

85, DEC 16

STATE REGISTER

4

STATE OF MINNESOTA



VOLUME 10, NUMBER 25

December 16, 1985

Pages 1325-1396



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			
26	Monday December 9	Monday December 16	Monday December 23
27	Thursday December 12	Thursday December 19	Monday December 30
28	Thursday December 19	Friday December 27	Monday January 6
29	Friday December 27	Monday January 6	Monday January 13

*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.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$3.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

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*.

Rudy Perpich
Governor

Marsha Storck
Editor

Sandra J. Gale
Commissioner
Department of Administration

Robin PanLener, Paul Hoffman,
Ruth Werness
Editorial Staff

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Debbie Kobold
Circulation Manager

Bonnie Karels
Support Staff

CONTENTS

MINNESOTA RULES AMENDMENTS AND ADDITIONS

Issues 14-25, inclusive 1328

EXECUTIVE ORDERS

Executive Order No. 85-16 Amending Executive Order No. 85-1 Providing for the Establishment of the Governor's Advisory Council on State-Local Relations 1330

PROPOSED RULES

Energy and Economic Development Department
Proposed Emergency Rules Relating to Qualified Economic Diversification Projects 1331
Withdrawal of Previously Proposed Rules Relating to Qualified Economic Diversification Projects 1335

Environmental Quality Board
Proposed Rules Relating to Exploratory Drilling for the Disposal of High Level Radioactive Waste 1335

Human Services Department
Proposed Rules Relating to Referral of General Assistance Applicants and Recipients to Other Maintenance Benefit Programs 1343

Labor and Industry Department
Withdrawal of Proposed Rules Relating to Workers' Compensation: Independent Contractor 1354

Pollution Control Agency
Proposed Rules Relating to Acid Deposition Control 1354
Proposed Rules Relating to Processing 401 Certifications and Other Amendments 1358
Proposed Rules Relating to Water Quality Permit Fees 1360

Public Safety Department
Criminal Apprehension Bureau
Proposed Rules Governing the Manufacture, Storage, and Use of Explosives and Blasting Agents 1364

ADOPTED RULES

Labor and Industry Department
Adopted Rules Relating to Occupational Professions, Boiler Operations, Fees 1379

OFFICIAL NOTICES

Energy and Economic Development Department
Financial Management Division
Availability of Issuance Authority in Competitive Pool, December, 1985 1379

Health Department
Outside Opinion Sought on Proposed Rules Relating to a Phenylketonuria Testing Program, the Treatment for Positive Diagnosis, and a Registry of Cases 1380

Health Department
Health Resources Division
Outside Opinion Sought Regarding Proposed Rules Governing Nursing Staff Hour Requirements in Nursing Homes 1380

Human Services Department
Relative Values for Inpatient Hospital Reimbursement 1381

Racing Commission
Outside Opinion Sought Regarding Proposed Rules Governing Pari-Mutuel Horse Racing in Minnesota 1383

State Retirement System
Board of Directors Regular Meeting 1383

Revenue Department
Outside Opinion Sought Regarding Proposed Rule Governing Bank Affiliated Returns 1383

Transportation Department
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. 70749 1384

STATE CONTRACTS

Administration Department
Intergovernmental Information Systems Advisory Council
Request for Proposal for Enhancement(s) to Existing Data Interchange System(s) 1385

Administration Department
Procurement Division
Commodities Contracts and Requisitions Currently Open for Bidding 1385

Health Department
Disease Prevention and Health Promotion Division
Venereal Disease Control Program
Request for Proposals for Gonorrhea Patient Contact Intervention Material Development 1387

Human Services Department
Chemical Dependency Program Division
Request for Proposals for American Indian Adolescent Chemical Dependency Demonstration Project 1387
Request for Proposals for American Indian Training Project for Chemical Health Providers 1387

Human Services Department
Faribault State Hospital
Request for Proposals for Child/Adolescent Psychiatrist Services 1388

Metropolitan Council
Request for Proposals for Long Term Care Financing Study 1388

STATE GRANTS

Energy and Economic Development Department
Technical Assistance Program Applications Sought 1389

Waste Management Board
Revised Submission Deadline for Applications for Hazardous Waste Reduction Grants 1389

SUPREME COURT DECISIONS
Decisions Filed Friday, December 6, 1985 1390

TAX COURT
Orders Filed December 3, 1985 1390

NOTICE

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/Rule Number and Cumulative Listing. 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.

The listings are arranged in the same order as the table of contents of the Minnesota Rules 1985.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

BOARD OF ACCOUNTANCY

1100.3600 (adopted) 1122

DEPARTMENT OF AGRICULTURE

1580.0100-.1000 [Emer] (adopted) 1122

BOARD OF ANIMAL HEALTH

1700.0550 (proposed) 1114

DEPARTMENT OF COMMERCE

Chap. 2610; 2745 (repealed) 1265
2700.2100; .2200; .2300 (repealed 1/1/86) 1179
2700.2400; .2410; .2420 (withdrawn) 1149
2700.2400-.2440 (proposed) 1018
2700.2400-.2440 (proposed repealer 9/30/87) 1018
2700.2400-.2440 [10 SR 1018] (renoticed) 1146
2700.2400-.2440 [10 SR 1018] (proposed repealer 9/30/87) 1146
2725.0100-.0180; .0210; .0230; .0240 (proposed) 986
2735.0100-.0500 [9 SR 2144] (adopted) 1266
2740.4300 (adopted) 1265
2745.0005-.0040 (proposed) 1290
2770.6500; .6800 (adopted) 1265
2791.0100 (adopted) 921
2820.1400-.1950; .5000; .4900
[9 SR 2036] (adopted) 838

SENTENCING GUIDELINES COMMISSION

3000.0100-.0600 (adopted) 1267

BOARD OF DENTISTRY

3100.2000 [9 SR 2698] (adopted) 955

DEPARTMENT OF ECONOMIC SECURITY (Now JOBS AND TRAINING)

3301.0010-.0230; .0260-.0650 [Emer] (proposed) 1240

STATE BOARD OF EDUCATION

3515.4621 [9 SR 1995] (adopted) 955
3530.2610-.2644 (second notice) 992

DEPARTMENT OF ENERGY, PLANNING AND DEVELOPMENT

4155.0100-.0180 [9 SR 2424] (adopted) 1208

ENVIRONMENTAL QUALITY BOARD

4410.7900-.7934 (proposed) 1335

ETHICAL PRACTICES BOARD

4505.0900; 4510.0600; .1300; 4515.0100; .0300;
4520.0100 (adopted) 1266
4515.0100, s.3; 4520.0100, s.3 (repealed) 1266

DEPARTMENT OF HEALTH

4625.2300; .5000; 4630.2000; 4695.2900;
4715.3150; .3160; .5900; 4720.0015;
4730.0600 (proposed) 1028
4625.2300; .5000; 4630.2000; 4695.2900;
4715.3150; .3160; .5900; 4720.0015;
4730.0600 (second notice) 1239

MINNESOTA RULES AMENDMENTS AND ADDITIONS

4647.0100-.0400 (proposed)	1204
4670.0100;.0900;.0930;.0950;.1000;.1200; .1220;.1320;.3070;.4050;.4200;.4210;.4220; .4230;.4240 (proposed)	727
4670.0930, s.3,4;.3900;.3910;.3920;.3930; .3940 (proposed repealer)	727
4685.0100;.2800;.1910-.1970;.2150 (proposed)	1234
4695.0300;.0800 (proposed)	724

HIGHER EDUCATION COORDINATING BOARD

4830.1000-.1500 (superceded)	922
4830.1550-.1556 [Emer] (adopted)	922
4850.0010-.0018 (proposed)	818

MN HOUSING FINANCE AGENCY

4900.0010;.1330 (proposed)	1117
4900.0550;.0750;.0760;.0770;.0780 (proposed)	1115
4910.0010, s.23, i.B. (proposed repealer)	1117

DEPARTMENT OF LABOR AND INDUSTRY

5205.0010 [standards] (proposed)	1150
5221.0100-.3200 [republished] (adopted)	765
5221.2250, s.10;.2500, s.3-10;.2600, s.3-5; .2700, s.3;.2800, s.3;.3000, s.3-5;.3100, s.3 [republished] (repealed)	765
5221.0100-.3200 [republished] (Errata)	974
5221.2250, s.10;.2500, s.3-10;.2600, s.3-5; .2700, s.3;.2800, s.3;.3000, s.3-5;.3100, s.3 [republished] (Errata)	974
5222.0010-.0420 (withdrawn)	1354
5223.0010;.0020;.0030;.0040;.0060 (adopted)	1124
5225.0200 (proposed repealer)	881
5225.0200 (repealed)	1379
5225.0300;.8600 (proposed)	881
5225.0300;.8600 (adopted)	1379

BUREAU OF MEDIATION SERVICES

5510.2710;.2810;.2910;.3010;.3110 (adopted)	997
---	-----

BOARD OF MEDICAL EXAMINERS

5600.2500 (proposed)	749
--------------------------------	-----

MN POLLUTION CONTROL AGENCY

Solid and Hazardous Waste Division

7001.0010;.0020;.1400-.1470 (proposed)	1358
7001.0520;7045.0020;.0075;.0120;.0125;.0135; .0214;.0219;.0296;.0450;.0542;.0552; .0640;.0665;.0675;.0685 (proposed)	824
7001.0560;.0580;.0590;.0600;.0610;.0620; 7045.0127;.0135;.0139;.0219;.0526;.0528; .0532;.0536;.0538;.0542;.0552 (adopted)	1212
7005.4010-.4050 (proposed)	1354
7035.1100-.1115 (second notice)	750
7035.8000-.8160 [Emer] (adopted)	1311
7045.0020, s.69;.0125, s.2;.0142 (proposed repealer)	827
7045.0065;.0552;.0638 (proposed)	824
7045.1240;.1250;.1260 (proposed repealer)	824
7045.0219;.0292;.0365;.0450; .0550 [9 SR 2745] (adopted)	929
7045.0219;.0292;.0365;.0450; .0550 [9 SR 2745] (adopted)	929R

Air Quality Division

7010.0010-.0080 (proposed)	891
--------------------------------------	-----

7010.0100;.0200;.0300;.0400; .0500;.0600;.0700 (proposed repealer)	891
7010.0010-.0080 (proposed)	891R
7010.0100;.0200;.0300;.0400; .0500;.0600;.0700 (proposed repealer)	891R

Water Quality Division

7002.0210-.0310 (proposed)	1360
7075.0100;.0400;.0401;.0411;.0414; .0419;.0428;.0433 (proposed)	884
7075.0418 (proposed repealer)	884

BOARD OF PSYCHOLOGY

7200.6100 (proposed)	752
7200.6100 (adopted)	1266

DEPARTMENT OF PUBLIC SAFETY

Driver and Vehicle Services Division

7410.2500 (proposed)	953
--------------------------------	-----

Administration Division

7415.0500 (adopted)	1035
7500.0100-.3600 (proposed)	1364
7500.0100, s.12,15,20,21;.0900;.1000; .1100;.1700;.1800, s.5;.1900;.2300;.2800;.3200; s.1;.3300 (proposed repealer)	1364
7520.0100;.0500;.0550;.0600;.0620;.0640; .0650;.0700;.1000;.1100 (proposed)	753
7520.0530, s.3-5 (proposed repealer)	753

PUBLIC SERVICE DEPARTMENT

7600.6800;.7200;.7210;.7500;.7700;.7750;.7900; 7650.0100 (adopted)	998
---	-----

PUBLIC UTILITIES COMMISSION

7840.0200-.1400 (adopted)	1266
-------------------------------------	------

RACING COMMISSION

7890.0100-.0150 (proposed)	759
7897.0100;.0120;7873.0550;7874.0100; 7879.0100;.0200;.0300;7895.0100;.0110 [9 SR 2651] (withdrawn)	1151
7897.0100;.0120;7873.0550;7874.0100; 7879.0100;.0200;.0300;7895.0100;.0110 (proposed)	1151

SECRETARY OF STATE

8200.1500;.9919;8210.0200;.9930;.9955; 8235.1000;8250.0200;.0600;8220.0050-.4250; 8230.0050-.2350;.3050-.4250 (proposed)	1158
8200.2300;8220.0100-.0500;.1000-.1400; .2000-.3200;.4000-.4800;.5000-.6400; 8230.0200-.0500;.1000-.2600;.2610;.2700-.3000; .3300;.3500-.4400;.5000-.5800 (proposed repealer)	1158

SMALL BUSINESS FINANCE AGENCY

8300.3060-.3070 [Emer] [9 SR 2527] (extended)	922
8300.3081-.3090 [Emer, 9 SR 2052, 2700] (extended)	1212
8300.3100-.3106 [Emer] (proposed)	721
8300.3100-.3106 [Emer, 10 SR 721] (withdrawn)	1335
8300.3100-.3106 [Emer] (proposed)	1331
8300.3200-.3204 (proposed)	1202
8300.4100-.4112 [Emer] [9 SR 2381] (extended)	921

BOARD OF TEACHING

8700.0310;.3810;.5503-.5512; .6410;.7500 (proposed)	896
8700.0310;.3810;.5503-.5512; .6410;.7500 (proposed)	896R
8700.3800 (proposed repealer 7/1/89)	896

MINNESOTA RULES AMENDMENTS AND ADDITIONS

8700.5400; .5401; .5402; .5403; .5404; .5405; .5406; .6400 (proposed repealer 7/1/90)	896	.0580 to .1242; .0590 to .1244; .0600 to .1246; .0610 to .1248; 9555.3402 to 9500.1249;	
8700.3800 (proposed repealer 7/1/89)	896R	9555.3408 to 9500.1250; 9555.3409 to	
8700.5400; .5401; .5402; .5403; .5404; .5405; .5406; .6400 (proposed repealer 7/1/90)	896R	9500.1252 (proposed renumbering)	1343
WASTE MANAGEMENT BOARD		9500.1090-.1155 (Errata)	867
9200.6000-.6800 [Emer] (adopted)	844	9500.1200; .1206; .1254; .1256 (proposed)	1343
9200.9501-.9504; .9506; .9508 (adopted)	846	9500.1210-.1221 [Emer] (adopted)	923
9200.9501, s.4; .9504, s.1 (repealed)	846	9500.1210-.1221 [Emer] (adopted)	923R
DEPARTMENT OF PUBLIC WELFARE (Now HUMAN SERVICES)		9500.1800-.1820 (adopted)	1298
9500.0500; 9555.3401; .3403; .3404; .3406;		9505.5000-.5105 [9 SR 2367] (adopted)	842
9500.0530, i.E (proposed repealer)	1343	9510.1020-.1140 (adopted)	922
9500.0510 to .1202; .0520 to .1204;		9525.0900-.1020 (adopted)	944
9555.3400 to 9500.1206; 9500.0530 to .1208;		9525.1800-.1930 (adopted)	838
.0531 to .1210; .0532 to .1212; .0540 to .1234;		9549.0051-.0059 [Temp] (adopted)	1124
.0555 to .1236; .0560 to .1238; .0570 to .1240;		9550.0010-.0092 (adopted)	1298
		9575.0010; .0300; .0320; .0340; .0350; .1070;	
		.1400; .1500; .1550; .1570; .1580 (proposed)	735
		9575.1580, s.4-6 (proposed repealer)	735

EXECUTIVE ORDERS

Executive Order No. 85-16

Amending Executive Order No. 85-1 Providing for the Establishment of the Governor's Advisory Council on State-Local Relations

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

Whereas, Executive Order No. 85-1 was issued on January 22, 1985, providing for the establishment of the Governor's Council on State-Local Relations (ACSLR); and

Whereas, it is necessary to amend Executive Order No. 85-1 by amending a clause;

NOW, THEREFORE, I hereby order that:

2. The Council shall be composed of the following:
 - a. Two members appointed by the League of Minnesota Cities,
 - b. Two members appointed by the Association of Minnesota Counties,
 - c. Two members appointed by the Minnesota Association of Townships,
 - d. Two members appointed by the Minnesota School Board Association,
 - e. One member appointed by the Minnesota Association of Regional Commissions,
 - f. The Commissioner of the Department of Energy and Economic Development,
 - g. The Commissioner of the Department of Finance,
 - h. The Commissioner of the Department of Education,
 - i. The Director of the State Planning Agency,
 - j. The Chairman of the Metropolitan Council,
 - k. The Commissioner of the Department of Revenue, and
 - i. The Commissioner of the Department of Human Services.

PROPOSED RULES

The Speaker and the Minority Leader of the House of Representatives are each invited to appoint one Representative to the Council. The Majority Leader and the Minority Leader of the Senate are also each invited to appoint one Senator to the Council.

In the event that an agency or department head who is a member of the Council is unable to attend a scheduled meeting, he or she shall designate a deputy or an assistant to represent the department or agency.

The Council shall elect a chairperson from among its membership, and adopt by-laws governing its operation.

Pursuant to Minnesota Statutes, Section 4.035, this Order shall be effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes, Section 4.035, Subdivision 3.

in TESTIMONY WHEREOF I have set my hand this 19th day of November, 1985.



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.

Department of Energy and Economic Development

Proposed Emergency Rules Relating to Qualified Economic Diversification Projects

Notice of Intent to Adopt Emergency Rules

Notice is hereby given that the Minnesota Energy and Economic Development Authority is proposing to adopt emergency rules for the Qualified Economic Diversification Projects of The Special Assistance Program. The agency is authorized by Minn. Laws 1985, Ex. Sess. Chapter 14, Article 8, sec. 62, to adopt emergency rules for the Qualified Economic Diversification Projects of The Special Assistance Program.

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

All interested parties have 25 days from the day of publication of this notice in the *State Register* to submit written comments to the agency in support of or in opposition to the proposed emergency rules, and comments are encouraged. With publication of this notice in the December 16, 1985 *State Register*, written comments must be received by the agency no later than 4:30 p.m. on January 9, 1985. Written comments should be sent to:

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

Please be advised that the proposed emergency rules may be modified as a result of the comments received. Any written material received by the agency will become part of the record in this matter.

The proposed emergency rules with any modifications adopted by the agency, will be submitted to the Attorney General for review as to form and legality after close of the comment period. Persons wishing to be informed of the date of submission of the proposed emergency rules to the Attorney General should notify the agency of such desire at the address given above. The Attorney General has ten working days to approve or disapprove the rules.

The emergency rules will be effective five working days following approval of the rules by the Attorney General. It is the agency's intent to keep the rules in effect for a period of 180 days, although the proposed emergency rules may be continued in effect for an additional period of up to 180 days if the agency publishes a separate notice to such effect in the *State Register* and mails the same notice to all persons on the agency's list to receive notice of rulemaking proceedings.

A full copy of the proposed emergency rules is available by contacting Debra J. Kultala at the above address.

November 25, 1985

Mark B. Dayton, Commissioner
of the Department of Energy
and Economic Development and
Chairman of the Minnesota
Energy and Economic
Development Authority.

Rules as Proposed, Emergency (all new material)

QUALIFIED ECONOMIC DIVERSIFICATION PROJECTS OF THE SPECIAL ASSISTANCE PROGRAM

8300.3100 [Emergency] SCOPE.

Parts 8300.3100 to 8300.3106 [Emergency] specify procedures and criteria for application for qualified economic diversification projects of the special assistance program.

8300.3101 [Emergency] PURPOSE.

The purpose of the distressed counties/economic diversification projects program is to reimburse sales and property tax expenditures for qualifying businesses that expand their operations in Minnesota.

8300.3102 [Emergency] DEFINITIONS.

Subpart 1. **Statutory terms.** The definitions in Minnesota Statutes, section 116M.03, and this part apply to parts 8300.3100 to 8300.3106 [Emergency].

Subp. 2. **Act.** "Act" means the Minnesota Energy and Economic Development Authority Act.

Subp. 3. **Capital equipment.** "Capital equipment" means capital equipment as defined in Minnesota Statutes, section 297A.01, subdivision 16.

Subp. 4. **Capital investment.** "Capital investment" means investment made after July 1, 1985, in new buildings, new equipment, additions to existing buildings, or purchase of existing buildings and equipment that have not been in use for 90 days.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of energy and economic development.

Subp. 6. **Distressed county.** "Distressed county" means a county or portion of a county designated by the commissioner under Minnesota Statutes, section 297A.257, as distressed.

Subp. 7. **Permanent employee.** "Permanent employee" means the equivalent of one person employed full time for one year. The term does not include persons temporarily employed in construction or installation of the qualified economic diversification project.

Subp. 8. **Sales tax refund.** "Sales tax refund" means the reimbursement paid to a business by the commissioner of revenue under Minnesota Statutes, section 297A.15, subdivision 5, because the equipment is located in a distressed county.

8300.3103 [Emergency] PROCEDURES FOR APPLICATION FOR REIMBURSEMENT.

Subpart 1. **In general.** To apply for special assistance from the authority for a qualified economic diversification project, an applicant shall submit an application form to the commissioner on a form provided by the commissioner. An application must be completed, dated, and signed by an owner, general partner, or an authorized officer of the applicant. The commissioner shall follow the procedures under part 8300.3104 [Emergency].

Subp. 2. **Contents.** An application must contain, at a minimum, the following information:

- A. the name of applicant's business;
- B. the business location;
- C. a description of the business, as required by the Standard Industrial Classification Code found in Code of Federal Regulations, title 13, part 121;
- D. a description of the qualified economic diversification project;
- E. estimated sales tax to be paid on capital equipment purchased;
- F. estimated incremental increase in property tax as a result of the qualified economic diversification project;
- G. current employment figures;
- H. projected employment figures with supporting documentation; and
- I. certifications demonstrating the business' assessment of how it meets the criteria contained in Minnesota Statutes, section 116M.03, subdivision 28.

8300.3104 [Emergency] PROCEDURES FOR APPLICATION PROCESSING.

Subpart 1. **Deadline for submission.** The applicant shall submit a complete application to the commissioner by the first business day of any month in order for the authority to consider it in that month. If an application is received after the first business day of the month and can be reviewed by the commissioner for eligibility and financial feasibility prior to the authority agenda deadline, the authority may consider the application at the meeting in that month. Applications will be accepted only if there is nonencumbered money available for economic diversification projects.

Subp. 2. **Completed applications.** An application is complete when the commissioner receives all required documentation.

Subp. 3. **Incomplete applications.** If an incomplete application is received, the commissioner shall notify the applicant of specific deficiencies in the application. The applicant has 60 days from the date of mailing of the commissioner's notification to complete the application. If the application is not completed and received by the commissioner within 60 days, the application is considered rejected and the applicant shall reapply to be further considered.

Subp. 4. **Review of eligibility of project and applicant.** The commissioner shall review all completed applications to determine if the project and the applicant are eligible and meet the requirements in parts 8300.3100 to 8300.3106 [Emergency].

Subp. 5. **Ineligible project or applicant.** The commissioner shall notify the applicant in writing if the applicant or the project is ineligible. The applicant has 30 days from the date of the commissioner's notification to amend the application and resubmit it to the commissioner, or to request that the commissioner submit the rejected application to the authority for review at the next regularly scheduled meeting of the authority for which the agenda has not been established. If so submitted, the authority must evaluate the application at its board meeting, in accordance with subpart 7.

Subp. 6. **Amended application.** Upon receipt of an amended application, the commissioner shall review the amended application under subpart 4. The commissioner shall reject the amended application if the project or applicant is ineligible.

If the application is not amended and resubmitted to the commissioner within 30 days, the application will be rejected and will not receive any further consideration.

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

Subp. 7. **Authority evaluation procedure.** Applications approved for processing by the commissioner must be presented to the authority for approval or disapproval. Upon the determination by the authority that the application will meet the requirements contained in Minnesota Statutes, sections 116M.03, subdivision 28; 116M.07, subdivision 11, paragraph (b); and parts 8300.3105 [Emergency] and 8300.3106 [Emergency] within two years of approval, the authority shall approve the project, set aside money for the approved project, and enter into a contract with the applicant to disburse the reimbursements when the criteria have been met.

Subp. 8. **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.

8300.3105 [Emergency] SPECIAL ASSISTANCE CRITERIA.

To qualify for special assistance projects, an economic diversification project must meet at least three of the five criteria outlined in Minnesota Statutes, section 116M.07, subdivision 11, paragraph (b).

8300.3106 [Emergency] CRITERIA FOR REIMBURSEMENTS.

Subpart 1. **Distressed counties.** The authority shall provide the following special assistance to qualified economic diversification projects located in distressed counties based upon the following criteria:

A. Reimbursement of sales taxes paid for capital equipment purchased as part of the application. Reimbursement shall be made only if the capital equipment purchase or a part of the capital equipment purchase is not eligible for a sales tax refund from the commissioner of revenue.

B. A property tax reimbursement paid on an annual basis for five years. The amount of the property tax reimbursement shall be based on the amount of property tax attributable to the incremental increase in value of the property as a result of the capital investment based on the most recent assessment period.

C. An interest subsidy reimbursement for a loan used to finance the capital investment for qualified diversification projects that will create more than 50 additional permanent employees or constitutes more than five percent of the base manufacturing employment in the county. In determining the amount and term of the interest subsidy reimbursement, the authority shall consider the level of distress in the county based upon the average rate of unemployment for the 12-month period ending the previous April 30, and shall within the limit of available funds approve a greater interest subsidy for projects located in counties with a higher rate of distress.

D. The total reimbursement for a qualified economic diversification project cannot exceed \$20,000 per additional permanent employee.

E. The maximum reimbursement per qualified economic diversification project is \$500,000 per project.

Subp. 2. **Nondistressed counties.** The authority shall provide the following special assistance to qualified economic diversification projects located outside distressed counties based upon the following criteria:

A. A one percent sales tax reimbursement paid on capital equipment purchased as part of the application.

B. For qualified economic diversification projects that will create more than 300 additional permanent employees or contribute more than five percent of the base manufacturing employment in the county, one or more of the following reimbursement:

(1) Reimbursement of sales taxes greater than one percent.

(2) Property tax reimbursement for up to five years. The amount of property tax reimbursement shall be based on the amount of property tax attributable to the incremental increase in value of the property as a result of the capital investment based on the most recent assessment period.

(3) An interest subsidy reimbursement for a loan used to finance the capital investment for the qualified economic diversification project.

In determining the amount and term of the sales tax reimbursement, property tax reimbursement, or interest subsidy reimbursement in item B, the authority shall consider the level of distress in the county based upon the average rate of unemployment for the 12-month period ending the previous April 30 and shall within the limit of available funds approve greater interest subsidy for projects located in counties with a higher rate of distress.

C. The total reimbursement for a qualified economic diversification project cannot exceed \$10,000 per additional permanent employee.

D. The maximum reimbursement per qualified economic diversification project is \$500,000 per project.

Department of Energy and Economic Development Minnesota Energy and Economic Development Authority

Withdrawal of Previously Proposed Rules Relating to Qualified Economic Diversification Projects

Notice of Withdrawal of Rules

Notice is hereby given that the proposed rules relating to Qualified Economic Diversification Projects as published in the *State Register* on September 30, 1985, pages 721 to 724 (10 S.R. 721), are withdrawn.

New proposed rules regarding the same subject matter are being published in this issue.

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

Environmental Quality Board

Proposed Rules Relating to Exploratory Drilling for the Disposal of High Level Radioactive Waste

Notice of Proposed Adoption of Rules without a Public Hearing

Notice is hereby given that the Environmental Quality Board proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rules is 116C.724, subd. 2 (1985 Supp.).

Persons interested in these rules shall have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit written requests for a public hearing within the 30-day period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

John Morley
High-Level Radioactive Waste Program
Environmental Quality Board
Room 100, Capitol Square Building
St. Paul, MN 55101
(612) 297-2373

The proposed rules may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed rule.

A copy of the proposed rules are attached to this notice.

A Statement of Need and Reasonableness that describes the need for and 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 John Morley upon request.

If no hearing is required, upon adoption of the rules without a public hearing, the rules and the required supporting documents

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

will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of the material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, must submit the written statement of such request to John Morley.

November 27, 1985

John C. Ditmore
Chairman
Environmental Quality Board

Rules as Proposed (all new material)

4410.7900 DEFINITIONS.

Subpart 1. **Scope.** The definitions in Minnesota Statutes, section 116C.71 apply to parts 4410.7900 to 4410.7934, and for the purposes of those parts, the following terms have the meanings given them.

Subp. 2. **Affected landowner.** "Affected landowner" means a person who owns or leases property within the right-of-way of the investigative activities.

Subp. 3. **Agent.** "Agent" means a responsible person who will act as a contact person on behalf of the applicant or permittee.

Subp. 4. **Applicant.** "Applicant" means any person who applies to the board for a drilling permit.

Subp. 5. **Data.** "Data" means any factual measurements, statistics, or information obtained from the investigative activities.

Subp. 6. **Drilling permit.** "Drilling permit" means the written document issued by the board authorizing and outlining the rights and responsibilities of the permittee.

Subp. 7. **Investigative activities.** "Investigative activities" means the actions, whether in the laboratory or in the field, including visual inspection, mapping, surveying, photography, drilling, surface excavations, in situ testing, and all other research undertaken to establish the geologic and hydrologic condition and ranges of the parameters relevant to drilling in a potentially impacted area.

Subp. 8. **Permanent abandonment.** "Permanent abandonment" means the act of permanently sealing a drill hole for the purpose of permanently discontinuing the active and operational use of the drill hole.

Subp. 9. **Permittee.** "Permittee" means any person to whom a drilling permit is issued.

Subp. 10. **Right-of-way.** "Right-of-way" means the interest in real property used or proposed to be used around each drill hole and/or to obtain access to and from that drill hole.

Subp. 11. **Shelterbelt.** "Shelterbelt" means the barrier zone of grasses, shrubs, and trees planted to protect crops, soil, and other sensitive areas against erosion.

Subp. 12. **Split.** "Split" means a division of a core sample parallel to the axis of the core sample.

Subp. 13. **Temporary abandonment.** "Temporary abandonment" means the act of sealing, capping, or protecting a drill hole for the purpose of temporarily discontinuing use of the drill hole for a period of not more than five years.

4410.7902 PREAPPLICATION RESPONSIBILITIES OF APPLICANT.

A. Pursuant to Minnesota Statutes, section 116C.724, subdivision 3, paragraph (c), the applicant shall provide a notice of intent in writing to the chair at least ten days prior to initiating any contact with any landowner/tenant regarding negotiation of easement rights or other property interests that relate to predrilling right-of-way investigative activities. The notice of intent shall contain the legal description of the right-of-way, the property interest in that right-of-way, and the procedure by which the property interest is to be acquired.

B. The applicant shall provide the chair with copies of any permit, lease, permission, and/or easement agreements, within ten days of reaching the agreement, negotiated with landowners and/or tenants during the entire period a potentially impacted area is under consideration for investigative activities related to drilling. These agreements shall provide unrestricted access to the right-of-way as set forth in Minnesota Statutes, section 116C.724, subdivision 2, clause (4), and parts 4410.7900 to 4410.7934.

4410.7904 LICENSING OF EXPLORERS.

An applicant shall comply with Minnesota Statutes, section 156A.071, subdivision 2, and parts 4727.0400 to 4727.0900, relating to the regulation of exploratory boring.

4410.7906 PROCEDURE FOR THE ISSUANCE OF A DRILLING PERMIT.

Subpart 1. **Drilling permit required.** A drilling permit shall be obtained from the board for each potentially impacted area prior

to commencing any drilling to obtain geologic and hydrologic information, other than the drilling of geophysical shot holes, relating to the disposal of high level radioactive waste.

Subp. 2. **Content of an application for drilling permit.** An application for a drilling permit shall be filed by the applicant with the board and shall include:

- A. the name of the applicant seeking a drilling permit;
- B. the name and address of an agent for the applicant;
- C. the applicant's explorer's license, issued under Minnesota Statutes, section 156A.071, subdivision 2, and parts 4727.0400 to 4727.0900;
- D. a description of the proposed drilling operation including the number, type, size, and depth of drill holes;
- E. United States Geological Survey topographical maps to the scale 1:24,000 or smaller on which are drawn to scale the exact locations of the right-of-way and the proposed drill holes;
- F. a development plan showing the right-of-ways and the geographical and cultural features existing on each side of the right-of-ways in an area not less than 200 feet in width on each side of the right-of-way. The scale of the plan shall not be greater than 200 feet per inch. The development plan shall show, to the scale of the plan, dimensions, elevations, contours (using contour intervals of five feet or less), drill hole locations, field construction of drilling equipment, and present and planned pertinent features, including but not limited to roads, buildings, encampments, shelterbelts, fencing, surface water and its diversion or drainage, and present land use. The plan shall show the stages of development from right-of-way preparation through all phases of construction and maintenance.
- G. a time schedule for acquisition and construction of each right-of-way starting with the beginning of any investigative activities. The time schedule shall include the proposed commencement and finishing dates of each stage of investigative activities, and shall also include the proposed date of right-of-way clearance, temporary and permanent abandonment, right-of-way restoration activities, and the method and schedule of drill hole monitoring;
- H. a listing of the federal, state, and local permits that may be required for the proposed drilling and the accompanying right-of-way clearance;
- I. a description of the environmental setting and the potential environmental impacts of right-of-way clearance and drilling on the following:
 - (1) groundwater-bearing formations, whether in bedrock, glacial, or postglacial sediments;
 - (2) surface water;
 - (3) agricultural lands;
 - (4) man-made structures;
 - (5) transportation routes;
 - (6) residences;
 - (7) water wells;
 - (8) rare or endangered species; and
 - (9) wildlife habitat, native grassland, and other natural areas;
- J. existing or potential point and nonpoint sources of pollution on or near the right-of-way that could contaminate surficial water bodies or water-bearing formations underground because of the investigative activities.

Subp. 3. **Acceptance of drilling permit application.** Within 30 days of receipt of a permit application, the chair shall review it for completeness pursuant to subpart 2 and accept or reject the application. If the chair rejects the application, he shall upon rejection inform the applicant which deficiencies, if corrected, will allow the application to be accepted. Upon resubmission, the chair shall have 30 days to review the amended application and accept or reject it. After acceptance of an application, the applicant shall provide any additional relevant information that the chair or the board determines necessary for board approval of the application.

Subp. 4. **Copy of application to county auditor.** When an applicant files a permit application with the board, the applicant shall

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

simultaneously send a copy of the application to the office of the county auditor in each county or any portion of a county within the potentially impacted area. The county auditor shall retain and file the application in a manner making it accessible to the public.

4410.7908 INFORMATION MEETINGS.

Subpart 1. **Information meetings required.** The applicant or permittee, as appropriate, shall hold public information meetings as required by Minnesota Statutes, section 116C.724, subdivision 3, paragraph (b).

(1) The applicant shall hold one public meeting in the potentially impacted area after the permit application has been filed with the board and before the hearing required by part 4410.7950. At the meeting the applicant shall explain the scope of the planned investigative activities and the potential short- and long-term environmental, health, and safety impacts, if any, of the investigative activities.

(2) The permittee shall hold at least one public meeting every three months in the potentially impacted area during the investigation in order to answer questions, concerns, and complaints, and to provide the public with all current raw and interpreted data on the progress of the investigation.

Subp. 2. **Agenda.** The applicant or permittee, as appropriate, shall provide the agenda, and responses to concerns and issues raised at the public information meeting, in writing to the chair within 20 days of the meeting.

Subp. 3. **Evidence.** Any person may appear at the public information meetings and present written and/or oral testimony and exhibits relevant to the investigative activities.

Subp. 4. **Schedule and location.** The public information meetings shall be scheduled on weekday evenings that do not fall on a public holiday and shall begin no earlier than 7:00 p.m. The public information meetings shall be held in a facility centrally located within the potentially impacted area and sufficient in size to accommodate the reasonably projected attendance. If no adequate facility exists within the potentially impacted area, the meetings shall be held in an adequate facility near the potentially impacted area.

Subp. 5. **Notice.** Notice of each public information meeting held pursuant to subpart 1 shall be given by the applicant or permittee, as appropriate, by paid advertisement in a qualified newspaper, as defined in Minnesota Statutes, section 331A.01, subdivision 8, in general circulation in the potentially impacted area. The notice shall be published at least ten days and not more than 30 days prior to the meeting. The applicant or permittee shall notify the chair and the county auditor of each county or portion of each county within the potentially impacted area in writing at least ten days in advance of the meeting. The notice shall include the following information:

- A. the date, time, and place of the meeting;
- B. the agenda;
- C. the identity of the applicant or permittee and the name of the agent and the address and phone number where that person can be reached; and
- D. the locations where the most recent permit application or the drilling permit is available to the public.

4410.7910 HEARING PROVISIONS.

A contested case hearing under Minnesota Statutes, chapter 14 and parts 1400.5100 to 1400.8300 shall be held by the board for the purposes of collecting and verifying data, and establishing a complete and accurate record upon which to base a decision to grant or deny a drilling permit. The hearing shall be held after the chair accepts the application for completeness and before the board acts to approve or reject the application. The hearing shall be conducted by an administrative law judge from the State Office of Administrative Hearings. The board shall give notice of the hearing pursuant to part 1400.5600 and the notice shall include all information required by part 1400.5600, subpart 2.

4410.7912 BOARD CONSIDERATION.

Subpart 1. **Consideration and approval of the drilling permit application.** After acceptance of the application by the chair, and consideration of the findings, conclusion, and recommendation of the administrative law judge, the board shall either approve or reject the application. The board shall approve the application for a permit provided:

- A. that the application is complete;
- B. that the applicant has complied with all the requirements of Minnesota Statutes, section 116C.724, and parts 4410.7900 to 4410.7934; and
- C. that the investigative activities will not materially and adversely affect the environment, unless there is no feasible and prudent alternative and the conduct at issue is consistent with and reasonably required for promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its air, water, land, and other natural resources from pollution, impairment, or destruction.

If the board approves the application, the board shall within 90 days issue a permit to commence drilling in accordance with the time schedule and plans set forth in the application. The drilling permit shall contain the terms and conditions to assure compliance with Minnesota Statutes, section 116C.724, parts 4410.7900 to 4410.7934, and all applicable federal, state, and local ordinances. Upon receipt of the drilling permit, the permittee may begin the approved investigative activities relevant to drilling.

Subp. 2. **Copy of permit to county auditor.** The permittee shall, within three days of receipt of the permit from the board, send a copy of the drilling permit to the office of the county auditor in each county or portion of a county within the potentially impacted area. The county auditor shall retain and file the permit in a manner making it accessible to the public.

Subp. 3. **Report of complaints.** The permittee must promptly report to the chair any complaint received about investigative activities, right-of-way preparation, maintenance, restoration, and temporary and permanent abandonment.

Subp. 4. **Rejection of drilling permit application.** The board shall reject the application if it determines that the application has not met any of the conditions of subpart 1, items A to C. If the board rejects the application, it shall upon rejection inform the applicant which deficiencies if corrected will allow the application to be approved. If the deficiencies are corrected and the amended application is submitted to the board at least 30 days in advance of the board's next regularly scheduled meeting, the board shall consider the amended application at the next regularly scheduled meeting.

4410.7914 RIGHT-OF-WAY CLEARANCE AND MAINTENANCE.

A. The permittee shall ensure that it clears the right-of-way only to the extent necessary to assure safe drilling operations and to provide suitable access for construction and operation.

B. Equipment used in right-of-way preparation and maintenance shall comply with the noise control rules of the Pollution Control Agency published in chapter 7010.

C. Where the right-of-way as planned contacts water bodies and roads, clearing by the permittee shall be done so that a screen of any existing natural vegetation is left along the right-of-way adjacent to the water body or road. If the natural vegetation that existed prior to clearing cannot be left as a screen and suitable natural regeneration is not likely to occur within one full growing season following right-of-way restoration, native types of shrubs and trees shall be planted by the permittee to provide an adequate screen. Where the right-of-way as planned contacts water bodies of any size and type, the permittee shall act in accordance with federal law, including Executive Order 11990, that protects wetlands of all sizes and types, in accordance with Minnesota Statutes, chapters 104 and 105, which cover shoreland management, floodplain management, wild and scenic rivers, and permits required for protected waters, and in accordance with any other federal, state, and local laws, regulations, and ordinances. The amount and species of vegetation that will be planted to replace the vegetation removed from any Minnesota highway right-of-way shall be specified by the Minnesota Department of Transportation or appropriate county or local authority.

D. Investigative activities by the permittee in the vicinity of streams shall comply with Minnesota Statutes, chapter 105, permit requirements of the Department of Natural Resources so as to minimize damage to the natural condition of the area.

E. Stream banks disturbed during right-of-way clearance or investigative activities shall be stabilized, reclaimed, and seeded by the permittee.

F. Areas where natural vegetation has been removed and suitable natural regeneration is not likely to occur within one full growing season, shall be reseeded by the permittee within one full growing season after temporary abandonment.

G. Where significant grading or excavation or both is required, precautions shall be taken by the permittee to protect and segregate top soil.

H. Compaction of cropland by the permittee shall be kept to a minimum and confined to as small an area as practicable.

I. Precautions to protect livestock and crops shall be taken by the permittee.

J. All appropriate precautions to protect against pollution of the environment shall be taken by the permittee.

K. The permittee will repair or replace all drainage tiles broken or damaged during right-of-way preparation or investigative activities unless otherwise negotiated with the landowner or tenant, as appropriate, on whose property the tiles are located.

L. The permittee is responsible for the repair of private roads and lanes damaged when moving equipment or when obtaining access to the right-of-way and for the reimbursement to the landowner or tenant, as appropriate, for crop loss resulting from access to right-of-way damaged during preparation or drilling operations.

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

M. The permittee shall replace or repair all fences and gates removed or damaged during right-of-way preparation and investigative activities unless otherwise negotiated with the landowner or tenant, as appropriate.

N. Shelterbelts and trees shall be protected by the permittee whenever possible. If shelterbelts and trees must be cut, native shrubs and trees shall be planted to provide protection in accordance with the request of the landowner or tenant, as appropriate, unless otherwise negotiated with the landowner or tenant, as appropriate.

O. The permittee shall restore cropland to substantially its original condition, unless otherwise negotiated with the landowner or tenant, as appropriate. Restoration shall include grading, topsoil replacement, subsoiling and disking, or other methods as negotiated with the landowner or tenant, as appropriate.

P. The permittee shall return pasture to its former level of productivity, unless otherwise negotiated with the landowner or tenant, as appropriate. Pasture restoration shall include planting native or tame grasses or other restoration methods as negotiated with the landowner or tenant, as appropriate.

Q. The permittee shall restore other areas to substantially their original condition.

4410.7916 EMERGENCY NOTIFICATION.

The applicant or permittee, as appropriate, shall promptly notify the chair, the commissioner of health, the commissioner of natural resources, the pollution control agency, and the county health officer of each county or portion of a county in which investigative activities are conducted of any occurrence during investigative activities and related actions that has a potential for significant adverse health or environmental effects and shall take action as quickly as may be reasonably possible to minimize adverse effects.

4410.7918 LOCATION OF DRILL HOLES.

A permittee shall comply to the extent practicable with the following standards with respect to location of a drill hole.

A. A drill hole shall be located:

(1) when possible on a right-of-way that has good surface drainage, at a higher elevation than, and at a sufficient distance from cesspools, buried sewers, septic tanks, privies, barnyards, and feedlots or other possible sources of contamination, as provided in the Minnesota Water Well Construction Code, chapter 4725;

(2) so that the drill hole and its surrounding area can be kept in a sanitary condition;

(3) to exclude all sources of pollution that are known to the permittee, or reasonably should have been known to the permittee, from entering the drill hole; and

(4) 50 feet from any building and at least 1,000 feet from any occupied residence or occupied animal barn, or as negotiated with the landowner or tenant, as appropriate.

4410.7920 DRILL HOLE CONSTRUCTION STANDARDS.

A permittee shall comply with the following standards with respect to construction of a drill hole.

A. Drill holes shall be constructed in such a fashion as to facilitate testing and prevent any contamination of aquifers.

B. Drill holes not permanently abandoned within 30 days of completion must be constructed to the standards of the Minnesota Water Well Construction Code, chapter 4725 and any federal statutes and regulations applicable to deep wells.

4410.7922 USE OF DRILL HOLE FOR DISPOSAL PROHIBITED.

A drill hole shall not be used by the permittee for disposal of surface water, near surface water or groundwater or any other liquid, gas, chemical, or solid waste including drilling fluids.

4410.7924 CLEANUP PROCEDURES.

A permittee shall comply with the following clean-up procedures.

A. Cleanup of personal litter, including cans, bottles, and paper, deposited by drilling operation or right-of-way preparation crews on and off the right-of-way shall be on a daily and continuous basis.

B. Interim cleanup and proper disposal of all waste and scrap materials on and off the right-of-way work areas shall be carried out after each phase of the drilling operation.

C. After all the work has been performed, the land shall be restored to approximate original contour within a reasonable period of time, unless negotiated with the landowner or tenant, as appropriate.

D. All waste and scrap shall be removed or properly disposed of in accordance with the solid and liquid waste regulations of chapters 7035 and 7001.

4410.7926 ABANDONMENT OF EXPLORATORY BORINGS.

Pursuant to Minnesota Statutes, section 116C.724, subdivision 2, clause (1), any abandonment, whether temporary or permanent, shall comply with the state drilling and drill hole abandonment and restoration rules governing exploratory boring under Minnesota Statutes, chapter 156A, and parts 4727.1000 to 4727.1300.

4410.7928 SUBMISSION OF SPLITS AND DATA.

Subpart 1. **Request for samples or data.** Pursuant to Minnesota Statutes, section 116C.724, subdivision 2, clauses (5) and (6), the permittee shall submit splits or portions of a core sample to the commissioner of natural resources at the commissioner's request or to the director of the Minnesota geological survey at the director's request. If the permittee needs a sample in its entirety, the commissioner or director may accept certified and uninterpreted data of the sample in lieu of an actual portion if that data provides all the information necessary to obtain complete and accurate conclusions. Splits or certified data shall be presented to the commissioner or director within 30 days after the request is made and all samples submitted shall become the property of the state.

Subp. 2. **Required data.** Pursuant to Minnesota Statutes, section 116C.724, subdivision 3, the permittee or any person conducting geologic, hydrologic, or geophysical testing or any other studies relating to disposal is required to provide unrestricted access to both all raw and interpreted data to the chair and director of the Minnesota geological survey or their designated representatives within 30 days. The raw and interpreted data includes:

- A. core samples and splits;
- B. distribution of engineering and geophysical parameters including rippability of rock and surficial materials, degree of bedrock or surficial weathering including depth of exfoliation present, resistivity, seismic properties, elastic properties, and coefficients of thermal expansion and thermal conductivity;
- C. stratigraphic sections and geologic cross sections of the affected areas including structural, mineralogical, and petrological descriptions at a scale sufficient to delineate relevant stratigraphic changes, discontinuities, or sections of hydrologic or structural interest;
- D. location, depth, thickness, and mineral composition of all bedrock aquifers and other water-bearing formations;
- E. location, depth, thickness, geologic classification, and material classification of all Quaternary hydrogeologic units encountered;
- F. distribution of hydrologic parameters including vertical and horizontal hydraulic conductivity, sustained yield ratings, transmissivity, effective porosity, dispersivity, interstitial velocity, sorption coefficients, ion exchange capacity, and elevation of the potentiometric surface for all confined units and water level elevation for unconfined units for the area of potential environmental impact;
- G. the groundwater recharge and discharge areas and a description of the flow system including local, intermediate, and regional flow;
- H. structural discontinuities and their relationship to groundwater flow, including the presence of and effects on the flow system due to faults, fractures, joints, fissures, and microfissures. Related secondary permeability, rock pore pressure factors, and the extent and type of fracture filling material;
- I. groundwater samples with hydrogeochemical analyses of the area and location, including probable ranges of the chemical composition for major and trace ions and organics with location and depth and Eh-pH;
- J. postdrilling test results, including in-situ stresses, in-situ heat, and tracer tests;
- K. levels of preexisting radiation from natural elements and man-made structures;
- L. tests for solubility of radionuclides and radioactive chemicals, including but not limited to Cesium, Strontium, Carbon-14, Iodine 129, Plutonium, Technetium, Americium, Neptenium, Radon, and Radium;
- M. survey charts, maps, graphs, photographs, and interpretative and predecisional reports; and
- N. any and all other raw and interpreted data obtained through the studies related to the disposal of high-level radioactive waste.

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

4410.7930 PERMIT AMENDMENTS.

Subpart 1. **Amendments proposed by permittee.** Proposed amendments to the conditions set forth in the drilling permit regarding size, type, depth, number, and location of drill holes or the location of right-of-ways shall be sent in writing to the chair of the board. Revised maps, development plans, and descriptions of the environmental setting in accordance with part 4410.7906, subpart 1, shall accompany a detailed statement explaining the necessity and reasonableness of the amendments, all of which shall be sent by the permittee to be received by the chair at least ten working days before the day the proposed amendments are intended to become effective.

A. Within the ten working days the chair shall decide whether the proposed amendments require board approval and notify the permittee as to the status of the proposed permit amendments.

B. If, in the opinion of the chair, the proposed amendments would not significantly change the terms and conditions set forth in the drilling permit, or materially and adversely affect the environment, the amendments may be approved by the chair.

C. If, in the opinion of the chair, the proposed amendments would cause significant changes in the terms and conditions of the permit, or materially and adversely affect the environment, the chair shall submit the proposed amendments to the board at its next scheduled meeting following the chair's determination, providing his determination is made 20 days in advance of the next scheduled board meeting. The board shall approve the proposed amendments if the application as amended complies with all the requirements of Minnesota Statutes, section 116C.724 and parts 4410.7900 to 4410.7934. The board shall reject the proposed amendments if it determines that the application as amended would not comply with the requirements of Minnesota Statutes, section 116C.724 and parts 4410.7900 to 4410.7934. Proposed amendments submitted to the board shall not be implemented until the board approves them.

Subp. 2. **Amendments proposed by board.** The board shall, acting on its own initiative, amend the permit to prevent any material and adverse effect to the environment and to prevent any violation of parts 4410.7900 to 4410.7934 or the terms of the permit. The board shall give at least ten working days written notice to the permittee of board action to amend the permit. The permittee may appear before the board and offer evidence relevant to the proposed amendment.

4410.7932 PERMIT REVOCATION.

Subpart 1. **Initiation of revocation.** The board may initiate action to revoke a drilling permit upon a prima facie showing by affidavit and documentation that a violation may have occurred or is likely to occur of the terms and conditions of the permit or parts 4410.7900 to 4410.7934.

Subp. 2. **Hearing.** If the board determines that a hearing is necessary before revocation of a drilling permit, it shall order a contested case hearing. The findings, conclusions, and recommendations of the administrative law judge shall contain the opinion of the judge whether a violation has occurred or is likely to occur and whether corrective measures, permit revocation, or both, are necessary.

Subp. 3. **Considerations for board action.** Based upon the record and the findings, conclusions, and recommendations of the administrative law judge, if a contested case hearing was held, the board shall consider the following matters at its meeting:

A. whether a violation of any of the conditions in Minnesota Statutes, section 116C.724, subdivision 2, parts 4410.7900 to 4410.7934, or the drilling permit has occurred or is likely to occur;

B. whether the violation has resulted or will result in any significant adverse environmental effects; and

C. whether the results of the violation can be corrected or ameliorated.

Subp. 4. **Board action.** If the board finds that a violation of Minnesota Statutes, section 116C.724, subdivision 2, parts 4410.7900 to 4410.7934, or the terms and conditions of the drilling permit has occurred or is likely to occur, or that a material and adverse effect upon the environment has occurred or is likely to occur, the board shall require corrective measures, or amend or revoke the permit, unless the permittee has undertaken effective corrective or ameliorative measures to correct the violations.

Subp. 5. **Action by the chair.** The chair shall have the power to revoke a permit if all of the following conditions are present:

A. the three days needed to call an emergency board meeting would be too late to prevent a further violation; and

B. the violation is an imminent threat to the public health or safety or a serious or irreversible threat to natural resources.

If a permit is revoked by the chair, the board shall at its next meeting review the decision of the chair and vote to uphold or reverse the permit revocation or vote to hold a contested case hearing on the issue of revocation.

Subp. 6. **Effect of revocation.** If a permit is revoked, the permittee shall halt all drilling and investigative activities immediately. The permit may be reinstated by the board only after the violations are corrected. If the violations are corrected and the corrective action and results are submitted to the board at least 30 days in advance of the board's next scheduled meeting, the board shall consider reinstating the permit at that meeting. If it finds the violations are not corrected, the board shall inform the permittee which deficiencies, if corrected, will allow the permit to be reinstated.

4410.7934 APPLICATION AND MONITORING FEES.

Subpart 1. **Application fees.** Every applicant for a drilling permit shall pay to the board a base fee of \$20,000 to be paid as follows:

- A. 50 percent accompanying the application; and
- B. 50 percent to be paid five days before the hearing held pursuant to part 4410.7910.

Subp. 2. **Additional costs.** If the actual cost of processing an application, or amendments, holding hearings, whether required or initiated by the board, or costs incurred through permit revocation, exceeds the above fee, the board shall assess the permittee any additional fees necessary to cover the actual costs. All money received pursuant to this subpart shall be deposited in the general fund.

The board shall assess to the permittee all costs incurred in monitoring the investigative activities. The permittee shall be assessed staff and consultant expenses including housing, travel, office space within the potentially impacted area, equipment, administrative, logistical, and all other costs relating to the monitoring of the investigative activities.

Subp. 3. **Method of assessment.** The costs assessed under subpart 2 shall be assessed quarterly, at least 30 days before the start of each calendar quarter, by the board against the permittee. The money paid pursuant to the assessment shall be paid to the board within 30 days after receipt of the assessment, which assessment shall constitute notice of the assessment and demand for payment thereof. The total amount which may be assessed to the permittee under authority of this part shall not exceed the sum of the costs incurred through the monitoring, processing, and related activities. Money received by the board pursuant to any assessment shall be paid to the general fund.

Department of Human Services

Proposed Rules Relating to Referral of General Assistance Applicants and Recipients to Other Maintenance Benefit Programs

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Veterans Service Building, 20 West 12th St., St. Paul, Minnesota 55155 in Room D, 5th floor on January 24, 1986 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between January 16, 1986 and January 23, 1986 at (612) 297-1489.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Peter Erickson, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415; telephone 612/341-7606, either before the hearing or within five working days after the public hearing ends.

The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record.

Upon the close of the record, the Administrative Law Judge will write a report as provided for in Minnesota Statutes, section

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

14.50. The rule hearing is governed by Minnesota Statutes, section 14.01 to 14.56 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

These rules, parts 9500.1200, 9500.1206, 9500.1254 and 9500.1256 require local agencies to refer GA applicants and recipients to other maintenance benefit programs when it appears the applicant or recipient is eligible for the other program. The rules also specify the special services which the local agency must offer to recipients who are referred to SSI. These rules include definitions; scope and applicability statements; rules governing the referral of general assistance applicants and recipients to other maintenance benefit programs; provisions for special services to SSI applicants; interim assistance agreements and procedures for recovery of interim assistance; and procedures for reimbursement to qualified providers of special services. A revisor's re-numbering instruction is also included.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 256D.06, subdivision 5 and 256D.04, subdivision 2. The Department estimates that no additional spending will be required by local public bodies as a result of adoption of these rules. A fiscal note is not required for these rules according to Minnesota Statutes, section 3.983, subdivision 3(e).

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Mike Sirovy, Assistance Payments Division, Department of Human Services, 444 Lafayette Road, 2nd floor, St. Paul, MN 55101, telephone 612/297-2011.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Mike Sirovy.

NOTICE: Any person may request notification of the date on which the Administration Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10a, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spends more than \$250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, telephone 612/296-5615.

November 27, 1985

Leonard W. Levine, Commissioner
Department of Human Services

Notice of Intent To Adopt Rules without a Public Hearing and Notice of Intent to Adopt Rules with a Public Hearing If Twenty-Five or More Persons Request a Hearing

Notice is hereby given that the State Department of Human Services proposes to adopt the above-mentioned rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, sections 256D.06, subdivision 5 and 256D.04, subdivision 2.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule

PROPOSED RULES

addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON JANUARY 24, 1986 IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between January 16, 1986 and January 23, 1986 at (612) 297-1489.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Rae Bly
Rulemaking Division
Department of Human Services
444 Lafayette Road, 6th Floor
St. Paul, MN 55101
Telephone (612) 297-1489

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on January 15, 1986.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

These rules, parts 9500.1200, 9500.1206, 9500.1254 and 9500.1256 require local agencies to refer GA applicants and recipients to other maintenance benefit programs when it appears the applicant or recipient is eligible for the other program. The rules also specify the special services which the local agency must offer to recipients who are referred to SSI. These rules include definitions; scope and applicability statements; rules governing the referral of general assistance applicants and recipients to other maintenance benefit programs; provisions for special services to SSI applicants; interim assistance agreements and procedures for recovery of interim assistance; and procedures for reimbursement to qualified providers of special services. A Revisor's re-numbering instruction is also included.

The proposed rules will replace Minnesota Rules, part 9555.3417 [Emergency]. The emergency rules were the framework for the proposed permanent rules. The department believes these rules are noncontroversial because the emergency rules generated very little controversy and have been operating effectively for the past year. Referring general assistance applicants and recipients to other maintenance benefit programs has conserved both state and federal funds, and has enabled the county and the qualified provider to receive reimbursement for the provision of special services.

A copy of this rule is available upon request for your review from:

Mike Sirovy
Assistance Payments Division
Department of Human Services
444 Lafayette Road, 2nd Floor
St. Paul, MN 55101
Telephone (612) 297-2011

A Statement of Need and Reasonableness that described the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mike Sirovy upon request.

The Department estimates that no additional spending will be required by local public bodies as a result of adoption of these rules. A fiscal note is not required for these rules according to Minnesota Statutes, section 3.983, subdivision 3(e).

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Rae Bly.

November 27, 1985

Leonard W. Levine, Commissioner
Department of Human Services

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

Rules as Proposed

~~9555.3400~~ 9500.1206 DEFINITIONS.

Subpart 1. **Scope.** As used in parts ~~9500.0530~~ 9500.1200 to ~~9500.0532~~ and ~~9555.3400~~ to ~~9555.3410~~ 9500.1256, the following terms have the meanings given them.

Subp. 2. **Adult child.** "Adult child" means a person aged 18 years or older.

Subp. 3. **Advanced age.** "Advanced age" means the condition that applies to a recipient who:

A. is age 55 or older and whose work history shows a marked deterioration compared to ~~that~~ his or her work history prior to age 55 as indicated by decreasing occupational status, reduced hours of employment, or decreased periods of employment; or

B. if less than age 55, is evaluated by a vocational specialist as having significantly limited ability to obtain or retain suitable employment because of advancing age.

Subp. 4. **AFDC.** "AFDC" means the program authorized by title IV-A of the Social Security Act to provide financial assistance to needy families with dependent children.

Subp. 5. Applicant. "Applicant" means a person who has a ~~pending an~~ application pending with the local agency for general assistance ~~with a local agency or work readiness.~~

Subp. ~~5~~ 6. **Assistance standard.** "Assistance standard" means the amount established by the commissioner under Minnesota Statutes, section 256D.01, to provide for an assistance unit's shelter, fuel, food, clothing, utilities, necessary household supplies, and personal need items.

Subp. ~~6~~ 7. **Assistance unit.** "Assistance unit" means a single person, a single person and his or her minor children, a married couple, or a married couple and the minor children of either of those persons. To be included together in an assistance unit, the persons must ~~share a living arrangement and receive general assistance~~ reside together and the assistance unit must meet the conditions of part 9500.1208.

Subp. ~~7~~ 8. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or a ~~designee~~ designated representative.

Subp. 9. Costs or disbursements. "Costs" or "disbursements" means a qualified provider's actual out-of-pocket expenses incurred for the provision of special services to an applicant or recipient.

Subp. ~~8~~ 10. **Countable income.** "Countable income" means net earned and unearned income that is not exempt or disregarded under the general assistance program and ~~which that~~ is actually available to the recipient during the month covered by the grant.

Subp. ~~9~~ 11. **Department.** "Department" means the Department of Human Services.

Subp. ~~10~~ 12. **Director of the local agency.** "Director of the local agency" means the director of the local agency or the director's ~~designee~~ designated representative.

Subp. 13. Fees. "Fees" means a qualified provider's charge for the hours of direct provision of special services to an applicant or recipient.

Subp. ~~11~~ 14. **Full-time student.** "Full-time student" means a student attending a postsecondary institution who:

A. attends training for a minimum of 25 hours per week if the training does not involve shop practice and for a minimum of 30 hours per week if the training ~~involves~~ does involve shop practice for a vocational or technical student; or

B. registers for and attends a minimum of 12 credit hours per semester or quarter.

Subp. ~~12~~ 15. **Good cause.** "Good cause" means a reason for taking an action or failing to take an action that is reasonable and justified when viewed in the context of surrounding circumstances beyond the applicant's or recipient's control, including, ~~but not limited to:~~ illness of the person, illness of another family member which that requires the applicant's or recipient's presence, a family emergency, or the inability to obtain transportation.

Subp. ~~13~~ 16. **Grant.** "Grant" means the amount paid to a general assistance recipient as determined in part ~~9555.3402.~~

Subp. 16. Initial supplemental security income payment or initial SSI payment. "Initial supplemental security income payment" or "initial SSI payment" means the first payment of retroactive SSI benefits to the recipient covering the period when general assistance benefits were also paid.

Subp. 17. Interim assistance. "Interim assistance" means the total amount of general assistance provided to the recipient's assistance unit, based upon the state assistance standards and the negotiated rate provisions of part 9500.1249, to cover the period for which the initial payment of other maintenance benefits is made. The interim assistance period begins with the month of application for general assistance, the first month of eligibility for the other maintenance benefits, or the date the interim assistance authorization

agreement is signed, whichever is latest. The interim assistance period ends with the last month covered by the initial payment of the other maintenance benefits. The term does not include per diem payments made to shelters for battered women pursuant to Minnesota Statutes, section 256D.05, subdivision 3.

Subp. 18. Interim assistance authorization agreement. “Interim assistance authorization agreement” means the agreement in which the general assistance applicant or recipient agrees to reimburse the local agency for the amount of general assistance provided to his or her assistance unit during the period when eligibility for another maintenance benefit program is being determined. The agreement must require reimbursement to the local agency only when the general assistance applicant or recipient is found eligible for another maintenance benefit program and the initial payment of those other maintenance benefits has been made.

Subp. 19. Local agency. “Local agency” means a county, or a multicounty agency, that is authorized under Minnesota Statutes as the agency responsible for the administration of the general assistance program.

Subp. 20. Medical certification. “Medical certification” means a statement about a person’s illness, injury, or incapacity that is signed by a licensed physician or licensed consulting psychologist about a person’s illness, injury, or incapacity, or licensed psychologist whose professional training and experience qualifies him or her to diagnose or certify the person’s condition.

Subp. 16. MEED program. “MEED program” means the Minnesota Emergency Employment Development Act, under Minnesota Statutes, sections 268.60 to 268.77.

Subp. 21. Mentally ill. “Mentally ill” means the condition of a person who has a medically certified psychological disorder resulting in behavior that severely limits the person from in obtaining, performing, or maintaining suitable employment.

Subp. 22. Mentally retarded. “Mentally retarded” means the condition of a person who is medically certified as having has demonstrated deficits in adaptive behavior and intellectual functioning which is two or more standard deviations below the mean of a professionally recognized standardized test that severely limits the person in obtaining, performing, or maintaining suitable employment.

Subp. 23. Minor child. “Minor child” means a person under the age of 18.

Subp. 24. Negotiated rate. Except for shelter facilities provided for under Minnesota Statutes, section 256D.05, subdivision 3, “negotiated rate” means a general assistance payment which that includes room and board and which is either set by the state or local agency or is negotiated by one of those agencies with a party not included in the assistance unit. The set or negotiated rate is deemed to provide provides for an assistance unit’s shelter, fuel, food, utilities, household supply need items, and other costs necessary to provide room and board. The rate shall pay only for those items. It shall not include the clothing and personal needs allowance under Minnesota Statutes, section 256D.06, subdivision 3, payments for foster care, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, program costs, or other social services.

Subp. 21. Program. “Program” means the general assistance program established under the General Assistance Act, Minnesota Statutes, sections 256D.04 to 256D.21.

Subp. 25. Other maintenance benefits. “Other maintenance benefits” means any of the following:

A. workers’ compensation benefits as provided by Minnesota Statutes, chapter 176 and rules adopted thereunder;

B. unemployment compensation benefits as provided by Minnesota Statutes, sections 268.07 to 268.10 and rules adopted thereunder;

C. railroad retirement benefits as provided by United States Code, title 45, sections 231 to 231s;

D. veteran’s disability benefits as provided by United States Code, title 38, sections 301 to 363;

E. supplemental security income benefits as provided by United States Code, title 42, sections 1381 to 1383c;

F. social security disability insurance benefits as provided by United States Code, title 42, section 423; or

G. other programs identified by the local agency that provide periodic payments that can be used to meet basic needs and may reduce or eliminate the need for general assistance.

Subp. 26. Potentially eligible. “Potentially eligible” means that the local agency has determined that the applicant or recipient appears to meet the eligibility requirements of another maintenance benefit program.

Subp. 27. Qualified provider. A “qualified provider” means the local agency, or:

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

(1) a nonprofit legal assistance organization;

(2) an agency that employs licensed practitioners or accredited counseling staff or staff with a master's degree from an accredited program in social work, psychology, counseling, occupational therapy, or physical therapy;

(3) a private attorney at law; or

(4) another organization or person determined by the local agency to have sufficient training or experience to be effective in assisting persons to apply for and establish eligibility for SSI benefits.

Subp. ~~22~~ 28. **Recipient.** "Recipient" means a person who is currently receiving assistance under the general assistance program.

Subp. ~~23~~ 29. **Responsible relative.** "Responsible relative" means the spouse of an applicant or recipient, the parent of a minor child who is an applicant or recipient, or the parent of an adult child who resides with the parent and is an applicant or recipient.

Subp. 30. **SSI.** "SSI" means the supplemental security income program administered by the Social Security Administration under United States Code, title 42, sections 1381 to 1383c.

Subp. 31. **State participation.** "State participation" means state aid to local agencies for general assistance expenditures as specified in Minnesota Statutes, section 256D.03, subdivision 2.

Subp. ~~24~~ 32. **Suitable employment.** "Suitable employment" means a job that:

A. meets existing health and safety standards set by federal, state, or local regulations; ~~and~~

B. is within the physical and mental ability of a person as ~~determined by a vocational specialist; and~~

C. pays at least the minimum wage prescribed by state or federal law and provides more than 60 hours of work per month; ~~or~~
and

D. ~~is provided through the MEED program does not include temporary day labor.~~

Subp. ~~25~~ 33. **Vocational specialist.** "Vocational specialist" means a counselor of the Department of ~~Economic Security Jobs and Training~~ or Division of Vocational Rehabilitation, or another similarly qualified person who advises persons about occupational goals and employment.

Subp. ~~26~~. **~~Vocational or technical training program.~~** "~~Vocational or technical training program~~" means ~~a training program of two years or less which requires that the person be a full-time student and which is undertaken at a postsecondary area vocational-technical institute or a private business, trade, vocational, or technical school accredited, licensed, or approved under state laws and rules.~~

Subp. ~~27~~. **~~Vocational rehabilitation training program.~~** "~~Vocational rehabilitation training program~~" means ~~a program undertaken under an individualized written rehabilitation plan developed by the division of vocational rehabilitation or a vocational specialist.~~

Subp. ~~28~~. **~~Work experience and work training program.~~** "~~Work experience~~" and "~~work training program~~" means ~~an employment-related experience or training program or a short-term employment or training readiness program provided or supervised by a publicly funded agency.~~

Rules as Proposed (all new material)

9500.1200 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** Parts 9500.1200 to 9500.1256 establish the rights and responsibilities of the Department of Human Services, local agencies, and recipients of general assistance as they pertain to the administration of the general assistance program.

Subp. 2. **Applicability.** Parts 9500.1254 to 9500.1256 govern application for maintenance benefits from other sources, execution of an interim assistance authorization agreement, provision of special services to assist the applicant or recipient in applying for other maintenance benefits, reimbursement for interim assistance, and reimbursement for provision of special services. When parts 9500.1254 to 9500.1256 conflict with parts 9500.1236 to 9500.1248, then parts 9500.1254 to 9500.1256 shall prevail.

9500.1254 REFERRAL TO OTHER MAINTENANCE BENEFIT PROGRAMS.

Subpart 1. **Screening requirement.** The local agency must determine the potential eligibility of each general assistance applicant or recipient for other maintenance benefits as follows:

A. The local agency must determine an applicant's potential eligibility for other maintenance benefits when application for general assistance is made.

B. The local agency must determine a recipient's potential eligibility for other maintenance benefits at the recipient's semiannual redetermination of eligibility for general assistance. The local agency must also determine a recipient's potential

eligibility for other maintenance benefits whenever it determines that changes in the recipient's circumstances, including eligibility for medical assistance, indicate potential eligibility for other maintenance benefits.

C. If the local agency determines that the applicant or recipient is potentially eligible for other maintenance benefits, the local agency must document its determination on forms prescribed by the commissioner and must retain the forms in the local agency case record for the applicant or recipient.

Subp. 2. Informing requirement. When the local agency determines that the applicant or recipient is potentially eligible for other maintenance benefits, the local agency shall inform the applicant or recipient in writing of the following:

A. that the applicant or recipient must apply for the other maintenance benefit program, in accordance with subpart 4, item A;

B. that the applicant or recipient must execute an interim assistance authorization agreement, in accordance with subpart 4, item D;

C. that the applicant or recipient must comply with all procedures necessary to determine his or her eligibility or ineligibility for the other maintenance benefits in accordance with subpart 4, item C;

D. that the applicant or recipient must authorize the local agency and the qualified provider, when one is chosen, to exchange relevant data concerning the applicant's or recipient's eligibility with the other maintenance benefit program office, in accordance with subpart 4, item B;

E. the estimated amount of benefits the applicant or recipient may be eligible to receive under the other maintenance benefit program, if known;

F. the address at which the applicant or recipient shall apply for the other maintenance benefit program;

G. general instructions regarding how to apply for the other maintenance benefit program;

H. that the applicant or recipient may elect to receive special services to assist him or her in applying for SSI benefits, in accordance with part 9500.1256, subpart 1, and that the applicant or recipient has a right to choose to receive special services from the local agency or from another qualified provider;

I. notice of the actions which the local agency must take, in accordance with subpart 5, if the applicant or recipient fails to comply with the requirements under subpart 4, items A to D; and

J. notice of the applicant's or recipient's right to appeal a determination of ineligibility for general assistance due to noncompliance with subpart 4, items A to D.

Subp. 3. Referral requirement. When the local agency determines that the applicant or recipient is potentially eligible for another maintenance benefit program, the local agency shall refer the applicant or recipient to the other maintenance benefit program as follows:

A. The referral must be made on a form prescribed by the commissioner. A copy of the referral form must be mailed to the other maintenance benefit program office.

B. If the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the local agency shall:

(1) offer to provide special services to the applicant or recipient in accordance with part 9500.1256, subpart 1, to assist him or her in applying for and obtaining SSI;

(2) furnish the applicant or recipient with a list of qualified providers with whom the local agency has contracted to provide special services to applicants or recipients;

(3) refer the applicant or recipient to the Social Security Administration's local office to apply for SSI benefits;

(4) promptly notify the Social Security Administration's local office of the date of referral so that the earliest potential date of eligibility for SSI can be established; and

(5) if the applicant or recipient elects to receive the special services specified in part 9500.1256, subpart 1 from a qualified provider other than the local agency, the local agency shall refer the applicant or recipient to the chosen provider. If the

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

local agency has not contracted with the chosen provider, the local agency must enter into a contract with that qualified provider to provide special services to applicants or recipients who apply for SSI benefits.

C. If the local agency determines that an applicant or recipient is potentially eligible for another maintenance benefit program, and the applicant or recipient has previously applied for and been found ineligible for that other maintenance benefit program, he or she shall not be required to appeal from that decision or to reapply for that other maintenance benefit program unless one of the following conditions is met:

(1) the local agency determines that the applicant's or recipient's health or circumstances have changed and the change may result in eligibility for that other maintenance benefit program; or

(2) the eligibility requirements or procedures of the other maintenance benefit program have changed and the change may result in the applicant or recipient being found eligible for that other maintenance benefit program.

Subp. 4. Requirements upon referral for other maintenance benefits. When the local agency refers an applicant or recipient to another maintenance benefit program as provided under subpart 3, the applicant or recipient shall do the following:

A. The applicant or recipient shall apply for those benefits within 30 days of the date of referral. If the recipient has not provided the local agency with verification of his or her application for those benefits within 30 days of the date of referral, the local agency must contact the other maintenance benefit program local office to determine if the recipient has applied for benefits. If the local office of the other maintenance benefit program verifies that the recipient has applied for those benefits, the recipient shall be deemed to have met the requirement of applying for other maintenance benefits. If the local office of the other maintenance benefit program verifies that the recipient has not applied for those benefits, the local agency shall mail or give the recipient notice of termination from general assistance in accordance with subpart 5.

B. The applicant or recipient shall, within 30 days of the date of referral, provide his or her informed written consent and authorization for the local agency or a qualified provider, if one is chosen, to exchange data concerning the applicant or recipient with the other maintenance benefit program local office. The data exchanged must be relevant to a determination of the applicant's or recipient's eligibility or ineligibility for benefits from the other program.

For purposes of exchanging private or confidential data about a person for whom a qualified provider has contracted to provide special services, a qualified provider other than the local agency shall not be considered part of the welfare system under Minnesota Statutes, section 13.46, subdivision 1.

If the local agency determines that the recipient has not given informed written consent and authorization for the local agency or a qualified provider to exchange data concerning his or her eligibility or ineligibility for the other maintenance benefit program within the prescribed 30 days, the local agency shall mail or give the recipient notice of termination from general assistance in accordance with subpart 5.

C. A recipient shall comply with all procedures necessary to determine his or her eligibility or ineligibility for the other maintenance benefit program.

If the local agency determines that the recipient has not complied with the procedures necessary to determine his or her eligibility or ineligibility for other maintenance benefits, the local agency shall mail or give the recipient notice of termination from general assistance in accordance with subpart 5.

D. An applicant or recipient shall execute an interim assistance authorization agreement with the local agency within 30 days of the date of referral.

If the recipient fails to execute an interim assistance authorization agreement within the 30 days prescribed, the local agency shall mail or give the recipient notice of termination from general assistance in accordance with subpart 5.

Subp. 5. Ineligibility. This subpart governs termination of general assistance eligibility for a recipient who fails, without good cause, to comply with the requirements of subpart 4.

A. Upon determining that a recipient has failed, without good cause, to comply with the requirements of subpart 4, items A to D, the local agency shall mail or give the recipient notification of termination from general assistance. The local agency shall hand deliver or mail the written notice to the recipient at least 30 days before reducing, suspending, or terminating the recipient's monthly general assistance payment. The notice must be on a form prescribed by the commissioner and must:

(1) list the requirements with which the local agency believes the recipient has not complied and inform the recipient that he or she must comply with the requirements to avoid or end a period of ineligibility;

(2) inform the recipient that he or she will be terminated from general assistance if the recipient fails to comply with the listed requirements, specify the date that the recipient's general assistance will be terminated if he or she does not comply, and explain the recipient's right to appeal the action in accordance with subpart 6;

(3) offer assistance to resolve the circumstances or concerns which prevent the recipient from complying with the requirements of subpart 4; and

(4) inform the recipient of the continued availability of special services provided under part 9500.1256, subpart 1.

B. If the recipient complies with the requirements specified in the notice in item A prior to the termination date stated in the notice, a period of ineligibility must not be imposed.

C. A recipient who fails to comply with the requirements specified in the notice in item A prior to the termination date stated in the notice is ineligible for general assistance. The period of ineligibility begins on the date specified in the notice and continues until the person fulfills the requirements of subpart 4. The period of ineligibility always begins on the first day of a calendar month. If the ineligible person subsequently applies for general assistance, the application must be denied unless the requirements of subpart 4 have been met.

D. If the person is determined to be ineligible under item C, the assistance standard applicable to the person's assistance unit must be based on the number of remaining eligible members of the assistance unit.

Subp. 6. Appeals. A recipient to whom the local agency has given or mailed a notice of termination in accordance with subpart 5 may appeal the determination by submitting a written request for a hearing in accordance with Minnesota Statutes, section 256.045. If the recipient files a written request for an appeal on or before the first day of the period of ineligibility under subpart 5, item C, the recipient shall continue to receive general assistance while the appeal is pending, provided that the recipient is otherwise eligible for general assistance.

Subp. 7. Reimbursement for interim assistance. A local agency must seek reimbursement for the interim assistance provided to a person who has executed an interim assistance authorization agreement under subpart 4, item D, when the person receives a retroactive payment from the other maintenance benefit program. Reimbursement for interim assistance and special services provided to an SSI applicant or recipient is governed by part 9500.1256, subpart 2.

The local agency must request reimbursement for interim assistance from the person receiving other retroactive maintenance benefits, except for SSI, and may institute a civil action, if appropriate, to recover the interim assistance based on the interim assistance authorization agreement. From the interim assistance recovered, the local agency may retain 25 percent as reimbursement for the county's share of the interim assistance provided, and must credit the balance to the state as an advance payment to the local agency for the state's share of the next month's general assistance grants.

9500.1256 SPECIAL SERVICES FOR SSI APPLICANTS.

Subpart 1. Special services. A recipient who is referred to SSI in accordance with part 9500.1254, subpart 3, item B, may elect to receive special services to assist him or her in obtaining SSI benefits. Special services for which reimbursement for fees, costs, or disbursements may be claimed under subpart 2 or 3 are limited to the following:

A. explaining to or counseling the applicant or recipient about the application procedures and benefits available through the SSI program;

B. assisting the applicant or recipient in completing the application for SSI and arranging appointments related to application for SSI;

C. assisting the applicant or recipient in assessing his or her disability in relation to SSI eligibility, and identifying probable issues that may arise during the SSI eligibility determination process;

D. providing the applicant or recipient with medical or vocational evidence, social history, or expert testimony currently available to substantiate the presence and severity of the applicant's or recipient's blindness or disability;

E. assisting the applicant or recipient in obtaining and using medical or vocational evidence, social history, or expert testimony and in cooperating with the Social Security Administration and its agents, procedures, and requirements;

F. assisting the applicant or recipient with necessary transportation;

G. preparing for and representing the applicant or recipient at interviews, hearings, or appeals related to application for SSI or appeal of the Social Security Administration's determination of ineligibility for SSI;

H. the local agency's preparation of a contractual agreement with a qualified provider chosen by the applicant or recipient;

and

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

1. providing other services to assist the applicant or recipient to establish eligibility for SSI benefits.

Subp. 2. **Reimbursement for interim assistance and special services.** A local agency must be reimbursed for providing interim assistance and special services to an SSI applicant or recipient in the following manner:

A. Upon receiving the initial SSI payment for a person who has executed an interim assistance authorization agreement as specified in part 9500.1254, subpart 4, item D, the local agency may recover the amount of interim assistance provided. After recovering the interim assistance from the initial SSI payment, the local agency shall pay the remainder to the person or to a representative payee identified by the Social Security Administration within ten days of receiving the initial SSI payment. From the amount of interim assistance recovered, the local agency:

(1) shall retain 25 percent as reimbursement for the county's share of the interim assistance provided;

(2) may retain, subject to the provisions of subpart 3, item E, an additional 25 percent as an advocacy incentive for providing the special services specified in subpart 1, items A to D;

(3) may retain from the remaining 50 percent, subject to the provisions of subpart 3, item E, reimbursement for actual reasonable fees, costs, and disbursements related to appeals and litigation and provision of special services under subpart 1.

B. The local agency may not seek reimbursement from the applicant or recipient for the fees, costs, or disbursements of providing special services except as provided in item A.

C. The balance of the amount of interim assistance that is not retained by the local agency pursuant to item A or paid to another qualified provider under subpart 3 must be credited to the state as an advance payment to the local agency for the state's share of the next month's general assistance grants.

D. The local agency must document the fees, costs, and disbursements which it incurs in providing the special services to claim reimbursement. The local agency shall be reimbursed under item A, subitem (3), only for the direct costs of providing special services.

Subp. 3. **Reimbursement to qualified providers under contract with the local agency to provide special services.** Qualified providers under contract with the local agency to provide special services to general assistance applicants or recipients shall be reimbursed from the amount of interim assistance recovered by the local agency under subpart 2 in the following manner:

A. To receive reimbursement for the fees, costs, and disbursements related to appeals and litigation and the provision of special services as provided in subpart 1, the qualified provider shall enter into a contract with the local agency and provide one or more of the special services specified in subpart 1.

The contract must be on a form prescribed by the commissioner except that the local agency may add to or modify the form without changing the substance of the contract in order to meet standard contracting procedures established by the county board.

B. The local agency must reimburse a qualified provider under contract with the local agency for the provider's reasonable actual fees, costs, and disbursements, including medical reports and expert testimony related to appeals, litigation, and providing special services to an applicant or recipient in accordance with the following:

(1) a qualified provider shall not be reimbursed by the local agency for any fees, costs, or disbursements unless the applicant or recipient has requested the services, the local agency has referred the applicant or recipient to the qualified provider, and the local agency has received the initial SSI payment for the recipient served;

(2) the qualified provider shall be reimbursed by the local agency for fees related to the provision of special services at the rate determined by the qualified provider, but not to exceed \$75 per hour of service; and

(3) when a qualified provider requests reimbursement from the local agency for fees, costs, or disbursements related to services provided, the qualified provider shall document the total number of hours of services provided to the recipient and provide a record of its costs and disbursements.

C. A qualified provider under contract to provide special services must comply with the following:

(1) a qualified provider shall not require prepayment of any fees, costs, or disbursements from the applicant or recipient; and

(2) a qualified provider shall not seek reimbursement from the applicant or recipient for fees related to the provision of special services. If a qualified provider intends to seek reimbursement for costs and disbursements from an applicant or recipient in the event the applicant or recipient is determined to be ineligible for SSI and the qualified provider therefore will not be fully reimbursed by the local agency, the qualified provider must so inform the applicant or recipient prior to providing the special services. In addition, the qualified provider must inform the applicant or recipient that he or she may receive the special services from the local agency without cost and must obtain the applicant's or recipient's consent to provide the special services.

D. The total reimbursement for special services made by the local agency to all qualified providers must not exceed the

amount of interim assistance retained by the local agency as specified in subpart 2, item A, subitems (2) and (3), unless the excess is expressly authorized by the local agency and paid for exclusively with local agency funds.

E. If more than one qualified provider provides special services to an applicant or recipient, and the amount of interim assistance retained by the local agency will not fully reimburse all qualified providers, the reimbursement to each qualified provider for fees, costs, and disbursements shall be calculated by multiplying the total amount of funds available to the local agency as specified in subpart 2, item A, subitems (2) and (3), including any excess funds authorized by the local agency under item D, by the qualified provider's reimbursement percentage. The qualified provider's reimbursement percentage shall be determined by dividing the number of hours spent by each qualified provider who provided special services by the total number of hours spent by the local agency and all other qualified providers under contract with the local agency who have provided special services to the applicant or recipient.

F. If the local agency and one or more other qualified providers provide special services to an applicant or recipient, and the amount of interim assistance recovered by the local agency under subpart 2, item A, subitems (2) and (3), exceeds the amount necessary to fully reimburse the qualified providers for fees, costs, and disbursements, the local agency may retain up to the full amount of interim assistance recovered under subpart 2, item A, subitem (2).

G. The local agency may reimburse a qualified provider for fees, costs, and disbursements for special services provided during the six-month period before the applicant or recipient was referred to the qualified provider, unless the contracting procedures of the particular county prohibit this payment. The provider's fees, costs, or disbursements for special services provided before the person's application for general assistance may be reimbursed only if funds remain after reimbursement for special services provided to the person after the person made application for general assistance.

H. The local agency and another qualified provider may contract to jointly provide the special services specified in subpart 1.

Subp. 4. Termination of special services and contracts. Special services and contracts must be terminated in the following manner:

A. If an applicant or recipient requests in writing that the local agency terminate the special services agreement with a qualified provider, the special services agreement for that applicant or recipient must be terminated, and the local agency shall mail written notice of the termination to the qualified provider. The notice must include a copy of the applicant's or recipient's written request for termination of the special services agreement. Termination of the agreement is effective three days after the date when the notice is mailed. The qualified provider shall not be reimbursed for fees, costs, or disbursements for special services provided to an applicant or recipient after the effective date of termination.

B. If a qualified provider decides to stop providing special services to an applicant or recipient, the qualified provider shall give or mail the following information to the applicant or recipient and, if the qualified provider is not the local agency, to the local agency:

- (1) the status of the applicant's or recipient's application for SSI benefits;
- (2) any deadlines that must be met regarding the applicant's or recipient's application for SSI benefits;
- (3) the right of the applicant or recipient to choose another qualified provider, and the local agency's obligation to enter into a contract with a new qualified provider to provide the special services specified if the applicant or recipient chooses a qualified provider other than the local agency; and
- (4) that a list of qualified providers may be obtained from the local agency.

Termination of the contract is effective three days after the date the provider gives or mails the information required in subitems (1) to (4) to the client.

C. If a qualified provider fails to perform all or part of the terms of the contract with the local agency, the local agency may terminate the contract with the provider. The local agency shall terminate the contract and mail written notice to the qualified provider and to the recipients served by the qualified provider. The notice must specify the local agency's grounds for terminating the contract. Termination of the contract is effective three days after the notice is mailed to the qualified provider. The local agency shall also give the recipient a list of other qualified providers who have contracted with the local agency to provide the special services specified in subpart 1. The qualified provider shall not be reimbursed for fees, costs, or disbursements related to special services provided after the effective date of termination.

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

REPEALER. Minnesota Rules, parts 9500.0500, 9555.3401, 9555.3403, 9555.3404, 9555.3406, and 9500.0530, item E, are repealed.

RENUMBERING INSTRUCTION. Each Minnesota Rules part in column A shall be renumbered with the Minnesota Rules part set forth in column B.

Column A	Column B
9500.0510	9500.1202
9500.0520	9500.1204
9555.3400	9500.1206
9500.0530	9500.1208
9500.0531	9500.1210
9500.0532	9500.1212
9500.0540	9500.1234
9500.0550	9500.1236
9500.0560	9500.1238
9500.0570	9500.1240
9500.0580	9500.1242
9500.0590	9500.1244
9500.0600	9500.1246
9500.0610	9500.1248
9555.3402	9500.1249
9555.3408	9500.1250
9555.3409	9500.1252

Department of Labor and Industry

Withdrawal of Proposed Rules Relating to Workers' Compensation; Independent Contractor

Notice of Withdrawal of Proposed Rules

Notice is hereby given that the independent contractor rules proposed and published in the *State Register* on August 19, 1985, on pages 425-451 (10 S.R. 425), are hereby withdrawn pursuant to Minn. Stat. § 14.05, subd. 3 (1984).

The comments and hearing requests received during the 30-day comment period following the August 19 publication of the proposed rules necessitate substantial modifications to the proposed rules. The Department intends to redraft the rules and to propose the adoption of the redrafted rules.

December 2, 1985

Steve Keefe
Commissioner
Department of Labor and Industry

Pollution Control Agency

Proposed Rules Relating to Acid Deposition Control

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing will be held on the proposed adoption by the Minnesota Pollution Control Agency (MPCA) of Minn. Rules Parts 7005.4010 to 7005.4050, rules establishing an acid deposition standard and a control plan. The hearings will be held on the following dates in the following locations:

<u>Date</u>	<u>Time</u>	<u>Location</u>
January 22, 1986	9:30 a.m.	MPCA Board Room 1935 West County Road B-2 Roseville, Minnesota 55113

January 27, 1986	7:00 p.m.	MPCA Board Room (see address above)
February 3, 1986	1:00 p.m. and 7:00 p.m.	Commissioner's Boardroom St. Louis County Courthouse Duluth, Minnesota
February 4, 1986	7:00 p.m.	Arrowhead Community College 1515 East 25th Street Hibbing, Minnesota 55746
February 10, 1986	7:00 p.m.	University of Minnesota Rochester Center Friedell Building 1200 South Broadway Rochester, Minnesota 55901

The hearing will continue at additional times and places determined during the hearing by the Administrative Law Judge. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

This matter will be heard by Administrative Law Judge Allan Klein, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, (612) 341-7609. The rule hearing procedure is governed by Minn. Stat. §§ 14.14 to 14.20 (Supp. 1985) and by the rules of the Office of Administrative Hearings, Minn. Rules Parts 1400.0200 to 1400.1200 (1985). Persons having questions concerning the rule hearing procedure should contact the Administrative Law Judge at the address and telephone number stated above.

The proposed rules are authorized by Minn. Stat. § 116.44 (1984). The proposed rules are published below. One free copy of the proposed rules is available on request by contacting:

David Thornton
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7800

The MPCA has prepared a Statement of Need and Reasonableness that includes a summary of all the evidence and argument which the MPCA anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules.

Copies of the Statement of Need and Reasonableness are now available for review at the Office of Administrative Hearings, at the MPCA offices in Roseville, and at the MPCA regional offices in Duluth [telephone: (218) 723-4660]; Detroit Lakes [telephone: (218) 847-1519]; Brainerd [telephone: (218) 828-2494]; Marshall [telephone: (507) 537-7146]; and Rochester [telephone: (507) 285-7343]. The Statement of Need and Reasonableness is also available for review at public libraries in Hibbing, Virginia, Ely, Grand Marais, Grand Rapids, Park Rapids, and International Falls.

Copies of the Statement of Need and Reasonableness may be purchased for the cost of reproduction by contacting the Office of Administrative Hearings or the MPCA, Roseville office. However, please be advised that the Statement of Need and Reasonableness is 700 pages long. The Introduction to the Statement, which summarizes the MPCA's rationale for the proposed rules, is available free of charge by contacting David Thornton at the MPCA's Roseville office (telephone: (612) 296-7800).

Any person may present his or her views on the proposed rules in one or more of following ways: by submitting written data to the Administrative Law Judge at any time before the close of the hearing; by submitting oral or written data at the hearing; and by submitting written data to the Administrative Law Judge during the comment period following the hearing. The comment period will be not less than five working days after the public hearing ends. The comment period may be extended for a longer period not

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

to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. The written material received during the comment period shall be available for review at the Office of Administrative Hearings. Within three business days after the expiration of the comment period, the MPCA and interested persons may respond in writing to any new information received during the comment period; however, no additional evidence may be submitted during this three-day period.

Comments on the proposed rule, whether written or oral, are most helpful when the commenter suggests specific alternative language to that which is proposed and provides the reasons and the data to support the suggested change. The MPCA requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment period also submit a copy of the written data to David Thornton at the address stated above.

The proposed rule amendments may be modified if the data and views received during the hearing process warrant modification and the modification does not result in a substantial change in the proposed amendments.

Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the MPCA may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Agency at any time prior to the filing of the rules with the Secretary of State.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1984), "Small business considerations in rulemaking," that the proposed rules are not expected to have any direct impact on small businesses at this time due to the fact that the control plan contained in the proposed rule does not impose any requirements on entities that are small businesses. Small businesses may incur a small increase in utility rates as a result of the requirements of the proposed control plan. The establishment of the proposed acid deposition standard could, after 1990, result in the imposition of additional regulatory requirements on facilities emitting sulfur dioxide, some of which facilities could be small businesses. However, the extent of those future requirements depends on industrial growth over the next several years and therefore cannot be determined until after 1990. The effect of the proposed rules on small businesses is discussed further in Part VI. of the Statement of Need and Reasonableness.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (Supp. 1985) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250 not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Thomas J. Kalitowski
Executive Director

Rules as Proposed (all new material)

7005.4010 DEFINITIONS.

Subpart 1. **Scope.** The definitions in part 7005.0100 apply to the terms used in parts 7005.4010 to 7005.4050 unless the terms are defined in this part.

Subp. 2. **Offsets.** "Offsets" means any documented reductions in actual emissions of sulfur dioxide that are legally enforceable.

Subp. 3. **Sensitive areas.** "Sensitive areas" means the areas listed by the agency pursuant to Minnesota Statutes, section 116.44 because the agency has determined these areas contain natural resources sensitive to the impacts of acid deposition.

7005.4020 APPLICABILITY.

The acid deposition standard established in part 7005.4030 applies only in sensitive areas.

7005.4030 ACID DEPOSITION STANDARD.

The acid deposition standard is an annual average of 11 kilograms of wet sulfate deposition per hectare.

7005.4040 MEASUREMENT METHODOLOGY FOR SULFATE.

Subpart 1. **Incorporation by reference.** Quality Assurance Handbook for Air Pollution Measurement Systems (EPA-600/4-82-042 a & b), as amended, is incorporated by reference. This publication is available from the United States Environmental Protection Agency, Office of Research and Development, 26 West St. Clair, Cincinnati, Ohio 45268 and can be found at the offices of the agency, 1935 West County Road B-2, Roseville, Minnesota 55113, the Government Documents Section, Room 409, Wilson Library, University of Minnesota, 309 19th Avenue South, Minneapolis, Minnesota 55454, and the State of Minnesota Law Library, Ford Building, 117 University Avenue, St. Paul, Minnesota 55155. This document is not subject to frequent change.

Subp. 2. **Measurement procedure.** For sulfate, measurements made to determine compliance with the standard contained in part 7005.4030 shall be performed in accordance with the Quality Assurance Handbook for Air Pollution Measurement Systems: Volume V, Manual for Precipitation Measurement Systems (EPA-600.4-82-042 a & b). A person seeking to make measurements to determine compliance with the acid deposition standard shall develop and submit to the director for approval a quality assurance plan containing equipment specifications and procedures for operation, maintenance, and internal quality control of the measurement system.

7005.4050 ACID DEPOSITION CONTROL REQUIREMENTS IN MINNESOTA.

Subpart 1. **Specific emission limitations.** The owners and operators listed below may not emit from their emission facilities within Minnesota total emissions of sulfur dioxide in excess of the amount of emissions listed below. These limitations shall apply beginning January 1, 1990.

<u>Owner/Operator</u>	<u>Sulfur Dioxide Emissions</u>
Northern States Power Company	91,000 tons per year
Minnesota Power Company	39,000 tons per year

Subp. 2. **Offsets required.** In the event that an owner or operator listed in subpart 1 intends to increase emissions of sulfur dioxide from its emission facilities in Minnesota after January 1, 1990, beyond the limitations specified in subpart 1, such owner or operator shall obtain sulfur dioxide emission offsets equal to the amount to be emitted in excess of the limitation specified.

Subp. 3. **Transfer requiring reduced emissions.** In the event of the sale or other transfer of ownership of any of the emission facilities owned by Northern States Power Company on July 1, 1985, or of any of the emission facilities owned by Minnesota Power Company on July 1, 1985, the amount of sulfur dioxide emissions allowed by Northern States Power Company or Minnesota Power Company shall be reduced by the amount of emissions emitted by the transferred emission facility in 1984 or the maximum SO₂ emissions allowed under the permit issued to the new owner or operator whichever is greater.

Subp. 4. **1990 recommendations required.** On or before February 1, 1988, the director shall make a recommendation to the agency as to what, if any, additional regulatory requirements need to be imposed on emission facilities in Minnesota in order to maintain or achieve a statewide sulfur dioxide emission limitation of 224,000 tons per year on and after January 1, 1990.

Subp. 5. **King facility limitation.** On and after January 1, 1990, the owner or operator of the Allen S. King electric generating facility shall limit the emissions of sulfur dioxide from the facility to an annual average of 1.2 pounds per million BTU.

Subp. 6. **Boswell facility limitation.** On and after January 1, 1990, the owner or operator of the Clay Boswell electric generating facility, units 1 through 4, shall limit the emissions of sulfur dioxide from the facility to an annual average of 0.75 pounds per million BTU.

Subp. 7. **1994 recommendations required.** On or before February 1, 1992, the director shall make a recommendation to the agency as to what, if any, additional regulatory requirements need to be imposed on emission facilities in Minnesota in order to maintain or achieve a statewide sulfur dioxide emission limitation of 194,000 tons per year on and after January 1, 1994.

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.

Pollution Control Agency

Proposed Rules Relating to Processing 401 Certifications and Other Amendments

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends, without a public hearing, to adopt Minn. Rules 7001.1400 to 7001.1470, Section 401 Certification Rules, and associated amendments to the Agency's Permit Rules, Minn. Rules Parts 7001.0010 and 7001.0020.

The proposed rules, if adopted, will establish procedural and substantive requirements for certifications processed by the Agency under Section 401 of the Clean Water Act, 33 U.S.C. § 1341 (1983). The proposed rules are authorized by Minn. Stat. § 115.03 (1984). The proposed rules are published below. One free copy of the rules is available on request from the Agency. Please contact the person whose name and address appears below.

The Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon by the Agency to support the proposed amendments. Copies of the Statement of Need and Reasonableness and of the proposed amendments are available and may be obtained by contacting:

Lou Flynn
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7355

Interested persons have until 4:30 p.m. on January 17, 1986, to submit comments on the proposed rules. Comments should be submitted to Lou Flynn at the address stated above. The proposed rules may be modified if the data and views received by the Agency before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed rules.

Unless the Agency receives twenty-five written requests for a public hearing on the proposed rules during the comment period, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. §§ 14.131-14.20 (Supp. 1985). If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the rules by the Agency Board, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be sent 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 adopted, should submit a written statement of such request to Lou Flynn at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (Supp. 1985), "Small business considerations in rulemaking," that the proposed amendments may affect small businesses. However, the proposed rules are generally procedural in nature; the substantive requirements for the protection of water quality are already applicable to discharges subject to Section 401 certification requirements. Based on the Agency's experience with using procedures similar to those embodied in the proposed rules in the past, the procedures do not impose a hardship on small businesses.

Thomas J. Kalitowski
Executive Director

Rules as Proposed

7001.0010 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Permit.** "Permit" means a discharge, emission, and disposal authorization; a construction, installation, or operation authorization; and other agency authorizations designated "permit" in Minnesota Statutes, chapters 115 and 116, including Minnesota Statutes, sections 115.03, subdivision 1; 115.07; 116.07, subdivision 4a; 116.081; and 116.091. "Permit" does not include an

“order,” “variance,” or “stipulation agreement” as defined in part 7000.0100 and does not include a “certification.” However, the exclusion of “certification” from the definition of “permit” shall not in any way be considered to affect the applicability of parts 7001.0010 to 7001.0210 to the processing of certifications by the agency under section 401 of the Clean Water Act, United States Code, title 33, section 1341, to the extent provided by parts 7001.1400 to 7001.1470.

Subp. 4. [Unchanged.]

7001.0020 SCOPE.

Except as otherwise specifically provided, parts 7001.0010 to 7001.0210 apply to the following:

A. to J. [Unchanged.]

K. The processing of certifications under section 401 of the Clean Water Act, United States Code, title 33, section 1341, to the extent provided by parts 7001.1400 to 7001.1470.

Rules as Proposed (all new material)

7001.1400 APPLICABILITY.

Parts 7001.1400 to 7001.1470 govern the processing of certifications by the agency under section 401 of the Clean Water Act, United States Code, title 33, section 1341 (hereinafter “section 401 certifications”). Parts 7001.0010 to 7001.0210 apply to the processing of section 401 certifications except as specifically otherwise provided in parts 7001.1400 to 7001.1470. In applying parts 7001.0010 to 7001.0210 to the processing of section 401 certifications, the word “permit” shall be construed to mean “section 401 certification” and the term “permittee” shall be construed to mean “certificate holder.” Parts 7000.0100 to 7000.1600, 7001.0010 to 7001.0210, and 7001.1400 to 7001.1470 shall be construed to complement each other.

7001.1410 DEFINITIONS.

Subpart 1. **Scope.** The definitions in Minnesota Statutes, section 115.01 apply to the terms used in parts 7001.1400 to 7001.1470 unless those terms are defined in this part.

As used in parts 7001.1400 to 7001.1470, the terms in subparts 2 to 4 have the meanings given them.

Subp. 2. **Director.** “Director” means the director of the Minnesota Pollution Control Agency.

Subp. 3. **Clean Water Act.** “Clean Water Act” means the federal Water Pollution Control Act, as amended, commonly referred to as the Clean Water Act, United States Code, title 33, sections 1251 et seq.

Subp. 4. **National pollutant discharge elimination system.** “National pollutant discharge elimination system” means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements under sections 307, 318, 402, and 405 of the Clean Water Act, United States Code, title 33, sections 1317, 1328, 1342, and 1345.

7001.1420 REQUIREMENT TO APPLY FOR CERTIFICATION.

Any person who is required by section 401 of the Clean Water Act, United States Code, title 33, section 1341, to obtain a certification from the state of Minnesota shall make application to the agency.

7001.1430 APPLICATION DEADLINES.

Part 7001.0040, subparts 1 and 2 apply to applications for issuance, modification, revocation and reissuance, or reissuance of a section 401 certification, except that the time period referenced in part 7001.0040, subpart 1, shall be 90 days instead of 180 days.

7001.1440 PUBLIC NOTICE OF APPLICATION AND PRELIMINARY DETERMINATION.

Subpart 1. **Public notice required.** Except as provided in subpart 2, the director shall prepare and issue public notices in accordance with the requirements of part 7001.0100, subpart 4, except that the public comment period shall be established by the director on a case-by-case basis after considering the scope, nature, and potential impacts on water quality of the project. In no event shall the public comment period be less than ten days.

Subp. 2. **Exception.** The director is not required to prepare and distribute a public notice pursuant to part 7001.0100, subpart 4, if the director finds that a federal agency or department has prepared and distributed or will prepare and distribute a public notice

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

concerning a section 401 certification in accordance with the public notice requirements applicable to the federal agency or department under federal statutes or regulations, so long as the notice is actually prepared and distributed.

7001.1450 FINAL DETERMINATION.

Subpart 1. **Action required.** The agency shall make final determinations with respect to section 401 certifications by taking one of the following actions:

A. Issue, reissue, revoke and reissue, or modify a section 401 certification in accordance with part 7001.0140, subpart 1 and upon making a finding that the discharge which is the subject of the section 401 certification will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, United States Code, title 33, sections 1311, 1312, 1313, 1316, and 1317.

B. Deny or revoke a section 401 certification upon making the findings set forth in part 7001.0140, subpart 2 or the findings set forth in subpart 2.

C. Waive the agency's authority to issue a section 401 certification in accordance with part 7001.1460.

Subp. 2. **Denial of certification required.** The agency shall deny a section 401 certification if the agency finds that the issuance will result in a discharge of a radiological, chemical, or biological warfare agent.

7001.1460 WAIVER.

With respect to the discharge that is the subject of the application, the agency is considered to have waived its authority to issue a section 401 certification under the following circumstances:

A. If the agency notifies the applicant in writing that it is waiving the agency's authority to certify the project. If issuance of the waiver is conditional, the notification shall specify the conditions that must be met.

B. If the agency fails or refuses to make a final determination on an application for a section 401 certification within one year after receipt of the application and the agency's failure or refusal to act is not a result of the applicant's failure or refusal to cure a deficiency in the application as required by the director pursuant to part 7001.0090.

7001.1470 TERMS AND CONDITIONS OF SECTION 401 CERTIFICATIONS.

Subpart 1. **General terms required.** A section 401 certification issued by the agency shall include the following:

A. The name and address of the certificate holder.

B. A statement that the agency has examined the section 401 certification application and any other information furnished by the applicant and bases its certification upon an evaluation of this information that is relevant to water quality considerations.

C. A statement that there is reasonable assurance that the activity will be conducted in a manner that will not violate applicable water quality standards.

D. The terms and conditions in part 7001.0150, except that the provisions of part 7001.0150, subpart 1 do not apply to section 401 certifications. In addition to the special conditions in part 7001.0150, subpart 2, a section 401 certification shall contain the special conditions described in subpart 2.

Subp. 2. **NPDES conditions.** A section 401 certification shall contain the special conditions described in part 7001.1080, subparts 2 to 9, which conditions shall be established in the same manner as special conditions are established under part 7001.1080 for national pollutant discharge elimination system permits.

Pollution Control Agency

Proposed Rules Relating to Water Quality Permit Fees

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt, without a public hearing, rules establishing fees for water quality permits. The rules will be adopted in accordance with the provisions of Minn. Stat. § 16A.128 (Supp. 1985) and in accordance with Minn. Stat. § 14.22-14.28 (Supp. 1985).

The Agency previously published proposed rules for both air quality and water quality permits, codified as Minn. Rules Parts 7002.0010-7002.0110 (10 S.R. 456, August 19, 1985.) However, following receipt by the Agency of a substantial amount of adverse comments on the proposed water quality permit fees, the portions of the proposed rules relating to water quality permit fees have been withdrawn. The rules which are attached to this notice reflect a revised fee schedule which is, in part, based on facility flow.

The proposed rules are authorized by Minn. Stat. § 116.07, subd. 4d (Supp. 1985). The proposed rules are published below.

In order to facilitate public comment on these proposed rules, the Agency will hold two public informational meetings on the following dates at the following locations:

<u>Date</u>	<u>Time</u>	<u>Location</u>
December 18, 1985	2:00 p.m. and 6:30	Dept. of Transportation Building 2505 Transportation Road Willmar, MN 56201
December 19, 1985	2:00 p.m. and 6:30 p.m.	City Council Chambers 420 N. Pokegama Grand Rapids, MN 55744

The Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon by the Agency to support the proposed rules. Copies of the Statement of Need and Reasonableness and of the proposed rules are available and may be obtained by contacting the Agency at (612) 296-7221.

Interested persons have until 4:30 p.m. on January 17, 1986, to submit comments on the proposed rules. Comments should be submitted to:

Douglas Hall
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7221

The proposed rules may be modified if the data and views received by the Agency before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed rules.

Unless the Agency receives, within the comment period, written requests for a hearing on the proposed rules from twenty percent of the persons who will be required to pay a fee, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. §§ 14.131-14.20 (Supp. 1985). If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the rules by the Agency Board, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule amendments as adopted will be sent 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 amendments as adopted, should submit a written statement of such request to the Agency at the address previously stated.

The Agency estimates that the cost of these rules, for the two years immediately following their adoption, to all local public bodies in the state, will be approximately \$800,000. For the purposes of this estimate, "local public bodies" is defined by Minn. Stat. § 14.11 (Supp. 1985) as "officers and governing bodies of the political subdivisions of the state and other officers and bodies of less than state wide jurisdiction which have the authority to levy taxes."

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1984), "Small business considerations in rulemaking," that the proposed rules will affect small businesses because they will impose permit fees upon those small businesses which are required to obtain water quality permits. However, the rules do provide some consideration to small businesses by allowing small businesses and small municipal waste water treatment plants to pay the processing fee in annual installments over the life of the permit (See Minn. Rule pt. 7002.0260).

Thomas J. Kalitowski
Executive Director

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

Rules as Proposed (all new material)

7002.0210 SCOPE.

Parts 7002.0210 to 7002.0310 apply to all persons required to obtain a permit from the Minnesota Pollution Control Agency as described in part 7001.0020, items C, E, F, and H.

7002.0220 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 7002.0210 to 7002.0310, the terms defined in this part have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. **Director.** "Director" means the executive director and chief executive officer of the Minnesota Pollution Control Agency.

Subp. 4. **Major NPDES facility; definition.** "Major NPDES facility" means a wastewater treatment discharger designated by the director and the regional administrator of the United States Environmental Protection Agency as part of the annual work plan that is developed in accordance with and that is subject to the public participation requirements of Code of Federal Regulations, title 40, part 35, and subject to review and approval of the agency. The agency and the United States Environmental Protection Agency shall designate the following types of facilities as major NPDES facilities unless the agency and the United States Environmental Protection Agency find that the facility does not have a potential for significantly impacting water quality:

A. a publicly-owned treatment facility with an average design flow of 1,000,000 gallons per day or more;

B. an electrical generating facility that is not primarily standby or a peaking facility with a generation capacity of 100 megawatts or greater;

C. a facility that is primary industry as defined in Code of Federal Regulations, title 40, section 122.2, or other industry that discharges quantities of process wastewater, which are significant due to the volume, pollutant loading, or other discharge parameters or the character of the receiving water; or

D. a facility with an actual or potential discharge of toxic pollutants under section 307(a)(1) of the Clean Water Act, United States Code, title 33, section 1317.

Subp. 5. **Municipal permit; definition.** "Municipal permit" means a permit issued to a municipality as defined in part 7001.1020, subpart 18, for the discharge or disposal of wastewater which is a five percent or more sewage. Permits issued to municipalities for facilities treating or disposing of waste that is less than five percent sewage shall be considered nonmunicipal permits.

Subp. 6. **National Pollutant Discharge Elimination System (NPDES).** "National Pollutant Discharge Elimination System (NPDES)" has the meaning given it in part 7001.1020, subpart 19.

Subp. 7. **Sewage.** "Sewage" has the meaning given it in part 7080.0020, subpart 33.

Subp. 8. **Sewage sludge landspreading facility.** "Sewage sludge landspreading facility" means a landspreading facility as defined in part 7040.0100, subpart 20 for the landspreading of sewage sludge.

Subp. 9. **State disposal system permit.** "State disposal system permit" means a permit for a disposal system that may be constructed and operated without a NPDES permit.

7002.0230 FEE DETERMINATION.

The agency shall calculate processing and annual fees based upon the schedule in part 7002.0310 and shall notify the permittee of the amount due prior to each payment date.

7002.0240 PAYMENT OF FEES.

A person submitting a fee shall make the fee payable to the "Minnesota Pollution Control Agency" and submit it to the director of the Division of Water Quality.

7002.0250 APPLICATION FEE.

A person who applied for a permit to construct, install, modify, or operate a facility shall submit with the application the appropriate application fee. Failure to submit the fee renders the application incomplete and the agency shall suspend processing of the application until the fee is received. Application fees are nonrefundable.

7002.0260 PROCESSING FEE.

A permittee shall pay the applicable processing fee within 30 days of issuance of the permit by the agency.

If a facility is a "small business" as defined in Minnesota Statutes, section 14.115, subdivision 1, or a municipal wastewater treatment plant with an average design flow of less than 30,000 gallons per day, the permittee may request to pay the processing fee

in annual installments. Annual installments are determined by dividing the processing fee into equal annual payments based on the term of the permit. The first payment shall be made within 30 days of issuance of the permit and annually thereafter on the anniversary of issuance. A facility that qualifies as a "small business" must provide proof of that status upon application for a permit.

7002.0270 ANNUAL FEE.

All persons required to obtain a permit listed in part 7002.0310, subparts 1 and 2, shall pay an annual fee for enforcement of applicable statutes and rules. The annual fee shall be paid within 30 days of receipt of an invoice from the agency.

7002.0280 NOTIFICATION OF ERROR.

A person who thinks that a basic processing fee or annual fee for a specific facility is in error shall provide written notice of the error to the director of the Division of Water Quality, along with the assessed fee. If the director of the Division of Water Quality finds, upon reviewing the data, that the assessed fee was in error, the overpayment shall be refunded to the permittee or credited to the permittee's account.

7002.0290 LATE PAYMENT FEE.

The permittee shall pay a late payment fee of 20 percent of the payment due for failure to make payment within 30 days of a payment date. The permittee shall pay an additional ten percent of the original payment due for each 30-day period or portion thereof that the payment is late.

7002.0300 WATER QUALITY PERMIT FEE SCHEDULE.

Permit fees for water quality permits are established in part 7002.0310.

7002.0310 TABLE, WATER QUALITY PERMIT FEES.

Subpart 1. **Major NPDES permit fees.** The following fees shall be paid for major NPDES facilities:

A. Municipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
50 and over	\$50	\$30,000	\$40,000
20 to 49.99	50	13,000	8,000
5 to 19.99	50	6,000	2,500
Up to 4.99	50	2,800	950

B. Nonmunicipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
20 to 49.99	\$50	\$13,000	\$9,000
5 to 19.99	50	7,200	3,000
Up to 4.99	50	3,700	1,500
Cooling or Mine Pit Dewatering (any flow)	50	7,200	3,000

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

Subp. 2. **Nonmajor NPDES and state disposal permit fees.** The following fees shall be paid by a permittee not designated as a major NPDES facility and by a permittee that has applied for or received a state disposal system permit.

A. Municipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
Greater than .100	\$50	\$1,250	\$140
0 to .099	50	600	50
Sewage sludge landspreading facilities	50	600	50

B. Nonmunicipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
Sewage 0 to .099	\$50	\$ 600	\$ 50
Other nonmunicipal (any flow)	50	1,250	175

Subp. 3. **Other water quality permit fees.** The following application fees shall be paid by a permittee that has applied for or received a general, sewer extension, or liquid storage permit.

- A. General, \$50;
- B. Sewer extension, \$80; and
- C. Liquid storage, \$250.

Department of Public Safety Bureau of Criminal Apprehension

Proposed Rules Governing the Manufacture, Storage, and Use of Explosives and Blasting Agents

Notice of Intent to Adopt Rules without a Hearing

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. Sections 14.21 through 14.28.

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

If 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the portion of the proposed rule addressed, the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are requested. Any person requesting a public hearing should state his or her name and address. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. Sections 14.13 through 14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a free copy of

this notice and/or a free copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

Jim Massoth
Bureau of Criminal Apprehension
1246 University Avenue
St. Paul, MN 55104

The Department's authority to adopt the proposed rules is contained in Minnesota Statute sections 299F.71 to 299F.83. A Statement of Need and Reasonableness that describes the need for and 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 free from the Department of Public Safety upon request to the above address.

You are hereby advised, pursuant to Minn. Stat. Section 14.115, "Small business consideration in rulemaking," that the proposed rules may have an impact on some small businesses in Minnesota. The portions of the rules which may affect small businesses include:

1. Rules 7500.0550 and 7500.0560 specify the licensing and permit issuance procedure and should not significantly impact small businesses negatively. A fee is established to cover administrative costs, and the total potential impact is under \$2,000 per year.
2. Rule 7500.0560 broadens the local permit issuance procedure. It makes it easier for an applicant to obtain a permit by allowing him to apply in either the county of residence or county of use.
3. Rule 7500.1800 deletes a requirement that essentially had the vendor checking on compliance with the rules prior to sale or transfer, and this benefits all businesses.
4. 7500.1900 deletes a reporting requirement regarding quantity of stock of explosives, and this also is a benefit to all businesses.

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 date of 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 request to the above address.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. Section 10A.01, subdivision 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minnesota Statutes Section 14.11, subdivision 1. Any costs incurred by local jurisdictions in the permit issuance process can be recovered through imposition of a fee authorized by the rules.

A copy of the proposed rules is attached to this notice.

Paul J. Tschida
Commissioner of Public Safety

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

Rules as Proposed

7500.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the following words are used as defined meanings given them in this part.

Subp. 2. **Approved.** "Approved" means approved by the superintendent commissioner or his an authorized assistants assistant of the commissioner.

Subp. 3. **Blasting agent.** "Blasting agent" means any a material or mixture, consisting intended for blasting that consists of a fuel and oxidizer, intended for blasting, is not otherwise classified as an explosive and in which none of the ingredients are, has no ingredient classified as an explosive, provided that the, and, as a finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. number 8 test blasting cap, as defined in subpart 9b, when unconfined.

A No. 8 blasting cap is one containing two grams of a mixture of 80 percent mercury fulminate and 20 percent potassium chlorate, or a cap of equivalent strength.

The term "nitro-carbo-nitrate" applies to any blasting agent which has been classified as nitro-carbo-nitrate under the Department of Transportation Regulations, and which is packaged and shipped in compliance with the regulations of the Department of Transportation.

Subp. 3a. **Commissioner.** "Commissioner" means the commissioner of the Department of Public Safety or designee of the commissioner.

Subp. 4. [Unchanged.]

Subp. 5. **Explosive-actuated devices device.** "Explosive-actuated devices device" means any a tool or special mechanized device which that is actuated by explosives, but not to include propellant-actuated power devices. Examples of explosive-actuated power devices are jet trappers and jet perforators. This term does not include propellant-actuated power devices.

Subp. 6. **Explosives.** "Explosives" means any a chemical compound, mixture, or device, the primary or common purpose of which is to function by primarily and commonly used to create an explosion, i.e., with or having a substantially instantaneous release of gas and heat, unless such.

A chemical compound, mixture, or device that is otherwise specifically classified by the Department of Transportation is not an explosive.

The term "explosives" shall include all material which is includes materials classified as class A, class B, and class C explosives by the Department of Transportation, and includes, but is not limited to, in Code of Federal Regulations, title 49, parts 100 to 199 (1983), including dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse fuses, fuse lighters, fuse igniters, squibs, detonating cord cords, instantaneous fuse fuses, igniter cord cords, igniters, small arms ammunition, small arms ammunition primers, smokeless propellant propellants, cartridges for propellant-actuated power devices and, cartridges for industrial guns, and some special fireworks.

Commercial explosives are those explosives which are intended to be used in commercial or industrial operations.

Certain chemicals and certain fuel materials may have explosive characteristics which are not specifically classified by the Department of Transportation and are not readily classified for coverage in the code parts cited above. Authoritative information should must be obtained for such these unclassified materials and action commensurate with their hazards, locations, isolation, and safeguards, should must be taken. Classification of explosives is described by The Department of Transportation classifies explosives as follows:

A. Class A explosives: possessing possess a detonating or otherwise maximum hazard; such as. Examples of class A explosives are dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, blasting caps, and detonating primers.

B. Class B explosives: possessing possess a flammable hazard; such as. Examples of class B explosives are propellant explosives, including some smokeless propellants, photographic flash powders, black powder, and some special fireworks.

C. Class C explosives: includes include certain types of manufactured articles which that contain class A or explosives, class B explosives, or both, as components but in restricted quantities.

D. Forbidden or not acceptable explosives: explosives which are forbidden or not acceptable for transportation by common carriers, by rail freight, rail express, highway, or water in accordance with the regulations of the Department of Transportation in Code of Federal Regulations, title 49, parts 100 to 199 (1983).

Subp. 7. **Highway.** "Highway" means any a public street, public alley, or public road.

Subp. 8. **Inhabited building.** "Inhabited building" means a building or structure regularly used in whole or part as a place of human habitation. The term "inhabited building" shall also mean any means a church, school, store, railway passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble, but

~~excluding any~~ does not mean a building or structure occupied in connection with the manufacture, storage, and use of explosives.

Subp. 8a. License. “License” refers to a license application approved and issued by the Department of Public Safety, Bureau of Criminal Apprehension.

Subp. 9. [Unchanged.]

Subp. 9a. Nitrocarbonitrate. The term “nitrocarbonitrate” means a blasting agent classified as nitrocarbonitrate under the Department of Transportation regulations published in Code of Federal Regulations, title 49, parts 100 to 199 (1983), and packaged and shipped in compliance with those regulations.

Subp. 9b. Number 8 test blasting cap. A “number 8 test blasting cap” means a cap containing two grams of a mixture of 80 percent mercury fulminate and 20 percent potassium chlorate, or a cap of equivalent strength.

Subp. 9c. Passenger vehicle. “Passenger vehicle” means a motor vehicle designed and used to carry not more than ten persons and includes a passenger automobile, station wagon, pickup truck, and van as they are defined in Minnesota Statutes, section 168.011.

Subp. 9d. Permit. “Permit” refers to an application for a user permit, approved and issued by sheriffs or chiefs of police of cities of the first, second, or third class, as defined in Minnesota Statutes, section 410.01, or other person designated by the commissioner.

Subp. 10. Person. “Person” means any an individual, firm, copartnership, corporation, company, association, or joint stock association, and including any includes a trustee, receiver, assignee, or personal representative thereof of that individual or entity.

Subp. 11. Propellant-actuated devices device. “Propellant-actuated devices device” means any a tool or special mechanized device or gas generator system which that is actuated by a smokeless propellant or which that releases and directs work through a smokeless propellant charge.

Subp. 12. [See Repealer.]

Subp. 13. Pyrotechnics. “Pyrotechnics” means any a combustible or explosive composition or manufactured article designed and prepared for the purpose of producing to produce audible or visible effects which are and commonly referred to as fireworks.

Subp. 14. [Unchanged.]

Subp. 15. [See Repealer.]

Subp. 16. Small arms ammunition. “Small arms ammunition” means any a shotgun, rifle, pistol, or revolver cartridge, and; or cartridge for propellant-actuated power devices and industrial guns. This term does not include military-type ammunition containing explosive bursting charges, and spotting, or pyrotechnic projectiles is excluded from this definition.

Subp. 17. [Unchanged.]

Subp. 18. Smokeless propellants propellant. “Smokeless propellants propellant” means a solid propellants propellant, commonly called a smokeless powders powder in the trade, used in small arms ammunition, cannon cannons, rockets, propellant-actuated power devices, etc or other devices.

Subp. 19. Special industrial explosive devices. “Special industrial explosive devices” means an explosive-actuated power devices and device or a propellant-actuated power devices device consisting of shaped materials and sheet forms and various other extrusions, pellets, and packages of high explosives including dynamite, trinitrotoluene (TNT), pentaerythritoltertranitrate (PETN), cyclotrimethylene-trinitramine (RDX), and other similar compounds used for high-energy-rate forming, expanding, and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

Subp. 20. [See Repealer.]

Subp. 21. [See Repealer.]

Subp. 21a. Table of distances for storage of explosive materials. “Table of distances for storage of explosive materials” means the table provided in Code of Federal Regulations, title 27, section 55.218 (April 1, 1985).

Subd. 21b. Table of separation distances of ammonium nitrate and blasting agents from explosives or blasting agents. “Table of separation distances of ammonium nitrate and blasting agents from explosives or blasting agents” means the table provided in Code of Federal Regulations, title 27, section 55.220 (April 1, 1985).

Subp. 22. [Unchanged.]

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

Subp. 23. ~~Water gels gel or slurry explosives explosive.~~ "Water gels gel or slurry explosives explosive" ~~comprise includes~~ a wide variety of materials used for blasting. ~~They,~~ all of which contain substantial proportions of ammonium nitrate, some of which is in solution in the water. Two broad classes of water gels are those which that are sensitized by a material classed as an explosive, such as TNT or smokeless powder, and those which that contain no ingredient classified as an explosive, which that are sensitized with metals such as aluminum or other fuels. Water gels may be premixed at an explosives plant or mixed at the site immediately before delivery into the bore hole.

7500.0200 PURPOSE AND SCOPE.

The purpose of this chapter is to adopt safety standards for the manufacture, ~~transportation,~~ storage, and use of explosives and blasting agents. ~~The scope of this chapter is intended to be,~~ consistent with Minnesota Statutes, sections 299F.71 to 299F.83.

7500.0300 APPLICABILITY SCOPE.

Subpart 1. In general. This chapter ~~shall apply~~ applies to the manufacture, ~~keeping, having retention, possession,~~ storage, sale, ~~transportation,~~ and use of explosives, blasting agents, and pyrotechnics.

Subp. 2. Municipal supervision. This chapter also applies to municipal supervision of compliance with federal regulations.

7500.0400 SCOPE; EXEMPTIONS.

Subpart 1. Materials transported under other rules. This chapter ~~shall~~ does not apply to the transportation of explosives or blasting agents ~~when governed by Code of Federal Regulations, title 49, parts 100 to 199 (1983), or otherwise under the jurisdiction of and in compliance with the regulations of the Department of Transportation, the regulations of the United States Coast Guard and the regulations of the Federal Aviation Agency and the or Board of Transport Commissioners for Canada. They shall, however, apply to municipal supervision as to compliance with federal regulations within the jurisdiction of a municipality.~~

Subp. 2. Military explosives. This chapter ~~shall~~ does not apply to the shipment, transportation, and handling of military explosives by the armed forces of the United States, state militia, or the armed forces of Canada.

Subp. 3. Other federal and Canadian agencies; bomb technicians. This chapter ~~shall~~ does not apply to the transportation and use of explosives or blasting agents in the normal and emergency operation of federal agencies such as the Bureau of Mines, the Federal Bureau of Investigation, the Secret Service, and equivalent Canadian governmental agencies. ~~Also they shall~~

Subp. 3a. Bomb technicians. This chapter does not apply to recognized bomb technicians acting in an official capacity under emergency conditions.

Subp. 4. Fireworks. This chapter ~~shall~~ does not apply to the sale ~~and~~ use (or public display) of pyrotechnics commonly ~~know~~ known as fireworks.

Subp. 5. Requests for exemptions. The ~~superintendent shall have the power to~~ commissioner may grant an exemption from this chapter upon written request ~~in writing when such.~~ The request shows must show that the enforcement of a part of this chapter will cause unnecessary hardship to the petitioner, ~~provided that said request.~~ The commissioner shall not be granted where grant the request if the requested modification of a part of this chapter will constitute a distinct hazard to life or adjoining property.

Such petition shall The request must be in ~~triplicate~~ duplicate and must state the full particulars of such exemptions the exemption requested and. When granted shall be attached to the notification of approval. ~~Two copies of the request shall the requested exemption is approved, one copy of the approval will be returned to the petitioner and one copy will be retained by the superintendent commissioner.~~

7500.0500 AUTHORITY OF SUPERINTENDENT COMMISSIONER.

Subpart 1. Site and records inspections. The ~~superintendent or his designee,~~ After acquiring necessary security clearance, ~~shall have the power to conduct, and~~ during normal business hours, routine inspections of the commissioner may inspect storage sites and use sites for ~~such explosives as are herein regulated by~~ and the records of explosives dealers required by this chapter ~~to be kept by explosives dealers.~~ The purpose of an inspection is to determine whether the sites and the records conform to this chapter. In addition, the ~~superintendent, his designee, commissioner~~ or any duly authorized law enforcement official ~~shall have the power to~~ may conduct ~~such inspections an inspection~~ at any time in connection with the investigation of a crime.

Subp. 2. Restricting quantity of explosives. The ~~superintendent or his authorized assistants~~ commissioner may restrict the quantity of explosives or blasting agents that may be handled at ~~any a~~ a location (in a city, county, state, or other area).

7500.0550 EXPLOSIVES DEALER LICENSE.

Subpart 1. Application. An applicant for an explosives dealer license shall apply to the commissioner according to Minnesota Statutes, section 299F.73. The commissioner shall refuse to process an incomplete application.

One copy of the approved application will be returned to the applicant and will constitute a license to manufacture, assemble, warehouse, or store explosives.

A license is valid for one year from the date of approval.

Subp. 2. Fees. The annual fee for a new or renewed license is \$10. However, the commissioner shall not charge a government subdivision a fee for either a new or a renewed license.

Subp. 3. License renewal. One month before a license is due to expire the commissioner shall notify the licensee of the expiration date. The commissioner shall renew a license upon receipt of the \$10 renewal fee from the licensee.

Subp. 4. License suspension or revocation. The commissioner shall suspend or revoke a license if an applicant or a licensee:

- A. violates the provisions of Minnesota Statutes, sections 299F.71 to 299F.83 pertaining to explosives;
- B. violates the provisions of this chapter pertaining to explosives;
- C. uses an explosive in the commission of a crime; or
- D. makes a false statement on a license application form.

Subp. 5. Person prohibited from holding license. If an applicant or licensee becomes a person prohibited from holding a license as defined in Minnesota Statutes, section 299F.77, that person shall notify the commissioner of this fact within 48 hours.

Subp. 6. Right to contest decision. An applicant or licensee has the right to contest a decision made by the commissioner. These proceedings must be conducted according to the Administrative Procedure Act, Minnesota Statutes, sections 14.57 to 14.69.

7500.0560 EXPLOSIVES USER PERMIT.

Subpart 1. Application. An applicant for an explosives user permit shall apply to the local issuing authority as described in part 7500.0100, subpart 9d, in accordance with Minnesota Statutes, section 299F.75. The issuing authority may be located either where the applicant resides or where the applicant intends to use the explosives.

The applicant shall notify the chief of police or sheriff of the jurisdiction where the explosives will be used or stored if the permit was not issued in that jurisdiction.

Subp. 2. Duties of issuing authority. If the applicant obtains a permit from an issuing authority of a jurisdiction other than where the explosives will be used or stored, the issuing authority:

A. shall forward a copy of the permit, as soon as it is issued, to the sheriff or chief of police of the jurisdiction where the explosives will be used or stored;

B. may charge the applicant a fee not to exceed \$25 when another jurisdiction must be notified of the use or storage of explosives;

C. after approving an application, shall retain the yellow copy, file the green copy with the commissioner, and return to the applicant the white copy which becomes the permit; and

D. shall refuse to process an application that is not completed according to Minnesota Statutes, section 299F.75, subdivision 2.

Subp. 3. Permit suspension or revocation. The issuing authority shall suspend or revoke a permit if an applicant or permittee:

- A. violates the provisions of Minnesota Statutes, sections 299F.71 to 299F.83 pertaining to explosives;
- B. violates the provisions of this chapter pertaining to explosives;
- C. uses an explosive in the commission of a crime; or
- D. makes a false statement on the permit application form.

Subp. 4. Person prohibited from holding permit. If an applicant or permittee becomes a person prohibited from holding a permit as defined in Minnesota Statutes, section 299F.77, that person shall notify the commissioner of this fact within 48 hours.

Subp. 5. Right to contest decision. An applicant or permittee has the right to a hearing before the commissioner to contest a decision made by an issuing authority. These proceedings must be conducted according to the Administrative Procedure Act, Minnesota Statutes, sections 14.47 to 14.69.

7500.0600 PROHIBITIONS AGAINST EXPLOSIVES MANUFACTURING.

Subpart 1. Authorization required. The manufacture of any an explosive or explosive device, including small arms ammunition,

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

pyrotechnics, and blasting agents as defined in part 7500.0100 shall be ~~is~~ prohibited unless such manufacture ~~the manufacturer is~~ authorized ~~licensed~~ by the superintendent or his authorized assistants and is conducted in accordance with recognized safe practices satisfactory to the superintendent or his authorized assistants ~~commissioner~~. This ~~shall~~ ~~prohibition does~~ not apply to hand loading of small arms ammunition prepared for personal use and not for resale.

Subp. 2. **Undue hazard prohibited.** The manufacture of explosives or blasting agents shall be ~~is~~ prohibited when such ~~the~~ manufacture presents an undue hazard to life and property as determined by the superintendent or his authorized assistants ~~commissioner~~.

7500.0700 GENERAL PROHIBITIONS; EXCEPTIONS.

Subpart 1. **Undue hazard.** ~~No~~ ~~A~~ person shall ~~not~~ store, or handle, or transport explosives or blasting agents when such ~~the~~ storage, or handling, and transportation of explosives or blasting agents constitutes an undue hazard to life and property.

Subp. 2. ~~Scope of In conflict with law and or rules.~~ ~~No~~ ~~A~~ person shall ~~not~~ possess, keep, store, sell, or offer for sale, give away, use, transport, or otherwise dispose of in any manner any ~~an~~ explosive or blasting agent except as provided in this chapter or by law, provided however that. This limitation shall ~~does~~ not apply to small arms ammunition and components, cartridges for propellant-actuated power devices, cartridges for industrial guns intended for personal use and not for resale, and ~~or~~ railroad fuses.

Subp. 3. **Transfer to unauthorized persons.** ~~No~~ ~~A~~ person shall ~~not~~ sell or give away any ~~an~~ explosive or blasting agent to any ~~an~~ unauthorized person, as defined in Minnesota Statutes, section 299F.77.

Subp. 4. **Public sale display.** ~~No~~ ~~A~~ person shall ~~not~~ physically sell, display, or expose for sale any ~~an~~ explosive or blasting agent on any ~~a~~ highway, street, sidewalk, public way, or public place.

Subp. 5. **Medicinal use permitted.** Nothing in This chapter shall be construed to prohibit ~~does not prohibit~~ the use of explosives in the form prescribed by the official United States Pharmacopeia published ~~National Formulary, issued~~ by the United States Pharmacopeia ~~Pharmacopeial Convention, Inc. (Rockville, Maryland, 1985).~~

Subp. 6. **Laboratory use permitted.** Government and industrial laboratories, laboratories of technical institutes, colleges, universities, and similar institutions may be ~~permitted to~~ keep, store, and use explosives or blasting agents when confined to the purpose of:

A. ~~if they are used~~ for scientific or technical instruction or research, provided the storage and use of explosives or blasting agents is for the purpose of scientific or technical instruction or research, and provided the storage and use of explosives or blasting agents is:

B. ~~only~~ under experienced and competent supervision; and ~~not~~

C. ~~if no~~ more than 15 pounds of explosives (exclusive of small arms ammunition, small arms ammunition primers, and smokeless propellants) or blasting agents are kept on hand at any time in such laboratories.

When additional quantities of explosives or blasting agents are required, application shall be made ~~the institution shall apply~~ for a special ruling by the superintendent or his authorized assistants ~~commissioner~~.

7500.0800 STORAGE OF EXPLOSIVES IN MAGAZINES.

Subpart 1. **Scope General requirement.** All Class A, class B, and class C explosives, special industrial explosives, and any newly developed and unclassified explosives shall ~~must~~ be kept in magazines which ~~that~~ meet the requirements of this part. This shall not be construed as applying to the following:

A. ~~stocks of small arms ammunition, propellant-actuated power cartridges, small arms ammunition primers in quantities of less than 1,000,000 and smokeless propellants in quantities of less than 750 pounds (see parts 7500.3300 to 7500.3600);~~

B. ~~explosive-actuated power devices when in quantities of less than 50 pounds net weight of explosive;~~

C. ~~fuse lighters and fuse igniters; and~~

D. ~~safety fuse (safety fuse does not include detonating cord).~~

Subp. 2. **Caps, primers, cartridges; separated storage.** Blasting caps, electric blasting caps, detonating primers, and primed cartridges shall ~~must~~ not be stored in the same magazine with other explosives.

Subp. 3. **Magazines.** The ground around magazines shall ~~must~~ slope away for drainage. The land surrounding magazines shall ~~must~~ be kept clear of brush, dried grass, leaves, and other combustible materials for a distance of at least 25 feet.

Magazines shall be as required in ~~must comply with~~ Code of Federal Regulations, title 27, part 181, "Commerce in Explosives," Department of Treasury, sections 181.182 to 181.200, which are herein adopted ~~55.203 to 55.217 (1982).~~

Subp. 4. **Exceptions.** This part does not apply to:

A. ~~stocks of small arms ammunition, propellant-actuated power cartridges, small arms ammunition primers in quantities of~~

less than 1,000,000, and smokeless propellants in quantities of less than 750 pounds;

- B. explosive-actuated power devices when in quantities of less than 50 pounds net weight of explosive;
- C. fuse lighters and fuse igniters; or
- D. safety fuses, not including detonating cords.

7500.1200 USE OF EXPLOSIVES, GENERAL PROVISIONS; PRECAUTIONS.

Subpart 1. **Persons handling explosives.** ~~The handling of Explosives shall may be performed handled~~ only by a person experienced in the use of explosives or by ~~other employees under his direct supervision provided that such employees are an employee who is~~ at least 18 years of age and is supervised by a person experienced in the use of explosives.

Subp. 2. **Smoking, fire, liquor, or narcotics.** While explosives are being handled or used, smoking ~~shall is not be permitted and~~ no one. ~~A person~~ A person near the explosives shall ~~not~~ not possess matches, open light, or other fire- or flame-producing devices. ~~No~~ A person shall ~~not~~ not handle explosives while under the influence of intoxicating liquor or narcotics.

Subp. 3. **Containers.** Original containers or authorized containers ~~shall~~ must be used for taking detonators and other explosives from storage magazines to the blasting area.

Subp. 4. **Covering blast.** When the blasting is done in congested areas or in close proximity to a structure, railway, ~~or~~ or highway, or other installation that may be damaged, the blast ~~shall~~ must be covered before firing with a mat ~~constructed so that it is capable of preventing that can prevent~~ fragments from being thrown.

Subp. 5. **General precautions.** Persons authorized to prepare explosive charges or conduct blasting operations shall use every reasonable precaution, including, ~~but not limited to,~~ warning signals, flags, barricades, or woven wire mats to ensure the safety of the general public and ~~workmen~~ workers.

Subp. 6. **Times for Daylight blasting.** Blasting operations, except by special permission of the ~~superintendent or his authorized assistants,~~ shall commissioner, must be conducted during daylight hours.

Subp. 7. **Notice to utilities.** ~~Whenever~~ When blasting is being conducted in the vicinity of gas, electric, water, fire alarm, telephone, telegraph, and steam utilities, the blaster shall notify the appropriate representatives of ~~such these~~ such utilities at least 24 hours in advance of blasting, specifying the location and intended time of ~~such~~ such blasting. Verbal notice ~~shall~~ must be confirmed with written notice. In an emergency this time limit may be waived by the local authority issuing the original permit.

Subp. 8. **Source of Electricity precautions; incorporation.** Due precautions ~~shall~~ must be taken to prevent accidental discharge of electric blasting caps from current induced by radar, radio transmitters, lightning, adjacent power lines, dust storms, or other sources of extraneous electricity. These precautions ~~shall~~ include:

- A. [Unchanged.]
- B. the posting of signs warning that warn against the use of mobile radio transmitters on ~~all~~ all roads within ~~350~~ 1,000 feet of the blasting operation; and
- C. compliance with the ~~latest recommendations of the Safety Guide for the Prevention of Radio Frequency Radiation Hazards in the Use of Electric Blasting Caps, publication number 20, Institute of Makers of Explosives with regard to blasting in the vicinity of radio transmitters or power lines (1981), which is incorporated by reference. This publication is not subject to frequent change and is located at the Minnesota State Law Library, 117 University Avenue, Saint Paul, Minnesota 55155.~~

7500.1300 STORAGE AT USE SITES.

Subpart 1. **Boxes and packing materials.** Empty boxes and paper and fiber packing materials ~~which have that~~ which have previously contained high explosives ~~shall~~ must not be used again for any purpose, but ~~shall~~ must be destroyed by burning at an approved isolated location out of doors; ~~and no.~~ no. A person shall ~~not~~ not be nearer than 100 feet after burning has started.

Subp. 2. **Opening containers.** Containers of explosives ~~shall~~ must not be left opened in ~~any~~ any a magazine or within 50 feet of ~~any~~ any a magazine. In opening kegs or wooden cases, ~~no~~ no sparking metal tools ~~shall~~ must not be used; wooden wedges and either wood, fiber, or rubber mallets ~~shall~~ must be used. Nonsparking metallic slitters may be used for opening fiberboard cases.

Subp. 3. **Damaged explosives.** Explosives or blasting equipment that is obviously deteriorated or damaged ~~shall~~ must not be used.

Subp. 4. **Abandonment.** ~~No~~ No Explosives ~~shall~~ must not be abandoned.

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

7500.1400 ~~LOADING OF~~ EXPLOSIVES IN BLAST HOLES.

All Subpart 1. Size of drill hole. Drill holes shall must be sufficiently large to admit freely the insertion of the cartridges a cartridge of explosives.

Subp. 2. Tamping. Tamping shall must be done only with wood or approved plastic rods without exposed metal parts, but nonsparking metal connectors may be used for jointed poles. Violent tamping shall must be avoided.

~~No~~ Subp. 3. Selection of holes. Only holes shall be loaded ~~except those to that will~~ be fired in the next round of blasting may be loaded. After loading, all the remaining explosives shall must be immediately returned to an authorized location.

Subp. 4. Remaining butts. Drilling shall must not be started until all the remaining butts of old holes are examined with a wooden stick for unexploded charges, ~~and~~. If any unexploded charges are found, they shall must be refired before work proceeds.

Subp. 5. Prohibition against deepening holes. No person shall ~~be is~~ allowed to deepen drill holes which contain explosives.

7500.1500 INITIATION OF EXPLOSIVES CHARGES.

Subpart 1. Electric blasting caps. Only electric blasting caps shall may be used for blasting operations in congested districts, ~~or~~ in highways, or adjacent to highways open to traffic, except where sources of extraneous electricity make ~~such this~~ use dangerous.

Subp. 2. Using fuses. When a fuse is used, the blasting cap shall must be securely attached to the safety fuse with a standard ring-type cap crimper. All Primers shall may only be assembled at least 50 feet from any magazine.

Subp. 3. Primers. Primers shall may be made up only as required for each round of blasting.

Subp. 4. Inserting cap into explosive. ~~No~~ A blasting cap shall must not be inserted in the explosives ~~without first making unless~~ a hole is first made in the cartridge for the cap with an approved punch of proper size or standard cap crimper.

Subp. 5. Extracting explosives from hole. Explosives shall must not be extracted from a hole that has once been charged or has misfired unless it is impossible to detonate safely the unexploded charge by ~~insertion of inserting~~ a fresh additional primer.

Subp. 6. Misfires. If ~~there are any misfires a misfire occurs~~ while using a cap and a fuse or an electric blasting cap, all persons shall remain away from the charge for at least 30 minutes. ~~If electric blasting caps are used and a misfire occurs, this waiting period shall be 30 minutes.~~ Misfires shall A misfire may be handled only under the direction of the person in charge of the blasting ~~and all~~, the wires shall must be carefully traced, and a search must be made for unexploded charges.

~~Blasters,~~ Subp. 7. Testing circuits. When testing circuits to charged holes, blasters shall use only blasting galvanometers or other instruments approved for ~~this purpose testing circuits~~.

Subp. 8. Lead wire connections. Only the person making the lead wire connections in electrical firing shall fire the shot. All Connections should be made from the bore hole back to the source of firing current, ~~and~~. The leading wires shall must remain shorted and must not be connected to the blasting machine or other source of current until the charge is to be fired.

7500.1600 ~~WARNING REQUIRED~~ REQUIREMENT.

Before a blast is fired, ~~a suitable warning signal shall be given by the person in charge, who has made shall first make~~ certain that all surplus explosives are in a safe place, ~~all and that~~ persons and vehicles are at a safe distance or under sufficient cover, ~~and that an adequate warning has been given.~~ Then the person in charge shall give a suitable warning signal.

7500.1800 SALE AND DISPOSITION OF EXPLOSIVES.

Subpart 1. Prohibitions; scope. All Class A, class B, and class C explosives, special industrial explosives, and ~~any~~ newly developed and unclassified explosives, shall must not be sold or transferred in this state except as provided in ~~this part items A to D.~~ This ~~subpart shall part does~~ not be ~~construed to~~ apply to the following commodities and items:

A. stocks of small arms ammunition, propellant-actuated power cartridges, small arms ammunition primers, and smokeless propellants; ~~(See parts 7500.3300 to 7500.3600);~~

B. and C. [Unchanged.]

D. safety fuse ~~(safety fuse does fuses not include including detonating cord) cords~~ and 3/32-inch cannon fuses or matchlock fuses (slow match).

Subp. 2. Marking of containers required. ~~No~~ A vendor, transferor, buyer, or transferee of explosives within this state ~~may shall~~ not accept or deliver dynamite or other explosive in any quantity unless each carton or other usual primary container of ~~such the~~ explosive is plainly labeled, stamped, or marked with identification numbers and with the words "Dangerous Explosives." It shall ~~be is~~ unlawful for ~~any a~~ person to use or ~~have in his possession any explosives possess an explosive not so~~ marked as ~~provided in this subpart.~~ All Unmarked explosives found in the possession of any person may be confiscated, seized, or destroyed by the ~~superintendent or his designee, commissioner or duly constituted a~~ law enforcement officer.

Subp. 3. **Information required for delivery.** ~~No~~ A vendor or transferor of explosives within this state may deliver explosives of ~~any quantity to any other~~ another person unless he only after first obtains obtaining and records recording the following information:

- A. the date of transaction;
- B. the identity of the manufacturer of the explosives being transferred;
- C. the type of explosives and ~~any~~ the identification numbers on the explosives being transferred;
- D. the quantity of explosives being transferred;
- E. the name and address of the purchaser or transferee;
- F. the user permit number; and
- G. the signature of the transferee.

Subp. 4. **Records of transactions required.** All Records of transactions ~~shall~~ must be made available to the superintendent commissioner on request. Also, the superintendent commissioner may require that each person mail a copy of the record of each transaction made during the preceding week on Monday of each week.

Subp. 5. [See Repealer.]

7500.2000 REPORT OF THEFTS.

~~Any~~ A person who has explosives in his possession and possessing explosives who incurs a loss or theft of ~~all or a portion thereof,~~ immediately upon discovery of such loss or theft and in no event longer than 24 hours from the time of discovery, explosives shall inform the office of notify, within 24 hours of discovering the loss or theft, the superintendent commissioner and the county sheriff or the local chief of police of the loss or theft, the amount of ~~explosives missing~~ explosives, and the approximate time of the occurrence.

7500.2100 JURISDICTION OF THE FEDERAL BUREAU OF MINES.

~~To the extent that persons otherwise covered by the contents of this chapter are within the jurisdiction and governed by regulation of the federal Bureau of Mines, the superintendent has the discretion to exempt such persons from such provisions of this chapter, governing storage facilities, that he deems to be in conflict with the regulations of said Bureau of Mines. Such exemption once granted may at any time be revoked by the superintendent. The commissioner may exempt a person from the requirements for storage facilities in parts 7500.0700, 7500.0800, and 7500.1300 if the person is within the jurisdiction of the Federal Bureau of Mines and the commissioner deems that parts 7500.0700, 7500.0800, and 7500.1300 are in conflict with Code of Federal Regulations, title 27, sections 55.201 to 55.220 (1982). The commissioner may revoke an exemption at any time. For the purpose of granting such exemption or revoking same, an exemption or for any other purpose, the superintendent or his designee has the authority at any time to commissioner may inspect at any time the premises and facilities of such persons a person seeking an exemption.~~

7500.2200 GENERAL PROVISIONS.

Subpart 1. **Restricted scope.** This section does not apply if its application in a particular instance would conflict with Code of Federal Regulations, title 49, parts 100 to 199 (1983).

Subp. 1a. **Storage in railway car; federal regulations.** Except in an emergency and with permission of the local authority having jurisdiction, ~~no~~ a person shall not have or keep explosives in a railway car unless ~~said the~~ the car and its contents and the methods of loading ~~are in accordance with the conform to~~ Department of Transportation regulations in Code of Federal Regulations, title 49, parts 100 to 199 (1983) for the transportation of explosives.

Subp. 2. **Delivery to carrier.** ~~No~~ A person shall not deliver ~~any an~~ an explosive to ~~any a~~ a carrier unless ~~such the~~ the explosive conforms in all respects, including marking and packing, to the Department of Transportation regulations in Code of Federal Regulations, title 49, parts 100 to 199 (1983) for the transportation of explosives.

Subp. 3. **Placards on railway cars.** ~~Every~~ A railway car containing explosives ~~which that~~ has reached its destination, or is stopped in transit ~~so as and no longer to be is~~ is in interstate commerce, ~~shall~~ must have placards ~~in accordance that comply~~ that comply with Department of Transportation regulations in Code of Federal Regulations, title 49, parts 100 to 199 (1983).

Subp. 4. **Other safety measures required.** ~~Within the jurisdiction any~~ Explosives that are to be delivered to a consignee or forwarded to another destination and that are located at a railway facility, truck terminal, pier, wharf, harbor facility, or airport terminal, ~~whether for delivery to a consignee, or forwarded to some other destination shall~~ must be kept in a safe place, kept isolated

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

as far as practicable, and kept in such a manner that they can be easily and quickly removed.

7500.2350 DUTY OF CONSIGNEE TO ACCEPT SHIPMENT.

When explosives are transported into a locality governed by this chapter and within 48 hours of notification, the consignee shall receive and remove the explosives from the carrier to a properly permitted magazine or notify the commissioner who shall ensure that the explosives are moved to a safe place.

7500.2400 DESIGNATION OF FACILITIES.

The local authority having jurisdiction ~~has the authority to and~~ may designate the location for, and limit the quantity of, explosives ~~which that~~ may be loaded, unloaded, reloaded, or temporarily retained at ~~any~~ a facility within the jurisdiction.

7500.2500 BLASTING AGENTS.

Unless otherwise set forth in parts ~~7500.2500~~ 7500.2600 to 7500.2900 blasting agents ~~shall must be transported,~~ stored, and used in the same manner as explosives.

7500.2600 MIXING OF BLASTING AGENTS.

Subpart 1. **Building locations; distances.** Buildings or other facilities used for mixing blasting agents, ~~shall must~~ be located, with respect to inhabited buildings, passenger railroads, and public highways, in accordance with the ~~American~~ table of distances, ~~as revised and approved by the Institute of Makers of Explosives, 1971~~ for storage of explosive materials.

~~Any~~ If ammonium nitrate is stored at a closer distance to the blasting agent storage area than as provided in subpart 2 shall the table of separation distances of ammonium nitrate and blasting agents from explosives or blasting agents, then the ammonium nitrate must be added to the quantity of blasting agents to calculate the total quantity involved for application of the aforementioned table before applying the table of distances for storage of explosive materials.

Subp. 2. **Separation in plant.** Minimum intraplant separation distances between mixing units and the ammonium nitrate storage areas and blasting agent storage areas ~~shall be in conformity with~~ must conform to the table of ~~recommended~~ separation distances of ammonium nitrate and blasting agents from explosives or blasting agents, ~~as revised and approved by the Institute of Makers of Explosives, 1971.~~

Subp. 3. **Building construction requirements.** ~~Buildings~~ A building used for the mixing of blasting agents ~~shall must~~ conform to the following requirements of this part unless ~~otherwise~~ the building is specifically approved by the ~~superintendent or his authorized assistants;~~ commissioner:

A. Buildings ~~should preferably~~ must be of noncombustible construction or sheet metal on wood studs.

B. The layout of the mixing building ~~shall be such as to~~ must provide physical separation between the finished product storage, and the mixing and packaging operation.

C. Floors in storage areas and in the processing plant ~~should~~ must be of concrete.

D. Isolated fuel storage ~~shall must~~ be provided to avoid contact between molten ammonium nitrate and fuel in case of fire.

E. The building ~~shall must~~ be well ventilated.

F. Heat ~~shall must~~ be provided exclusively from a unit located outside the building.

Subp. 4. **Design of mixer.** The design of the mixer ~~should~~ must minimize the possibility of frictional heating, compaction, and especially, confinement. Open mixers are preferable to enclosed mixers. Bearings and gears ~~should~~ must be protected against the accumulation of oxidizer dust. ~~All~~ Surfaces ~~should~~ must be accessible for cleaning. Mixing and packaging equipment ~~should~~ must be constructed of materials compatible with the ~~fuel-ammonium nitrate~~ composition of fuel and ammonium nitrate.

Subp. 5. **Blasting agent compositions.** ~~The provisions of this subpart shall be considered when determining blasting agent compositions.~~ The sensitivity of ~~the a~~ blasting agent ~~shall must~~ be determined by ~~means of using a No. number 8~~ test blasting cap at regular intervals and after every change in formulation, or as ~~may be requested by the superintendent or his authorized assistants~~ commissioner.

Ammonium nitrate of small particle size, such as crushed prills or fines, may be more sensitive and hazardous than ~~the~~ ordinary prills and ~~shall must~~ be handled with greater care.

~~No~~ Liquid fuel with a flash point lower than that of ~~No. number 2~~ diesel fuel oil (125 degrees Fahrenheit minimum or legal) ~~shall,~~ must not be used.

Crude oil and crankcase oil ~~shall must~~ not be used because they may contain light ends that offer increased vapor-explosion hazards or gritty particles that tend to sensitize the resulting blasting agent.

If solid fuels are used, they ~~shall must~~ be chosen so as to minimize dust-explosion hazard.

PROPOSED RULES

Metal dusts (such as aluminum powder, etc.); peroxides; or chlorates ~~shall~~ must not be used unless ~~such~~ the operations are conducted in a manner approved by the superintendent or his authorized assistants commissioner.

Unusual compositions ~~shall not~~ may be attempted ~~except~~ only under the supervision of competent personnel equipped to determine the overall hazard of the resulting compositions.

Subp. 6. ~~Location of switches, controls, motors, and lights~~ Equipment requirements. ~~All~~ If electrical switches, controls, motors, and lights, ~~if~~ are located in the mixing room, ~~shall they~~ must conform to the requirements of class II, division 2 of standard 70, of the National Electrical Code, ~~published by the American National Standards Institute and found in the National Fire Codes, 1982, volume 6, issued by the National Fire Protection Association, (Quincy, Massachusetts, 1982), which is incorporated by reference, is not subject to frequent change, and is located at the Minnesota State Law Library, 117 University Avenue, Saint Paul, Minnesota 55155;~~ otherwise they ~~shall~~ must be located outside the mixing room. The frame of the mixer and ~~all~~ other equipment that may be used ~~shall~~ must be electrically bonded and be provided with a continuous path to the ground.

Subp. 7. Washdown facilities. Washdown facilities ~~shall~~ must be provided. An automatic water-deluge system with adequate capacity is recommended to protect mixers and the finished-explosives storage area in the plant. ~~Floor shall~~ Floors must be constructed so as to eliminate open floor drains and piping into which molten materials could flow and be confined in case of fire. The floors and equipment of the mixing and packaging room ~~shall~~ must be thoroughly cleaned daily to prevent accumulation of oxidizers or fuels, or other sensitizers. The entire mixing and packaging plant ~~shall~~ must be washed down periodically to prevent excessive accumulation of dust.

Subp. 8. Smoking or open flames ~~flame~~. Smoking or open ~~flames~~ flame ~~is~~ is not be permitted in or within 50 feet of ~~any~~ a building or facility used for mixing of blasting agents.

Subp. 9. Disposal of oxidizer bags. Empty oxidizer bags ~~shall~~ must be disposed of daily in a safe manner.

Subp. 10. Storage, location of blasting agents. Not more than one day's production of blasting agents or the limit determined by the ~~American~~ table of distances, ~~as revised and approved by the Institute of Makers of Explosives, 1974 for storage of explosive materials,~~ whichever is less, ~~shall be~~ is permitted in or near the mixing and packaging plant or area. Larger quantities ~~shall~~ must be stored in separate warehouses or magazines.

7500.2700 STORAGE OF BLASTING AGENTS AND SUPPLIES.

Subpart 1. General Storage with explosives. ~~When~~ When blasting agents ~~shall be~~ are stored in the manner set forth in this part and part 7500.0800. ~~Blasting agents when stored in conjunction with explosives, shall be stored in the manner set forth in storage must conform to part 7500.0800 for governing the storage of explosives.~~ The mass of blasting agents and one-half the mass of oxidizers ~~shall~~ must be included when computing the total quantity of explosives for determining distance requirements.

Subp. 1a. Storage apart from explosives. ~~When~~ When blasting agents, ~~when~~ are stored entirely ~~separate~~ apart from explosives, ~~may they~~ must be stored in the manner set forth as provided in part 7500.0800, or in one-story warehouses (without basements) ~~which shall~~. The warehouses must be noncombustible or fire-resistive, constructed so as to eliminate open floor drains and piping into which molten materials could flow and be confined in case of fire, weather resistant, well ventilated, and equipped with a strong door kept securely locked except when open for business.

Subp. 2. Storage in vans Trailers. Semitrailer or full-trailer vans used for highway or on-site transportation of the blasting agents are satisfactory for temporarily storing these materials, provided they are located in accordance with the ~~American~~ table of distances ~~as revised and approved by the Institute of Makers of Explosives, 1974 for storage of explosive materials,~~ with respect to inhabited buildings, passenger railways, and public highways, and ~~according to~~ in accordance with the table of ~~recommended~~ separation distances of ammonium nitrate and blasting agents from explosives or blasting agents ~~as revised and approved by the Institute of Makers of Explosives, 1974,~~ with respect to one another. Trailers should be provided with substantial ~~means of locking, and locks.~~ The trailer doors ~~shall~~ must be kept locked, except ~~during the time of placement when placing and removal of removing~~ stocks of blasting agents.

Subp. 3. Location of warehouses, locations, and distances. Warehouses used for storage of to store blasting agents ~~separate~~ apart from explosives ~~shall~~ must be located as set forth in this subpart. follows:

Warehouses used for storage of blasting agents shall be located in accordance

A. The location must comply with the provisions of the American table of distances as revised and approved by the Institute of Makers of Explosives, 1974 for storage of explosive materials, with respect to inhabited buildings, passenger railways, and public

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

highways, and ~~according to~~ must comply with the table of ~~recommended~~ separation distances of ammonium nitrate and blasting agents from explosives or blasting agents as ~~revised and approved by the Institute of Makers of Explosives, 1971,~~ with respect to one another.

B. If both blasting agents and ammonium nitrate are handled or stored within the distance limitations prescribed in part 7500.2600, subpart 1, one-half the mass of the ammonium nitrate ~~shall~~ must be added to the mass of the blasting agent when computing the total quantity of explosives for determining the proper distance for compliance with the ~~American~~ table of distances, ~~as revised and approved by the Institute of Makers of Explosives, 1971~~ for storage of explosive materials.

Subp. 4. **Fire hazards.** Smoking, matches, open flames, spark-producing devices, and firearms ~~shall be~~ are prohibited inside of or within 50 feet of ~~any~~ a warehouse used for the storage of blasting agents. Combustible materials ~~shall~~ must not be stored within 50 feet of warehouses used for ~~the storage of~~ storing blasting agents.

Subp. 5. ~~Cleanliness; combustible materials~~ **Interior of warehouse.** The interior of warehouses used for the storage of blasting agents ~~shall~~ must be kept clean and free from debris and empty containers. Spilled materials ~~shall~~ must be cleaned up promptly and safely removed. Combustible materials, flammable liquids, corrosive acids, chlorates, or nitrates ~~shall~~ must not be stored in ~~any~~ a warehouse used for blasting agents unless separated ~~therefrom from~~ from the blasting agents by a fire-resistive separation of not less than one-hour resistance. ~~The provisions of This subpart shall~~ does not prohibit the storage of blasting agents together with nonexplosive blasting supplies.

Subp. 6. **Ammonium nitrate.** Piles of ammonium nitrate and warehouses containing ammonium nitrate ~~shall~~ must be adequately separated from readily combustible fuels.

Caked ammonium nitrate, either in bags or in bulk, ~~shall~~ must not be loosened by blasting.

Subp. 7. **Supervisor.** ~~Every~~ A warehouse used ~~for the storage of~~ to store blasting agents ~~shall~~ must be under the supervision of a competent person who ~~shall be not less than~~ is at least 18 years of age.

Subp. 8. **Local authority.** The local authority having jurisdiction ~~has the authority to~~ and may designate the location for, and limit the quantity of blasting agents ~~which that~~ may be loaded, unloaded, reloaded, or temporarily retained at ~~any~~ a facility within the jurisdiction.

7500.2900 USE OF BLASTING AGENTS.

~~Persons using~~ A person who uses blasting agents shall comply with ~~all of the applicable provisions of parts 7500.1200 to 7500.1600.~~

7500.3000 GENERAL PROVISIONS FOR WATER GELS.

Unless otherwise set forth in parts ~~7500.3000 to 7500.3600~~ 7500.3100 and 7500.3200, water gels ~~shall~~ must be ~~transported,~~ stored, and used in the same manner as explosives or blasting agents in accordance with the classification of the product in United States Code, title 18, chapter 40, section 841(c) (1984).

7500.3100 PREMIXED WATER GELS.

Premixed water gels containing a substance ~~in itself~~ classified as an explosive ~~shall~~ must be classified as an explosive in accordance with United States Code, title 18, chapter 40, section 841(c) (1984), and manufactured, ~~transported,~~ stored, and used as specified for explosives ~~in these regulations.~~

Premixed water gels ~~containing that contain~~ no substance ~~in itself~~ classified as an explosive in United States Code, title 18, chapter 40, section 841(c) (1984), and ~~which that~~ are cap-sensitive as defined in part 7500.0100, subpart 2 ~~shall~~ 3, must be classified as an explosive and manufactured, ~~transported,~~ stored, and used as specified for explosives ~~in this chapter.~~

Premixed water gels ~~containing no that do not contain~~ a substance ~~in itself~~ classified as an explosive in United States Code, title 18, chapter 40, section 841(c) (1984), and ~~which that~~ are not cap-sensitive as defined in part 7500.0100, subpart 2 ~~shall~~ 3, must be classified as blasting agents and manufactured, ~~transported,~~ stored, and used as specified for blasting agents ~~in this chapter.~~

7500.3200 ON-SITE-MIXED WATER GELS.

Subpart 1. [See Repealer.]

Subp. 2. **Classified and nonclassified ingredients.** Ingredients ~~in themselves~~ classified as class A or class B explosives ~~shall~~ must be stored in conformity with part 7500.0800. Ingredients, other than ammonium nitrate, not themselves classified as explosives, ~~shall~~ must be stored in ~~warehouses which shall be~~ noncombustible or fire-resistive warehouses.

Subp. 3. **Ammonium nitrate.** Prilled, grained, or granulated ammonium nitrate ~~shall~~ must be stored in accordance with ~~NFPA standard 490, of the Code for the Storage of Ammonium Nitrate, 1967 edition found in National Fire Codes, 1982, Volume 3, issued by the National Fire Protection Association (Quincy, Massachusetts, 1982), which is incorporated by reference, is not subject to frequent change, and is located at the Minnesota State Law Library, 117 University Avenue, Saint Paul, Minnesota 55155.~~ If

ammonium nitrate is stored in the vicinity of explosives or blasting agents, the separation distances specified in part 7500.0800 ~~shall be observed~~ apply.

Liquid ammonium nitrate solutions ~~shall~~ must be stored in tank cars, tank trucks, or permanent tanks in a location approved by the ~~superintendent or his authorized assistants~~ commissioner. Spills or leaks which may contaminate combustible materials ~~shall~~ must be cleaned up immediately.

Subp. 4. Electric power. If electric power is used, it ~~shall~~ must be furnished by cable from an outside source or by a self-contained motor generator. ~~In the case of~~ A self-contained power source, it ~~shall~~ must be located at the end of the storage container opposite ~~that at which the end where~~ the blasting agent is discharged. It ~~shall~~ must have adequate capacity for the loads ~~to be expected,~~ and must be equipped with suitable overload protection devices.

Subp. 4a. Electric wiring. Electric wiring carrying voltages greater than 12 volts ~~shall~~ must be in armored cable or in conduit and, if dry ingredients are employed, the wiring ~~shall~~ must conform to the requirements of class II, division 2 of ~~the current edition standard 70 of the National Electrical Code, NFPA No. 70 (see appendix) found in the National Fire Codes, 1982, issued by the National Fire Protection Association (Quincy, Massachusetts, 1982), and incorporated by reference in part 7500.2600, subpart 6.~~ The materials protecting the electric wiring must be of such composition that they will not be chemically ~~attached by~~ attach to the ingredients being processed.

Subp. 5. Mixing equipment. ~~Mixing equipment for on-site mixed water gels shall comply with the requirements of this part. All electric motors, electrically operated proportioning devices, etc., shall and other similar devices must be electrically bonded. All electric motors, electrically operated proportioning devices, etc., if they are used for dry ingredients shall they must also conform to the requirements of class II, division 2 of the current edition standard 70 of the National Electrical Code, NFPA No. 70 found in the National Fire Codes, 1982, volume 6, issued by the National Fire Protection Association (Quincy, Massachusetts, 1982), and incorporated by reference in part 7500.2600, subpart 6.~~

The entire loading and mixing equipment ~~shall~~ must be cleaned daily to ~~ensure against~~ prevent accumulations of ingredients.

7500.3400 SMALL ARMS AMMUNITION.

No restrictions are imposed on truck or rail transportation of small arms ammunition other than those which are imposed by the Department of Transportation or by the presence of other hazardous materials.

Subpart 1. Restricted scope. Parts 7500.3400 to 7500.3600 do not apply to in-process storage and intraplant transportation during manufacture of small arms ammunition, small arms primers, and smokeless propellants.

This part does not apply to the transportation of small arms ammunition governed by Code of Federal Regulations, title 49, parts 100 to 199 (1983).

Subp. 2. Quantity limitations. No quantity limitations ~~shall be~~ are imposed on the storage of small arms ammunition in warehouses, retail stores, and other general occupancies, except those imposed by limitation of storage facilities and consistency with public safety.

Subp. 3. Separate storage. Small arms ammunition ~~shall~~ must be separated from flammable liquids, flammable solids as classified by the Department of Transportation in Code of Federal Regulations, title 49, parts 100 to 199 (1983), and oxidizing materials by a fire-resistive wall of one-hour rating or by a distance of 25 feet.

Small arms ammunition ~~shall~~ must not be stored together with class A or class B explosives as defined by Department of Transportation regulations in Code of Federal Regulations, title 49, parts 100 to 199 (1983), unless the storage facility is adequate ~~for this latter storage as described in Code of Federal Regulations, title 27, sections 55.201 to 55.220 (1982). See Code of Federal Regulations, title 27, part 181, "Commerce in Explosives."~~

7500.3500 SMOKELESS PROPELLANTS.

Subpart 1. Restricted scope. This part does not apply to the transportation of smokeless propellants governed by Code of Federal Regulations, title 49, parts 100 to 199 (1983).

Subp. 1a. Approved container required. Smokeless propellants must be stored in shipping containers approved by the Department of Transportation in Code of Federal Regulations, title 49, parts 100 to 199 (1983).

Subp. 1b. Transportation of certain quantities. Quantities of smokeless propellants of 25 pounds or less in shipping containers

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

approved by the Department of Transportation ~~not in excess of 25 pounds~~ in Code of Federal Regulations, title 49, parts 100 to 199 (1983), may be transported in a passenger vehicle.

Quantities in excess of 25 pounds but not exceeding 50 pounds ~~that are transported~~ in a passenger vehicle ~~shall must be transported~~ in a portable magazine having wooden walls of at least one-inch nominal thickness.

Transportation of quantities in excess of 50 pounds is prohibited in vehicles transporting passengers.

Transportation of quantities in excess of 50 pounds in other than passenger vehicles ~~shall be in accordance~~ must comply with Department of Transportation regulations, ~~except that in Code of Federal Regulations, title 49, parts 100 to 199 (1983)~~. In addition, warning placards ~~shall must~~ be prominently displayed when more than 250 pounds are being transported.

Subp. 2. Storage of propellants intended for personal use. ~~All smokeless propellants shall be stored in Department of Transportation approved shipping containers.~~ Smokeless propellants intended for personal use in quantities not to exceed 20 pounds may be stored in residences. Quantities ~~over 20 pounds, but not to exceed in excess of 20 but not exceeding~~ 50 pounds, ~~shall must~~ be stored in a wooden box or cabinet having walls of at least one-inch nominal thickness.

Subp. 3. Commercial displays and stocks. Not more than 20 pounds of smokeless propellants, in containers of one-pound maximum capacity, ~~shall may~~ be displayed in commercial establishments. Commercial stocks of smokeless propellants ~~over greater than 20 pounds and but~~ not more than 100 pounds ~~shall must~~ be stored in approved wooden boxes having walls of at least one-inch nominal thickness. Not more than 50 pounds ~~shall be~~ are permitted in any one box.

Commercial stocks in quantities not to exceed 750 pounds ~~shall must~~ be stored in storage cabinets having wooden walls of at least one-inch nominal thickness. Not more than 400 pounds ~~shall be~~ are permitted in any one cabinet.

Subp. 4. Quantities over 750 pounds. Quantities in excess of 750 pounds ~~shall must~~ be stored in magazines constructed and located as specified in part 7500.0800.

7500.3600 SMALL ARMS AMMUNITION PRIMERS.

Subpart 1. Restricted scope. This section does not apply to the transportation of small arms ammunition primers governed by Code of Federal Regulations, title 49, parts 100 to 199 (1983).

Subp. 2. Transportation and storage. Small arms ammunition primers ~~shall must~~ not be transported or stored except in the original shipping container approved by the Department of Transportation in Code of Federal Regulations, title 49, parts 100 to 199 (1983).

Subp. 3. Truck or rail transportation. Truck or rail transportation of small arms ammunition primers ~~shall be in accordance~~ must comply with the Department of Transportation regulations in Code of Federal Regulations, title 49, parts 100 to 199 (1983).

Subp. 4. Quantity limitations. Not more than 25,000 small arms ammunition primers ~~shall may~~ be transported in a passenger vehicle.

Not more than 10,000 small arms ammunition primers may be stored in residences.

Not more than 10,000 small arms ammunition primers may be displayed in commercial establishments.

Subp. 5. Separate storage. Small arms ammunition primers ~~shall must~~ be separated from flammable liquids, flammable solids as classified by the Department of Transportation in Code of Federal Regulations, title 49, parts 100 to 199 (1983), and oxidizing materials by a fire-resistive wall of one-hour rating or by a distance of 25 feet.

Subp. 6. Storage of large quantities. Quantities of small arms ammunition primers in excess of 1,000,000 ~~shall must~~ be stored in magazines in accordance with part 7500.0800.

REPEALER. Minnesota Rules, parts 7500.0100, subparts 12, 15, 20, and 21; 7500.0900; 7500.1000; 7500.1100; 7500.1700; 7500.1800, subpart 5; 7500.1900; 7500.2300; 7500.2800; 7500.3200, subpart 1; and 7500.3300 are repealed.

ADOPTED RULES

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 Labor and Industry

Adopted Rules Relating to Occupational Professions, Boiler Operations, Fees

The rules proposed and published at *State Register*, Volume 10, Number 16, pages 881-884, October 14, 1985 (10 S.R. 881) are adopted as proposed.

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 Energy and Economic Development Financial Management Division

Availability of Issuance Authority in Competitive Pool, December, 1985

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 December 5, 1985, is only \$0.53 and will be available to qualifying Industrial Development Bond Issuers submitting qualification criteria applications by December 10, 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 November 5, 1985	\$ 44,958,060.53
Add:	
Returned Allocations:	\$ 3,996,200.00
Total Pool Available as of December 5, 1985:	\$ 48,954,260.53

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

<u>Issuer</u>	<u>Project</u>	<u>No. of Pts.</u>	<u>Amount</u>
City of Duluth	Lake Superior Paper Company	11	\$ 2,600,000.00
MN Energy & Economic Development Authority	Crysteel Manufacturing, Inc.	9	1,000,000.00
Port Authority—City of St. Paul	McCull Building Completion Bonds	9	800,000.00

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.

OFFICIAL NOTICES

City of Winona	Schuler Chocolates, Inc.	9	1,450,000.00
MN Energy & Economic Development Authority	Advertising Unlimited, Inc.	8	1,000,000.00
City of Rosemount	Koch Refining Company No. 5 Sulfur Plant	8	20,000,000.00
Washington Co. HRA	Nelle, Inc.	8	5,000,000.00
Washington Co. HRA	Washington Square Dvlpt., Inc.	8	2,500,000.00
City of Chanhassen	M. A. Gedney Co. Expansion	7	1,300,000.00
City of Lakeville	Mills Fleet Farm	6	3,500,000.00
City of New Brighton	Cohasset Investments	6	5,200,000.00
City of Plainview	Lakeside Packing Company	6	4,000,000.00
City of Woodbury	Parkwood Place	6	300,000.00
City of Elk River	Hardware Store-Morrell and Plaistad Partnership	5	304,260.00
Total Allocations Awarded:			\$48,954,260.00
Amount of Issuance Authority Available as of December 5, 1985:			\$ 0.53

Department of Health

Outside Opinion Sought on Proposed Rules Relating to a Phenylketonuria Testing Program, the Treatment for Positive Diagnosis, and a Registry of Cases

Notice is hereby given that the Minnesota Department of Health is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing a phenylketonuria testing program, the treatment for positive diagnosis, and a registry of cases. The adoption of the rules is authorized by Minnesota Statutes, section 144.128, which requires the agency to adopt rules to carry out the purposes of Minnesota Statutes, sections 144.126 and 144.128 (Supp. 1985).

The Minnesota Department of Health requests information and comments concerning the subject matter of the rules. Interested or affected persons or groups may submit data or views on the subject matter of concern orally or in writing. Written statements should be addressed to: Lee Schacht, PhD, Supervisor, Human Genetics Unit, Maternal and Child Health Technical Services, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Oral statements will be received during regular business hours over the telephone at (612) 623-5269 and in person at the above address.

All statements of information and comment shall be accepted until January 10, 1986. Any written material received by the Minnesota Department of Health shall become part of the rulemaking record in the event that the rule is adopted.

December 4, 1985

Sister Mary Madonna Ashton
Commissioner of Health

Department of Health Health Resources Division

Outside Opinion Sought Regarding Proposed Rules Governing Nursing Staff Hour Requirements in Nursing Homes

Notice is hereby given that the State Department of Health is seeking information or opinions from sources outside the agency in preparing to amend Minn. Rules 4655.5600 regarding nursing staff hours in licensed nursing homes. The amendment of this rule is authorized by Minnesota Statutes, sections 144A.02 to .08.

The State Department of Health requests information and comments concerning the subject matter of this rule. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to: Robert Eelkema, 717 Delaware Street Southeast—P.O. Box 9441, Minneapolis, Minnesota 55440.

Oral statements will be received during regular business hours over the telephone at 623-5424 and in person at the above address.

All statements of information and comment will be accepted until thirty days after this Notice appears in the *State Register*. Any written material received by the State Department of Health shall become part of the record in the event that the rule is amended.

Janet G. Brodahl, Director
Health Resources Division

Department of Human Services

Relative Values for Inpatient Hospital Reimbursement

Pursuant to Minnesota Rules, part 9500.1110, subpart 3, notice is hereby given regarding the relative values for the diagnostic categories, Minnesota Rules, part 9500.1090, subpart 20, used in the determination of inpatient hospital reimbursement under the Medical Assistance and General Assistance Medical Care programs for admissions that occur on or after August 1, 1985. Also provided is the geometric mean lengths of stay and day outlier cutoff points for the diagnostic categories.

Relative Values, Geometric Mean Lengths of Stay, and Outlier Cutoffs

Diagnostic Categories	DRG Numbers within the Diagnostic Category	MA			GAMC		
		Relative Value	Geometric Mean LOS	Outlier Cutoff	Relative Value	Geometric Mean LOS	Outlier Cutoff
A. Diseases and Disorders of the Nervous System	(1-35)	1.27844	3.83	44	.96580	3.42	21
B. Diseases and Disorders of the Eye	(36-48)	.66138	2.36	11	.74310	2.59	10
C. Diseases and Disorders of the Ear, Nose and Throat	(49-74)	.45110	2.02	10	.62781	2.19	11
D. Diseases and Disorders of the Respiratory System	(75-97, 99-102)	1.01668	4.13	27	.99363	4.09	18
E. Diseases and Disorders of the Circulatory System	(103-145)	1.96459	4.60	35	1.41371	4.22	19
F. Diseases and Disorders of the Digestive System	(146-183, 185-190)	.85235	3.46	19	.91305	3.69	19
G. Diseases and Disorders of the Hepatobiliary System and Pancreas	(191-208)	1.33679	5.40	22	1.29468	5.79	24
H. Diseases and Disorders of the Musculoskeletal System and Connective Tissues	(209-256)	1.02084	4.11	23	1.00476	4.07	20
I. Diseases and Disorders of the Skin, Subcutaneous Tissue and Breast	(257-284)	.77683	3.41	21	.84409	3.70	21
J. Endocrine, Nutritional, and Metabolic Diseases and Disorders	(285-301)	1.05528	4.62	21	.98795	4.52	22
K. Diseases and Disorders of the Kidney and Urinary Tract	(302-333)	.97518	3.83	20	.97761	3.93	18
L. Diseases and Disorders of the Male Reproductive System	(334-352)	.66092	2.48	12	.88187	3.34	12
M. Diseases and Disorders of the Female Reproductive System	(353-369)	.79162	3.15	11	.79242	3.62	12

OFFICIAL NOTICES

Diagnostic Categories	DRG Numbers within the Diagnostic Category	MA			GAMC		
		Relative Value	Geometric Mean LOS	Outlier Cutoff	Relative Value	Geometric Mean LOS	Outlier Cutoff
N. Pregnancy, Childbirth, and the Puerperium	(370, 374-384)	.44466	1.91	9	.50918	2.22	11
O. Newborns and Other Neonates with Conditions Originating in the Perinatal Period	(385-390)	2.09116	6.77	34	.52292	4.05	13
P. Diseases and Disorders of the Blood and Blood-Forming Organs and Immunity Disorders	(392-399)	1.15668	3.53	23	1.29121	4.54	19
Q. Myeloproliferative Diseases and Disorders, Poorly Differentiated Malignancy and Other Neoplasms NEC	(400-414)	1.81619	4.46	38	1.14183	4.18	28
R. Infectious and Parasitic Diseases (Systemic or Unspecified Sites)	(414-423)	.69352	3.32	17	1.06764	4.84	19
S. Mental Diseases and Disorders	(424-425, 427-429, 432)	1.52357	7.77	65	.90757	5.89	30
T. Substance Use and Substance Induced Organic Mental Disorders (Ages 0-20)	(433-438)	1.60565	13.51	42	1.20276	13.18	37
U. Substance Use and Substance Induced Organic Mental Disorders (Ages over 21)	(433-438)	1.28010	11.11	36	1.07399	9.57	35
V. Injury, Poisoning, and Toxic Effects of Drugs	(439-455)	.85642	2.66	29	1.07724	3.21	22
W. Burns	(456-460)	2.43239	6.32	59	2.66347	8.21	41
X. Factors Influencing Health Status and Other Contacts with Health Services	(461-467)	.63562	2.82	15	.55612	2.88	17
Y. Bronchitis and Asthma (Ages 0-1)	(98)	.52343	3.21	10	.00000	0.00	0
Z. Bronchitis and Asthma (Ages 2-17)	(98)	.52148	2.87	7	.00000	0.00	0
AA. Esophagitis, Gastroenteritis, Miscellaneous Digestive Disorders (Ages 0-1)	(184)	.44009	2.89	10	.00000	.00	0
BB. Esophagitis, Gastroenteritis, Miscellaneous Digestive Disorders (Ages 2-17)	(184)	.38347	2.39	9	.29000	1.69	4
CC. Cesarean section without comorbidities and complications	(371)	1.57265	5.33	12	1.01974	5.14	11
DD. Vaginal delivery with complicating diagnosis	(372)	.82785	3.20	9	.53860	2.94	12
EE. Vaginal delivery without complicating diagnosis and Normal newborns	(373), (391)	.63863	2.82	8	.45348	2.56	6

Diagnostic Categories	DRG Numbers within the Diagnostic Category	MA			GAMC		
		Relative Value	Geometric Mean LOS	Outlier Cutoff	Relative Value	Geometric Mean LOS	Outlier Cutoff
FF. Depressive neurosis	(426)	1.33912	8.13	43	1.01700	6.91	30
GG. Psychosis	(430)	1.66412	10.59	45	1.43276	9.74	37
HH. Childhood mental disorders	(431)	3.39766	19.31	80	2.03875	14.03	42
II. Unrelated Operating room procedure	(468)	1.30984	4.16	37	1.52995	5.19	29
JJ. Cases which could not be assigned to other diagnostic categories	(469-470)	.00000	.00	0	.00000	.00	0

Leonard W. Levine, Commissioner
Department of Human Services

Racing Commission

Outside Opinion Sought Regarding Proposed Rules Governing Pari-Mutuel Horse Racing in Minnesota

Notice is hereby given that the Minnesota Racing Commission (MRC) is seeking information or opinions from sources outside the agency in preparing to promulgate rules and amend existing rules governing all aspects of pari-mutuel horse racing in Minnesota including the development of and revision to the issuance of Class "A", "B", and "C" licenses, the conduct of thoroughbred, quarter horse and standardbred racing, horse medication, prohibited acts, stewards, breeders' fund, and penalties. The MRC is authorized to promulgate rules under Minnesota Statutes, Chapter 240.

The MRC requests information and comments concerning the subject matter of these rules, and information or comments to any other rule governing the conduct of pari-mutuel horse racing. Interested or affected persons may submit statements of information or comment to: David J. Freeman, Executive Director, Minnesota Racing Commission, 11000 West 78th Street, Suite 201, Eden Prairie, Minnesota 55344.

All statements of information and comments will be accepted with respect to each set of rules until such set has progressed to the point at which public comment is terminated pursuant to the Minnesota Administrative Procedure Act. Any written material received by the MRC shall become part of the record in the event that the rules are promulgated.

State Retirement System

Board of Directors Regular Meeting

A meeting of the Board of Directors, Minnesota State Retirement System will be held on Friday, December 20, 1985, at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Department of Revenue

Outside Opinion Sought Regarding Proposed Rule Governing Bank Affiliated Returns

Notice is hereby given that the Minnesota Department of Revenue is seeking information, opinions, or comments from sources outside the agency concerning a proposed rule. The proposed rule would permit an affiliated group of corporations which includes a bank and are required to file combined reports to file one return on behalf of the group. The promulgation of this rule is authorized by Minnesota Statutes, section 290.37, subdivision 1(a). A preliminary draft of the proposed rule is available from the Department of Revenue. Interested persons may obtain a copy of the proposed draft by contacting:

Harriet J. Sims, Attorney
Corporate Income Tax Division
P.O. Box 64452, Location 280
St. Paul, MN 55164
(612) 297-4058

OFFICIAL NOTICES

Written statements should be sent to the above address.

All statements of information and comments will be accepted through 4:30 p.m., January 3, 1986.

All written material received by the Minnesota Department of Revenue shall become part of the record in the event the rule is promulgated.

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. 70749

Whereas, the Commissioner of Transportation has made his Order No. 68884 as amended by Orders Nos. 69226, 69269, 69270, 69344, 69353, 69595, 69770, 69796, 70006, 70031, 70152, 70455, 70520, 70580, 70652, 70698, and 70747 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 segment 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 segment of routes, as follows:

COUNTY ROADS

- Lake
- C.S.A.H. 2 from Jct. T.H. 61 to Jct. County Road 200N (effective 5-15).
 - County Road 200N from Jct. C.S.A.H. 2 to Jct. County Road 200E (effective 5-15).
 - County Road 200E from Jct. County Road 200N to Jct. County Road 200S (effective 5-15).
 - County Road 200S from Jct. C.S.A.H. 2 to County Road 200W (effective 5-15).

December 9, 1985

Richard P. Braun
Commissioner

State contracts, catch

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 Intergovernmental Information Systems Advisory Council

Request for Proposals for Enhancement(s) to Existing Data Interchange System(s)

The Intergovernmental Information Systems Advisory Council (IISAC), a Division within the Department of Administration, has an interest in one or more demonstration projects, which could serve as a model for other state agencies, to improve existing state/local government information interchange system(s). The selected system(s), for example, may be one which could benefit from—

- use of current technology (automation and/or telecommunications), or
- adoption of expanded standards, or
- identification of enhanced operational controls, or
- improved report timing, or
- wider/smaller dissemination, or
- addition/deletion of data elements, etc.

This project is the second in the area of improving the process of data interchange between state agencies and local governments that has been undertaken by the IISAC. The first effort was completed in September, 1985, and consisted of a study which determined the volume, types, media, and frequency of data interchange that is occurring between state agencies and Minnesota local governments.

Although the IISAC has gathered information about the "type" of data interchange that is occurring, it has very little information on the nature of problems and/or opportunities that currently exist. It, therefore, is requesting those intimately involved with a state/local government information interchange system which they believe has a need (opportunity) for improvement, to reply so that their system(s) can be considered.

The deadline for receipt of submitted proposals is Friday, January 31, 1986. The maximum available for this effort is \$40,000. A secondary effort, the promulgation of "what was learned" is contemplated. This effort, if undertaken, will have a maximum amount of \$10,000 available and will be handled independently of this RFP.

The RFP can be obtained from Roger Sell, Executive Director of the IISAC, COB-3rd floor, 658 Cedar Street, St. Paul, MN 55155 [612/297-2172].

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
79-800-02848	Extension Culvert	Transportation	Marshall	Contact buyer
27-000-47797	Transformer	Normandale Community College	Normandale	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
27-000-48562 etc. REBID	Satellite Systems	Community Colleges	Various	Contact buyer
Contract 02-520-46169	Fluorescent Fixtures Purchase of Photocopy Machine	Various Administration— Printing & Mailing	Various St. Paul	\$50,000-75,000 Contact buyer
Contract	Shoes: Casual & Dress	Human Services— State Hospitals & Institutions	Various	\$6,000-7,000
26-070-11339	Purchase of Photocopy Machine	Bemidji State University	Bemidji	Contact buyer
79-800-RM	Ready Mix Concrete— Willmar	Transportation	Willmar	Contact buyer
27-156-48855-4751	Catalog 1986-87	Normandale Community College	Bloomington	Contact buyer
21-200-10951	Lease/Purchase of Photocopy Machine	Jobs & Training	Brainerd	Contact buyer
79-800-PC	Portland Cement	Transportation	Willmar, Marshall	Contact buyer
21-200-11680	Purchase of Laser Printer	Jobs & Training	St. Paul	Contact buyer
08-000-00308	Automated Office System	Corrections— Ombudsman	St. Paul	Contact buyer
02-410-48154	Coaxial Cable	Administration— Information Management Bureau	St. Paul	Contact buyer
78-620-25717	Hot Rolled Sheets	MN Correctional Facility	Stillwater	Contact buyer
Contract 79-000-50438-4340	Electric Lamps	All State Agencies	All State Agencies	\$1,000,000-1,200,000
22-400-01028-4671	1986 Aeronautical Charts Resort/Lakes Map	Transportation Energy & Economic Development	St. Paul St. Paul	Contact buyer Contact buyer
21-200-11930-4676	Area Office Envelope	Jobs & Training	St. Paul	Contact buyer
67-190-11282-4214	Lettersize File Pockets	Revenue	St. Paul	Contact buyer
26-074-10607-4693	1986 Spring Class Schedule	Winona State University	Winona	Contact buyer
12-300-89037	Video Equipment	Health	Minneapolis	Contact buyer
80-300-03322	Railroad Truck Scale Test Car	Public Service	St. Paul	Contact buyer
26-073-18466	Electrocardiograph Monitor	St. Cloud State University	St. Cloud	Contact buyer
26-073-18484	Counting System	St. Cloud State University	St. Cloud	Contact buyer
26-074-10579	Petro-Thin Sectioning System	Winona State University	Winona, Mn.	Contact buyer
79-000-50314-40691	1986 MN Airport Directory	Transportation	St. Paul	Contact buyer
29-003-09556	Lawn & Garden Tractor	Natural Resources	Hinckley	Contact buyer
26-073-18311	Furnish and Install Steam Traps	St. Cloud State University	St. Cloud	Contact buyer

Contact 296-6152 for referral to specific buyers.

**Department of Health
Division of Disease Prevention and Health Promotion
Venereal Disease Control Program****Request for Proposals for Gonorrhea Patient Contact Intervention Material
Development**

The Minnesota Department of Health is requesting proposals from public and private non-profit organizations to develop materials that will guide and assist health care providers in the interviewing and counseling of patients who are diagnosed with gonorrhea, so that the sexual contacts of these patients are more effectively referred to proper medical examination. An amount not to exceed \$10,000.00 is available for the project from the Department, although the full cost of the production and distribution of these materials is expected to exceed \$15,000.00.

Interested persons may obtain a Request for Proposals and further instruction by submitting a written request no later than 4:30 p.m. December 27, 1985, to:

David F. Brownell, Chief
Venereal Disease Control Program
Minnesota Department of Health
717 S.E. Delaware Street
P.O. Box 9441
Minneapolis, Minnesota 55440

Proposals must be submitted to the Department no later than 4:30 p.m. January 6, 1986.

**Department of Human Services
Chemical Dependency Program Division****Request for Proposals for American Indian Adolescent Chemical Dependency
Demonstration Project**

The Chemical Dependency Program Division (CDPD) of the Department of Human Services is soliciting proposals for the implementation of a demonstration project to provide chemical dependency service to American Indian adolescents and their families. A total of \$75,000 is available to a single grantee. The funded program will begin on or about March 1, 1986.

All requests for information or copies of complete RFP can be obtained by contacting Dorrie Hennagir at 612/296-4617.

Proposals in response to this RFP must be submitted on the CDPD grant application form. A copy of the application form can be obtained by contacting Dorrie Hennagir at the phone number listed above. Eight copies of the complete proposal must be in the CDPD Office, 444 Lafayette Road, St. Paul, MN 55101, no later than 4:20 PM on January 3, 1986.

**Department of Human Services
Chemical Dependency Program Division****Request for Proposals for American Indian Training Project for Chemical Health
Providers**

The Chemical Dependency Program Division (CDPD) of the Department of Human Services is soliciting proposals for the implementation of training to improve skills of professionals who deliver chemical health curricula to American Indian students. A total of \$10,000 is available to a single contractor. The funded program will begin on or about March 1, 1986.

All requests for information or copies of complete RFP can be obtained by contacting Dorrie Hennagir at 612/296-4617.

Proposals in response to this RFP must be submitted on the CDPD grant application form. A copy of the application form can be obtained by contacting Dorrie Hennagir at the number listed above. Eight copies of the complete proposal must be in the CDPD office, 444 Lafayette Road, St. Paul, MN 55101, no later than 4:20 PM on January 3, 1986.

Department of Human Services Faribault State Hospital

Request for Proposals for Child/Adolescent Psychiatrist Services

Notice is hereby given that Faribault Regional Center; Mental Health Division; Department of Human Services, is seeking a child and adolescent psychiatrist to provide services at Faribault Regional Center. The contract will require the Contractor to visit the institution every two weeks, and to spend eight (8) hours at the institution each visit. The contractor's duties will be:

1. To provide specialized services in child and adolescent psychiatry.
2. To provide comprehensive therapeutic programs in his/her area of expertise.
3. To consult with and, if necessary, instruct the staff in areas of observation and assessment.

The estimated amount of this contract will be \$28,000.00. Proposals are due by 4:30 p.m. on January 6, 1986. The period of this contract covers January 1, 1986 through June 30, 1987.

Direct inquiries to:

Richard Fick
Faribault Regional Center
802 Circle Drive
Faribault, MN 55021
(507) 332-3530

Metropolitan Council

Request for Proposals for Long Term Care Financing Study

The Metropolitan Council solicits a proposal for entering into a contract to conduct a study of options for making public long term care funding more flexible. By "flexible" the Council means funding options that are: 1) available to fund a wider array of services (including personal care and other non-medical services) than is possible under current programs; and 2) more responsive to the specific needs and preferences of the individual needing the long term care services. Examples of how this flexibility might be attained include "pooling" funds; increasing coordination of existing funding sources; and/or giving the individual and/or the provider of service more control over what services are provided, how, by whom, etc. (See Reshaping Long Term Care in the Metro Area, pp. 33-37 for more information.)

The work steps and the specific products required for the consultant are:

- A. Develop or augment an existing inventory of public funding sources available to pay for long term care services.
- B. Describe the legislation, regulations, policies or other constraints that govern how these public funds are now used or made available.
- C. Develop new, innovative financing options for restructuring the public financing of long term care that merit specific criteria.
- D. For each of the options developed, describe how each could be made operational.

A consultant will be selected on the basis of several criteria including:

- A. Consultant's expertise and professional competence in the area of long term care financing issues.
- B. Appropriateness of the suggested method for completing the work.
- C. Ability of the consultant to complete the work.
- D. Familiarity with federal and state legislation, policies and other related guidelines.
- E. Familiarity with the Council's long term care policies and its policies in the health, housing and aging areas.
- F. Previous experience in completing similar/related projects.
- G. Completeness of the proposal and demonstrated understanding of work to be done.
- H. Effectiveness of an implemented affirmative action program and the extent to which women and minority business enterprises will participate in the proposed contract.

It is anticipated that the consultant will be chosen by early January and contract signed in January and continue through June 1986.

The budget available for the contract is \$25,000, and completed RFPs are due to the Council by 4:00 p.m. on December 20, 1985.

More information can be obtained by contacting LaRhae Knatterud, Contract Manager, at 291-6497.

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 Energy and Economic Development

Technical Assistance Program Applications Sought

The Development Resources Division of the Minnesota Department of Energy and Economic Development (MNDEED) is soliciting applications for direct technical assistance from Minnesota cities and counties. The purpose of this program is to increase local economic development skills and create permanent jobs. Delivery of technical assistance will begin January 8, 1986, with completion of approximately 76 projects by June 30, 1986. MNDEED will not underwrite any specific project costs, but will provide 25-40 hours of staff assistance. Project activities could include, but need not be limited to, the following:

1. Leadership development
2. Community needs assessment
3. Initiation of a local development corporation
4. Assistance completing a Star City requirement
5. Retail Market or Labor Market Studies
6. Other projects of importance to the locality

Application packets are available upon request from Harry Rosefelt, Director of Development Resources at the Minnesota Department of Energy and Economic Development. Technical assistance request forms must be returned by 4:00 p.m. on January 8, 1986, to MN DEED; please use the address listed below:

Harry Rosefelt
Technical Assistance Program
Development Resource Division
MN Dept. of Energy & Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Waste Management Board

Revised Submission Deadline for applications for Hazardous Waste Reduction Grants

Under Minnesota Statutes § 115A.154 (1984), the Waste Management Board is authorized to make grants to generators of hazardous waste in the State for studies to determine the feasibility of applying specific methods and technologies to reduce the generation of hazardous waste.

Notice is hereby given that the deadline for the receipt of completed applications, which originally was January 15, 1986, has been changed. The new deadline for the submission of applications is January 29, 1986.

STATE GRANTS

Additional information on the program and a copy of the application form and procedures manual is available from:

Ken Stabler
Waste Management Board
123 Thorson Community Center
723 58th Avenue North
Crystal, MN 55428
(612) 536-0816

Bill Walker, Chairman
Waste Management Board

SUPREME COURT DECISIONS

Decisions Filed Friday, December 6, 1985

Compiled by Wayne O. Tschimperle, Clerk

C1-85-1161 State of Minnesota, Appellant v. John (NMN) Soto. Ramsey County.

The words "human being" as used in Minn. Stat. § 609.21, subd. 1 (1984), do not encompass a viable fetus capable of sustained life outside of the womb of the mother.

If the vehicular homicide statute (Minn. Stat. § 609.21, subd. 1 (1984)) is to be expanded so as to encompass in its victim definition a viable fetus, such expansion is within the sole function and discretion of the state legislature.

Affirmed. Kelley, J.

Dissenting, Yetka, J.

Took no part, Peterson, J.

C2-84-1921 Victor Coralin, a.k.a. Victor Coralinnadal, etc. v. State of Minnesota, Petitioner, Appellant. Court of Appeals.

District court committed error in not conducting, upon request, midtrial hearing concerning a post-omnibus hearing out-of-court photo lineup.

The evidence of independent grounds for identification, however, makes the court's error harmless beyond a reasonable doubt.

Reversed. Yetka, J.

TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

State of Minnesota Tax Court Regular Division

Roger Reed, Appellant, v. Commissioner of Revenue, Appellee, Docket No. 4285

Findings of Fact, Conclusions of Law and Order for Judgment Dated December 3, 1985

The above-entitled matter came on for hearing at the Fillmore County Courthouse in Preston, Minnesota, on October 11, 1985, before the Minnesota Tax Court, Judge Earl B. Gustafson presiding.

The case involves the assessment of additional sales tax for the periods from October, 1974 through December, 1983. Fraud penalties were assessed for each period.

Roger Reed, the appellant, appeared pro se.

Amy Eisenstadt, Special Assistant Attorney General, appeared for appellee.

Post trial briefs were submitted by the parties.

The Court, having heard and considered the evidence adduced at the hearing, now makes the following:

Findings of Fact

1. This is an appeal from the Order of the Commissioner of Revenue dated January 18, 1985, relating to the sales tax of the Tamarack Diner for the taxable periods October 1, 1974 through December 31, 1983, in the amount of \$81,343.36.
2. Appellant was the owner and operator of the Tamarack Diner, Spring Valley, Minnesota, during the taxable periods in question.
3. Meals served at the diner are subject to sales tax.
4. Appellant charged sales tax on meals and signed and filed Minnesota sales tax returns.
5. Appellant kept no business records to substantiate the amounts shown on his returns.
6. The state tax examiners obtained copies of appellant's purchase invoices from his major suppliers for the year 1983 and from these invoices estimated the gross sales for 1983. The gross sales for earlier years were then estimated using 1983 as the base year.
7. After computing the estimated gross sales, the tax examiners allowed a deduction of 5% for appellant's personal consumption of food products and for purchases made for others.
8. The Order being appealed includes a 50% fraud penalty plus interest.
9. Appellant offered no credible evidence rebutting the Commissioner's determination of tax due.
10. Appellant consistently failed to report a substantial portion of his taxable sales.
11. Appellant's conduct establishes that he willfully filed false or fraudulent sales tax returns.
12. The attached Memorandum is made a part of these Findings of Fact.

Conclusions of Law

1. The Commissioner's determination of tax is proper.
2. The Commissioner's assessment of a 50% fraud penalty is proper.
3. The Commissioner's Order dated January 18, 1985 is affirmed in all respects.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

December 3, 1985

By the Court,
Earl B. Gustafson, Chief Judge
Minnesota Tax Court

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.

*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.

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

- _____ Annual subscription \$89.50

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

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

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