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STATE REGISTER

STATE OF MINNESOTA

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VOLUME 10, NUMBER 22

November 25, 1985

Pages 1197-1228



Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 10			
23	Friday November 15	Thursday November 21	Monday December 2
24	Thursday November 21	Monday December 2	Monday December 9
25	Monday December 2	Monday December 9	Monday December 16
26	Monday December 9	Monday December 16	Monday December 23

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the State Register. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION also.

The PROPOSED RULES section contains:

- Calendar of public hearings on proposed rules.
• Proposed new rules (including notice of hearing and/or notice of intent to adopt rules without a hearing).
• Proposed amendments to rules already in existence in the Minnesota Rules.
• Proposed emergency rules.
• Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the State Register unless an agency requests this.)
• Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
• Notice of adoption of emergency rules.
• Adopted amendments to emergency rules (changes made since the proposed version was published).
• Extensions of emergency rules beyond their original effective date.

The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
• Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the State Register and filed with the Secretary of State before April 8, 1985 are published in the Minnesota Rules 1985. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after April 8, 1985 will be included in a supplement scheduled for publication in Spring, 1986. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the State Register but are generally not published in the Minnesota Rules due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

The State Register publishes partial and cumulative listings of rule in the MINNESOTA RULES AMENDMENTS AND ADDITIONS list on the following schedule:

Table with 2 columns: Issue range and Issue number. Includes: Issues 1-13, inclusive; Issues 14-25, inclusive; Issue 26, cumulative for 1-26; Issues 27-38, inclusive; Issue 39, cumulative for 1-39; Issues 40-51, inclusive; Issue 52, cumulative for 1-52.

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PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Energy and Economic Development Department Energy and Economic Development Authority

Proposed Rules Relating to Health Care Equipment Loan Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Energy and Economic Development Authority (hereinafter "the Authority") proposes to adopt the above entitled rules without a public hearing. The Authority has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sec. 14.21 to Sec. 14.28.

Authority for the adoption of these rules governing health care equipment loans is contained in Minnesota Statutes 116M.08, Subdivision 4 (1984) and Minn. Stat. 116M.07, Subd. 7c (1985 Supp.) Additionally, a Statement of Need and Reasonableness that describes the need for the reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Ms. Kultala upon request at the address below. The Statement of Need and Reasonableness also may be reviewed by the public during regular business hours by contacting Ms. Kultala.

Persons interested in these rules shall have thirty (30) days to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless twenty-five (25) or more persons submit written requests for a public hearing on the proposed rules within the thirty (30) day comment period, a public hearing will not be held. Any person submitting a written request for a hearing should state his or her name and address and the Authority encourages that person to identify the portion of the proposed rule which they wish addressed at the hearing, the reason for the request, and any change proposed. If a public hearing is required, the Authority will proceed pursuant to Minn. Stat., Sec. 14.131 to 14.20.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised in writing of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption should submit a written statement of such request to Ms. Kultala.

A copy of the proposed rules follows this notice.

Persons who wish to obtain copies of this notice, the proposed rules, or the Statement of Need and Reasonableness or who wish

to submit comments, a written request for a public hearing or a request to be informed when the rules are submitted to the Attorney General should submit such comments or requests to:

Debra J. Kultala
Financial Management Division
Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 296-4337

Mark B. Dayton
Chairman of Minnesota Energy and
Economic Development Authority

Rules as Proposed (all new material)

8300.3200 SCOPE AND AUTHORITY.

Parts 8300.3200 to 8300.3204 apply to applications for loans for health care equipment made to the authority under Minnesota Statutes, section 116M.07, subdivision 7a.

8300.3201 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 8300.3200 to 8300.3204, the following terms have the meanings given to them.

Subp. 2. **Application fees.** "Application fees" means the fee charged by the authority, in connection with an application for program funds, based on the actual direct cost of processing the application and servicing loans by the commissioner and the commissioner of health. The application fee is two-fifths of one percent of the program funds requested in applications received during any calendar quarter established by part 8300.3204, subpart 1, and shall be paid in accordance with part 8300.3204, subpart 6.

Subp. 3. **Authority.** "Authority" means the Minnesota Energy and Economic Development Authority created in Minnesota Statutes, section 116M.06.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Department of Energy and Economic Development or a designee.

Subp. 5. **Program funds.** "Program funds" means the money for loans made available from the sale of bonds or notes as set forth in the indenture adopted by the Minnesota Energy and Economic Development Authority pursuant to Minnesota Statutes, section 116M.07, subdivision 7b.

Subp. 6. **Project.** "Project" means all functionally related equipment and all associated costs including application fees; bond issuance costs; underwriting or placement fees; trustee fees; bond insurance; fees of guarantor, insurer, or financial institution other than the authority who provides letter of credit, surety bonds, or equivalent security; legal fees, including those of the authority's bond counsel; and debt service reserve fund.

8300.3202 ELIGIBLE PROJECT FOR PROGRAM FUNDS.

To be eligible for program funds, an application must meet the criteria outlined in Minnesota Statutes, section 116M.07, subdivision 7c, and part 4647.0200, subpart 3.

8300.3203 PROCEDURES FOR HEALTH CARE EQUIPMENT LOAN APPLICATIONS.

Subpart 1. **In general.** To apply for assistance from the authority, an applicant shall submit two completed application forms to the commissioner on a form provided by the commissioner. An application must be completed, dated, and signed by an authorized officer of an applicant and include certification of bond insurance issued by a private insurer as required by Minnesota Statutes, section 116M.07, subdivision 7b.

Subp. 2. **Contents.** Applications must include the amount of the requested loan and information necessary for approval by the commissioner of health pursuant to Minnesota Statutes, section 116M.07, subdivision 7c, and parts 4647.0100 to 4647.0400.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

8300.3204 PROCEDURES FOR APPLICATION PROCESSING.

Subpart 1. **Deadline for submission.** Applications for program funds will be processed on a quarterly basis. Applicants shall submit completed application forms by February 1, May 1, August 1, or November 1 to receive consideration or priority under part 4647.0300 in the respective quarter. If an application is received after the quarterly application deadline, it shall be forwarded to the commissioner of health.

Subp. 2. **Review by Department of Health.** When an application is received by the commissioner, a copy of the application will be sent to the commissioner of health for review. Upon receipt of the notification from the commissioner of health that the application or a project within an application has been approved, the commissioner will follow the procedure under subpart 3 or 4.

Subp. 3. **Review and approval.** The authority may not approve an application, or a project within an application, nor make a loan to an applicant unless the application or project within an application has been approved by the commissioner of health. If the commissioner of health has approved an application or project within an application, the authority shall pass a resolution approving the application or project and make the loan if sufficient program funds are available and bond insurance is issued by a private insurer.

Subp. 4. **Authority review and rejection.** If the commissioner of health has approved an application or project within an application, the authority shall pass a resolution rejecting the application or project, and notify the applicant of the rejection, only if the authority finds that there are insufficient program funds available or that bond insurance required to be issued by a private insurer is not available.

Subp. 5. **Loan agreement and disbursement.** Upon approval of an application or project within an application by the authority, the commissioner shall send a loan agreement to the applicant. The applicant shall have a duly authorized officer execute and return the executed loan agreement to the commissioner. The program funds approved by the authority for an applicant will be disbursed upon execution of and according to the terms of the loan agreement and the health care equipment program indenture.

Subp. 6. **Payment of application fee.** The application fee established pursuant to part 8300.3201, subpart 5, shall be paid by the trustee specified in the health care equipment loan indenture on a quarterly basis no later than at the time of disbursement.

Subp. 7. **Preparation of documents.** The commissioner has the authority and responsibility to prepare or cause to be prepared all necessary documents and to execute them on behalf of the authority.

Department of Health

Proposed Rules Relating to Health Care Equipment Loan Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Health proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Health has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21. The proposed rules set forth the criteria, timeframe and procedure the Commissioner of Health will use to review health care equipment loan applications and notify the Commissioner of Energy and Economic Development of approved applications.

Persons interested in these rules shall have 30 days to submit comments in support of or opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.41, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Tom Hiendlmayr, Health Economics Program, Office of Health Systems Development, Department of Health, 717 Delaware St. SE, Minneapolis, Minnesota 55414, 612/623-5185. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minn. Laws 1985, 1st Spec. Sess., Ch. 14, Art. 8, Sec. 7(c). Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules, without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to

form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Tom Hiendlmayr, Health Economics Program, Office of Health Systems Development, Department of Health, 717 Delaware St. SE, Minneapolis, MN 55414, 612/623-5185.

A copy of the proposed rules is attached to this notice. Copies of this notice and the proposed rules are available and may be obtained by contacting Tom Hiendlmayr at the above address and phone number.

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed (all new material)

4647.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4647.0100 to 4647.0400, the following terms have the meanings given to them.

Subp. 2. **Applicant.** "Applicant" means a hospital as defined in subpart 12.

Subp. 3. **Approvable application.** "Approvable application" means an application for health care equipment loan program funds that meets the criteria listed in Minnesota Statutes, section 116M.07, subdivision 7c, as implemented by parts 4647.0100 to 4647.0400. An application may contain more than one project and, within an application, a project may be approvable or nonapprovable.

Subp. 4. **Approved application.** "Approved application" means an approvable application, or a project within an application, for which there are sufficient funds available in the review period.

Subp. 5. **Authority.** "Authority" means the Minnesota Energy and Economic Development Authority.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Health.

Subp. 7. **Cost of project.** "Cost of project" means the costs associated with the acquisition and installation of all functionally related eligible equipment, and all associated costs, including application preparation costs paid to third parties; bond issuance costs; underwriting costs; placement fees; trustee fees; bond insurance; fee of guarantor, insurer, or financial institution, other than the authority, which provides letters of credit; surety bonds or equivalent security; authority fees, including application fees as defined in part 8300.3201, subpart 2; interest costs during construction; legal fees, including those of the authority's bond counsel; and debt service reserve fund.

Subp. 8. **Eligible equipment.** "Eligible equipment" means depreciable assets used to provide essential health care services, including machinery, tangible personal property, fixtures, and all construction, renovation, or remodeling to buildings or other real property necessary for the installation, use, or operation of the machinery, property, or fixtures.

Subp. 9. **Essential health care service.** "Essential health care service" means a service delivered directly to hospital patients in the course of obstetrical and/or neonatal care, or diagnosis, treatment, or prevention of illness, medical condition or disease, or a service necessary for the efficient delivery thereof. Essential health care services does not include experimental health care services as defined for purposes of federal reimbursement of hospitals under title 18 of the Social Security Act.

Subp. 10. **Funds.** "Funds" means proceeds from the sale of bonds or notes issued pursuant to Minnesota Statutes, section 116M.07, subdivision 7b, and funds that are available for loan during a review period.

Subp. 11. **HELP.** "HELP" means the Health Care Equipment Loan Program as established by Minnesota Statutes, section 116M.07, subdivisions 7a to 7c, and parts 4647.0100 to 4647.0400.

Subp. 12. **Hospital.** "Hospital" means an institution as defined by Minnesota Statutes, section 144.50, subdivision 2, and one that is certified to participate in the federal Medicare program in accordance with the provisions of section 1861(e) of the Social Security Act, as amended.

Subp. 13. **Nonapprovable application.** "Nonapprovable application" means an application that lacks additional information requested under part 4647.0200, subpart 4, or an application that does not meet the criteria listed in part 4647.0200, subpart 3.

Subp. 14. **Project.** "Project" means all functionally related eligible equipment.

Subp. 15. **Review period.** "Review period" means the period beginning with the most recent application deadline provided in

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part 8300.3204, subpart 1, and ending with the transmittal of the notice of approved applications to the commissioner of energy and economic development, which period of time shall be ten weeks.

Subp. 16. **Suitable financing.** "Suitable financing" means financing at a comparable or lesser total cost, in the same or approximately the same dollar amount, with the same or comparable maturity and with comparable or more favorable conditions.

4647.0200 REVIEW OF APPLICATIONS.

Subpart 1. **Review of applications by commissioner of health.** All applications for HELP loans received from the commissioner of energy and economic development shall be reviewed by the commissioner of health to determine whether they meet the criteria provided in subpart 3.

Subp. 2. **Time frame for commissioner's review.** The commissioner has five weeks from the beginning of the review period in which to request additional information from applicants who have submitted applications. An applicant must submit additional information, if required, within seven weeks of the beginning of the review period for the application to be further considered by the commissioner during the review period. Within nine weeks of the beginning of the review period, the commissioner shall conclude review of applications under consideration in that review period, determine approvable applications, and determine if funds available for the review period are sufficient.

If the allocation is insufficient to fund all approvable applications, the commissioner shall rank approvable applications, and determine approved applications in the manner provided in part 4647.0300, subpart 2.

Within ten weeks of the beginning of the review period, the commissioner shall notify the commissioner of energy and economic development of approved applications.

Applications received by the commissioner after the application deadline for a review period which can reasonably be reviewed for approvability by the commissioner shall be placed in category C, as described in part 4647.0300, subpart 2, item C, if the applications are determined to be approvable applications. Applications that cannot reasonably be reviewed in the review period shall be retained and reviewed in the subsequent review period.

Subp. 3. **Commissioner's review criteria.** The applicant shall provide documentation with the application, demonstrating satisfaction of the following criteria:

A. That the facility is a hospital licensed by the Minnesota Department of Health under Minnesota Statutes, sections 144.50 to 144.58, and is owned and operated by a county, district, municipality, or a nonprofit corporation. The applicant shall include its hospital license number on its application and indicate the number of licensed hospital beds.

B. That the loan will not be used to refinance existing debt:

(1) The applicant shall certify that the HELP loan will not be so used.

(2) A loan to the hospital for cash outlays made by the hospital for eligible equipment purchased, ordered, or installed after the effective date of parts 4647.0100 to 4647.0400 shall be allowed. The applicant must provide evidence of the date of purchase, order, or installation of the eligible equipment.

C. That the hospital was unable to obtain suitable financing from other sources. The applicant shall certify that it was unable to obtain suitable financing from other sources.

D. That the loan is necessary to establish or maintain patient access to an essential health care service that would not otherwise be available within a reasonable distance from the hospital. To address this criterion, the applicant shall include in brief narrative form the following information for each project in the loan application:

(1) a description of the equipment being replaced or new equipment being purchased and a description of associated construction or renovation;

(2) a statement of whether and how the project relates to current services, including data about the use of the services affected by the project;

(3) a description and geographic identification of the hospital's service area in terms of standard political subdivisions;
and

(4) a description of the need for the project, including anticipated patient need and use and a description of how the project is related to the provision of an essential health care service. The applicant shall also include an explanation of how the project relates to the most recent state health plan and the most recent health systems agency plan for the hospital's health service area, developed pursuant to Public Law Number 92-641.

E. That the project to be financed by the loan is cost-effective and efficient. To demonstrate satisfaction of this requirement, the applicant shall, in brief narrative form, address the following subjects for each project in the loan application;

(1) How the expected benefits to the patients to be served by the project and to the hospital justify the costs of the project.

These benefits shall be discussed by the applicant in terms of the number of patients, the time of use, and the time and dollars saved. In estimating costs, the applicant shall include the costs of the project, operating costs, and any anticipated increases or decreases in patient charges.

(2) The availability and adequacy of other alternatives or substitutes for all or any part of the project, including an evaluation of their costs and benefits or effectiveness as compared to the project. The applicant shall include a description of the costs associated with continuing to provide patient services without the project.

(3) If there are other hospitals in the service area, a description of the anticipated effect the proposed project will have on existing facilities and services. The applicant shall also include an explanation of how the project relates to the most recent state health plan and the most recent health systems agency plan for the hospital's health service area, developed pursuant to Public Law Number 92-641.

Subp. 4. **Additional information.** To make a determination whether the application is an approvable application, the commissioner may request the submission of additional information relating to subpart 3. The commissioner shall delay approval of an application for failure of the applicant to timely submit requested information. Additional information requested by the commissioner must be received by 4:30 p. m. on Friday of the seventh week following the beginning of the review period in which the application is being reviewed. Applications for which additional information was requested and not received by this deadline shall be retained for consideration in the next review period or returned to the applicant, as the applicant directs. Applications returned to the applicant may be resubmitted.

4647.0300 DETERMINATION OF APPROVED APPLICATIONS.

Subpart 1. **Determination upon sufficient funding.** The commissioner shall determine whether the funds available for the review period are sufficient to fund all approvable applications for that review period. If the funds are sufficient, the commissioner shall approve all approvable applications.

Subp. 2. **Determination upon insufficient funding.** If the commissioner determines that the total amount of funds requested in approvable applications during that review period exceed the amount of funds available, approvable applications shall be categorized and approved as follows:

A. All approvable applications, except for approvable applications carried over from a previous review period, shall be placed in category A unless, if within the two years prior to the applicable review period application deadline, the applicant has received the proceeds of debt, the interest thereon which was exempt from federal taxation, which was used for the purchase of hospital or health-care equipment, in which case the applications of such applicants shall be placed in category B.

B. In category A, approvable applications will be approved in reverse order of their ranking by hospital size, as determined by number of licensed beds, excluding infant bassinets, of the hospital submitting the application.

C. If the funds available for the review period are insufficient to fund all the approvable applications in category A, the commissioner may approve, with the consent of the applicant, projects within approvable applications so as to distribute all available funds. The commissioner will not approve parts of projects. The applicant shall determine those approvable projects within an approvable application to which available funds shall be applied. Projects within an approvable application not approved in the review period, and other approvable applications not approved in that period, shall be carried over to the next review period.

D. After all approvable applications in category A have been approved, remaining funds shall be applied to category B. Applications in category B will be approved in the same order of priority applied to approvable applications in category A. Category B applications not approved in the review period shall be carried over to the next review period.

E. After all approvable applications in category B have been approved, remaining funds shall be applied to category C. Applications in category C will be funded in the same order of priority applied to approvable applications in category A. Category C applications not approved in the review period shall be carried over to the next review period.

F. At the beginning of a review period, the commissioner shall consider all approvable applications carried over from previous review periods. Approvable applications containing projects not approved because of insufficient funds in the previous review period shall be placed in the same category in the subsequent review period and approved in the manner provided in item B or D. All other approvable applications shall be placed in either category A or category B according to the procedure provided in item A.

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4647.0400 NOTICE.

The commissioner shall notify applicants by mail if their applications are not approvable or not approved during the review period for which they applied for HELP funds.

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The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Energy and Economic Development

Adopted Rules Relating to Thermal Insulation Products

The rules proposed and published at *State Register*, Volume 9, Number 45, pages 2424-2437, May 6, 1985 (9 S.R. 2424) are adopted with the following modifications:

Rules as Adopted

RESIDENTIAL THERMAL INSULATION STANDARDS

4155.0100 AUTHORITY AND PURPOSE.

The commissioner is authorized by Minnesota Statutes, sections 325F.20, subdivision 1 and 325F.21, subdivisions 1 and 3 2 to establish standards for the product quality, safety, installation, and labeling of thermal insulation products, and establish test programs and procedures to ensure that standards established by this chapter shall be met.

4155.0110 APPLICABILITY.

Subpart 1. Residential products. This chapter applies to the following thermal insulation materials:

Subp. 2. Conduct. This chapter applies to the manufacture, distribution, sale, and application of residential insulation material within Minnesota. For the purpose of this chapter the sale of a building or appliance that contains installed insulating material is not considered the manufacturing and distribution of the insulating material.

4155.0120 DEFINITIONS.

Subp. 14. Insulation. "Insulation" means thermal insulation, a material or assembly of materials designed to provide resistance to heat flow in residential building structures, including but not limited to mineral fibrous, mineral cellular, organic fibrous, organic and plastic cellular and reflective materials, whether in loose-fill, flexible, rigid, or semirigid form. Any material advertised for use in residential buildings as having a thermal resistance R-value, except windows and doors, shall be considered as insulation for purposes of this chapter.

4155.0130 INSULATION MATERIALS STANDARDS.

Subpart 1. Scope. This part sets forth standards for the product quality and safety of thermal insulation materials specified herein, as well as minimum procedures for the testing and reporting of insulation materials under these standards. Regulated thermal insulation materials that do not demonstrate by tests conformance to these standards shall not be sold, used, distributed, or installed in Minnesota by an industry member. Performance tests for insulation materials must meet or exceed the requirements of this part.

Subp. 2. General testing and reporting requirements. General testing and reporting requirements for regulated thermal insulation materials in this part are as follows:

A. All regulated thermal insulation materials shall be tested for compliance with the standards set forth in this part within 120 days of the effective date of this chapter. Testing procedures are as follows:

(1) Testing shall, at a minimum, be performed annually and the testing shall be completed prior to June 1 of every year. Annual tests shall be performed at least ten months apart.

(3) After 120 days following adoption of this chapter, all testing shall be performed by laboratories approved and accredited by NVLAP to perform the required tests. In the event that the NVLAP program is temporarily delayed in accrediting a laboratory or is not capable of accrediting a test or tests, ~~subitem (2)~~ applies a testing laboratory possessing the appropriate equipment, facilities, and qualified personnel to perform the required testing is acceptable.

(5) Manufacturers without NVLAP approved testing facilities shall contract with an approved laboratory to conduct an annual surprise on-site inspection of the manufacturer's production facilities for the following two purposes:

(b) to evaluate ~~manufacturing~~ testing techniques and make recommendations for improvement if the insulation fails to meet the assigned testing standards.

~~B. A reporting~~ Each manufacturer of insulation must submit an annual report to the department shall be made on an annual basis and shall be received by the department prior to on or before June 1 of every each year. Annual testing shall be performed at least ten months apart. Reports shall be sent to: Director, Office of Energy Conservation and Development, The report must be addressed to the Energy Division, Department of Energy and Economic Development, Attention: Insulation Standards Program, 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, MN 55101. The report must contain the following information:

The report shall disclose the following information:

(7) a ~~certification of compliance with all applicable~~ statement that each product meets or exceeds the test standards required by parts 4155.0100 to 4155.0180; and

(8) the testing laboratory's NVLAP certification history; ~~and~~

(9) ~~all updates of application reporting requirements in part 4155.0150, subpart 8.~~

C. Additional testing information shall be made available as follows:

(1) Upon the request of the commissioner, the manufacturer, a representative of the manufacturer, or the testing laboratory shall provide all applicable information pertaining to the testing program. The information shall include; ~~but not be limited to;~~ test procedures and protocols, test equipment specifications and calibrations, the qualifications of test laboratory personnel exclusive of personal identifiers, full test data, and proof of NVLAP certification.

D. All thermal performance tests shall be conducted in accordance with this item, unless additional requirements are imposed within the body of a materials standard. All insulation's thermal performance shall be stated in R-value.

(2) R-value testing shall be performed at the insulation's representative thicknesses of use, which shall be not less than: thickness, and be consistent with the requirements of the United States Federal Trade Commission.

(a) ~~3-5 inches for loose-fill materials;~~

(b) ~~three inches for blanket fibrous materials;~~

(c) ~~one inch for cellular plastic board materials;~~

(d) ~~3-5 inches for urea-based foam materials; and~~

(e) ~~two inches for spray applied products.~~

Subp. 3. **Cellulose fiber in loose-fill form.** The following requirements apply to cellulose fiber in loose-fill form:

C. The department shall be immediately notified by the manufacturer of any failure to meet test standards.

Subp. 4. **Cellulose fiber spray applied.** The following requirements apply to cellulose fiber spray:

A. The basic material shall consist of virgin or recycled wood-based cellulosic fiber ~~and.~~ It may be made from related paper or paperboard stock, ~~excluding stock that does not contain~~ contaminated materials and extraneous foreign materials, such as metals and glass, ~~that may reasonably be expected to could~~ be retained in the finished product. Suitable chemicals may be introduced to

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improve flame resistance, processing, adhesive and cohesive qualities, and handling characteristics. The added chemicals shall not create a health hazard.

The basic material shall be processed into a form suitable for installation by pneumatic conveying equipment and simultaneous mixing with water or adhesive at the spray nozzle.

E. Critical radiant flux, ~~and~~ smoldering combustion, ~~and~~ ~~stareh~~ shall be tested for in accordance with the CPSC Interim Safety Standard for Cellulose Insulation, Federal Register volume 44, pages 39966-39982 (July 6, 1979) [or the ASTM equivalent in C 739-84]. Values achieved shall not exceed those established by the CPSC.

Subp. 11. **Polyurethane and polyisocyanurate in board form.** ~~The product~~ Unfaced polyurethane and polyisocyanurate shall comply with ASTM C 591-83, Standard Specification for Unfaced Preformed Rigid Cellular Polyurethane Thermal Insulation. Faced polyurethane and polyisocyanurate shall comply with Federal Specification HH-1-1972, dated August 21, 1981, Insulation Board Thermal Faced Polyurethane or Polyisocyanurate.

Subp. 12. **Reflective foil.** The following requirements apply to reflective foil:

B. Reflective foil insulation shall be tested according to ASTM C 976-82 to determine the thermal performance in horizontal, upward, and downward directions. The tested thermal performance in the heat-flow direction or directions of the intended application shall be labeled on the material. The manufacturer shall test once in each direction of intended application; except that, for products labeled with only one heat-flow direction, the manufacturer shall test two samples in that direction.

(1) Thermal performance for single or multiple sheet sections shall be determined according to ASTM C 976-82. The test panel shall consist of a panel utilizing a wooden frame of ~~two by six inch~~ two-by-six inch boards 16 inches apart and at least 24 inches long, covered with ~~three-fourths inch~~ 3/4-inch plywood on both sides each side. For tests in the vertical position, the test ~~panels~~ panel shall be at least seven feet high at a mean temperature of 75 degrees Fahrenheit, with a temperature differential of 30 degrees Fahrenheit. The resultant thermal performance shall be based upon the insulation only.

(2) ~~Reflective foil systems with more than one sheet are tested under ASTM C 976-82, at a mean temperature of 75 degrees Fahrenheit, with a temperature differential of 30 degrees Fahrenheit.~~

(3) ~~Foil facings on insulation material must comply with Federal Trade Commission requirements in section 460.5 of Federal Register, volume 44, page 50242 (August 27, 1979).~~

Subp. 14. **Urea Formaldehyde ~~Form~~ Foam Insulation Safety Notice.**

UREA FORMALDEHYDE FOAM INSULATION SAFETY NOTICE

This product (housing unit) contains the chemical emits formaldehyde. For some people formaldehyde may cause health problems, such as irritation of the eyes, nose, and throat, sneezing, coughing, headaches, shortness of breath, or chest or stomach pains. Children under the age of two, elderly people, people with breathing problems, or people with allergies may have more serious difficulties. If you have questions about problems you may have with formaldehyde, consult a doctor. See Minnesota Statutes, section 325F.18 (1984) Eye, nose, and throat irritation, headache, nausea, and a variety of asthma-like symptoms, including shortness of breath, have been reported as a result of formaldehyde exposure. Elderly persons and young children, as well as anyone with a history of asthma, allergies, or lung problems, may be at greater risk. If you have any questions regarding the health effects of formaldehyde, consult your doctor or local health department.

4155.0140 OTHER INSULATIONS; REPORTING AND TEST DATA.

Subp. 2. **Required test.** Before an insulation is accepted sold, marketed, or advertised for use in residential structures in Minnesota, the manufacturer must test the insulation with an approved laboratory and submit a certification of compliance with a federal, state, or ASTM standard specification that addresses all of the performance characteristics of the product. When no federal, state, or ASTM standard specification has been developed, the manufacturer must present test data from an approved laboratory that shows the insulation and its intended uses are safe and effective and do not pose a threat to human health.

4155.0150 APPLICATION AND INSTALLATION STANDARDS.

Subp. 2. ~~Reporting requirements and acceptance of data~~ **Report of intended application and installation.** ~~All information required in this part shall be sent to the department for acceptance.~~

Manufacturers shall specify, as to each residential insulation that they market, submit to the department, for each residential insulation they offer or sell in this state, a statement as to whether the product is intended to be used above or below ground, in exterior or interior applications, in walls, in attics, under flooring, under roofing, or in other areas of use. Application instructions shall accompany each recommended use.

The department shall maintain a data file for accepted material and information if:

- A. the insulation complies with this chapter; and
- B. ~~the insulation complies with the uniform state building code requirements.~~

Subp. 3. **Application, generally.** Industry members installing insulation must follow manufacturers written application instructions. ~~Applicators of an insulation for a use that is not recommended by the manufacturer must comply with this part as if the applicator is a manufacturer.~~

Subp. 4. **Inspection of heat sources.** In attic areas where insulation is to be installed, the installer must locate all flush and recessed light fixtures, and other heat producing appurtenances, and shall be identified by the installer. comply with the following safety procedures:

Subp. 5. **Prohibitions.** The following prohibitions apply to the installation and application of insulation regulated by this chapter:

E. Polystyrene loose fill shall not be used in attics unless it complies with the state building code requirements.

Subp. 6. **Manufacturer's installation or application instructions.** ~~The following are manufacturer's~~ Manufacturers must provide installation and application instructions which comply with this subpart:

C. Written instructions on below ground use of insulation shall, at a minimum, ~~address~~ contain instructions or information regarding:

(7) ~~the manufacturers' warranty, stating whether the insulation's below ground use is warranted, if any. The manufacturer shall state whether it warrants the insulation for below ground use and, if applicable, the conditions of warranty and the length of warranty, and the conditions of warranty. The warranty must state, at a minimum, including a statement of the number of years for which the product is warranted to maintain 80 percent of its original advertised R-value.~~

Subp. 8. **Application testing requirements for use of exterior below ground insulation.** The following testing requirements apply to exterior below ground insulation:

C. The listing of the product for below ground use shall be based on the most recent applicable ASTM tests or any other tests that are available that give consideration to each of the following conditions:

D. The initiator seeking the listing shall select the appropriate ~~ASTM~~ tests that best address the conditions stated in item C.

4155.0160 LABELING.

All insulations used or offered for sale in Minnesota shall be labeled ~~in accordance with~~ according to applicable federal requirements such as the United States Consumer Products Safety Commission requirements set forth in Federal Register, volume 44, pages 39966-39982 (July 6, 1979), the United States Federal Trade Commission requirements set forth in Federal Register, volume 44, pages 50242-50245 (August 27, 1979), and any other applicable state or federal law.

4155.0170 INCORPORATIONS BY REFERENCE AND CITATIONS.

Subp. 3. **Other incorporations and citations.** The following non-ASTM standards are also incorporated by reference:

H. Federal Specification (FS) HH-1-1972 by the General Services Administration.

4155.0180 TEST VERSIONS.

~~Subpart 1. **Reapproved test method.** When ASTM reapproves an existing standard test method incorporated by reference in this chapter, the department shall treat the reapproved test as synonymous with the version originally incorporated by reference, if in fact, no amendments are made.~~

Subp. 2. **Modified test method.** When ASTM amends, reorganizes, or modifies a standard test method and the manufacturer or testing laboratory desires to use the new version, the department may be petitioned to adopt the new test method version. Until the department adopts or decides not to adopt the new version, the petitioner may request a temporary variance to use the new test method version. Criteria or factors in granting a variance ~~shall include~~ are:

- A. whether the new test method version amounts to a substantial change over the old version;
- B. whether the amendment to the test version was controversial within the ASTM decision making body;
- C. whether the department sees the new test version as an improvement in testing quality control;
- D. whether the new version adversely affects consumers or manufacturers; and
- E. whether there is strong opposition outside of the ASTM organization to the new test version.

~~The department has the option of issuing variances.~~

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~~Subp. 3. Reorganized test method.~~ When ASTM reorganizes the series of tests that it offers for a type of insulation into one standard test method, the department may be petitioned to adopt the new standard test method. Until the department adopts or decides not to adopt the new standard test method, the petitioner may request a temporary variance to use the new standard test method based on the criteria given in subpart 2. The department has the option of issuing variances.

~~Subp. 4. Non-ASTM test methods.~~ All other incorporations by reference in this chapter not developed by ASTM can be the subject of a petition for removal, adoption of a replacement by an ASTM standard test version, and a temporary variance as outlined in subpart 2, when an ASTM standard test method has been developed and is substantially the same. Substantiality shall be determined by the department, based in part, on whether the manufacturers who satisfy the existing standard might fail to meet the requirements of the proposed ASTM standard, and the criteria listed in subpart 2.

Pollution Control Agency

Adopted Rules Relating to Hazardous Waste, Dioxins and Aliphates

The rules proposed and published at *State Register*, Volume 10, Number 8, pages 460-470, August 19, 1985 (10 S.R. 460) and Volume 10, Number 12, page 663, September 16, 1985 (10 S.R. 663) are adopted as proposed.

Department of Energy and Economic Development Energy and Economic Development Authority

Extension of Emergency Rules Relating to Waste Tire Recycling Loan Program

Notice is hereby given that Minnesota Rules 8300.3081 to .3090 (Emergency) which were effective May 29, 1985 and which were published in the *State Register* on March 18, 1985, at Volume 9, Number 38, pages 2052-2055 (9 S.R. 2052), are being continued in effect for an additional 180 days. The rules govern the Waste Tire Recycling Loan Program under the Minnesota Energy and Economic Development Authority.

The new expiration date for these rules will be May 26, 1986, or whenever replaced by permanent rules, whichever is earlier.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Commerce Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Special Board Meeting

The Board of Architecture, Engineering, Land Surveying and Landscape Architecture will meet Monday, December 2, 1985 at 9:30 a.m. in Room 156 Metro Square Building, St. Paul (Metropolitan State University Conference Room). The purpose of the meeting is to take action on changes to board rules regarding examinations.

**Department of Energy and Economic Development
Financial Management Division**

Availability of Issuance Authority in Competitive Pool

Pursuant to Minn. Stats. (1984), § 474.20, the Department gives notice that the amount of Industrial Development Bond issuance authority available in the Competitive Pool as of November 5, 1985, is \$44,958,060.53 and will be available to qualifying Industrial Development Bond Issuers submitting qualification criteria applications by November 25, 1985. Pursuant to Minn. Stats. (1984), § 474.19, Issuers must submit an application, a preliminary resolution, an application deposit and any other supporting documents required.

Balance of Competitive Pool on October 5, 1985	\$25,340,526.53
Add:	
Returned Allocations:	\$ 84,254,917.00
Total Pool Available as of November 5, 1985:	\$109,595,443.53

Allocations awarded from the Competitive Pool during the month ending November 5, 1985 are:

<u>Issuer</u>	<u>Project</u>	<u>No. of Pts.</u>	<u>Amount</u>
City of Avon	Columbia Gear	5	\$ 4,300,000.00
City of Chatfield	AFC, Inc. Expansion	6	800,000.00
City of Rogers	Division Stamping, Inc.	7	322,000.00
City of Chaska	Hazeltine Gates Bldg.	6	6,500,000.00
City of Duluth	Radisson Hotel	11	9,000,000.00
Agri. Resource Loan Guaranty Board	Blue Ribbon Gardens, Inc.	6	1,000,000.00
Agri. Resource Loan Guaranty Board	Caldwell Packing Co., Inc.	7	1,250,000.00
City of Austin	Austin Motel/Convention Center	8	2,518,551.00
City of Bloomington	Ninety-Fourth St. Assoc.	7	4,039,809.00
Dakota County	Dakota/Ramsey/Washington Waste to Energy Project	N/A	12,500,000.00
City of Elk River	Sherer Ltd. Partnership	5	1,600,000.00
City of New Brighton	The Skillman Corp.	5	3,739,556.00
City of Pipestone	Peacepipe Ltd. Partnership	9	286,138.00
City of Plymouth	Nathan Lane Associates	4	1,221,329.00
City of St. Louis Park	Excelsior Blvd. Redevel.	4	6,500,000.00
City of St. Peter	Erickson's Divers. Corp.	9	875,000.00
City of Shakopee	The Toro Company	6	3,500,000.00
Anoka County	Waste to Energy Proj.	N/A	4,685,000.00
Total Allocations Awarded:			\$64,637,383.00
Amount of Issuance Authority Available as of November 5, 1985:			\$44,958,060.53

Department of Health

Emergency Medical Services Licensure Application—Polk County

As of November 25, 1985 two applications were received from Polk County Board of Commissioners, dba. Polk County Emergency Medical Services for licensure to operate an advanced life support transportation service in portions of eastern Polk County, under provisions of Minnesota Statutes 144.801 to 144.8091 and Minnesota Code of Agency Rules, Chapter 4690, and provisions of Minnesota Statute 471.476.

The Statutes, Section 144.802, requires in part that the Commissioner of Health publish the notice at the applicant's expense in the *State Register*.

OFFICIAL NOTICES

Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the Agassiz Health Systems Agency, 31 South Third Street, Grand Forks, North Dakota 58201, Attn: Mary Ellen Preston. The comments must reach the Health Systems Agency before December 26, 1985 or be submitted at the public hearing.

After a public hearing has been held, the Health Systems Agency shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Health Systems Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the recommendation to the Commissioner of Health, the Commissioner shall grant or deny the license to the applicant.

Department of Human Services

Hospital Cost Index

Pursuant to Minnesota Rules, Part 9500.1120 hospitals participating in the Medical Assistance and General Assistance Medical Care programs are subjected to a Health Cost Index (HCI) that is used in the determination of prospective inpatient hospital rates. Each hospital whose fiscal year starts during a given calendar quarter shall be notified of the HCI to be used 30 days prior to the start of that quarter. It has been determined that the HCI is 4.1 percent according to an independent source, Data Resources, Inc. for Health Care Costs for hospitals whose fiscal years begin during the calendar quarter beginning January 1, 1986.

Department of Human Services Health Care Programs Division

Outside Opinion Sought Concerning Third-Party Liability for Health Services to Medical Assistance Recipients

Notice is hereby given that the Minnesota Department of Human Services is considering draft amendments to DHS Rule 9500.0940, Third-Party Liability.

This rule is authorized by Minnesota Statutes, section 256B.04, Subd. 2, and governs liability for collection of benefits available to medical assistance recipients, for reimbursement of medical expenses. The proposed changes will require medical providers to bill third-party payers before submitting claims to the Medical Assistance Program. Third party coverage shall be primary and shall be exhausted before payment is made by Medical Assistance.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Jan Taylor
Benefit Recovery Section
Health Care Programs Division
Box 64170
St. Paul, MN 55164

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-6964.

All statements of information and comment will be accepted until further notice is given. Any written material received by the Department shall become part of the hearing record.

Board of Investment Investment Advisory Council

Board Meeting, Council Meeting Scheduled

The State Board of Investment will meet on Wednesday, December 4, 1985, at 8:30 a.m. in Room 118, State Capitol, St. Paul, MN.

The Investment Advisory Council will meet at 2:00 p.m. on Tuesday, December 3, 1985, at the Minneapolis Club, 729 Second Avenue South, Conference Room "A," Minneapolis, MN.

Labor and Industry Department Prevailing Wage Division

Certified Prevailing Wage Rates for Commercial Construction

On December 1, 1985, the commissioner will certify prevailing wage rates for commercial construction projects in the following Minnesota counties: Anoka, Benton, Big Stone, Carver, Chippewa, Chisago, Dakota, Douglas, Grant, Hennepin, Isanti, Kanabec, Kandiyohi, McLeod, Meeker, Mille Lacs, Morrison, Pine, Pope, Ramsey, Scott, Sherburne, Stearns, Stevens, Swift, Todd, Traverse, Washington and Wright.

A copy of the determined wage rates for Minnesota counties may be obtained by contacting the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, phone (612) 297-3000. The charges for the cost of copying and mailing are \$.50 for the first county and \$.30 for any subsequent copies of the same or other counties. For all 87 counties, the charge is \$25.00. A sales tax of 6% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Steve Keefe, Commissioner
Department of Labor and Industry

Department of Transportation

Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed Under Minn. Stat. § 169.825, Order No. 70698

WHEREAS, the Commissioner of Transportation has made his Order No. 68884 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minnesota Statutes § 169.825; and

WHEREAS, the Commissioner has determined that the additional following routes, or segments of routes, should be designated to carry the gross weights allowed under Minnesota Statutes § 169.825;

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 68884 is amended this date by adding the following designated streets and highway routes, or segments of routes, as follows:

TRUNK HIGHWAYS

T.H. 43 — From Jct. T.H. 112 (Le Sueur) to Jct. T.H. 169
(Effective: 12 months.)

T.H. 112 — From 2nd and Bridge (Le Sueur) to Jct. T.H. 169
(Effective: 12 months.)

November 18, 1985

Richard P. Braun
Commissioner

Department of Transportation

Notice of Possible Acquisition of Railroad Line—Bemidji to International Falls

The Commissioner of the Minnesota Department of Transportation is publishing this Notice to list a rail line for possible acquisition through the State Rail Bank Program. This Notice is published pursuant to Minnesota Statutes, Section 222.63, Subdivision 3, and in accordance with the rules governing the State Rail Bank, Minnesota Rules 1985, Part 8830.5800. Information about the line proposed for acquisition is as follows:

1. The rail line, owned by Burlington Northern Inc., is known as the Bemidji to International Falls Line, and is about 104 miles long. The Department plans to acquire the entire section of line. The track structure will be removed from the property.
2. The line is located in Beltrami, Itasca, and Koochiching Counties.
3. The identified future use for the line is for the re-establishment of rail freight service.

OFFICIAL NOTICES

4. The Bemidji to International Falls line is a section of the Brainerd to International Falls line abandoned on June 24, 1985.

Written comments about the proposed acquisition should be sent to the Minnesota Department of Transportation within 30 days of the publication of this Notice. Comments should be mailed to the following address:

Isaac McCrary, Jr., Manager
State Rail Bank Program
Office of Railroads & Waterways
Minnesota Department of Transportation
810 Transportation Building
St. Paul, MN 55155

November 12, 1985

Richard P. Braun
Commissioner

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
29-000-42579	All Terrain Vehicles	Natural Resources	St. Paul	Contact buyer
79-700-RM	Ready Mix Concrete	Transportation	Mankato	Contact buyer
27-144-48028	IBM Wheelwriter 3	Itasca Community College	Grand Rapids	Contact buyer
Contract	Galvanized Metalware	Various State Agencies	Various Locations	Contact buyer
55-303-11037	Used Station Wagon	Human Services— Faribault State Hospital	Faribault	Contact buyer
Rebid				
Contract	Crushed Rock & Limestone	Human Services— Faribault State Hospital	Faribault	\$1500-2,000
27-158-45887	Floor Covering	Rainy River Community College	International Falls	Contact buyer
29-000-42738	Evidentiary Breath Analyzer	Administration— Procurement	St. Paul	Contact buyer
26-175-06349	High Performance Liquid Chromatography Apparatus	Administration— Procurement	Marshall	Contact buyer
26-073-18394	Spectrophotometer Infrared	Administration— Procurement	St. Cloud	Contact buyer

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
55-106-06075	Update Combustion System	Human Services— Willmar State Hospital	Willmar	Contact buyer
65-300-02979	Voltage Regulator	Supreme Court	St. Cloud	Contact buyer
Contract	Modems	Various	Various	Contact buyer
65-300-02807	Lease/Purchase of a Telephone System	Supreme Court	St. Paul	Contact buyer
Contract	Braille Supplies	Jobs & Training	St. Paul	Contact buyer
55-101-06463	Picnic Tables & Swinging Benches	Human Services Fergus Falls State Hospital	Fergus Falls	Contact buyer
Contract	Jan. Service	Public Safety	Marshall	Contact buyer
29-000-42941	Property Monuments and Disks	Natural Resources	St. Paul	Contact buyer
79-000-50427	Wood Burning Boiler	Transportation	International Falls	Contact buyer
27-157-47525-3841	Inver Hills 1986/88 College Catalog	Inver Hills Community College	Inver Grove Heights	Contact buyer
27-153-48286-4024	Literary Arts Magazine 1985-86	N. Hennepin Community College	Minneapolis	Contact buyer
21-200-11016-4018	RS Overview 1985	Jobs and Training	St. Paul	Contact buyer
79-000-50400	Painting of Radio Towers	Transportation	Janesville; Little Fork	Contact buyer
79-000-50319	Local Area Network System	Transportation—Office & System & Support Services	St. Paul	Contact buyer
75250-06953 Rebid	Boiler Project Phase 1	Veterans Affairs— Veterans Homes	Hastings	Contact buyer
26-073-18409	IBM Wheelwriter 5	St. Cloud State University	St. Cloud	Contact buyer
79-700-PC	Portland Cement	Transportation	Mankato	Contact buyer
07-700-37122	Plastic Sheeting	MN Correctional Facility	St. Cloud	Contact buyer

Contact 296-6152 for referral to specific buyers.

Housing Finance Agency

Request for Proposals for Marketing Services

The Minnesota Housing Finance Agency (MHFA) Home Improvement Division is seeking proposals for market research and advertising concept development for its Home Improvement Loan Program. The objectives of this project are:

1. To develop the information that is necessary to modify the attributes/features of the Home Improvement Loan Program to make the program attractive to eligible consumers.
2. To quantify the consumer market for the Home Improvement Loan Program.
3. To identify effective methods of informing target client groups of the Home Improvement Loan Program.

Approximately \$50,000 is available for this contract.

Proposals may address either market reserach, advertising concept development, or both. MHFA reserves the right to accept all or a portion of a vendor's proposal and to negotiate changes in the proposal before signing a contract.

The request for proposals does not obligate the MHFA to complete the project, and MHFA reserves the right to cancel the solicitation if it is considered to be in MHFA's best interest.

STATE CONTRACTS

MHFA CONTACTS

Prospective responders who have questions regarding this request for proposals may call or write:

James Cegla, Acting Director
Home Improvement Programs
Minnesota Housing Finance Agency
Suite 300
400 Sibley Street
St. Paul, MN 55101
(612) 297-3126

Please note: Other MHFA personnel are not allowed to discuss the project with responders before the submittal of proposals deadline.

SUBMISSION OF PROPOSALS

All proposals must be sent to and received by:

James Cegla, Acting Director
Home Improvement Programs
Minnesota Housing Finance Agency
Suite 300
400 Sibley Street
St. Paul, MN 55101

not later than 4 p.m. on December 23, 1985. Proposals that are mailed must be mailed "Return Receipt Requested". Vendors who hand-deliver their proposals must ask for a receipt.

Late proposals will not be accepted. Two (2) copies must be submitted. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. Each copy must be signed by an authorized member of the firm. Prices and terms of the proposal must be valid for the length of the project.

COMPLETION DATE

It is anticipated that the market reserach will be completed by February 21, 1986. Advertising concept development should be completed by March 21, 1986.

DESCRIPTION OF THE HOME IMPROVEMENT LOAN PROGRAM

The Home Improvement Loan Program provides low-interest home improvement financing for low and moderate income homeowners. Loans are originated by 230 lending institutions located throughout the state and then sold to MHFA.

Participating lending institutions include banks, savings and loan associations, credit unions, housing and redevelopment authorities, and community action agencies. Additional program information may be obtained by calling James Cegla at (612) 297-3126.

RESPONSE REQUIREMENTS

Responses must include at least the following:

General

1. A description of the qualifications and experience of the vendor personnel who will be assigned to this project, if the proposal is selected.
2. Three client references for whom the specific personnel proposed for this project have completed equivalent work within the last two years.
3. A suggested work plan for the project including a schedule and list of products to be provided or outcomes to be achieved.
4. The total cost of the proposed project, and a breakdown of those costs for the components of the proposal.
5. A description of the methods to be used in conducting the market research and advertising concept development.

Market Research

Market research will focus on owner-occupants located throughout the State of Minnesota who have gross annual household incomes of up to \$35,000. Research results should be reported according to household characteristics such as family size, income level, location of household (seven county Twin Cities metropolitan area vs. balance of state), years living in the house, age of householder and, if possible, household ability to incur additional debt.

The market research must determine at least the following:

1. Which homeowners are most likely to make home improvements.
2. What motivates homeowners to make home improvements.
3. How the decision to make home improvements is made.
4. Which credit products are used to finance home improvements, and why those products are chosen.
5. The level of consumer awareness of the MHFA Home Improvement Loan Program and consumer perceptions of it and other government loan programs.
6. The size of the consumer market for the Home Improvement Loan Program, and achievable annual loan volumes.
7. Effective methods for informing target market(s) of the Home Improvement Loan Program.
8. What loan features consumers find attractive/unattractive.
9. The relative importance of interest rate and monthly payment size in the decision to take out a home improvement loan.

Concept Development

Using the information developed in the market research phase of the contract, develop and test advertising concepts for eventual use in advertising the Home Improvement Loan Program.

Responses may, but are not required to, include additional options directed at assisting MHFA in meeting the objectives of this project, as described above.

MHFA may incorporate all or a part of the response of the vendor selected, if any, into the contract executed between MHFA and the vendor. The responses to the request for proposals are in the public domain.

EVALUATION

All proposals received by the deadline will be evaluated by representatives of MHFA. In some instances, an interview may be required as part of the evaluation process. Factors upon which the proposals will be judged include, but are not limited to, the following:

1. The likelihood that the approach will satisfy the objectives.
2. The work plan and product.
3. The total cost of the proposal.
4. The qualifications and experience of the personnel who will perform the work. Experience with governmental and financial institutions clients is desirable.
5. Client references.

Metropolitan Council

Request for Proposals for Development of Corridor Study

The Metropolitan Council of the Twin Cities Area solicits a proposal for entering into a contract for the performance of services in the development of a corridor study for Hwy. 7 between Hwy. 101 in Minnetonka, Minnesota to the western border of Chanhassen, Minnesota. The consultant would undertake the necessary analyses to: (1) Identify need for local street access to Hwy. 7; (2) Identify need for access from various land uses along Hwy. 7—such as existing commercial properties, residences and public institutions; (3) Identify the development potential in the travelshed; (4) Identify regional traffic needs on Hwy. 7; (5) Identify appropriate safety and design guidelines for Hwy. 7; (6) Based on the above, examine alternative solutions in terms of conceptual designs and strategies, discuss comparatively the merits and drawbacks of each, and identify preferred alternatives and discuss logical staging of projects; (7) Estimate costs of implementing preferred solutions/strategies and identify possible funding sources; (8) Participate in a study process for involvement of affected agencies. The process will be coordinated by the Council and Mn/DOT. The consultant will provide input at meetings as feasible within the study budget; (9) Prepare a sketch plan incorporating recommendations based on the preferred alternates.

The budget amount of the study is \$50,000. Proposals are due by December 16, 1985. It is anticipated that all consultant services for this project be completed within six months from the execution of the contract. For a copy of the Request for Proposal, call Ann Braden, Project Manager; telephone: (612) 291-6525.

Metropolitan Waste Control Commission

Request for Proposals for Communication Services

Notice is hereby given that the Metropolitan Waste Control Commission (MWCC), 350 Metro Square Building, Saint Paul, Minnesota 55101, will receive proposals for the writing and producing of two publications: an MWCC 1984-85 bi-annual report; and an MWCC general capabilities brochure.

Cost estimates have not been fixed. Proposals should include two bids, one for writing and producing camera-ready copy for each of the two publications, and one for writing, producing and printing 2,000 copies of each of the two publications.

Any firm interested in submitting formal proposals should send them to Pat Ferguson at MWCC not later than 5:00 p.m. on December 5. MWCC expects to award contracts in December and to have both publications complete in the first quarter of 1986.

Louis J. Breimhurst, Chief Administrator
Metropolitan Waste Control Commission

Department of Transportation

Notice of Debarment of James Russell Tow

Pursuant to Laws 1984, Chapter 654, Article 2, Section 8, and Minnesota Rule 1230.3400, you are debarred and disqualified from entering into or receiving a Minnesota Department of Transportation contract and from serving as a subcontractor or material supplier under a Mn/DOT contract. Neither you nor any business or entity owned by, controlled by, or associated with you may enter into a contract with Mn/DOT or serve as a subcontractor or supplier of materials or services under a Mn/DOT contract.

Minnesota Rule 1230.3100, Subpart 9. states:

Subp. 9. Mn/DOT contract. "Mn/DOT contract" means a written instrument:

A. containing the elements of offer, acceptance, and consideration to which the Minnesota Department of Transportation is a party, or acts as an agent for a party under Minnesota Statutes, section 161.36, subdivisions 2 and 3, 360.016, subdivisions 2 and 3, or 360.039, subdivisions 2 and 3;

B. for which competitive bids are required or taken; and

C. which is subject to the approval of the commissioner.

Your failure to request a hearing within 20 days of the date of the Notice of Proposed Debarment is considered your admission of the truth of the allegations in the Notice and your consent to the debarment.

This order takes effect on the date shown on this Order and continues until and including December 18, 1985.

November 18, 1985

R. J. McDonald
Deputy Commissioner

Department of Transportation

Notice of Debarment of Tow Brothers Construction Company

Pursuant to Laws 1984, Chapter 654, Article 2, Section 8, and Minnesota Rule 1230.3400, you are debarred and disqualified from entering into or receiving a Minnesota Department of Transportation contract and from serving as a subcontractor or material supplier under a Mn/DOT contract. Neither you nor any business or entity owned by, controlled by, or associated with you may enter into a contract with Mn/DOT or serve as a subcontractor or supplier of materials or services under a Mn/DOT contract.

Minnesota Rule 1230.3100, Subpart 9. states:

Subp. 9. Mn/DOT contract. "Mn/DOT contract" means a written instrument:

A. containing the elements of offer, acceptance, and consideration to which the Minnesota Department of Transportation is a party, or acts as an agent for a party under Minnesota Statutes, section 161.36, subdivisions 2 and 3, 360.016, subdivisions 2 and 3, or 360.039, subdivisions 2 and 3;

- B. for which competitive bids are required or taken; and
- C. which is subject to the approval of the commissioner.

Your failure to request a hearing within 20 days of the date of the Notice of Proposed Debarment is considered your admission of the truth of the allegations in the Notice and your consent to the debarment.

This order takes effect on the date shown on this Order and continues until and including December 18, 1985.
November 18, 1985

R. J. McDonald,
Deputy Commissioner

Board of Vocational-Technical Education

Request for Proposals for Vocational Educator Updating

Staff development dollars are available to public vocational education agencies to develop and provide in-service for Minnesota's public post and secondary vocational educators in areas of technical and professional updating.

Categories:

- Technical Updating: A minimum of 30 grants,
\$500 to \$2,000 each
- Professional Updating: A minimum of 30 grants,
\$500 to \$2,000 each
- Administrator Updating: Five grants at \$1,500 each

Contact:

JoAnn Akemann-Chein, Staff Development Specialist
State Board of Vocational-Technical Education
550 Cedar Street
St. Paul, MN 55101
Telephone: (612) 297-4390

There are two deadlines: December 2, 1985 and January 18, 1986. Proposals must be received by the State Board of Vocational-Technical Education (SBVTE) by 4:00 p.m. Those missing the first deadline will automatically be considered for the second.

Total amount available: \$138,000

STATE GRANTS

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Human Services

Chemical Dependency Program Division

Mental Illness Program Division

Legislative Hearing on the Federal Alcohol, Drug Abuse and Mental Health Block Grant, and the Availability of a Statement Describing the Intended Use of Alcohol and Drug Abuse Funds for Federal Fiscal Year 1986

Notice is hereby given that the Senate Health and Human Services Committee will conduct a hearing on the use of the Federal Alcohol, Drug Abuse and Mental Health Grant on Tuesday, December 10, 1985 at 1:00 p.m. in Room 15, Minnesota State Capi-

STATE GRANTS

tol. The House of Representatives Health and Human Service Committee and the Human Services Division of the Appropriations Committee will hold a similar hearing on Monday, December 2, 1985 in Room 300 N, State Office Building.

Notice is also given that the Department of Human Services has available a Description of Intended Use for the alcohol and drug abuse funds available to the State of Minnesota from the Federal Fiscal Year 1986 Alcohol, Drug Abuse and Mental Health Block Grant. This description is being made available to the public for comment in accord with Part B, Section 1915(d) of Title IX, Omnibus Budget Reconciliation Act of 1981.

All interested or affected persons or groups are invited to comment. Copies of the description are available from:

Sheila Vadnais
Chemical Dependency Program Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101
(612) 296-4618

Comments on the proposed plan may be directed to the same address and phone number. Oral requests and comments will be received during normal business hours.

SUPREME COURT DECISIONS

Decisions Filed Friday, November 15, 1985

Compiled by Wayne O. Tschimperle, Clerk

CX-84-1231 State of Minnesota v. Samuel Kenneth Willis, Petitioner, Appellant. Court of Appeals.

A defendant charged with a crime in Minnesota and held in custody in another state at request of Minnesota authorities is not entitled to credit against a Minnesota sentence for time in custody in the other state unless the Minnesota charge was the sole reason for the detention by the other state.

Affirmed in part, reversed in part. Amdahl, C.J.

Took no part, Peterson, J., and Wahl, J.

C3-84-1412 William C. Rieman, Jr. v. Jarrel D. Joubert, Petitioner, Appellant. Court of Appeals.

Defendant's service of motion papers for amended findings is not service of a notice of filing of the trial court's findings of fact, conclusions of law and order for judgment.

In this case, defendant's ex parte application for an extension of time in which to hear his motion for amended findings constitutes a waiver by defendant of service on him of a notice of filing of the trial court's decision for the purpose of both a motion for amended findings and a motion for a new trial.

Affirmed. Simonett, J.

Took no part, Peterson, J.

C0-84-993 In the Matter of the Trust Established Under Trust Agreement of Thomas A. Boright, Deceased. Court of Appeals.

When all of the beneficiaries of a trust created for successive beneficiaries consent and none of them is under any legal incapacity, the beneficiaries can compel the termination of the trust before its natural expiration if its continuance is not necessary to carry out a material purpose for its creation.

Partial termination of a trust may be permitted without the consent of an annuitant if the annuitant's interest is fully protected.

Affirmed in part and reversed in part. Coyne, J.

C7-85-144, C6-85-152 Robert R. McClelland v. Honorable Delila F. Pierce, Hennepin County District Court Judge, et al and Faruk Said Abuzzahab v. Honorable Delila F. Pierce, Hennepin County District Court Judge and Beverly Abuzzahab, Petitioner-Appellant. Court of Appeals.

Where proceedings following remand are a continuation of the original proceedings intended to permit reconsideration and amend-

ment of original orders on the basis of the existing record, affidavits of prejudice pursuant to Rule 63.03, Minn. R. Civ. P., filed subsequent to remand for reconsideration of the duration of maintenance and support orders are untimely.

Order vacated; matters remanded. Coyne, J.

ERRATA**Department of Energy and Economic Development
Energy and Economic Development Authority****Correction to Extension of Emergency Rules Relating to the Technology Product Loan Program**

A typographical error occurred in the October 14, 1985 issue of the *State Register* on page 921, (10 S.R. 921) in the second paragraph, which reads: "The new expiration date for these rules will be February 1, 1986, or whenever replaced by permanent rules, whichever is earlier." The expiration date for the rules is corrected to read April 3, 1986.

**Department of Energy and Economic Development
Energy and Economic Development Authority****Correction to Extension of Emergency Rules Relating to the Tourism Loan Program**

A typographical error occurred in the October 14, 1985 issue of the *State Register* on page 922, (10 S.R. 922) in the second paragraph, which reads: "The new expiration date for these rules will be April 4, 1986, or whenever replaced by permanent rules, whichever is earlier." The expiration date for the rules is corrected to read May 4, 1986.

Housing Finance Agency**Correction of Notice of Public Hearing on Annual Policy Statement**

The Minnesota Housing Finance Agency (Agency) will hold a public hearing pursuant to Section 103A(j)(5) of the Internal Revenue Code of 1954, as amended, on December 6, 1985, at 1:00 p.m. in the Agency's Board Room, 400 Sibley Street, Suite 300, St. Paul, Minnesota 55101-1998. The subject of this hearing is the annual policy statement as described in Section 103A(j)(5) of the Internal Revenue Code of 1954, as amended.

ORDER FORM

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court and Tax Court decisions.

- _____ Annual subscription \$130.00
- _____ Trial subscription (13 weeks) \$40.00
- _____ Single copies \$3.25 each

Minnesota Guidebook to State Agency Services 1984-85. A 623-page guide to services provided by Minnesota agencies.

- _____ Single copy: \$12.50 + \$.75 tax = \$13.25* each

Minnesota Rules 1985. 10-volume set.

- _____ Set: \$125.00 + \$7.50 = \$132.50.*
- _____ Each volume: \$13.00 + \$.78 = \$13.78.
- _____ No handling charge.

Minnesota Laws 1985. All laws passed in the Regular and Special Sessions.

- _____ \$37.00 + \$2.22 = \$39.22.*
- _____ No handling charge.

State Register Binder. Durable 3½ inches, forest green binders imprinted with the *State Register* logo.

- _____ *State Register Binder* \$6.50 + \$.39 tax = \$6.89* each

State Register Index. Contains cumulative findings aids to Volume 8 of the *State Register*, including Minnesota Rules Amendments and Additions, Executive Orders List, Executive Orders Index, Agency Index, Subject Matter Index.

- _____ Single copy \$5.00

Worker's Compensation Decisions. Volume 37. Selected landmark decisions of the Worker's Compensation Court of Appeals. Annual subscription, quarterly updates.

- _____ Annual subscription \$85.00

Minnesota Statutes 1985 Supplement. Pocket part supplement to Minnesota Statutes 1984.

- _____ \$25.00 + \$1.50 = \$26.50.*
- _____ No handling charge.

*To avoid Minnesota sales tax, please include your Certificate of Exempt Status issued by the Department of Revenue. No Mastercard/VISA accepted on Rules and Laws.

Please enclose full amount for items ordered; prepaid orders only. Make check/money order payable to "State of Minnesota." (Phone orders are taken only with a Mastercard/VISA charge number.)

EACH ORDER MUST INCLUDE \$1.50 POSTAGE AND HANDLING FEE.

Name _____

Attn of: _____

Street _____

City/State/Zip _____

Telephone # _____

CHANGE OF ADDRESS NOTICE

Please notify us as soon as your address changes so that we can continue to serve you.

OLD ADDRESS

NEW ADDRESS

Publication(s) you are receiving from us: _____

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Contact: Senate Public Information Office
 B29 State Capitol, St. Paul, MN 55155
 (612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Contact: House Information Office
 Room 8 State Capitol, St. Paul, MN 55155
 (612) 296-2146

Legislative Reference Library
Attn: Zona DeWitt
645 State Office Bldg.
Interoffice