities which are planned to control emissions into the air or water during the construction and operation of the proposed coal facility, including:

1. a description of the dust control equipment;
2. a description of the equipment for the recovery of accidental coal spills; and
3. a description of the equipment or system for the collection and treatment of liquid contaminants.

D. Construction and operation. Each applicant shall provide the following information on the construction and operation of the proposed coal facility:

1. the complete name and address, if known, of the contractor(s) or firm(s) which would construct the coal facility;
2. the approximate planned date for starting construction and the approximate planned in-service date;
3. an appropriate schematic or drawing which shows the operations and flow of coal from its receipt through the facility and to its storage area or delivery vehicle; and
4. a description of the potential, if any, for future expansion of the proposed facility, including:
 - a. the maximum storage capacity and annual throughput in tons; and
 - b. the estimated additional cost to expand the proposed facility to its maximum capability.

EA 944 Alternatives. Each applicant shall provide information about possible alternatives to the proposed facility.

A. What would be the impact upon the applicant, its employees, its prospective users or customers, and the people of Minnesota and neighboring states of not building the proposed coal facility, including:

1. the effect upon existing coal users or prospective coal users in the Minnesota service area or the proposed facility;
2. the effect upon the existing coal distribution system and prospective coal distribution system in the Minnesota service area and in neighboring states; and
3. the effect upon the coal storage and handling

facilities of large coal users or prospective users in the Minnesota service area of the proposed facility?

B. Discuss alternative sizes which were considered for the proposed coal facility, including:

1. the storage capacity in tons;
2. the annual throughput in tons;
3. the dimensions and the amount of land and shoreline, if any, required; and
4. the estimated cost.

C. Discuss alternative sites which were considered for the proposed coal facility, including:

1. any known restrictions or limitations on the use of specific sites;
2. any known limitations on the distance from the proposed site to the major market area(s) or its proximity to waterways; and
3. the reason(s) each site considered was rejected.

EA 945 Environmental data. Each applicant shall provide environmental data for the proposed facility and for each alternative discussed in response to rule EA 944, to the extent that such data is reasonably available. Environmental data for the proposed facility shall conform to the format given in subdivisions A. through D. of rule EA 945. Information for each of the alternatives considered shall include 1) a list of the natural and cultural resources, as given in items A. 2. f. through i. of rule EA 945 that would be directly impacted and 2) a discussion of those applicable areas of environmental concern that are detailed in subdivisions B. through D. of rule EA 945.

A. Location.

1. If the specific location for the proposed facility is known, provide the county, township, range, and section(s) of that site. If a specific location has not been chosen, provide the county, township, range and section(s) for each parcel of land which in the opinion of the applicant could serve as the site for the facility.

2. For each site identified in response to rule EA 945 A. 1. list:

- a. the nature of the terrain at the site;
- b. the general soil type at the site;
- c. the depth to groundwater at the site;

RULES

d. the types of vegetation (including forest, brush, marsh, pasture, and cropland) on the site;

e. the predominant types of land use (such as residential, forest, agricultural, commercial, and industrial) within one mile of the site;

f. lakes, streams, wetlands or drainage ditches within one mile of the site and any other lakes, streams, wetlands, drainage ditches, wells or storm drains into which liquid contaminants could flow;

g. national natural landmarks, national wilderness areas, national wildlife refuges, national wild and scenic rivers, national parks, national forests, national trails and national waterfowl production areas within one mile of the site, as mapped on the Inventory of Significant Resources by the State Planning Agency;

h. state critical areas, state wildlife management areas, state scientific and natural areas, state wild, scenic and recreational rivers, state parks, state scenic wayside parks, state recreational areas, state forests, state trails, state canoe and boating rivers, state zoo, designated trout streams, and designated trout lakes within one mile of the site, as mapped on the Inventory of Significant Resources by the State Planning Agency; and

i. national historic sites and landmarks, national monuments, National Register Historic Districts, registered state historic or archeological sites, state historic districts, sites listed on the National Register of Historic Places, and any other Cultural Resources within one mile of the site, as indicated by the Minnesota Historical Society.

B. Projected air emissions, wastewater, solid waste and noise sources.

1. **Solid wastes.** Indicate the types and estimated quantities of solid wastes that would be produced by or because of the facility. Also, indicate the intended method of recycling or disposing of these wastes.

2. Discharges to water.

a. **Point discharges.** Indicate the location, route and final receiving waters for any discharge points. For each discharge point indicate the source, the amount and the nature of the discharge. (Provide quantitative data if possible.)

b. **Area runoff.** Indicate the area from which runoff may occur, potential sources of contamination in the area, and receiving waters for any runoff.

3. Airborne emissions.

a. **Point sources.** Estimate the quantity of gaseous and particulate emissions that would occur during full operation from each emission source and indicate the location and nature of the release point.

b. **Area sources.** Indicate locations which may be sources of fugitive dust and indicate the nature of the source (including type of material, amount, and turnover rate).

4. **Noise.** Indicate the maximum noise levels (in decibels, A scale) expected at the property boundary. Also, indicate the expected maximum increase over ambient noise levels.

C. Pollution control and safeguards equipment.

1. **Pollution control equipment and measures.** Indicate any pollution control equipment and measures, in addition to those provided in response to rule EA 943 C., that would be used to reduce the impact of the facility.

2. **Environmental monitoring.** Indicate the types of environmental monitoring, if any, that are planned for the facility and describe relevant environmental monitoring data already collected.

D. Induced developments.

1. **Vehicular traffic.** Estimate the amounts and types of vehicular traffic which would be generated by the facility.

2. **Utility use.** Indicate the extent to which the facility would create or add to the need for expanded utilities or public services.

3. **Water use.** Indicate the amount of water which would be appropriated and the amount which would be consumed by the facility, the expected source of the water, and how the water would be used.

4. **Agriculture.** Estimate the amount of agricultural land, including pasture land, that would be removed from agricultural use if the facility were constructed. Indicate known circumstances with regard to

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the facility that could lead to reduced productivity of surrounding agricultural land.

5. Dislocation of human beings. Estimate the number of people that would have to relocate if the facility were constructed.

EA 971 Other data filed with the application. In addition to the information required by the director, the applicant may desire to file other data. If, in the opinion of the applicant, additional relevant data should be submitted for consideration in conjunction with its application, such data should be filed in a separate section of the application.

EA 981 Certificate of need modifications.

A. Issuance of a certificate may be made contingent upon modifications required by the director. When the director denies an application, he shall state the reason(s) for the refusal and the changes, if any, which would make the facility certifiable.

B. The following changes in a facility previously certified by the director shall not require recertification:

1. coal storage facility capacity or throughput additions or subtractions of less than ten (10) percent of the capacity or throughput approved by the director;

2. coal transshipment facility capacity or throughput additions or subtractions of less than ten (10) percent of the capacity or throughput approved by the director; and

3. changes of less than two years in the in-service date.

C. If an applicant determines that a change greater than those specified in rule EA 981 B. is necessary or desirable, it shall inform the director of the desired change, accompanied by a written statement detailing the reasons for the proposed change. The director shall evaluate these reasons and within 45 days of receipt of said statement notify the applicant whether the proposed change is acceptable without recertification.

Department of Health Amendments to Award Procedures and Establishment of Standards under the Community Health Services Act

The rules published at State Register Vol. 1, No. 9, p. 296, September 7, 1976 (1 S.R. 296), are adopted and are identi-

cal in every respect to their proposed form, with the following amendments:

MHD 451. D. 1. "Act means the Minnesota Community Health Services Act of 1976, [[Minnesota]] Laws of 1976, Chapter 9[.], coded Minn. Stat. § 145.911 et. seq.

MHD 453. B. 2. a. Eligibility. A determination that all legal conditions of eligibility are established. In the case of special grants authorized under [[Section 12, Subdivision 1. and 2. of the Act,]] Minn. Stat. § 145.922, the following conditions shall apply.

MHD 455. Special rules authorized by [[Minnesota Laws 1976, Chapter 9]] The Act.

A. Personnel. MHD 455 A. establishes minimum standards for the training, credentialing and experience requirements for key administrative personnel under [[Section 8 of the Act,]], Minn. Stat. § 145.918, except that this rule shall not apply to employees of agencies having a personnel system approved by the United States Civil Service Commission.

MHD 455. B. 2. Annual reports of evaluations of activities shall be submitted no later than 90 days following the close of the fiscal year. This will constitute compliance with the requirements of [[Section 10, Subdivision 1(e) of the Act.]] Minn. Stat. § 145.92, subd. 1(e).

MHD 455. C. 2. a. Interim planning committee. When a county board(s) or city council(s) initiates a planning process for the development of a community health services plan, and until a local board of health is formally established, an interim planning committee shall be appointed by the county board(s) or city council(s) to assist in the development of the community health services plan. The committee shall function in a manner identical to that specified for the community health services advisory committee in [[Section 3, Subdivision 3 of the Act.]] Minn. Stat. § 145.913, subd. 3.

MHD 455. C. 2. b. Advisory committee. The advisory committee required by [[Section 3, Subdivision 3, of the Act]] Minn. Stat. § 145.913, subd. 3 to be established upon the formation of the local board of health shall be selected by the participating county board(s) or city council(s) from nominations solicited from interested and affected organizations, community groups and/or constituencies.

PROPOSED RULES

Department of Health State Board of Health Credentials for Human Services Occupations

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412 subd. 4 (Supp. 1975), in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Wednesday, April 20, 1977, commencing at 9:00 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Mr. Steve Mihalchick, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8112, either before the hearing or within twenty (20) days after the close of the hearing. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

If adopted, the proposed rules would specify the procedures for processing applications for credentialing human services occupation groups and the criteria for making credentialing decisions. In general the proposed rules specify:

1. Procedures for identifying occupational groups either through initiation by the group itself or by the Board of Health;
2. The general subject areas to be covered in an application (referred to in the rules as a Questionnaire);

3. The procedure and criteria for determining the processing priority for each group seeking a credential;

4. The process and procedures for obtaining public input and for evaluating each application (Questionnaire);

5. Criteria for approving or denying credentialing for an occupational group seeking a credential;

6. Decisional options available to the Board of Health with respect to each application for a credential and the actions to be taken as a result of the option chosen; and

7. The process and procedures available to a group seeking a credential which is dissatisfied with the Board of Health's decision for having its application reconsidered.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to the Minnesota Department of Health, Division of Health Manpower, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

A Statement of Need explaining the Board of Health's position relative to the necessity for the proposed rules and a Statement of Evidence outlining the testimony and evidence which will be introduced by the Board in support of the proposed rules will be filed with the Hearing Examiner's Office at least twenty-five (25) days prior to the hearing and will be available there for public inspection. The statutory authority of the Board of Health to promulgate and adopt these rules is contained in Laws of 1976, ch. 222 §§ 1, 8, and 9.

In addition, please be advised that pursuant to Minn. Stat. § 10A.01 subd. 11 (1974), as amended by Laws of 1976, ch. 307 § 3, and Minn. Stat. § 10A.03 (1974), an individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as promulgation of the proposed rules captioned above, must register with the State Ethical Practices Board as a lobbyist within five (5) days of the commencement of such activity by the individual. The State Ethical Practices Board is located at 41 State Office Building, Saint Paul, Minnesota 55155.

Warren R. Lawson, M.D.
Secretary and Executive Officer

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Rules as Proposed

Chapter 30

MHD 536 General.

A. Declaration of purpose and scope. Minnesota Rules MHD 536-540 establish the process to be used by the State Board of Health and its Human Services Occupations Advisory Council in carrying out the charges of Laws of 1976, ch. 222, §§ 1, 8 and 9. It specifies the procedures by which human services occupations are identified and decisions are made regarding the State's need to regulate persons in specific occupations. This rule applies to all human services occupations that are not-now-credentialed by the State.

B. Definitions. For the purposes of Minnesota Rules MHD 536 to 540, the words, terms and phrases listed below in this subdivision shall have the meaning stated herein, unless the language or context clearly indicates that a different meaning is intended.

1. "Administrative authority" means the state agency responsible for administering the law and rules establishing a credential for a human services occupation.

2. "Applicant group" means an occupational group that has submitted a letter of intent to begin the credentialing process.

3. "Board" means the Minnesota State Board of Health.

4. "Career progression" means opportunity to move up a career ladder or enter a related profession without loss of credit for previous education and experience.

5. "Competence" means possession of requisite abilities to fulfill work obligations.

6. "Conflict of interest" means

a. A direct financial or self-serving interest in the matter under consideration.

b. An indirect financial or self-serving interest in the matter under consideration so that the member is not so free from personal bias, prejudice or precon-

ceived notion as to make it possible for the member to objectively consider the evidence presented and base a decision solely on such evidence.

c. Circumstances such that a member finds it difficult, if not impossible to devote himself or herself to a consideration of the matter with complete energy, loyalty, and singleness of purpose to the general public interest.

7. "Continuing education" means education or training beyond the individual's pre-credentialing preparation for an occupation.

8. "Council" means the Human Services Occupations Advisory Council.

9. "Credentialing" means licensure or registration and the processes by which they are obtained and administered.

10. "Criteria approval" means evaluation, by the administrative agency, of the qualifications of an individual already licensed or registered by a state other than Minnesota to determine whether the individual's past practice and/or preparation meet Minnesota requirements for licensing or registration.

11. "Department" means Minnesota Department of Health.

12. "Function" means a special task, duty or performance required in the course of work or activity.

13. "Functional differentiation" means those functions carried out by a particular occupational group that distinguish that group from others.

14. "Letter of intent" means an applicant group's written expression of aim to pursue credentialing.

15. "Licensure" means a system whereby a practitioner must receive recognition by the state that he or she has met predetermined qualifications, and persons not so licensed are prohibited from practicing.

16. "Not now credentialed" means those occupations whose members are not currently licensed or registered by the state and those occupations whose members are currently licensed or registered by the state but who seek to expand or specialize their functions within that licensed or registered occupation such that the group members seek further state recognition by new, expanded or specialty licensure or registration.

PROPOSED RULES

17. "Occupational group" means a group of human service workers that have common occupational functions, practices, and roles in the delivery of health services.

18. "Public forum" means public meeting(s) called to obtain comments on an applicant group's questionnaire. The meeting is open to the public, but it is not a hearing and does not require the hearings notification procedures called for by Minnesota Statutes.

19. "Questionnaire" means document designed to provide information about an occupational group for credentialing.

20. "Registration" means a system whereby practitioners who will be the only persons permitted to use a designated title are listed on an official roster after having met predetermined qualifications.

C. Prohibition. A Council member may not be appointed to a subcommittee, may not participate in subcommittee or council discussions, and may not vote on any matter in which he or she has a conflict of interest.

MHD 537 Identification of occupational groups, questionnaire contents, and processing priorities.

A. Applicant initiated identification.

1. The applicant group shall submit a letter of intent to the Board.

2. Upon receipt of the letter of intent the Board shall send these rules and a Questionnaire to the applicant group.

3. The applicant group shall submit the completed Questionnaire to the Board within six months or shall make a written request for an extension of the time period. Failure to comply with either of those conditions during the six month period voids the original letter of intent and discontinues the credentialing process. The applicant group shall submit a new letter of intent if it desires to pursue credentialing.

4. When the Questionnaire is deemed complete by the Department, the Board shall transmit the Questionnaire to the Council.

B. Board initiated identification.

1. When the Board, Council, other groups, or individuals have reasons to suspect that an occupational group exists or is emerging but has not applied for credentialing and the question of regulation should be addressed the Board shall determine whether the need to credential the groups should be investigated. The determination shall be based upon evidence that raises the question of the need for occupational regulation. Such evidence may be derived from sources that include, but are not limited to court decisions, data collected by state and national regulatory agencies, federal law or rule, and information submitted by legislators, government or private agencies, or the public.

2. The Board may direct staff to collect data substantially equivalent to that on the Questionnaire for evaluation in the manner specified in MHD 538.

C. Contents of the questionnaire. The Questionnaire shall direct an applicant group to submit information on at least the following matters:

1. Evidence that the applicant group represents a significant portion of an occupational group and that other organizations representing members of that occupational group have been identified.

2. Evidence that the occupational group meets the credentialing criteria contained in Minnesota Statute and these rules.

3. Such other and additional information or evidence consistent with the provisions of applicable statute and these rules as well as information necessary to clarify matters already contained in the application. Such information shall be requested for the sole purpose of enabling the Board to fairly, adequately and completely evaluate the applicant Questionnaire to determine whether an occupational group should be credentialled, if so by licensure or registration, and under which administrative authority. The Board may suspend or terminate the credentialing process for failure to supply the information requested by the Board.

D. Questionnaire processing priorities. The Board may determine the priority for processing Questionnaires. The priority of an applicant group will be based

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PROPOSED RULES

on evidence available in the Questionnaire, particularly that relating to the potential harm to the public that the continued practice of the unregulated group may cause. After a determination of priority for entering the credentialing process has been made, the Board shall take the actions listed in MHD 538.

MHD 538 Credentialing decision process.

A. Delayed consideration. The Board shall proceed to notify the applicant group of the date at which its application might reasonably expect to be considered under MHD 538 B.

B. Immediate consideration.

1. When a Questionnaire is received by the Council, the chairman of the Council shall appoint a subcommittee of at least five members, none of whom shall have a conflict of interest, and shall name one of the members as subcommittee chairman. Insofar as possible the subcommittee shall be broadly representative of the Council.

2. Subcommittee procedures.

a. The subcommittee will meet to evaluate the Questionnaire and materials available to the subcommittee and to raise any questions members feel ought to be addressed either in subcommittee meetings or at the public forum.

b. All written material related to the credentialing of an occupational group will be available as part of a public file retained at the Minnesota Department of Health and other locations the Board deems appropriate.

3. Public forum.

a. The subcommittee shall hold at least one public forum for the purpose of providing for public participation in the credentialing process, collecting information, raising and clarifying issues, and when possible, providing for the negotiation of differences.

b. The first public forum shall be held within four months of the subcommittee appointments.

c. The public forum shall be open to all persons.

d. Notification of the public forum shall be made in the following manner:

(1) All groups and persons identified by name as part of the occupational group by the Questionnaire and through Department study will be notified by mail.

(2) A news release will be sent out by the Board.

(3) Notice will be published in the Department's monthly listing of health-related meetings.

e. The conduct of the public forum(s) will be in accordance with procedures adopted by the Council and available in writing to the public at the public forum. All interested persons will be given an opportunity to make a presentation although time limits may be imposed.

4. Subcommittee recommendations. The subcommittee shall make recommendations to the Council with respect to: the need for regulation, the type of regulation, whether any recommended credential be licensure or registration and the administrative authority for any recommended credential. The Department shall also make separate recommendations which accompany those of the subcommittee. Each recommendation shall be accompanied by the rationale/justification used in arriving at the decision. Approval or denial of credentialing for an occupational group shall be based on Laws of 1976, ch. 222, § 1, subd. 2.

5. Council action. The Council will review the subcommittee recommendation and approve or modify them as necessary. A Council final report and recommendations, along with supporting documents, will be sent to the Board for action. The Department report and recommendations, with supporting documents, will accompany the Council report.

6. Board actions. The Board, upon review of the Council report and recommendations, will take one of the following actions:

a. If the Board determines that an occupational group shall be credentialed by registration with an existing health related licensing board acting as the administrative authority, it will establish procedures and adopt rules in cooperation with the identified board. The rules shall include, if appropriate, but not be limited to the following:

(1) Functional differentiation of the group.

(2) Qualifications for registration for all entry routes.

(3) Requirements for different levels of registered titles corresponding to steps in the occupation's career progression.

(4) Organizational structure of any advisory councils to the administrative authority.

PROPOSED RULES

(5) Procedures for registration.

(6) Requirements for registration renewal, including but not limited to provisions attempting to assure continued competency.

(7) Disciplinary procedures.

(8) Fee setting for initial application for registration and for renewal application.

(9) Such other information that the Board deems necessary for the regulation of the occupational group.

b. If the Board determines that an occupational group should be credentialed by licensure, with either an existing health related licensing board, the Board itself, or a new and separate licensing board, acting as administrative authority, the Board shall promptly so report to the legislature.

c. If the Board determines that an occupational group shall be credentialed by registration, with the Board acting as the administrative authority, it shall establish procedures and adopt rules to implement the decision. The rules will include if appropriate, but not be limited to, the items contained in MHD 538 B.6.a. (1) through (9).

d. If the Board determines that an occupational group should be regulated pursuant to Laws of 1976, ch. 222, § 1, subd. 3(a)(b) or (d) or any combination thereof or in combination with credentialing under these rules, the Board shall promptly so report to the legislature.

e. If the Board determines that credentialing the occupational group is not in the public interest, the applicant group (if the application was initiated by the group) or the Council (if the application was initiated by the Council) shall be so notified.

f. If the Board determines that further study of the occupational group is required, the Board shall refer the recommendation back to the Council for further study in accordance with Board instructions.

C. Reconsideration process.

1. If the applicant group is dissatisfied with the decision of the Board, the group may request, within 60 days of notification of that decision, that the Board re-

consider the application. The applicant group shall submit in writing, along with its request for reconsideration, its arguments detailing why the decision of the Board was not supported by the evidence presented or why new or changed evidence does not support the earlier decision of the Board.

2. The Board may choose to reconsider the credentialing decisions itself or remand them, along with all reports, recommendations, and supporting documents to the Council. If the matter is remanded, the Council shall reconsider the application and recommend either no change or appropriate changes to the Board. The Council may refer the matter to the subcommittee which initially considered the application. The recommendation of the Council shall include substantiating documentation. Reconsideration by the Council may include new public forums if new or changed evidence warrants it.

3. The Board shall notify the applicant group of the results of the request to reconsider the application.

MHD 539, 540 Reserved for future use.

Housing Finance Agency Proposed Rules Governing Occupancy Requirements for Rented Housing, the Home Improvement Grant Program and the Home Mortgage Program

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Conference Room D, Veterans Service Building, Capitol Approach, on April 14, 1977 commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing or by mail to George A. Beck, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104 either before the hearing or within 20 days after the close of the hearing.

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PROPOSED RULES

The proposed rules, if adopted, would do the following:

1. Revise income limitations for participation in Agency programs as authorized by Minn. Stat. § 462A.03, subd. 10.
2. Establish occupancy requirements for Agency financed rented housing, as authorized by the 1976 amendments to Minn. Stat. § 462A.03, subd. 13.
3. Establish guidelines for the home improvement grant program, as authorized by Minn. Stat. § 462A.05, subd. 15 and Laws of 1976, ch. 254, § 16(a).
4. Establish guidelines for the affordable home mortgage program, as authorized by Laws of 1976, ch. 254, § 16(c).
5. Require compliance with civil rights laws, as authorized by Minn. Stat. § 462A.07, subd. 10.
6. Provide additional definitions and clarifications of existing rules, as authorized by Minn. Stat. §§ 462A.06, subd. 11 and 15.0412, subd. 3.

A copy of the proposed rules is attached hereto and one additional free copy may be obtained by writing to the Minnesota Housing Finance Agency, First Floor-Hanover Building, 480 Cedar Street, St. Paul, Minnesota, 55101. Additional copies will be available at the door at the date of the hearing. A "statement of need" explaining why the Agency believes the proposed rules are necessary and a "statement of evidence" outlining the testimony which the Agency will introduce will be filed with the Hearing Examiner's Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

James F. Dlugosch
Executive Director

Rules as Proposed

MHFA 1 Scope. These Rules are made and published pursuant to Subdivisions 4 and 11 of Section 6 and Subdivision 10 of Section 7 of the Minnesota Housing Finance Agency Law of 1971, and relate to the providing of Development Cost Loans, Mortgage Loans, rehabilitation

loans and grants, development grants and technical assistance to qualified Housing Sponsors for construction and rehabilitation of housing [projects] for occupancy by Persons and Families of Low and Moderate Income.

MHFA 2 (g) 'Non-Profit' or 'Non-Profit Entity' means and refers to (1) housing and redevelopment authorities established under and pursuant to the provisions of Minn. Stat. Sections 462.411 to 462.711 (1971), and (2) those partnerships, joint-ventures, [and] corporations, and associations which (i) [which] are established for a purpose not involving pecuniary gain to the members, partners or shareholders thereof; (ii) [which] pay no dividends or other pecuniary remuneration, directly or indirectly, to the members, partners, or shareholders thereof; and (iii) [which] in the case of private, non-profit corporations, are established under and pursuant to Minn. Stat. ch. 317 and are in compliance with all the provisions thereof; provided, however, that in no event shall a Limited Dividend Entity be deemed a Non-Profit Entity.

MHFA 2 (k) 'Mortgage Loan' means a loan authorized by resolution of the Members and made or to be made to a Housing Sponsor, or to a Person or Family of Low or Moderate income, or to a Low Income Purchaser, from the proceeds of sale of the Agency's bonds or notes, or from appropriations, for the purpose of providing construction financing, long term financing, or both, for residential housing, and the payment of which is secured or to be secured. [as provided in the Act.]

MHFA 2 (n) 'Adjusted Income' means the gross annual income, from all sources and before taxes or withholding, of all [members of the family living in] residents of a housing unit, after deducting the following:

(1) the income of any [family member (other than the head of the household or his spouse)] resident (except the primary income recipient) who is under eighteen years of age or is a full time student, and who is related by blood, adoption, or marriage to a resident income recipient or his/her spouse;

[(5)] (2) nonrecurring income, as determined by the Executive Director, and sums received for foster child care;

[(6)](3) extraordinary medical or other expenses as the Executive Director approves for exclusion; [and]

[(7)] [an amount equal to the sums received by the head of the household or his spouse from, or under the direction of, any public or private non-profit child placing agency for the care and maintenance of one or more persons who are under eighteen years of age and were placed in the household by such agency.]

PROPOSED RULES

[(2)] (4) [the first \$300] **an amount up to \$750** of the income of [a secondary wage earner who is the spouse of the head of the household] **an additional income recipient eighteen years of age or older other than the primary income recipient;**

[(3)] [an amount equal to 5 per centum of the income of the head of the household and his spouse (or, in the case of an elderly family, 10 per centum of such income);]

[(4)] (5) an amount equal to [\$300] **\$750** for each [member of the family residing in the household (other than the head of the household or his spouse)] **resident** [who is under eighteen years of age or who is eighteen years of age or older but has no income included in family income for the purposes of this section] **of the housing unit who is eighteen years of age or over, (maximum of two) and \$500 for each additional residents;**

(6) **an amount up to \$750 for child care expenses which are eligible for deduction under United States Internal Revenue Service tax regulations.**

Gross annual income from self-employment shall be deemed to be the net profit from said self-employment as declared by the applicant in schedule C, F, or E, Part III, as appropriate, of the United States Internal Revenue Service Form 1040, or such other schedule as may be hereafter promulgated, but including as income all depreciation.

MHFA 2 (o) 'Persons and Families of Low and Moderate Income' means:

(i) With respect to [a structure or structures designed primarily for residential use by not more than four families] **Limited-Unit Mortgage Loans pursuant to Chapter Four of these Rules, Development Cost Loans pursuant to Chapter Three of these Rules, Planning Grants pursuant to Chapter Five of these Rules, and American Indian Housing Loans pursuant to Chapter Eight of these Rules, which loans and grants are intended for a Limited-Unit Development, or a dwelling unit in a planned unit development or a condominium, those persons and families whose Adjusted Income does not exceed \$16,000; and**

(ii) With respect to [all other structures] **Multi-Unit Mortgage Loans pursuant to Chapter Four of these Rules, Development Cost Loans pursuant to Chapter Three of these Rules, Planning Grants pursuant to**

Chapter Five of these Rules, and American Indian Housing Loans pursuant to Chapter Eight of these Rules, which loans or grants are intended for a Multi-Unit Development, those persons and families whose Adjusted Income does not exceed the greater of \$16,000 or 550 per cent of the gross rental for the dwelling unit to be occupied; provided, however, that the gross rentals for at least 75 percent of the dwelling units in such [structure or structures] **development shall not exceed 120% of the Fair Market Rents for the geographical area in which such [structure or structures] **projects** are located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development; provided [however] **further**, that the Members may allow higher gross rentals for units in any structure if the Members determine that such higher gross rentals are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or similar factors relating to income available for housing or housing costs; [and]**

(iii) With respect to home improvement grants to be made by the Agency, those persons and families whose Adjusted Income does not exceed \$5,000 and whose gross assets, excluding the property to be improved, does not exceed \$25,000; **and**

(iv) **With respect to home improvement loans pursuant to Chapter Six of these Rules, those persons and families whose Adjusted Income does not exceed \$14,000.**

MHFA 2 (r) 'Low Income Purchasers' means **with respect to Chapter Nine of these Rules, those persons and families whose Adjusted Income does not exceed \$14,000.**

MHFA 2 (s) 'Builder' means **a person or entity engaged in the business of housing construction who meets all licensing and other requirements of applicable laws, ordinances, and regulations; who possesses satisfactory experience and creditworthiness; and who will enter into an agreement satisfactory to the Agency to sell or rent the residential housing constructed in whole or in part from the proceeds of an Agency Loan, to Persons and Families of Low and Moderate Income.**

MHFA 2 (t) 'Administering Entity' means **a non-profit or governmental entity (including but not limited to an incorporated county or municipality, a housing redevelopment authority, and a community action organization), which enters into a contract with the Agency for the local administration of the home improvement**

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grant program, pursuant to Chapter Seven of these Rules.

MHFA 2 (u) **'Multi-Unit Development'** means a loan or grant for new or existing residential housing which is intended for occupancy by more than one family, and the mortgagor of which is a Non-Profit or Limited Dividend Entity.

MHFA 2 (v) **'Limited-Unit Development'** means a loan or grant to a Person or Family of Low or Moderate Income for new or existing residential housing intended for occupancy by such person or family and by not more than five other families.

MHFA 3 is hereby renumbered as MHFA 14.

MHFA [4] **34** Occupancy. Initial occupancy in [housing units] **Multi-Unit Developments** financed by the Agency shall be limited to Persons and Families of Low and Moderate Income; provided however, that (i) to the extent necessary to avoid economic loss resulting from inability to achieve full occupancy, and (ii) in order to encourage economic integration, a Housing Sponsor may, with the prior written approval of the Executive Director, permit initial occupancy of up to 25% of the units in the housing project by persons and families who are not Persons and Families of Low and Moderate Income.

MHFA 5 is hereby renumbered as MHFA 15.

MHFA 6 is hereby renumbered as MHFA 16.

MHFA [7] **3** Agency meetings.

(a) Regular meetings of the Agency shall be held on the third Thursday of each month at 1:00 PM at the offices of the Agency in St. Paul, Minnesota, unless another place of meeting is designated by resolution. In the event such date shall fall on a legal holiday, the regular meeting shall be held the next succeeding business day.

(b) Special meetings of the Agency may be called by the [Chairman] **Chairperson** or by a majority of the existing Members of the Agency, for the purpose of transacting any business designated in the notice, and shall be held at the business offices of the Agency in St. Paul, Minnesota, unless another place of meeting is designated by resolution. At any such special meeting, no business shall be considered other than as designated in the notice; provided, however, that if all of the Members of the Agency are present at such special meeting, this limitation shall not apply.

(c) A majority of the existing Members of the Agency shall constitute a quorum for the purpose of conducting the Agency's business and exercising its powers and

for all other purposes, but a smaller number may adjourn from time to time until a quorum is obtained. When a quorum is in attendance, action may be taken by the Agency on the vote of the majority of the Members present.

MHFA 8 is hereby renumbered as MHFA 4, and as so renumbered is hereby amended to read as follows:

MHFA [8] **4** Public appearances at meetings of the members. The following procedures shall govern public appearances at meetings of the Members:

(a) With respect to regular meetings, the Executive Director shall complete the agenda for meetings of the Members, not less than five nor more than seven days prior to the date of any such meeting.

(b) With respect to regular meetings, any person who desires to appear and address the Members [with respect to any matter not enumerated on the agenda] shall make a written request to the Executive Director, with a copy to the [Chairman] **Chairperson**, at least ten days prior to the date of the meeting, setting forth the nature of the matter about which such person wishes to appear.

(c) With respect to regular or special meetings, any person who desires to appear and address the Members with respect to any matter enumerated on the agenda shall make a written request to the Executive Director, with a copy to the [Chairman] **Chairperson**, at least twenty-four hours before the meeting.

(d) Any Member may at any time request that a person be permitted to appear and address the Members at any regular or special meeting.

(e) All such requests shall be placed on the agenda for review by the Members at the meeting. A majority vote of the Members present shall be required in order to grant any such request to address the Members.

MHFA 9 is hereby renumbered as MHFA 5-9.

Chapter Two: [Application Procedures] **General provisions.**

MHFA 10 Applications. The Executive Director may provide staff services to assist a Housing Sponsor in complying with the requirements of the Act and these Rules and may establish a preapplication procedure.

MHFA 11 Eligible housing sponsors. No Development Cost Loan, pursuant to Chapter Three of these Rules, or Multi-Unit Development Mortgage Loan, pursuant to Chapter Four of these Rules, shall be made or disbursed until such time as the Housing Sponsor is an eligible Sponsor. An eligible Housing Sponsor is a Sponsor

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which is authorized by the Act to receive a Development Cost Loan or a **Multi-Unit Development** Mortgage Loan and which has obtained the Executive Director's approval of its organizational documents, including proposed or existing articles of incorporation, proposed or existing partnership agreement, joint venture agreement, trust agreement or other document of basic organization, and proposed amendments thereto, together with such other documents as the Executive Director may determine, in specific cases, are necessary in order to determine eligibility.

MHFA 12 Civil rights. All Agency projects must be administered in compliance with all applicable federal, state and local civil rights laws, ordinances, and regulations including but not limited to those applying to the selection of recipients for agency loans and grants, and the site selection, construction, purchase and rental of residential housing financed in whole or in part with Agency participation. Any determination that a project or recipient has failed to comply with the civil rights laws, if made by a court or an administrative agency charged with the enforcement of said laws, shall be sufficient grounds for termination of Agency participation and immediate recall of outstanding Agency loans. This section shall not be construed to prohibit housing programs administered by or for American Indians.

MHFA 13 Credit review. The Agency may review, or cause to be reviewed, loan and mortgage applications for suitable creditworthiness. In evaluating creditworthiness the Agency may consider 1) the percentage of applicant's income which can reasonably be expected to be spent on housing costs; 2) the amount of applicant's outstanding debts; 3) the applicant's employment history and likelihood of continued employment; 4) the applicant's credit history; 5) whether applicant has ever sought bankruptcy relief; and 6) on a case by case basis, the general educational background and residential stability of the applicant.

MHFA 14 Forms and procedures. With respect to each Mortgage Loan program, rehabilitation loan program, rehabilitation grant program and Development Cost Loan program from time to time instituted by the Agency, the Executive Director shall prepare guides setting forth uniform procedures by which applications for loans or grants shall be submitted, the contents thereof, and the conditions upon which loans or grants shall be made. Each said guide, and any amendment thereto, shall be submitted to the Members of the Agency for their review at any regular or special meeting called for such purpose and shall become effective only upon the approving vote of the Members.

MHFA 15 Waivers. The provisions of these Rules may be waived by the Members upon their determination that the application of such Rules, in specific cases, may result in undue hardship.

MHFA 16 Separability. If any word, phrase, sentence, paragraph, section or part of these Rules is finally adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of these Rules.

MHFA 17 Preference in occupancy. Each recipient of an Agency loan who is the owner of residential housing occupied in whole or in part by renters shall give preference in occupancy to those Persons and Families of Low and Moderate Income who occupied the residence at the time of the loan application, subject to the right of the owner to reside there himself.

MHFA [12] 18-20 Reserved for Future Use.

MHFA 31 Applications for multi-unit development mortgage loans. An application by a Housing Sponsor, or by an Approved Mortgagee on behalf of a Housing Sponsor, for a **Multi-Unit Development** Mortgage Loan or for Agency participation in a **Multi-Unit Development** Mortgage Loan shall contain:

(a) Information with respect to the eligibility of the Housing Sponsor, or with respect to the steps which have been taken by such Sponsor to become eligible.

(b) Information with respect to the site of the proposed housing project, including location, dimensions, ownership, present zoning, present use and occupancy, relocation requirements as to present occupants, present on-site utilities and streets, present property taxes and assessment, utility charges and liens or other charges on the land and all physical characteristics of the site which might affect construction.

(c) Information with respect to the characteristics of the proposed housing project, including number and size of dwelling units, type of occupancy (ownership, rental or cooperative), rehabilitation or new construction, range of proposed rents, occupancy charges or sale prices, building type, federally aided mortgage or otherwise, and proposed incidental or appurtenant educational, social, recreational, commercial, community and other supporting facilities.

(d) Identity and qualifications of the design architect, supervisory architect, Sponsor's attorney, housing

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consultant, general contractor, marketing or sales agent and management agent.

(e) Architectural drawings and specifications, site plan, schedule of construction costs, reports of soil tests or engineering studies performed, executed construction contract and evidence of approval of the architectural drawings, specifications and site plan by governmental bodies having jurisdiction.

(f) Proposed marketing plan, reports of market surveys or analyses, schedule of proposed rents, occupancy charges or sale prices, proposed operating budget, proposed management plan, proposed relocation plan and cost analysis, schedule of the proposed uses of the requested Mortgage Loan and the amounts to be allocated to each such use including the Sponsor's equity investment where applicable, and a proposed construction schedule.

(g) A schedule of the proposed initial rents or occupancy charges.

(h) A plan setting forth (i) arrangements contemplated for tenant referral from local housing authorities or other governmental agencies or community organizations, having contract with potential eligible occupants, and (ii) procedures contemplated to make generally known to minority groups the availability of units on a nondiscriminatory basis.

(i) Such other information as to the proposed housing project, the Housing Sponsor, or other parties involved in the housing project, as the Executive Director may require.

MHFA 32 Authorization of **multi-unit development** mortgage loans. No **Multi-Unit Development** Mortgage Loan shall be made until the Members of the Agency have received and reviewed the recommendation of the Executive Director relating to such loan, and until the Members of the Agency have adopted a resolution approving such loan; which resolution shall include determinations that:

(a) A **Multi-Unit Development** Mortgage Loan would not otherwise be available, wholly or in part, from a private lender upon equivalent terms and conditions.

(b) The development of the proposed housing project will assist in fulfilling the purposes of the Act.

(c) In the case of a Housing Sponsor which is a Limited Dividend Entity, the rate of return on the investment in the proposed housing project is reasonable in light of then existing conditions in the housing industry and financial markets and rate of return then prescribed by other governmental agencies.

(d) The obligation of the Agency to make such loans is contingent on the ability of the Agency to sell its bonds or bond anticipation notes, on terms which the Members of the Agency, in their sole discretion, deem acceptable.

In addition, any such resolution may contain such other provisions and conditions which the Members of the Agency, in their sole discretion, deem advisable.

MHFA 33 is hereby renumbered as MHFA 35, and as so renumbered is hereby amended to read as follows:

MHFA 35 Evidence of **limited-unit development and multi-unit development** mortgage loans. The Executive Director of the Agency shall not permit any disbursement of an approved Mortgage Loan until such loan is evidenced by a fully executed note or other evidence of indebtedness, a mortgage, appropriate evidence of [federal] insurance, **if applicable**, and by such other instruments as the Executive Director may in specific cases deem necessary or appropriate.

MHFA 34 is hereby renumbered as MHFA 33, and as so renumbered is hereby amended to read as follows:

MHFA 33 Project selection criteria for **multi-unit development mortgage loans**. In determining whether to accept applications of Housing Sponsors for **Development Cost Loans or Multi-Unit Development Mortgage Loans**, the Members shall examine the following facts **and make their determinations thereon**:

(a) Whether a need exists in the geographical area for the proposed development.

(b) Whether adequate provision has been made for housing opportunities for minority families, including elderly persons and families.

(c) Whether the proposed development is consistent with orderly growth and development in the geographical area.

(d) The impact of the proposed development on the physical environment of the surrounding neighborhood.

(e) Whether the Housing Sponsor has adequate capacity to proceed promptly to the construction and completion of the proposed development.

(f) The extent to which the proposed development will create minority employment and business opportunities.

(g) The effect of the proposed development in eliminating substandard housing and preventing the recurrence of such conditions.

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(h) The extent to which the proposed development will reduce the cost of mortgage financing or rentals for housing for low and moderate income persons and families.

(i) The extent to which the proposed development will house persons and families of varied economic means and of a wide range of incomes.

(j) The relationship of the proposed development to public facilities, sources of employment and services (including public transportation, health, education and recreation facilities, and public utilities) essential to orderly growth.

(k) The relationship of the housing development to any comprehensive plans, policies, procedures and programs adopted and approved according to law by an agency of state or local government acting pursuant to legislative authority, including but not limited to the plans, policies, procedures and programs of regional development commissions and the Metropolitan Council.

(l) Whether a loan would otherwise be available, wholly or in part, from a private lender upon equivalent terms and conditions.

(m) In the case of a Housing Sponsor which is a Limited Dividend Entity, whether the rate of return on its investment in the proposed development is reasonable in light of then existing conditions in the housing industry and financial markets and in the rates of return then prescribed by other governmental agencies.

(n) Whether the proposed development will assist in fulfilling the purposes of the Act.

MHFA 35 is hereby renumbered as MHFA 36, and as so renumbered is hereby amended to read as follows:

MHFA 36 Mortgage loans for [Single Family Dwellings] **Limited-unit developments**. Mortgage Loans for [single family dwellings] **Limited-Unit Developments** shall be made only to applicants who (i) **are Persons or Families of Low or Moderate Income**; (ii) are fee owners of the dwelling and who intend to occupy such dwelling as **their principal place of residence**; (iii) **satisfy minimum standards of creditworthiness**; and (iv) **execute such documents as the Agency deems necessary to secure the Mortgage Loan. No Mortgage Loan shall be approved unless the Agency determines that a Mortgage Loan would not otherwise be available, wholly or in part, from a private lender upon equivalent terms and conditions.**

MHFA 51 (j) Each applicant who is an owner of residential housing occupied in whole or in part by renters, shall enter into such agreement as the Agency shall require to ensure that for the term of the loan Persons and Families of Low and Moderate Income will occupy at least one of the units in the case of a two unit residence, two of the units in the case of a three unit residence, three of the units in the case of a four unit residence, and four of the units in the case of a five or six unit residence.

MHFA 61 Reservation of funds.

MHFA 61 (a) For a period of at least [three months] **45 days** after the Agency gives notice that the funds for making rehabilitation grants are available, the Agency shall receive requests for reservations of funds **from prospective Administering Entities**.

(b) Requests for reservation of funds for rehabilitation grants may be made **by prospective Administering Entities** to the Agency, and shall [be accompanied by (a)] **contain (i)** a plan setting forth the proposed method of delivery of the rehabilitation grants; [(b)] **(ii)** evidence satisfactory to the Agency that [the person or organization which will administer the delivery of the grants] **the Administering Entity** has the capacity effectively and efficiently to carry out the plan; [and (c)] **(iii)** evidence satisfactory to the Agency of the approval of the plan by the governing body of the political subdivision within which the plan is to be administered; **(iv)** the specific funding amount requested for a 12-month period and the administrative allowance, if any, required by the Administering Entity to defray the expenses of administering the program; **(v)** other funding sources available to the Administering Entity for administration and home improvement; **(vi)** a description of the local housing problems; **(vii)** specific goals to be accomplished with requested funds; and **(viii)** a description of the targeting plan, if any, whereby the Administering Entity will establish priorities for awarding grant funds based on an assessment of need within its jurisdiction, in the event that the number of applications exceeds the number of grants which can be awarded. **The targeting plan, if any, shall be subject to approval by the Agency and may not have the effect of excluding any otherwise eligible applicant from making an application and being considered eligible for a grant.**

(c) The Agency shall submit all plans to the applicable Regional Development Commission (including the Metropolitan Council) and shall consider the comments and recommendations of such Commissions with respect to the

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extent to which the plan assists in satisfying the housing needs for such region.

(d) The Agency shall allocate the total funds available at any time ratably among the several regions, based upon data assembled by the Agency and accurately reflecting housing needs and related factors. **At least 50 percent of the total grant funds allocated to each Administering Entity must be delivered to elderly applicants, i.e., persons 62 years of age or older, who are Eligible Recipients.**

MHFA 65 is hereby renumbered as MHFA 62, and as so renumbered is hereby amended to read as follows:

MHFA 62 Eligible recipients of rehabilitation grants. In addition to all conditions imposed by the Act, an application for a rehabilitation grant shall satisfy the following requirements:

(a) [The applicant must have an Adjusted Income not in excess of \$5,000.] **The recipient(s) must occupy the structure to be improved as the recipient's(s') principal place of residence and individually or in the aggregate have at least (i) a life estate or (ii) a one-third interest in the fee title or in the contract for deed with respect to such structure. The Agency may waive or modify the ownership requirement when necessary to permit rehabilitation grants for structures located on Indian Reservations.**

(b) [The gross assets of the applicant, excluding the property to be improved with the proceeds of the grant, may not exceed \$25,000.] **For the purpose of complying with the ownership requirements, the recipient may aggregate his interest in such property with the ownership interests of other individuals also occupying the property as their principal place of residence. All individuals occupying the structure to be improved as their principal place of residence and having an ownership interest in such structure must join in the application.**

(c) [The applicant must use the proceeds of the grant to correct defects or deficiencies in the property affecting directly the safety, habitability or energy usage of the property.] **Each recipient must be a Person or Family of Low or Moderate Income as defined in MHFA 2(o) (iii).**

(d) **'Gross Assets' for purposes of the home improvement grant program shall be the sum of the following:**

(i) **cash on hand or in checking or savings accounts;**

(ii) **securities or U.S. Savings Bonds;**

(iii) **market value of all interests in real estate (exclusive of the structure to be improved and a parcel**

of real property of not more than two acres on which such structure is located);

(iv) **cash value of life insurance policies; and**

(v) **all other property, exclusive of household furnishings, clothing, and one automobile.**

MHFA 63 Amount of grant. The amount of the rehabilitation grant shall not exceed the lesser of (i) \$5,000 or (ii) the actual cost of the work performed or (iii) that portion of the cost of rehabilitation which the Agency determines cannot otherwise be paid by such person or family without spending an unreasonable portion of the income of such person or family thereon.

MHFA 64 Responsibilities of administering entity. The Administering Entity shall have the following responsibilities:

(a) **The Administering Entity shall have full responsibility for program implementation including public information, reviewing and screening applicants, choosing recipients and ensuring that the rehabilitation work is satisfactorily completed.**

(b) **The Administering Entity shall make on-site inspections of the properties to be improved (i) before such application is approved and (ii) after work has been completed and before the contractors have been paid in full.**

(c) **The Administering Entity shall not charge an applicant or recipient any application, processing, or other fee.**

(d) **The Administering Entity may, with the prior written consent of the Agency, allocate up to three percent of the total funding in municipal areas and up to five percent of the total funding in primarily rural areas to defray a portion of the administrative costs of the program, to the extent that other sources are not available. It shall be the responsibility of the Administering Entity to bear all administrative costs, including salaries and office rental, automobile and telephone expenses and costs of counseling or technical assistance. The administrative allowance, if any, shall be distributed by the Agency according to a budget submitted by the Administering Entity and approved by the Agency. Disbursements of the administrative allowance shall be contingent upon the Agency's review and approval of the satisfactory progress of the program.**

MHFA 65 Eligible properties. Grant funds shall be used only to improve properties which meet the following criteria:

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(a) The property shall be located within the State of Minnesota, be used primarily for residential purposes, and contain no more than two dwelling units, one of them owner-occupied.

(b) The property to be improved shall conform to applicable zoning ordinances and possess all appropriate use permits.

(c) The improvements shall be made upon or in connection with existing permanent structures. Mobile homes or trailers shall not be eligible.

(d) No property shall be eligible for a home improvement grant if it has been improved by such a grant within the five year period next preceding the date on which application for such grant is made, except in extraordinary circumstances relating to damage to the property as a result of events beyond the control of the applicant or to failure of plumbing, heating, or electrical systems, as determined by the Agency in its sole discretion.

(e) The property to be improved with grant funds shall be reasonably efficient with respect to energy consumption. Where the property is not reasonably efficient with respect to energy consumption, rehabilitation funds shall be used to the extent necessary to increase such efficiency. Energy saving features shall include, but not be limited to, installation or upgrading of ceiling, wall, floor and duct installation, storm windows and doors, and caulking and weather stripping. Energy saving features shall be consistent with the energy standards promulgated as part of the State Building Code but such improvements need not bring the housing into full compliance with such energy standards.

MHFA 66 Eligible improvements. Improvements made with home improvement grant funds shall satisfy the following requirements:

(a) Each improvement shall be a Permanent General Improvement. Permanent General Improvements shall include additions, alterations, renovations, or repairs upon or in connection with existing structures, which correct defects or deficiencies in the property affecting directly the safety, habitability, or energy usage of the property. Permanent General Improvements shall be economically viable in terms of a determination that (i) the structure will have a reasonable life expectancy after the improvement is made, and (ii) the structure will be reasonably livable, safe, and habitable after the improvement is made. Permanent Gen-

eral Improvements shall not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for decent, safe and sanitary properties of the same general type as the property to be improved.

(b) Each improvement shall be made in compliance with all applicable health, fire prevention, building, and housing codes and standards; provided, however, that no application for a home improvement grant shall be denied solely because the improvements will not bring such property into full compliance with all such codes and standards.

(c) Home improvement grant funds shall not be used for the payment, wholly or in part, of assessments for public improvements; provided, however, that such funds may be used for that portion of improvements located on the property which will bring an individual water supply system or a sewage disposal system (including septic systems) into compliance with local, state or federal environmental and sanitary standards.

(d) All contracts covering all or any portion of an improvement shall contain an Agency approved warranty of workmanship and materials.

(e) No grant funds shall be used for the purpose of refinancing or paying off existing indebtedness. All such funds shall be used to finance improvements begun after application for such funds has been approved.

MHFA 67 Repayment. The recipient of a grant fund and all individuals who signed the application for such fund shall enter into an agreement with the Agency for repayment, which shall provide that in the event that the property (upon which the improvement is located) is sold, transferred, or otherwise conveyed, or ceases to be the recipient's principal place of residence within five years from the date upon which the grant application was approved, then the recipient shall repay, and the Agency shall have a lien as security for repayment of, all or a portion of such grant funds in accordance with the following schedule:

Period of Time Within Which Sale, Transfer, Conveyance, or Cessation of Residency occurs	Percent Repayment
Prior to end of 12th full month	100%
After end of 12th full month until end of 24th full month	80%
After end of 24th full month until end of 36th full month	60%
After end of 36th full month until end of 48th full month	40%

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After end of 48th full month	
until end of 60th full month	20%
After end of 60th full month	No repayment

If any grant funds are used for purposes other than an eligible improvement upon eligible property or if the recipient's application is found to contain a material misstatement of fact the recipient shall be liable for repayment of the grant.

MHFA 68 Home owner labor agreement. An eligible recipient may agree with an Administering Entity to do some or all of the improvement work without compensation from the proceeds of the grant, if the Administering Entity is satisfied as to the recipient's skill and ability to perform the work by the scheduled completion date(s). In such circumstances the Agency shall forward to the Administering Entity funds sufficient to cover the estimated material costs of the improvements and shall withhold from the Administering Entity sufficient grant funds to cover the costs of the labor, in the event that paid contractors must be used to complete such improvements. The total amount of the funds so forwarded and so withheld shall not exceed \$5,000 for each grant.

MHFA 69 Emergency home improvement grant fund. The Agency may establish a separate fund known as the Emergency Home Improvement Grant Fund for the purpose of making home improvement grants to eligible applicants to correct defects or deficiencies which (i) are the direct result of an occurrence which took place not more than 60 days prior to the grant application, and (ii) if left uncorrected would render the dwelling immediately uninhabitable. Grants from the Emergency Home Improvement Fund shall be made to eligible applicants pursuant to the procedures set forth in Chapter Seven of these Rules, provided however, that the Emergency Home Improvement Fund shall not be subject to the allocation requirements of MHFA 61(d).

Chapter 9: Affordable Home Mortgages

MHFA 111 Applications for affordable home mortgages. Affordable home mortgages made from the revolving loan fund established pursuant to Section 16(c) of the Minnesota Laws of 1976, ch. 254, shall meet the following requirements:

(a) The proceeds of the affordable home mortgage must be used to construct in Minnesota, a new, single family, owner occupied home of one, two, or three bedrooms.

(b) The affordable home mortgage must be used only to finance construction of homes built in conformance with Federal Housing Administration minimum property standards and with design standards approved by the Agency.

(c) The affordable home mortgage must create a valid first lien on the real property on which the eligible home is constructed.

MHFA 112 Terms of affordable home mortgage loans. Each affordable home loan and mortgage shall contain the following terms and limitations:

(a) The maximum amount of each affordable home mortgage loan shall be the sum of the actual construction costs plus the development costs. Actual construction costs, which shall be subject to review and approval by the Agency, shall not exceed \$26,500 for a three-bedroom unit; \$24,000 for a two-bedroom unit, and \$21,000 for a one-bedroom unit. Development costs shall not exceed \$7,500 and shall consist only of the actual costs of land, water and sewer, sewer accessibility charges, and such similar costs of improving the property for occupancy as are approved by the Agency.

(b) The mortgage shall be for 30 years from the date of initial mortgage closing and shall be without interest until the first day of the fifth month following initial closing or until final closing, whichever first occurs.

(c) A minimum downpayment of 3% of the first \$25,000 and 10% of the remainder of the development and construction costs shall be required. No downpayment shall be required, however, on Veterans Administration mortgages where the mortgagor has not previously used any portion of his guarantee.

(d) Closing costs shall be paid by the mortgagor.

(e) Each mortgage shall be covered by a title insurance policy approved by the Agency or, with the prior written consent of the Agency, by an Attorney's Opinion if title insurance is unavailable.

(f) A plat drawing shall be supplied by the mortgagor unless the Agency determines that a plat of survey certified by a licensed surveyor or engineer is necessary. The legal description of the property to be mortgaged shall be by metes and bounds, or lots and blocks on a recorded map or plat, or in such other form as is acceptable to the Agency.

(g) A hazard insurance policy acceptable to the Agency shall cover the mortgaged property and contain a standard mortgagee clause naming the Agency as first mortgagee. Such policy shall be issued by a company authorized to do business in Minnesota and which has a financial rating in Best's Insurance Reports of BBB+ or better.

MHFA 113 Interest. The interest rate on the affordable home mortgage shall be calculated as follows:

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(a) The mortgage note shall bear interest at 8%, reduced by an interest credit to reflect family income.

(b) To determine the initial interest, the Agency shall determine a Maximum Monthly Housing Expense for the mortgagor based upon thirty-five (35%) percent of his Adjusted Income, converted to a monthly average amount for that period. There shall be deducted from the Maximum Monthly Housing Expense the average amount, as determined by the Agency, for expenses in maintaining the premises to be mortgaged, including real estate taxes, mortgage insurance, hazard insurance, heat, utilities, and maintenance, but excluding principal and interest payments on the mortgage. The balance remaining shall constitute the sum available for the monthly payment of principal and interest for the initial period, based upon the following 29 year, 8 month amortization schedule:

1% interest rate = \$3.25 per month per thousand dollars of mortgage amount

2% interest rate = \$3.73 per month per thousand dollars of mortgage amount

3% interest rate = \$4.25 per month per thousand dollars of mortgage amount

4% interest rate = \$4.81 per month per thousand dollars of mortgage amount

5% interest rate = \$5.40 per month per thousand dollars of mortgage amount

6% interest rate = \$6.02 per month per thousand dollars of mortgage amount

7% interest rate = \$6.68 per month per thousand dollars of mortgage amount

8% interest rate = \$7.37 per month per thousand dollars of mortgage amount

In calculating the initial interest rate for the mortgage, the highest rate is to be utilized which will cause the balance of the Maximum Monthly Housing Expense over the projected monthly expenses in maintaining the premises, as defined above, to equal or exceed the monthly payment of principal and interest. Applicants whose Adjusted Income will not support a monthly debt service of at least 1%, determined in accordance with the above, shall not be eligible for an affordable home loan.

(c) Example of an Eligible Mortgage:

<u>Mortgage Amount</u>	<u>Constant Monthly Housing Costs</u>
\$21,000 Construction Cost	\$35.00 Utilities
2,650 Land and Development Cost	23.30 Property Taxes
\$23,650 Total Cost	8.17 Hazard Insurance
710 Down Payment	14.00 Maintenance
\$22,940 Mortgage Amount	\$80.47 Total

Mortgagor's Annual Adjusted Income = \$6,000

Mortgagor's Monthly Adjusted Income = \$500
(16,000 ÷ 12 months)

35% of Mortgagor's Monthly Adjusted Income = \$175
(35% of \$500)

Calculation for Monthly Mortgage Payment of Principal and Interest

\$175.00	35% of Mortgagor's Monthly Adjusted Income
80.47	Constant Monthly Housing Expenses

\$ 94.53 Mortgagor's amount available for principal and interest

Calculation of Interest Rate

Amount available for principal and interest ÷ mortgage amount in thousands = monthly amortization factor:

$\$94.53 \div \$22.94 = \$4.12$ per month per thousand dollars of mortgage amount

The above amortization schedule shows that \$4.12 falls between \$3.73 (which is 2%) and \$4.25 (which is 3%); rounding down gives a 2% interest rate for this example.

Amortization factor of \$3.73 (2%) times mortgage, \$22,940, gives principal and interest payment of \$85.57.

(d) For those notes having an initial rate of less than 8%, the interest rate, and the monthly payment of principal and interest based thereon, shall be increased over the rate for the initial period by 1/2 of 1% unless the mortgagor shall submit to the Agency, on or before that March 15 which is not less than twelve (12) months nor more than twenty-four (24) months after final mortgage closing a Recertification of Interest Credit Eligibility, which establishes to the Agency's satisfaction that the mortgagor's current Adjusted Income and Maximum Monthly Housing Expense will not

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support an increase in debt service payments. On June 1 of each succeeding year, the interest rate, and payments of principal and interest based thereon, will be increased an additional ½ of 1%, up to a maximum rate of eight percent (8%) per annum, unless, on March 15 of each succeeding year, the mortgagor submits a Recertification of Interest Credit Eligibility establishing that an increase in interest rate cannot be supported by the mortgagor's current Adjusted Income.

(e) The affordable home mortgage may be assumed with permission of the Agency at 8%, or at a lower rate if the new mortgagor is eligible for the interest credit.

MHFA 114 Eligible mortgagors. To be eligible for an affordable home mortgage, a mortgagor must be a Low Income Purchaser, have an Adjusted Income sufficient to support a monthly debt service as determined in MHFA 113 of at least 1%, and intend to occupy the mortgaged premises as his principal residence.

MHFA 115 Construction loans. The Agency may make loans for the construction of affordable homes subject to the following terms:

(a) A loan may be made to a Builder or a Non-Profit Entity upon a determination that such loan is necessary in order to encourage an adequate supply of affordable homes or to demonstrate the feasibility of affordable homes in a particular area.

(b) The construction loan borrower need not be a Person or Family of Low or Moderate Income nor a Low Income Purchaser.

(c) The construction loan shall meet all the requirements of and be subject to the same terms as an affordable home mortgage, except that no down payment shall be required, no closing fee shall be payable and unless the borrower is in default, no interest shall accrue until the affordable home is sold, or the note reaches maturity.

(d) The construction loan borrower shall make a reasonable marketing effort to sell the home constructed with the construction loan to a Low Income Purchaser who is eligible to obtain an affordable home mortgage under this Chapter.

(e) Upon request of eligible Low Income Purchasers, the Agency shall make affordable home mortgages for the homes constructed with the proceeds of such construction loans.

(f) The construction loan borrower shall agree to abide by the requirements of this Chapter relating to the construction, specifications, sale, and mortgage of the home to be constructed with such loan.

(g) The Agency may withhold such part of the construction loan as is necessary to assure completion of the home.

(h) The Agency may elect to use the home built with such construction loan for demonstration purposes, in which event the Agency shall pay all maintenance, taxes, and insurance on the home for as long as it is used for demonstration purposes.

Department of Natural Resources Designation of Redwood County Public Waters

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Wabasso Community Hall, Wabasso, Minnesota, on Wednesday, April 13, 1977 commencing at 2:00 P.M. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted as provided by Minnesota Statutes sections 15.0411 through 15.051 and section 15.052 and as provided by the rules for rule-making of the Office of Hearing Examiners.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to:

William Seltzer
1745 University Avenue
St. Paul, Minnesota 55105

either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, would officially identify the public waters of Redwood and would provide the basic criteria whereby the Redwood County Board of Commissioners may issue or deny permits for certain activities that would change the course, current, or cross-section of certain public waters within their political boundaries. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota Department of Natural Resources, Division of Waters, 345 Centennial Office Building, St. Paul, MN 55155. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Laws of Minnesota 1976, chapter 83, particularly

PROPOSED RULES

sections 8 and 10. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

A body of water designated as public waters is subject to the jurisdiction of the Commissioner of Natural Resources for changes that may be proposed in the body of water. Designation as public waters does not transfer ownership of the bed or shore nor does it provide members of the public with public access if it was not available before the classification.

Please be advised that Minn. Stat. ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Gerald D. Seinwill
Director, Division of Waters

Rules as Proposed

NR 5364 Redwood county public waters.

A. Authority and scope.

1. This rule identifies the waterbasins and watercourses in Redwood County which are public waters, classifies the watercourses, and delegates to the Redwood County Board of Commissioners certain of the regulatory authority of the Commissioner of the Department of Natural Resources over the Class III watercourses in the county.

2. This rule is adopted pursuant to Laws of 1976, ch. 83 which amends, in part, Minn. Stat. ch. 105.

B. Water basins which are public waters.

1. The following water basins of the county are public waters:

Number and Name	Township (Section)
64-22: Guggisberg Slough	Sherman (17)
-23: Unnamed	Sherman (22)
-24: Unnamed	Sherman (24)
-37: Unnamed	Paxton (10)
-40: Tiger Lake	Honner (34, 35)
-44: Willow Lake	Willow Lake (20)
-46: Unnamed	New Avon (4)
-47: Unnamed	New Avon (9)
-58: Redwood Lake	City of Redwood Falls (1, 2)
-64: Unnamed	Waterbury (17)
-65: Timms Marsh	Waterbury (18)
-70: Daubs Lake	Vail (10, 11)
-84: Iverson Lake	Swede Forest (7, 18)
-85: Unnamed	Swede Forest (17)
-86: Joe Slough	Swede Forest (17)
-88: Waterbury Marsh	Johnsonville (13) and Waterbury (7, 8)
-96: Unnamed	Granite Rock (35) and Johnsonville (2)
-102: North Slough	Vesta (26, 35)
-105: Rohlik Slough	Vesta (35, 36)
-106: Pauls Slough	Vesta (36)
-108: Soupir Marsh	Westline (13) and Granite Rock (18)
64-110: Unnamed	Gales (1)
-111: Unnamed	Gales (1)
-117: Unnamed	Westline (36) and Gales (1)
-137A: Long Lake	Swede Forest (8, 9)
-139A: Sandy Slough	Westline (6)

2. The following boundary water basin, which lies predominantly in an adjacent county, is to be considered public waters subject to a public waters hearing conducted in that county:

Number and Name	Redwood Township (Section)	Adjacent County
87-17: Timm Lake	Underwood (4)	Yellow Medicine

C. Watercourses which are public waters. The following watercourses of the county are public waters:

Class I
Cottonwood River.
Minnesota River.
Redwood River (downstream from W. section line, Section, 29, Sheridan Twp.).

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Class II

Dry Creek.
Dutch Charley Creek and tributaries.
Highwater Creek.
Meadow Creek (Section 7, Gales Twp.).
Pell Creek and tributaries.
Plum Creek and tributaries.
Ramsey Creek (downstream from Section 34, Delhi Twp.).
Unnamed tributaries to the Cottonwood River at: Section 27 and Section 28, Charlestown Twp.

Class III

Boiling Spring Creek and tributaries.
Camp Pope Creek and tributary.
Clear Creek (downstream from Section 32, Sheridan Twp.).
Coalmine Creek downstream from Section 7, Charlestown Twp.).
Crow Creek (downstream from Section 4, Paxton Twp.).
Echo Creek (downstream from Section 6, Kintire Twp.).
Lone Tree Creek and tributaries.
Rice Creek (downstream from Section 7, Delhi Twp.).
Wabasha Creek (downstream from Section 24, Paxton Twp.) and tributaries (downstream from Section 28, Sherman Twp.).

Unnamed tributaries to the Cottonwood River at:

Sec. 28, Johnsonville Township.
Sec. 19, Johnsonville Township.
Sec. 16, Gales Township.

Unnamed tributary to the Minnesota River at:

Sec. 11, Delhi Township.

Unnamed tributary to Plum Creek at:

Sec. 18, North Hero Township.

Unnamed tributaries to Sleepy Eye Creek at:

Sec. 35, Brookville Township.
Sec. 32, Waterbury Township.

and all other natural watercourses outletting into public waters.

The following watercourses, altered through public ditch construction prior to this rule hearing, are recognized by the county board as having a significant contribution to the water resources of Redwood County:

Clear Creek (Sec. 6, Westline Twp. to Sec. 32, Sheridan Twp.).
Coalmine Creek (Sec. 3, Lamberton Twp. to Sec. 7, Charlestown Twp.).
Crow Creek (Sec. 9 to Sec. 4, Paxton Twp.).

Ramsey Creek and tributaries (Sec. 31 and Sec. 30, Kintire Twp. and Sec. 16, Sheridan Twp. to Sec. 34, Delhi Twp.).

Redwood River (Sec. 19, Underwood Twp. to Sec. 19, Sheridan Twp.).

Rice Creek (Sec. 21, Kintire Twp. to Sec. 18, Delhi Twp.).

Sleepy Eye Creek and tributaries at:

Sec. 30, Brookville Twp.

Sec. 16, Sundown Twp. (within Sec. 16).

Sec. 1, Willow Lake Twp. (within Sec. 1).

Sec. 3, Willow Lake Twp. (Downstream from Sec. 19, New Avon Twp.).

Sec. 15, Waterbury Twp. (downstream from Sec. 29).

Sec. 6, Waterbury Twp. (downstream from Sec. 28 and Sec. 33, Granite Rock Twp. and Sec. 32, Vail Twp.).

Sec. 11, Johnsonville Twp.

Sec. 9, Johnsonville Twp.

Portions of unnamed tributaries to the Cottonwood River from s. section line, Sec. 30, to e. section line, Sec. 19, Gales Twp. and from s. section line, Sec. 32, to n. section line, Sec. 27, Gales Twp.

Class IV

County Ditches Nos. 18, 21, 22, 24, 26, 28, 33, 38, 49, 52, 54, 60, 64, 68, 73, 80, 81, 85, 90, 91, 92, 93, 95, 96, 99, 100, 102, 106 and 109.

Judicial Ditches Nos. 3 (Lyon, Redwood, Yellow Medicine), 5 (Redwood), 12 (Redwood, Lyon), 14 and 15 (Redwood, Lyon), 17 (Redwood, Brown), 29 (Redwood, Brown), 30 (Redwood, Brown), 31 (Redwood, Lyon), 32 (Redwood, Yellow Medicine), 33 (Redwood, Yellow Medicine), 35 (Redwood, Brown), 36 (Redwood, Brown) and 37 (Redwood, Lyon).

Portions of the above have been previously identified and designated as Class III public watercourses.

D. Regulation of the waters of the county.

1. This rule does not relate to appropriation and use of waters of the state, for which permits from the commissioner of natural resources are required by Minn. Stat. § 105.41 whether or not the water is listed as "public" in this rule.

2. Any activity which will change the course, current or cross-section of a public water basin, or Class I or Class II watercourse, requires a permit from the commissioner of natural resources pursuant to Minn Stat. §§ 105.42 or 105.64 or other statutes. In addition, utility crossings require a permit pursuant to Section 84.415.

3. In the Class III and Class IV watercourses of the

PROPOSED RULES

county, the following activities require a section 105.42 or section 105.64 permit from the commissioner of natural resources.

a. Any activity which would require a change in the course, current, or cross-section of a class I or class II public water course, except where that construction is only to make a physical connection and no other changes occur, or a public water basin, as listed in rule, as a result of the activity in the class III or class IV public watercourse;

These activities affect public waters not specifically delegated to the county.

b. Any diversion of water from a class III public watercourse into a different watershed which is not part of the same drainage basin;

These activities have the potential of significantly altering the flow regime of two or more watersheds, the result of which often affects areas of more than local significance, requiring the kind of analysis that should not have to be borne by the local government.

c. Construction of any dam 20 feet or more in structural height as measured vertically from the lowest point of the foundation surface to the top of the dam or impounding 50 acre-feet or more of water at maximum storage capacity;

These activities fall under the responsibility of the state as outlined in the National Dam Inspection Program and Minn. Stat. § 105.52.

d. Any lowering of the existing streambed elevation resulting in an overfall of two feet or more for which no provision has been made for adequate headward erosion control.

This area of concern will readily drop out as the local government generally recognizes the significance of headward erosion protection. This section is provided solely for the purpose of promoting the protection of the benefits achieved through watercourse alteration.

e. Utility crossings and mining activities.

These activities over, in or under public waters are regulated by Minn. Stat. § 84.415 and § 105.64.

f. All other activities affecting public water requiring permits from the commissioner under statutes other than section 105.42.

4. All other activities changing the course, current or cross-section of Class IV watercourses are supervised by the county under existing drainage laws. The method of that supervision is not a subject of these rules.

5. Except for those activities listed in D. 3., the commissioner of natural resources delegates his authority under Minn. Stat. §§ 105.38, subd. (3), and 105.42, subd. 1, to regulate changes in the course, current, or cross-section of Class III watercourses to the County Board of Commissioners. Without limiting his own authority, the commissioner also delegates to the county the responsibility and authority to make investigations and to issue orders to restore and other orders as authorized by Minn. Stat. §§ 105.461 and 105.462, and to undertake civil actions pursuant to Minn. Stat. § 105.55.

6. This is a delegation, not a transfer or abdication of authority. The commissioner of natural resources remains responsible to the legislature and the people of Minnesota for management of all watercourses of the county, including Class III watercourses, in accordance with Minn. Stat. chapter 105. The commissioner may revoke the delegation by amending this rule in the manner specified in the rule-making provisions of Minn. Stat. ch. 15. Ground for revocation is that the county board is not adhering to the terms of the delegation specified in these rules. The revocation hearing shall be held within county where original delegation hearing is held.

7. Additions, deletions, or other changes in the public waters designation and classification may be made by amending this rule in the manner specified in the rule-making provisions of Minn. Stat. ch. 15.

E. Regulation of class III watercourse by the county: procedures. In handling permit applications, the county shall stand in the place of the commissioner of natural resources in following the procedural provisions of Minn. Stat. §§ 105.44, .45, and .46, and other relevant statutes, with the following variations and supplements:

1. The county shall send a copy of each permit application to the appropriate DNR regional office, city or town, watershed district and soil and water conservation district, and the adjacent county in the case of an inter-county watercourse when the activity is within one mile of the adjacent county, for their advice and comment as may be appropriate. Comments to be considered must be returned within 14 calendar days after the mailing, and the permit may not be issued until all comments have been received or after the 14 days, whichever comes first.

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2. The county shall be notified in writing of all proposed activities within those portions of the Class III public watercourses separately identified as being altered through public ditch construction prior to this rule hearing. These activities will not ordinarily be subject to the permit guidelines outlined in this rule except where such activities, subject to the discretion of the county board, will involve diversions or impoundments of the watercourse or will create erosion and sedimentation problems affecting other interconnected waters.

3. In all appeals to district court taken pursuant to Minn. Stat. § 105.47, the commissioner shall act as co-respondent.

4. Costs of public hearing which are for the commissioner when the commissioner conducts a public hearing, shall be for the county when the county conducts the hearing.

5. The county may collect and place in its funds the permit application, field investigation, and monitoring fees authorized by Minn. Stat. § 105.44, subd. 10.

F. Granting and denying permits: decision criteria.

1. Statutory decision guidelines. The county shall decide whether to grant or deny a permit for an activity in Class III watercourses according to the statutory decision guidelines to which the commissioner is subject, including the provisions of Minn. Stat. §§ 105.45, 116D.04, subds. 5 and 6, and any other applicable laws.

2. Permit evaluation: general. Permit proposals for activities in Class III public watercourses require sound overall plans. They must incorporate the needs and desires of the people who will be served by the activity as well as of other people who may be affected. An evaluation must be made of the proposed conditions, relative to existing conditions, to determine the overall project effect. Activities proposing changes in the course, current, or cross-section of Class III public watercourses may potentially affect watercourse flow volumes and velocities, erosion potential and susceptibility, adjacent land usage, and water usage. Permits shall not be issued where changes in the course, current, or cross-section of a Class III public watercourse will result in damages (that is, the net result after consideration of benefits, compensation and mitigation):

a. To public or private lands due to overbank flooding through increased downstream flow conditions or increased backwater stages;

This protects public and private interests on lands along the watercourse that may suffer increased amount or

frequency of flooding as a direct result of the proposed activity.

b. To public or private lands or waters due to increased erosion, or increased susceptibility to erosion, through changes in sediment deposition, turbidity, flow velocities, exposed or inadequately protected areas subject to surface flow, sideslopes construction and land usage.

This protects public and private interests on lands and public waters that may suffer the detrimental effects of erosion as a direct result of the proposed activity.

c. To any material beneficial public purpose(s) the watercourses may serve, through detrimental changes in flow conditions and erosion hazards.

This protects the existing material beneficial public purpose, relative to the benefits achieved that may, in certain cases, otherwise detrimentally change the very resource that was originally intended to be protected for the benefit of all the public.

d. To a public area so designated, purchased, operated, managed, or otherwise existing with specific public values, including but not limited to state wildlife management areas, federal waterfowl production areas, federal, state, and local parks, and other recreational areas including units of the outdoor recreation system, due to detrimental changes.

This protects existing public lands that may, in certain cases, be detrimentally changed such that their public value no longer serves, exists, or is beneficial to the public.

3. Permit evaluation: alterations. The following particular factors shall be observed relative to permit applications to widen, deepen, straighten, or relocate a Class III watercourse.

a. Watercourse capacity is a function of the channel slope, roughness, and cross-section configuration. Flow volume is a function of the runoff from the contributing watershed. The capacity of the altered watercourse must be capable of carrying the range of flow volumes which would occur under present and past conditions; based on known facts or reasonable evaluation of hydraulic and hydrologic factors for the watershed involved. The creation of abrupt variations in channel shape play an important part in reducing the ability of a watercourse to efficiently convey flows downstream and must be avoided. The outlet must also have adequate capacity such that induced flow stages, when occurring, do not have adverse effects on the resources or habitat of the downstream area. The outlet may be construed to be that downstream portion of the same watercourse, another watercourse, a water basin, or the like, that will

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have to carry the discharge flow from the area proposed for alteration.

b. Erosion potential, as influenced by an alteration to a public watercourse, is a function of the watercourse and watershed soil types, flow velocities, sideslope construction and stability, channel alignment, watershed topography, and land usage. Flow velocity, a function of flow volume, channel roughness, and cross-section configuration, must not be greater than that existing prior to the alteration unless it can be shown that for the given soil types or channel bottom material, the expected flow velocities are nonerosive. Grade control structures may be required in the channel to reduce gradients and contribute to channel stability.

c. Sideslopes must be graded and spoil banks shaped and leveled to prevent bank overburden and slumping. It is recommended that sideslopes never be steeper than 1½ feet horizontal to 1 foot vertical.

d. Efforts should be made to reduce overbank flows of concentrated surface waters into the altered watercourse; but where this entry is required, it is to be provided for by the installation of side inlet pipes.

e. Watercourse sideslopes, berms, spoil banks, and other disturbed areas subject to erosive action must be vegetated to control erosion and protect channel sections from scour. Vegetation is recognized as playing a major part in reducing the downstream sediment load. To protect the altered watercourse banks and to compensate some of the loss of natural conditions, the permitted alteration must include the seeding of the bank sideslopes and the establishment of a permanently vegetated strip along both sides of the watercourse. The strip shall be a minimum of 25 feet wide as measured from the top of the altered watercourse bank landward. Mowing of this strip shall be allowed after July 31 of each year, except where weed control is required.

f. Recognizing the need in certain instances for watercourse realignment, the applicant should be made aware that the use of gradual or large radii smooth curves, wherever possible, reduces the susceptibility of the watercourse sideslopes to erosion due to the abrupt change in flow direction. This is especially true in situations where flow velocities are relatively high. Where gradual or large radii smooth curves are not used, the altered watercourse may require mechanical stream bank protection (i.e., riprap).

g. One of the more significant measures that can be used to reduce downstream sediment loads is the installation of sediment traps in the altered watercourse to collect and

retain the coarser fraction of particles moving along the channel bottom. If sediment traps are installed, provision must be made in the permit to periodically clean them out so they remain effective.

h. In recognition of the effects of alterations to natural watercourses the county should consider ways to retain the natural benefits as much as possible. Retention of natural benefits to the county may be achieved through the preservation of existing water basins for flood storage and nutrient entrapment, woodlands or tree lines for reduction in wind erosion susceptibility, the provision for new water basins or woodlands, and the establishment of many of the erosion control features identified above.

i. The applicant has the responsibility to provide the appropriate hydraulic and hydrologic data and design factors relating to alterations involving changes in watercourse capacity. The county shall review this information for technical adequacy. The county may seek assistance in this review from any existing federal or state governmental agency having said expertise including the DNR, Soil and Water Conservation District, Minnesota Highway Department, U.S. Soil Conservation Service, U.S. Dept. of the Interior, U.S. Corps of Engineers, and U.S. Dept. of Transportation.

4. Permit evaluation: bridges and culverts. The following particular factors shall be observed relative to permit applications for bridge and culvert installations.

a. Permit applications requesting public and private crossing of those Class III public watercourses which are not within the jurisdiction of a floodplain ordinance, do not have specific game fish value, or are not normally utilized by the public for recreational navigation, may be authorized provided:

(1) The capacity of the proposed structure is sufficient to convey the range of flow volumes which would occur under present and past conditions; based on known facts or reasonable evaluation of hydraulic and hydrologic factors for the watershed involved. The sizing of a structure based solely on the size of existing up- and downstream structures may not be adequate, particularly in urban and urban fringe areas.

(2) The erosion potential, if increased by the proposed installation as a function of changes in flow velocities or as a function of the entrance/exit conditions, is adequately controlled through the use of seeding, riprap, or other such measures.

(3) If the crossing is to be temporary, seasonal, or

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would in some manner require future maintenance, the permit must contain clauses to provide removal, repair, etc.

(4) Where private crossings are requested for the purposes of moving field equipment and the like, due consideration should be given to a low-water ford type crossing. This feature, in reviewing the crossing needs and the physical characteristics of the watercourse bed, may provide an adequate crossing at lower costs and less maintenance.

b. Permit applications requesting public and private crossing of those Class III public watercourses within the jurisdiction of a floodplain ordinance, having specific game fish value, or normally utilized by the public for recreational navigation may be authorized provided:

(1) The structure is in compliance with floodplain ordinance as required in Minn. Stat. § 104.03, subd. 2, as it relates to flood carrying capacity.

(2) The structure provides for game fish movement unless specifically intended to impede rough fish movement.

(3) The structure provides for navigational passage or the means for a reasonable portage.

c. The applicant has the responsibility to provide the appropriate hydraulic and hydrologic data and design factors relating to bridge and culvert installations. The county shall review this information for technical adequacy. The county may seek assistance in this review from any existing federal or state governmental agency having said expertise including the DNR, Soil and Water Conservation District, Minnesota Highway Department, U.S. Soil Conservation Service, U.S. Dept. of Interior, U.S. Corps of Engineers and U.S. Dept of Transportation.

d. Where the proposed structure must meet statewide floodplain management standards, a check should be made on the regional (100-year frequency) flood conditions, as follows:

(1) the estimated regional flood magnitude.

(2) the tailwater elevation below the structure during regional flood conditions.

(3) the headwater elevation necessary to pass the regional flood through the proposed structure.

(4) the maximum headwater elevation permissible without causing damage to property upstream of the structure.

e. The statewide floodplain management standards ordinarily limit the difference between items d. (2) and (3)

above (called "swellhead") to 0.5 feet. However, if a 0.5 foot increase would cause flood damages according to item (4), the allowable stage increase could be diminished below 0.5 feet until the damage ceases. Conversely, a swellhead greater than 0.5 feet may be allowable as long as the elevation of item (4) is not exceeded and such an increase is acceptable to the local governmental unit (township, municipality, etc.).

f. The applicant has the responsibility to provide the appropriate technical data and design factors relating to floodplain management criteria. The county shall review this information for technical adequacy. The county may seek assistance in this review from any existing federal or state governmental agency having said expertise including the DNR, Soil and Water Conservation District, U.S. Soil Conservation Service, U.S. Dept. of the Interior, and U.S. Corps of Engineers.

5. Permit evaluation: riprap and retaining walls.

a. Riprapping of Class III public watercourses may be authorized upon submission of evidence by the applicant of existing, expected, or recent watercourse bank erosion. Riprap materials must be of sufficient size, quality, and thickness to withstand anticipated forces of wave and ice action. Materials such as debris, junk, wrecked auto bodies, shall not be permitted. Site soils must be capable of supporting riprap. If necessary, the banks shall be compacted and sloped prior to riprap installation and a filter blanket of sand, gravel, or other materials selected for this purpose shall be placed thereon to prevent undercutting. Placement of riprap in the bed of the watercourse should be the minimum amount necessary to provide desired bank protection which does not unduly interfere with the flow of water.

b. Retaining walls, vertical or nearly vertical along-shore structures constructed of mortar-rubble masonry, hand-laid rock or stone, vertical timber pilings, horizontal timber planks with piling supports, sheet piling, poured concrete, concrete blocks, or other durable materials, should be authorized for erosion protection only when all of the following conditions are met:

(1) The appearance will be consistent with existing uses and provide limited encroachment.

(2) Adequate engineering studies have been performed as to the technical feasibility of foundation conditions, tie-backs, internal drainage, materials of construction, and flanking protection. The applicant has the responsibility to provide this data. The county shall review this information for technical adequacy. The county may seek assistance in this review from any existing federal or state governmental agency having said expertise including the DNR, Soil and Water Conservation District, U.S. Soil Con-

PROPOSED RULES

servation Service, U.S. Dept. of the Interior and U.S. Corps of Engineers.

(3) Provision for adequate erosion control has been made at the ends of the structure such that a hazard is not created on lands immediately upstream or downstream.

c. Consideration and evaluation of the potential effects of riprapping and retaining structures is similar to that outlined for alterations and bridge/culvert installation above.

6. Permit evaluation: filling.

a. Filling of Class III public watercourses may be authorized upon submission of evidence by the applicant that the natural shoreland was in fact lost by erosion or other natural forces within a recent time framework.

b. Filling must be consistent with applicable local, state, or federal water management standards, regulations, or requirements, including but not limited to water surface use, water quality management, and shoreland zoning.

c. Fill material must consist of clean earthen material, normally sand, gravel, or rock. Where necessary, stabilization of the fill bank must be made part of the permit which is consistent with conditions outlined for riprapping or vegetative cover outlined for alterations above.

7. Permit evaluation: other activities.

a. Other activities, including but not limited to small dam construction and reconstruction, watermain and sewer crossings, waterway obstructions, inland excavations, intake and outfall structures, may be permitted subject to the decision criteria identified in F. 1. and 2. For several of these types of proposals adequate engineering detail may be necessary for appropriate review. Considerations for watercourse capacity, erosion susceptibility, existing public values, local, state, or federal regulations must be evaluated as outlined in general throughout these rules. In certain instances (for example, intake structures, diversions for irrigation), an appropriation permit from the Commissioner will also be required regardless of the class of the public watercourse.

b. The applicant has the responsibility to provide the appropriate engineering data and design factors relating to the above activities. The county shall review this information for technical adequacy. The county may seek assistance in this review from any existing federal or state governmental agency having said expertise including the DNR, Soil and Water Conservation District, Minnesota Highway Department, U.S. Soil Conservation Service, U.S. Dept. of the Interior, U.S. Corps of Engineers and U.S. Dept. of Transportation.

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

OFFICIAL NOTICES

Office of the Governor Appointments Commission

Notice of Positions Available

The Governor's Appointments Commission announced today that applications for 19 appointment positions are being accepted.

Gloria Griffin, Commission Chairperson, stressed the fact that Governor Rudy Perpich is particularly interested in encouraging women, minorities and rural Minnesotans to apply.

Positions available include:

State Board of Health — 3 members

Board of Barber Examiners — 2 members; must have practiced in Minnesota 5 years; 1 member must be from a union of journeyman barbers; and 1 member must be from the Master Barbers Association;

Board of Chiropractic Examiners — 2 members; 1 chiropractor and 1 public member;

State Board of Optometry — 2 members; 1 qualified optometrist and 1 public member;

Board of Podiatry — 1 member; must be a podiatrist in good standing;

Board of Accountancy — 1 member; must be a Certified Public Accountant;

Board of Boxing — 2 members; must not be a fight promoter, fight manager or receive any proceeds from any boxing match;

Teaching Board — 5 members; must be 1 public member, 1 elementary teacher, 1 secondary teacher, 1 administrator and 1 private college teacher; and

Higher Education Facilities Authority — 1 member; must have knowledge and experience in state and municipal finance.

Most boards meet once a month, usually in St. Paul, and compensation is \$35 per day plus mileage.

Application forms are available at all public libraries. They may be returned to Ms. Griffin at Room 130, State Capitol Building, St. Paul, 55155, Telephone: (612) 296-3391. Applications for these appointments will be accepted until Thursday, March 31, 1977.

Board of Teaching

Notice of Intent to Solicit Outside Information on Amendment of Various Rules

Notice is hereby given that the Board of Teaching is seeking information or opinions from sources outside the Board in preparing to propose the amendment and/or adoption of rules governing Teachers of Art, School Counselors, Continuing Education, Career Licensure, Family Life Education, and Teachers of American Indian Language and Culture. Any interested persons may submit data or views on these subjects in writing or orally to:

Kenneth L. Peatross, Executive Secretary
MINNESOTA BOARD OF TEACHING
607 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-2415

Any written material received by the Board shall become part of the hearing record in the event rules governing these subjects are promulgated.

Kenneth L. Peatross
Executive Secretary

EQC MONITOR

Environmental Quality Council

Establishment of Environmental Information Center

The Environmental Quality Council has established an "Environmental Management Information Center" to help the public cope with the many government requirements for the use of the State's air, land, water or other natural resources.

The information center will maintain and make available the following information:

1. Inventory of state environmental permits and regulatory programs
2. Procedures for processing each type of proposal
3. Evaluation criteria used by the regulatory agencies
4. Directory of contact people in regulatory agencies
5. Copies of laws and agency regulations governing each permit or program
6. Copies of application forms

The Environmental Management Information Center will be open from 8:00 to 4:30 p.m. Monday through Friday. Citi-

zens seeking information may call collect at 612/296-9034, visit or write to the center at Room 100, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101.

Separate Publication of the EQC Monitor

The EQC Monitor is now being printed as a separate publication in addition to its regular place in the State Register.

All official notices as well as Executive Orders and state agency rules relating to environmental matters will be consolidated into the EQC Monitor.

Anyone interested primarily in environmental notices may wish to subscribe to the EQC Monitor as a separate publication. A subscription to the EQC Monitor (separate from the State Register) costs \$50 per year and can be ordered from the Office of the State Register (see Order Form at the end of this State Register).

For further information about the EQC Monitor contact:

Eileen Deitcher
EQC-Monitor Coordinator
Environmental Quality Council
Room 100, Capitol Square Bldg.
St. Paul, MN 55101
612/296-8541

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House of Representatives
Attn: Edward Burdick, Chief Clerk
Room 211 Capitol
St. Paul, Minnesota 55155

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