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# STATE REGISTER

STATE OF MINNESOTA

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### 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			
32	Friday January 17	Monday January 27	Monday February 3
33	Monday January 27	Monday February 3	Monday February 10
34	Monday February 3	Monday February 10	Monday February 17
35	Monday February 10	Friday February 14	Monday February 24

\*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, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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

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## 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:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issues 27-38, inclusive	

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

# MINNESOTA RULES AMENDMENTS AND ADDITIONS

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## PROPOSED RULES

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

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

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

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

## Department of Human Services

### Proposed Rules Relating to Licensing of Family Day Care and Group Family Day Care

#### Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held at:

- the media center of Mankato East Junior-Senior High School, 2600 Hoffman Road, Mankato, Minnesota, on February 27, 1986, commencing at 6 p.m.;
- the auditorium of the State Office Building, 435 Park Street, St. Paul, Minnesota, on March 1, 1986, commencing at 9 a.m.; and
- the auditorium of Fergus Falls Regional Treatment Center (State Hospital), Fir and Union Streets, Fergus Falls, Minnesota, on March 4, 1986, commencing at 6 p.m.

The hearing will continue 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.

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, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone 612/341-7606, either before the hearing or within five working days after the public hearing ends.

**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

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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 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.

Minnesota Rules, parts 9502.0300 to 9502.0445 were adopted April 1, 1985. They govern the licensure of family and group family day care homes. The Department is proposing amendments to certain parts of these rules which affect day care providers, parents of children in care and county agencies recommending family day care licensure.

Many of the proposed amendments to the adopted rule parts clarify or simplify the previously-adopted language, reduce the length of the rules, or delete redundant language. These amendments do not change the purpose or meaning of the adopted rule part. Such amendments are proposed for rule parts 9502.0315 (DEFINITIONS of agency, building official and mental illness); part 9502.0335 (LICENSING PROCESS, license application, license suspension or probation, variance standards, procedures, agency variance role, return of license to the commissioner, and unlicensed facilities); part 9502.0355 (CAREGIVER QUALIFICATIONS, definition of accredited); part 9502.0375 (REPORTING TO THE AGENCY); part 9502.0395 (BEHAVIOR GUIDANCE, methods) and part 9502.0425 (PHYSICAL ENVIRONMENT, occupancy separations, stairways, decks, and sewage disposal).

Other proposed amendments to the adopted rule parts are intended to reduce the burden and paperwork for county agencies. Such amendments are proposed for rule parts 9502.0335 (LICENSING PROCESS, license renewal); part 9502.0345 (AGENCY RECORDS); part 9502.0375 (REPORTING TO THE AGENCY); and part 9502.0385 (DAY CARE TRAINING, Agency training role).

Other areas of the rule being amended are:

- 1) part 9502.0315 which adds DEFINITIONS of Minnesota Uniform Fire Code, State Building Code, and Supervision;
- 2) part 9502.0335 (LICENSING PROCESS), licensing study, recommends modifying the language and circumstances for health, building and fire inspections and mandates fire inspections of residences with a licensed capacity of more than ten children;
- 3) subpart 6 of the LICENSING PROCESS rule part adds the abuse of prescription drugs, failure to consent to a criminal history check, and additional crimes to the list of disqualification factors. Access to the residence is clarified to include adjacent play space, all other caregivers in the home, and the right to view and photocopy day care records;
- 4) part 9502.0341 (NEGATIVE LICENSING ACTIONS) amends compliance to mean "substantial" and adds correction orders and fines to the statutorily-mandated actions available to the commissioner, and
- 5) the experience and training requirements for group providers in part 9502.0355 (CAREGIVER QUALIFICATIONS) are reduced and mandated day care insurance coverage is eliminated, though provider notification to parents of the coverage level is required.

The licensed capacity is amended to apply only to children actually present, not the total number who may be enrolled in care. Part 9502.0385 (DAY CARE TRAINING) is amended to add CPR training for all providers and the total training hours for group providers is decreased from twelve to six hours annually. Amendments proposed for part 9502.0395 (BEHAVIOR GUIDANCE) modify the time period for disciplinary separation of a child from the group and clarify that toilet training of a child should be planned with the parents. Part 9502.0405 (ADMISSIONS, PROVIDER RECORDS AND REPORTING) no longer requires the provider to keep parents informed of the child's progress and development. An "understandable" rule summary for parents is mandated, as are provider policies on insurance coverage and smoking in the home.

Overly-prescriptive activity and equipment requirements are deleted from part 9502.0415; permanent platforms under escape windows are deleted from part 9502.0425 (PHYSICAL ENVIRONMENT); and fire code vertical separations are mandated only for homes with a capacity of more than 10 children.

Amendments to part 9502.0435 (SANITATION AND HEALTH) clarify that the motor vehicle restraints specified apply to anyone transporting a child in care (except on a bus or school bus); that birds are permitted in the home if the bird is treated for chlamydia psittaci; that the diapering surface in the home must be washed with a chlorine bleach solution; that the in-home water temperature must be reduced only in tubs and sinks accessible to children; that instructions from a health officer or physician must be followed in instances of reportable communicable disease; and that nonprescription medicines, diapering products, sunscreen lotions and insect repellants must be administered according to the manufacturer's or physician's instructions.

Finally, amendments to part 9502.0445 (WATER, FOOD AND NUTRITION) specify provisions for the maintenance of hot and frozen food and prohibit the service of nonacid and low-acid canned food in the home.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 245.781 to 245.812 and 252.28.

The cost to local public bodies of implementing the proposed rule changes will not exceed \$100,000 for either of the first two years following passage of the rule.

A fiscal note explaining the costs to local agencies of complying with the rule has been prepared according to the requirements of Laws of Minnesota 1985, Special Session, chapter 10, sections 34-38. A free copy of the fiscal note may be obtained by contacting Kay Weber, Licensing Division, Department of Human Services, Sixth Floor, Space Center, 444 Lafayette Road, St. Paul, Minnesota 55101; telephone 612/297-3528.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Kay Weber.

Additional copies will be available at the hearing. If you have any questions on the content of the rule (amendments), contact Beverly Moran, Licensing Division, Department of Human Services, Sixth Floor, Space Center, 444 Lafayette Road, St. Paul, Minnesota 55101; telephone: 612/296-3768.

NOTICE: Any person may request notification of the date on which the Administrative 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 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 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 the 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 communicating 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.

January 10, 1986

Leonard W. Levine, Commissioner  
Department of Human Services

## **Rules As Proposed**

### **9502.0315 DEFINITIONS.**

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Agency.** "Agency" means the county or multi-county social or human service agency governed by the county board of ~~county commissioners~~ or multi-county human services board.

Subp. 4. [Unchanged.]

Subp. 5. **Building official.** "Building official" means the person appointed in accordance with Minnesota Statutes, section ~~46.86~~ 16B.65, to administer the State Building Code, or the building official's authorized representative.

**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. 6. to 19. [Unchanged.]

**Subp. 19a. Mental illness.** “Mental illness” means the inability to interpret the environment realistically or the impaired functioning in primary aspects of daily living, such as personal relations, living arrangements, work, and recreation; which is listed in the International Classification of Diseases (ICD-9-CM) Ninth Revision (1980), code range 290.0-299.9, or the corresponding code in the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders (DSM-III) Third Edition (1980), Axes I, II, or III. These publications are incorporated by reference and are not subject to frequent change. They are available in the state law library.

**Subp. 19b. Minnesota Uniform Fire Code.** “Minnesota Uniform Fire Code” means those codes and regulations adopted by the state fire marshal in accordance with Minnesota Statutes, section 299F.011 and contained in parts 7510.0200 to 7510.3000. Copies of the Minnesota Uniform Fire Code may be viewed at the state law library.

Subp. 20. to 21. [Unchanged.]

**Subp. 22. Preschooler.** “Preschooler” means a child at least 30 months of age up to enrollment in the first grade day of school in the local school district.

Subp. 23. [See repealer.]

Subp. 24. to 27. [Unchanged.]

**Subp. 28. School age.** “School age” means a child ten years of age or younger and enrolled in at least the first grade day of school in the local school district.

**Subp. 28a. State Building Code.** “State Building Code” means those codes and regulations adopted by the commissioner of administration in accordance with Minnesota Statutes, section 16B.59 and contained in chapter 1300. Copies of the State Building Code may be viewed at the state law library.

Subp. 29. [Unchanged.]

**Subp. 29a. Supervision.** “Supervision” means a caregiver being within sight or hearing of an infant, toddler, or preschooler at all times so that the caregiver is capable of intervening to protect the health and safety of the child. For the school-age child, it means a caregiver being available for assistance and care so that the child’s health and safety is protected.

Subp. 30. and 31. [Unchanged.]

### 9502.0335 LICENSING PROCESS.

**Subpart 1. License application.** ~~A person who operates license to operate a family day care residence or group family day care residence shall obtain a license residence must be obtained~~ from the department.

A. Application for a license must be made on the application form issued by the department ~~and obtained from the agency~~. The application must be made in the county where the applicant resides.

B. [Unchanged.]

C. The agency shall supply the applicant with the department application form, a copy of parts 9502.0315 to 9502.0445, and ~~agency or the department documentation~~ forms needed to determine compliance with parts 9502.0315 to 9502.0445. The agency shall stamp and date a signed and completed department application form on the date of receipt.

D. An application for licensure is complete when the applicant completes, signs, and submits all ~~agency and~~ department forms and documentation needed for licensure to the agency and the agency receives all inspection, zoning, evaluation, and investigative reports, documentation, and information required to verify compliance with parts 9545.0315 to 9545.0445 and Minnesota statutes.

**Subp. 2. Licensing study.** The applicant shall give the agency access to the residence for a licensing study to determine compliance with parts 9502.0315 to 9502.0445.

A. [Unchanged.]

B. The residence must comply with any applicable local ordinances. If the commissioner or the agency has reasonable cause to believe a hazardous condition may be present and requests an inspection by a fire marshal, building official, or health officer, then any condition cited by a fire marshal, building official, or health officer as hazardous and creating an immediate danger of fire, or threat to human life and safety, must be corrected or a variance approved in accordance with subparts 8, 8a, and 8b prior to issuance of a license.

C. An inspection of the residence by a fire marshal to determine compliance with the Minnesota Uniform Fire Code and compliance with orders issued are conditions of licensure for all residences with freestanding solid fuel heating appliances; manufactured (mobile) homes; new ~~group family day care residence applications applicants for licensure with a licensed capacity of~~



more than ten; day care residences which use the basement for child care; and residences in mixed or multiple occupancy buildings. "Multiple occupancy building" means a structure with two or more residential dwelling units such as a duplex, apartment building, or townhome. "Mixed occupancy building" means a residence in a structure that contains nonresidential occupancies or an attached garage.

D. The commissioner or agency may require, prior to licensure, or anytime during the licensed term of day care, a physical, mental illness, or chemical dependency or abuse evaluation of any caregiver or person living in the residence or present during the hours children are in care if the agency has reasonable cause to believe that any of the disqualification factors in subpart 6, item A or B, exist, or that the provider is not physically able to care for the children. ~~Such~~ These evaluations, conducted by a licensed physician, psychiatrist, psychologist, or consulting psychologist, or certified chemical dependency practitioner or counselor, may be used to verify physical or mental illness, chemical dependency or chemical abuse, or behavior that would reflect on the ability of the provider to give day care.

Subp. 3. to 5. [Unchanged.]

Subp. 6. **Disqualification factors.** An applicant or provider shall not be issued a license or the license shall be revoked, not renewed, or suspended if the applicant, provider, or any other person living in the day care residence or present during the hours children are in care, or working with children:

A. ~~Is chemically dependent and the behavior has~~ Abuses prescription drugs or uses controlled substances as specified in Minnesota Statutes, chapter 152, or alcohol, to the extent that the use or abuse has or may have a negative effect on the ability of the provider to give care or is apparent during the hours children are in care. ~~Chemical dependency means the inability to function physically or mentally in an effective manner because of the habitual abuse of a psychological or a physical dependency-producing drug, including alcohol. Recovering chemical dependents must have 12 months of verified abstinence.~~

B. ~~Is mentally ill.~~ Mental illness means the inability to interpret the environment realistically or the impaired functioning in primary aspects of daily living, such as personal relations, living arrangements, work, and recreation; which is listed in the International Classification of Diseases (ICD-9-CM) Ninth Revision (1980), code range 290.0-299.9, or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III) Third Edition (1980), Axes I, II, or III. These publications are available in the state law library. Has mental illness and the behavior has or may have a negative effect on the ability of the provider to give care or is apparent during the hours children are in care.

C. [Unchanged.]

D. Refuses to give written consent for the disclosure of criminal history records as specified in Minnesota Statutes, section 245.743, subdivision 3.

~~E.~~ Has had a conviction of, has admitted to, or there is substantial evidence indicating incest (as prohibited in Minnesota Statutes, section 609.365), or physical abuse, sexual abuse, or neglect (as those terms are defined in Minnesota Statutes, section 626.556).

~~E.~~ F. Has had a conviction of, has admitted to, or there is a preponderance of the evidence indicating the commission of any crime listed in Minnesota Statutes, chapter 152 and sections 609.18 to 609.21 or 609.221 to 609.375 609.378, 609.556 to 609.563, 609.66 to 609.675, 617.23 or 617.246, other than those listed in item D. Conviction, admission, or a preponderance of evidence indicating the commission of a same or similar crime in another state or national jurisdiction shall also be grounds for license denial, revocation, nonrenewal, or suspension.

F. and G. [Reletter as G. and H.]

Subp. 7. **License suspension or probation.** A license shall be suspended or made probationary if the provider, or any other person living in the day care residence or present during the hours children are in care or working with children, is awaiting trial for a crime listed in subpart 6, item ~~D or E or F~~.

Subp. 8. ~~Variances~~ Variance standard. An applicant or provider may request a variance from compliance with parts 9502.0315 to 9502.0445. When reviewing a variance request of parts 9502.0315 and 9502.0445, the department shall assess whether alternative methods are identified by the applicant or provider to ensure the health, safety, and protection of children in care. A variance may be granted only if:

A. the applicant complies with all applicable laws, ordinances, and regulations;

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B. specific equivalent measures are identified by the applicant or provider to ensure the health, safety, and protection of the children in care;

C. any variance to the safety provisions in part 9502.0425, subparts 4, 5, 6, 7, 12, 15, 16, 17, and 18 which relate to the Minnesota Uniform Fire Code is approved by a fire marshal and alternative measures are identified to ensure the safety of children in care;

D. any variance of the provisions in part 9502.0435 relating to sanitation and health and part 9502.0445 on water, food, and nutrition are approved by a health officer and alternative measures are identified to ensure the health of children in care;

E. any variance of the provisions in part 9502.0425 relating to subparts 10, stairways; 11, decks; and 13, sewage disposal which relate to the State Building Code, are approved by a building official and alternative measures are identified to ensure the health and safety of children in care; and

F. any variance to subpart 6, item F must have clear and convincing evidence presented by the applicant or provider that no threat or harm whatsoever will result to the children in care due to the granting of the variance. The department shall consider the nature of the crime committed and the amount of time which has elapsed without a repeat of the crime.

**A- Subp. 8a. Variance procedure.** Request for a variance must comply with and be handled according to the following procedures.

(+) A. An applicant or provider must submit to the agency a written request for a variance. The request must include the following information:

(a) (1) the sections of parts 9502.0315 to 9502.0445 with which the applicant or provider cannot comply;

(b) (2) the reasons why the applicant or provider needs to depart from the specified sections ~~or why compliance with the specified section would cause undue hardship;~~

(c) (3) the period of time for which the applicant or provider requests a variance; and

(d) (4) the specific equivalent alternative measures which the applicant or provider will ~~take~~ provide so the health, safety, and ~~development~~ protection of children in care is are ensured if the variance is granted.

(2) B. An applicant or provider must submit to the agency written approval from a fire marshal of a variance request and the alternative measures identified to ensure the safety of children in care when a variance of the fire safety provisions in part 9502.0425 on physical environment is requested. These are part 9502.0425, subpart 4, ~~on~~ means of escape; subpart 5, ~~on~~ occupancy separations; subpart 6, ~~on~~ fire doors vertical separations; subpart 7, ~~on~~ heating and venting systems; subpart 12, ~~on~~ locks and latches; subpart 15, ~~on~~ interior walls and ceilings; subpart 16, ~~about~~ extinguishers; subpart 17, ~~on~~ smoke detection systems; and subpart 18, ~~on~~ electrical services.

(3) C. An applicant or provider must submit to the agency written approval from a health officer of a variance request and the alternative measures identified to ensure the safety of children in care when a variance of the health provisions in parts 9502.0435 on sanitation and health, and 9502.0445 on water, food, and nutrition is requested.

D. An applicant or provider must submit to the agency written approval from a building official of a variance request and alternative measures identified to ensure the health and safety of children in care when a variance is requested of the standards contained in part 9502.0425 relating to subparts 10, stairways; 11, decks; and 13, sewage disposal.

**B- Subp. 8b. Agency variance role.** The agency may request that the commissioner delegate to the ~~county~~ agency the authority to grant variances to the standards governing licensed capacity, child/adult ratios and age distribution restrictions in parts 9502.0365 and 9502.0367 if the need for the variance is to cover short overlaps of time when children are entering or leaving the residence, or emergencies for a short period of time if the total of all variances to the standards does not exceed 30 days in any 12-month period of licensure. The applicant or provider must verify in writing that the totals have not been and will not be exceeded for this period of time. A variance for any part of the day shall constitute a variance for the entire day.

(1) to (3) [Reletter as A. to C.]

(4) The agency may not grant variances to parts 9502.0315, ~~on~~ definitions; 9502.0325, ~~on~~ licensing purpose, applicability and exclusions; 9502.0335, ~~on~~ licensing process; 9502.0341, ~~on~~ negative licensing actions; 9502.0345, ~~on~~ agency records; 9502.0375, ~~on~~ reporting to the agency; 9502.0405, ~~on~~ behavior guidance and discipline; and 9502.0405, ~~on~~ admissions, provider records and reporting. If an applicant or provider seeks a variance from any of these parts, the request shall be transmitted to the department.

(5) The agency which has been delegated the authority to grant variances may grant a variance to the standards governing licensed capacity, child/adult ratios and age distribution restrictions set forth in parts 9502.0365 and 9502.0367 if the need for the variance is to cover short overlaps of time when children are entering or leaving the residence, or emergencies for a short period of

time such that the total of all variances to the standards does not exceed 30 days in any 12-month period of licensure. The applicant or provider must verify in writing that the totals have not been and will not be exceeded for this period of time.

(6) A variance of the standards governing licensed capacity, child/adult ratios and age distribution restrictions in parts 9502.0365 and 9502.0367 in excess of those in subitem (5) may be granted only by the department.

C. A variance may be granted if the following standards are met:

(1) For each section of the rule for which the applicant or provider seeks a variance, specific measures must be identified by the applicant or provider which will ensure the health, safety, and development of the children in care if the variance is granted.

(2) The applicant or provider must comply with all applicable laws, ordinances, and regulations.

(3) Any variance of the fire safety provisions in part 9502.0425, subparts 4, 5, 6, 7, 12, 15, 16, 17, and 18, which relate to the Minnesota Uniform Fire Code, will be granted if and only if the provider or applicant has secured approval from a fire marshal of the variance and alternative measures identified to ensure the safety of children in care.

(4) Any variance of the provisions in part 9502.0435, on sanitation and health and part 9502.0445, on water, food and nutrition will be granted if and only if the provider or applicant has secured approval from a health officer of the variance and alternative measures identified to ensure the health of children in care.

(5) When reviewing a variance request of parts 9502.0365 and 9502.0367, the department will assess whether the applicant or provider has shown that undue hardship would occur from strict compliance; whether alternative care for the children is available within the county; and whether the alternative methods identified by the applicant or provider will meet the health, safety, and development of the children in care.

(6) A variance will be granted only if the requirements for a provisional license, as provided for in part 9502.0335, subpart 5, are not met.

Subp. 9. and 10. [Unchanged.]

Subp. 11. **Change in license terms.** The following shall apply to changes in the terms of a license.

A. and B. [Unchanged.]

C. A new department application form and any necessary agency studies licensing study pursuant to Minnesota Statutes, section 245.783, subdivision 3 shall be completed when the provider remarries or changes his or her name there is an addition of any adult or child over the age of ten years who is or will be regularly present in the residence.

Subp. 12. [Unchanged.]

Subp. 13. **Access to residence.** The provider shall give authorized representatives of the commissioner or agency access to the residence during the hours of operation to determine whether the residence complies with the standards of parts 9502.0315 to 9502.0445. Access shall include:

A. the residence to be occupied by children in care;

B. any adjoining land or buildings owned or operated by the applicant or provider in conjunction with the provision of day care and designed for use by the children in care;

C. noninterference in interviewing all caregivers and household members present in the residence on a regular basis and present during the hours of operation; and

D. the right to view and photocopy the records and documents specified in part 9502.0405.

Subp. 14. **License renewal.** The following provisions must be followed by the agency when reviewing a license for renewal.

A. [Unchanged.]

B. ~~The agency must solicit two or more parent evaluations of a provider's care, residence, and program prior to renewal of a license. The evaluations and~~ All complaints received during the period of licensure must be considered by the agency in determining continued compliance with parts 9502.0315 to 9502.0445.

Subp. 15. **Return of license to commissioner.** When a provider stops giving care, or if a license is revoked, suspended, or not

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renewed, the provider shall return the license to the commissioner ~~and~~, stop all advertising and refrain from providing care to children in excess of the exclusions specified in part 9502.0325, subpart 3.

Subp. 16. **Unlicensed facilities.** When a facility required to be licensed under parts 9502.0315 to 9502.0445 is brought to the attention of the agency, a verification of its licensed status must be made by the agency within five days.

A. [Unchanged.]

B. ~~If no further communication is received from the unlicensed facility within 30 days of contact, and if the facility is still operating and requires licensure and no attempt has been made within 30 days to obtain a license, then the attorney with jurisdiction to bring charges for misdemeanors shall be notified immediately so legal action may be pursued. The operator of a residence required to be licensed under parts 9502.0300 to 9502.0445, which is operating without a license, is subject to misdemeanor prosecution and injunction under Minnesota Statutes, section 245.803.~~

### 9502.0341 NEGATIVE LICENSING ACTIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Procedures.** In accordance with Minnesota Statutes, section 245.801, failure to comply substantially with parts 9502.0315 to 9502.0445 or the terms of licensure is grounds for a negative licensing action. If the agency recommends a negative licensing action, the agency shall notify the department and the department shall determine if the standards in parts 9502.0315 to 9502.0445 or the terms of licensure have been violated. If the grounds are sufficient, the commissioner shall notify the applicant or provider by certified mail unless personal service is required by subpart 9. The notice must be addressed to the name and location shown on the application or license and contain a statement of, and the reasons for, the proposed action. The notice must inform the applicant or provider of the right to appeal the decision within the specified time period. The applicant or provider shall have an opportunity for a hearing in accordance with Minnesota Statutes, sections 14.57 to 14.70.

Subp. 4. to 9. [Unchanged.]

Subp. 9a. **Correction orders and fines.** If the commissioner finds that the residence or provider does not comply with the provisions of parts 9502.0300 to 9502.0445, the commissioner may issue a correction order in accordance with Minnesota Statutes, section 245.805, and the provider may be subject to a fine for each deficiency.

Subp. 10. and 11. [Unchanged.]

### 9502.0345 AGENCY RECORDS.

Subpart 1. **Agency records.** The agency shall maintain the following records for each provider:

A. to D. [Unchanged.]

E. ~~Reports and documents from persons who have evaluated the applicant as a potential day care provider.~~ If the applicant has been licensed through another jurisdiction, the agency shall also request and keep a reference from the licensing authority in that jurisdiction.

F. The annual relicensing evaluation by the agency of the provider ~~which covers services provided by both the provider and agency.~~ Any comments of the provider about the evaluation by the agency shall also be noted in the agency record.

G. [Unchanged.]

H. ~~A record of training completed by the provider, and all other regular caregivers.~~

I. ~~Results of well water tests as specified in part 9502.0445.~~

J. ~~Arrest, conviction, or criminal history records from the Minnesota Bureau of Criminal Apprehension, county attorney and sheriff, local police department, national criminal history record repositories, other public and private social service agencies, and juvenile, municipal, and district courts on any person living or working in the day care residence.~~

Subp. 2. [Unchanged.]

### 9502.0355 CAREGIVER QUALIFICATIONS.

Subpart 1. **Age.** An applicant for family day care or group family day care shall be an adult at the time of licensure.

Subp. 2. [Unchanged.]

Subp. 3. **Group family day care.** A group family day care applicant shall meet all the requirements listed in subparts 1 and 2 for family day care. A group family day care applicant shall also meet the qualifications in ~~item A, B, C, or D~~ item A or B.

A. A minimum of ~~two~~ one years' substantial compliance with parts 9502.0315 to 9502.0445 as a licensed family day care provider; or

B. A minimum of ~~one year's~~ six months' substantial compliance with parts 9502.0315 to 9502.0445 as a licensed family day care provider; and

(1) completion of a two-year child development or early childhood education associate or certificate program at an accredited college or university, or completion of a nine-month child development assistant program at an accredited vocational-technical institute; or

(2) completion of an accredited competency-based family day care training and assessment program offered by an accredited institute; or

(3) a current Level I or Level II prekindergarten license from the State Department of Education; or

(4) a kindergarten through sixth grade teaching degree from an accredited university or college; or

(5) ~~documentation of a minimum of one year's satisfactory experience as a full-time, direct caregiver at a state-licensed group day care center.~~

~~C.~~ thirty hours of child care, health, and nutrition training as specified in part 9545.0385, and a minimum of 520 hours of experience as a teacher, assistant teacher, student teacher, or intern in an elementary school or licensed child care center, or as an assistant adult caregiver in a licensed group family day care home; or

~~D.~~ (6) thirty hours of child development or early childhood education training, as specified in part 9545.0385, and a minimum of 520 hours of experience as a licensed practical or registered nurse.

~~E.~~ ~~"Accredited"~~ Subp. 3a. Accredited. For the purposes of this ~~subpart, part,~~ "accredited" means a postsecondary institution or area vocational-technical institution recognized and listed by a regional, state, or national group approved by the department. To be approved, a group must meet the following criteria:

(1) to (4) [Reletter as A. to D.]

Subp. 4. **Day care insurance coverage.** A provider shall have:

A. a certificate of insurance for the residence for general liability coverage for bodily injury in the amount of at least \$100,000 per person and ~~\$300,000~~ \$250,000 per occurrence; or

B. if the provider has liability coverage of lesser limits or no liability coverage, the provider shall give a written notice of the level of liability coverage to parents of all children in care prior to admission or when there is a change in the amount of insurance coverage; and

C. the provider shall maintain copies of the notice, signed by the parents to indicate they have read and understood it, in the provider's records on the residence as specified in part 9502.0405.

#### **9502.0365 LICENSED CAPACITY, CHILD/ADULT RATIOS, AGE DISTRIBUTION RESTRICTIONS.**

Subpart 1. **Capacity limits.** Family day care and group family day care providers shall comply with part 9502.0367, which limits the total number of children and the number of preschoolers, toddlers, and infants who may be in care at any one time, and provides for the number of adults who are required to be present.

A. Providers shall be licensed for the total number of children, ten years of age or younger, who ~~will be~~ are present in the residence at any one time. The licensed capacity must include all children of any caregiver when the children are present in the residence.

B. Within the licensed capacity, the age distribution restrictions specify the maximum number of children under first grade, infants, and toddlers who ~~may be~~ are in care at any one time.

Subp. 2. to 4. [Unchanged.]

Subp. 5. **Supervision and use of substitutes.** A licensed provider must be the primary provider of care in the residence. Children in care must be supervised by a caregiver. The use of a substitute caregiver must be limited to a cumulative total of not more than 30 days in any 12-month period ~~unless the substitute is also a licensed provider or the provider has the written consent of the agency and of a parent of each child in care.~~

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### 9502.0375 REPORTING TO AGENCY.

Subpart 1. [Unchanged.]

Subp. 2. **Other reporting.** The provider shall inform the agency:

- A. within 30 days of any change in the ~~composition of the family or~~ regular membership of the household within the day care residence or the addition of an employee who will regularly be providing care;
- B. ~~within 30 days of a new child enrolled in day care or when a child stops receiving day care at the residence;~~
- C. ~~immediately of any suspected case of physical or sexual abuse or neglect;~~
- D. ~~C.~~ within 48 hours after the occurrence of a fire that requires the service of a fire department so the agency may determine continued substantial compliance with parts 9502.0300 to 9502.0445; and
- E. ~~D.~~ immediately after the occurrence of any serious injury or death of a child within the day care residence. A serious injury is one that is treated by a physician; and
- F. ~~within 24 hours of the onset of any repairs or improvements to the residence which require a building permit.~~

### 9502.0385 DAY CARE TRAINING.

Subpart 1. **Agency training role.** The agency shall ensure:

- A. ~~that a minimum of 24 hours of day care training is available within the provider's county or within 50 miles of a provider's residence annually; the provider complies with the initial and ongoing training specified in this part;~~
- A. ~~B.~~ that the training must be specified in subpart 2 is available on weekends, evenings, or at times convenient to the majority of providers who reside in the county; and
- B. ~~The agency must submit a plan to the department annually of 24 hours of training that will be available to all caregivers.~~
- C. ~~The agency shall ensure distribution of that training information is distributed to each provider who operates a residence in the county of the agency at least once a year.~~

Subp. 2. **Initial day care training subjects.** Training subjects shall be selected from the following areas All providers must complete:

- A. ~~child development; six to nine hours of training in a combined course of child-related first aid and cardiopulmonary resuscitation (CPR) provided by or approved by the American Red Cross, American Heart Association, or provided by a licensed physician or a registered or practical nurse trained to provide instruction in CPR and first aid. The training must be completed within one year of or one year prior to the date of initial licensure. Current certification in CPR and first aid by the American Red Cross or American Heart Association may be substituted for the initial CPR and first aid training specified.~~
- B. ~~child abuse; six hours of training, approved by the agency, in child development and child care within one year of or one year prior to initial licensure.~~
- C. ~~communication skills;~~
- D. ~~communicable disease prevention and control;~~
- E. ~~parent and provider relationships;~~
- F. ~~special needs referrals;~~
- G. ~~community services and resources for children;~~
- H. ~~methods of guiding behavior or discipline;~~
- I. ~~constructive problem solving;~~
- J. ~~first aid and cardiopulmonary resuscitation;~~
- K. ~~home and fire safety;~~
- L. ~~learning activities;~~
- M. ~~healthy environments for children;~~
- N. ~~observation and assessment of children's needs;~~
- O. ~~care of bilingual or non-English-speaking children;~~
- P. ~~care of special needs or gifted children;~~
- Q. ~~business management skills;~~

R. ~~parenting skills; and~~

S. ~~nutrition.~~

Subp. 3. ~~Family day care~~ **Ongoing training.** All family day care providers shall participate in a minimum of six hours of day care training and six hours of approved first aid training within one year of or one year prior to the date of initial licensure, and a minimum of six hours of day care training every year after as long as the license is maintained. No more than half of the annual training requirement shall relate to day care administration, finances, and records. Previous training of up to six of the required 12 hours taken during the year preceding initial licensing may be used to meet the training requirement of the first year of licensure. Providers must complete six hours of training per year, after the initial year of licensure, in one or more of the subject areas specified in subpart 4. Providers not certified in CPR must also complete one four-hour refresher course in CPR for children within one year after the initial CPR training.

Subp. 4. ~~Group family day care~~ **Ongoing training subjects.** Group family day care providers shall participate in a minimum of 12 hours of day care training each year as long as the license is maintained. No more than half of the annual training requirement shall relate to day care administration, finances, or records. Ongoing training subjects shall be selected from the following areas:

- A. child development;
- B. child abuse;
- C. communicable disease prevention and control;
- D. parent and provider relationships;
- E. communication skills;
- F. community services and resources for children;
- G. methods of guiding behavior or discipline;
- H. home and fire safety and child injury prevention;
- I. learning activities;
- J. observation and assessment of children's needs;
- K. care of bilingual or non-English-speaking children;
- L. care of special needs or gifted children;
- M. nutrition and food safety; and
- N. business management.

Subp. 5. **Adult caregiver and helper training.** Each adult caregiver ~~giving care, other than the provider, who is employed~~ in the residence on a regular basis ~~shall~~ must participate in a minimum of ~~12~~ six hours of training in a subject area specified in subpart 4 within one year after the date of initial employment, and a minimum of six hours of training every year after that as long as ~~they are~~ the adult is employed. Helpers who assist with care on a regular basis ~~shall~~ must complete six hours of training within one year after the date of initial employment. ~~Training must not relate to day care administration, finances, or records.~~

#### **9502.0395 BEHAVIOR GUIDANCE; DISCIPLINE.**

Subpart 1. **Methods.** Caregivers shall give each child guidance ~~and discipline~~ which helps the child acquire a positive self-concept, self-control, and teaches acceptable behavior.

A. The provider shall discuss methods of discipline behavior guidance with parents at the time of admission and the parent's standards shall be considered by the provider within the context of this part when guiding the behavior of a child.

B. ~~Discipline and~~ Behavior guidance used by caregivers must be constructive, positive, and suited to the age of the child. Methods of intervention, guidance, and redirection must be used.

Subp. 2. **Discipline Standards.** The following shall apply to all caregivers when guiding behavior in children.

A. to C. [Unchanged.]

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D. The separation of a child from a group to guide behavior must be appropriate to the age of the child and circumstances requiring the separation.

E. [Unchanged.]

F. A ~~toddler~~ child shall not be separated from the group for a period longer than ~~three~~ ten minutes.

~~G. The preschool and school-age child shall not be separated from the group for a period longer than ten minutes.~~

H. and I. [Reletter as G. and H.]

Subp. 3. **Toilet training.** ~~If toilet training must be is undertaken when appropriate to the child's age and stage of development,~~

~~A. the provider and parent shall cooperatively develop a plan for the timing and method of training.~~

B. and C. [Reletter as A. and B.]

### 9502.0405 ADMISSIONS; PROVIDER RECORDS; REPORTING.

Subpart 1. **Cooperating with parents.** When admitting a child to day care, the provider and parents shall discuss child rearing, sleeping, feeding, and discipline behavior guidance practices essential for the care of the child. ~~The provider shall keep parents informed of the child's progress and development.~~

Subp. 2. **Rule summary for parents.** A descriptive summary of parts 9502.0315 to 9502.0445 shall be distributed to the parent by the provider at the time a child is admitted to care. The summary shall be provided by the department to the agency for distribution to the provider. The summary shall be written in language that is understandable to the general public and:

A. to C. [Unchanged.]

Subp. 3. **Provider policies.** The provider shall have the following written information available for discussion with parents or the agency:

A. to L. [Unchanged.]

M. the presence of pets in the residence; ~~and~~

N. a complete copy of parts ~~9545.0315~~ 9502.0300 to ~~9545.0445~~ 9502.0445;

O. insurance coverage; and

P. whether or not smoking is permitted in the residence during the hours children are in care.

Subp. 4. **Records for each child.** The provider shall obtain the information required by items A to C from parents prior to admission of a child. The provider shall keep this information up-to-date and on file for each child.

A. The signed and completed admission and arrangements form of the department must be on file in the provider's home and contain the following information:

(1) to (8) [Unchanged.]

(9) Insurance notification specified in part 9502.0355, subpart 4.

B. Special instructions from the parent shall be obtained in writing and followed about toilet training, eating, sleeping or napping ~~arrangements~~, allergies, ~~communication~~, ~~discipline~~, ~~comforting~~, and any health problems.

~~C. The caregiver shall disregard parents' standards or instructions that are contrary to or violate any provisions of parts 9502.0315 to 9502.0445. The provider must notify the parents of the reasons why their instructions cannot be followed.~~

D. to G. [Reletter as C. to F.]

Subp. 5. and 6. [Unchanged.]

### 9502.0415 ~~CHILD CARE DEVELOPMENT PROGRAM~~ ACTIVITIES AND EQUIPMENT.

Subpart 1. ~~Program content~~ **General activities.** Day care activities must provide for the physical, intellectual, emotional, and social development of the child. The environment must facilitate the implementation of the activities. ~~Program~~ Activities must:

A. to D. [Unchanged.]

Subp. 2. [See repealer.]

Subp. 3. **Equipment.** The provider must have the equipment specified in this ~~subpart~~ part in adequate quantities for the number and ages of children in care and to carry out the activities specified in this part. ~~Toys and~~ Equipment may be new, used, commercial, or homemade, as long as ~~they are~~ it is appropriate for the ages of the children and activities for which ~~they~~ it will be used, safe, and in good repair. ~~An item of equipment may be used to meet the requirements of more than one category in subpart 2 if the item satisfies more than one of the definitions.~~



Subp. 4. **Newborn or infant activities.** The provider shall:

A. [Unchanged.]

B. ~~Show affection to the infant or newborn by rocking, cuddling, hugging, and playing with the child.~~

C. Respond to the infant or newborn's attempts to communicate.

~~D.~~ C. Provide freedom of movement to the infant or newborn during a large part of the waking day to the extent that safety and weather permits. The noncreeping child shall spend part of each day on a washable rug or blanket out of a crib or infant seat. The creeping infant or newborn shall have freedom to explore outside of the crib or infant seat.

~~E.~~ D. Give the infant or newborn opportunity to stimulate the senses by providing a variety of activities and objects to see, touch, feel, smell, hear, and taste ~~must be provided~~.

F. [Reletter as E.]

Subp. 5. **Newborn or infant equipment.** The following minimum equipment is required for ~~infants~~ each infant or newborns newborn:

A. an infant seat or high chair; ~~one per child; and~~

B. a crib or portable crib with waterproof mattress or pad; ~~one per child; which meets the requirements in part 9502.0425,~~  
subpart 9

~~C.~~ books; two per child;

~~D.~~ large muscle equipment; one per child;

~~E.~~ manipulative equipment; two per child;

~~F.~~ cognitives which are washable and small enough to grasp but too large to swallow; two per child;

~~G.~~ music source or instrument; one per residence;

~~H.~~ noise-making items; one per child; and

~~I.~~ sensory stimulation items; two per child.

Subp. 6. **Toddler activities.** The provider shall:

A. Provide the toddler with freedom of movement and freedom to explore outside the crib or playpen.

B. [Unchanged.]

~~C. Assist the child in developing independence and self-esteem.~~

D. and E. [Reletter as C. and D.]

~~F.~~ E. Provide activities that Give the toddler opportunities to stimulate the senses, creativity, learning, and social development by providing a variety of age-appropriate activities and objects to see, touch, feel, smell, hear, and taste.

Subp. 7. **Toddler equipment.** The following minimum equipment is required for toddlers:

A. Each toddler shall be provided with a mat, crib, cot, bed, sofa, or sleeping bag; ~~one per child;~~

~~B.~~ art and craft supplies;

~~C.~~ books; two per child;

~~D.~~ manipulatives larger than one inch in diameter; one set per child;

~~E.~~ creative dramatic play equipment; two per child;

~~F.~~ large muscle equipment; one per child;

~~G.~~ music source or instrument; one per residence;

~~H.~~ cognitive equipment; two per child;

~~I.~~ sensory stimulation items; two per child;

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## PROPOSED RULES

J. washable, soft toys, dolls and doll clothes, one per child; and

K. sand, water, or grain play and exploration equipment.

Subp. 8. **Preschooler activities.** The provider shall:

A. ~~Interact and show affection toward each child by talking, listening, and hugging.~~ Encourage conversation ~~must be encouraged~~ between the child and other children and adults.

B. to H. [Unchanged.]

Subp. 9. **Preschooler equipment.** The following minimum equipment is required for preschoolers:

A. ~~Each preschooler shall be provided with a~~ mat, bed, cot, sofa, or sleeping bag, ~~one per child;~~

B. art and craft supplies;

C. books and magazines, two per child;

D. manipulative equipment, two per child;

E. creative, dramatic play items, two per child;

F. large muscle equipment, one per child;

G. music source or instrument, one per residence;

H. cognitive equipment, two per child;

I. sand, grain, or water play and exploration equipment;

J. sensory stimulation items, two per child;

K. washable, soft toys, dolls, one per child; and

L. social board or card games, three per residence.

Subp. 10. [Unchanged.]

Subp. 11. [See repealer.]

Subp. 12. **Written permission.** Written permission must be obtained from the parent to allow a school-age child in care to participate in activities outside away from the residence.

### 9502.0425 PHYSICAL ENVIRONMENT.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Means of escape.** From each room of the residence used by children, there must be two means of escape. One means of escape must be a stairway or door leading to the floor of exit discharge. The other must be a door or window leading directly outside. The window must be openable without special knowledge. It must have a clear opening of not less than 5.7 square feet and have a minimum clear opening dimension of 20 inches wide and 24 inches high. The window must be within 48 inches from the floor. ~~If the distance from the floor to the window is more than 24 inches, a permanently-positioned platform must be located not more than 24 inches under the window.~~

Subp. 5. **Occupancy separations.** Day care residences with an attached garage must have a self-closing, tight-fitting solid wood bonded core door at least 1-3/8 inch thick, or door with a fire protection rating of 20 minutes or greater and a separation wall consisting of 5/8 inch thick gypsum wallboard or its equivalent on the garage side between the residence and garage.

Subp. 6. ~~Fire doors~~ **Vertical separations.** For group family day care homes with a licensed capacity of more than ten children, a 1-3/4 inch solid wood core door or a door and frame with at least a 20-minute fire protection rating, must be provided whenever more than two floors of the residence are connected. These doors must be equipped with self-closing devices.

Subp. 7. to 9. [Unchanged.]

Subp. 10. **Stairways.** All stairways must meet the following conditions.

A. [Unchanged.]

B. Any open area between the handrail and stair tread must be enclosed with a protective guardrail as specified in the ~~Uniform~~ State Building Code. The back of the stair risers must be enclosed.

C. and D. [Unchanged.]

Subp. 11. **Decks.** Decks, balconies, or lofts used by children more than 30 inches above the ground or floor must be surrounded by a protective guardrail and be constructed in accordance with the ~~Uniform~~ State Building Code. Wooden decks must be free of splinters and coated with wood preservative, paint, or constructed with treated wood.

Subp. 12. [Unchanged.]

Subp. 13. **Sewage disposal.** Day care residences must have toilet facilities and sewage disposal systems that conform to the Uniform State Building Code or local septic system ordinances. The toilets must flush thoroughly. Outdoor toilets are permissible when local ordinances allow.

Subp. 14. to 18. [Unchanged.]

#### **9502.0435 SANITATION AND HEALTH.**

Subpart 1. to 8. [Unchanged.]

Subp. 9. **Transportation of children.** When transportation is given to children in a motor vehicle other than a bus or school bus operated by a common carrier, the following provisions for their safety must be made.

A. ~~A child under the age of four may be transported in a motor vehicle which is equipped with factory-installed seat belts only if the child is securely fastened in a child passenger restraint system which meets the requirements of Minnesota Statutes, section 169.685 for transporting a child in his or her parent's own car.~~

~~B. A child being transported in a motor vehicle which is equipped with factory-installed seat belts shall use~~ may be transported only if the child is fastened in a safety seat, seat belt, or harness appropriate to the child's weight and the restraint is installed and used in accordance with the manufacturer's instructions.

B. A child under the age of four may be transported only if the child is securely fastened in a child passenger restraint system which meets the federal motor vehicle safety standards contained in Code of Federal Regulations, title 49, section 571.213 or its successor.

C. to E. [Unchanged.]

Subp. 10. and 11. [Unchanged.]

Subp. 12. **Pets.** All pets housed within the residence shall be maintained in good health and limited to dogs, cats, fish, guinea pigs, gerbils, rabbits, hamsters, rats, mice, and birds if they have been treated for chlamydia-psittaci under the supervision of a licensed veterinarian. The provider shall ensure that:

A. to G. [Unchanged.]

Subp. 13. **Diapers.** Children in diapers shall be kept clean and dry. The following sanitary procedures must be used to reduce the spread of communicable disease.

A. to C. [Unchanged.]

D. Diapering must not take place in a food preparation area. The diaper changing area must be covered with a smooth, nonabsorbent surface ~~and washed. If the surface is not disposable and is wet or soiled, it must be washed with soap and water to remove debris and then disinfected with a solution of at least one tablespoon of chlorine bleach to one quart of water. If the surface is not soiled with feces or urine, then it must be disinfected with a the solution of soap and water or chlorine bleach and water after each diapering.~~

E. and F. [Unchanged.]

Subp. 14. [Unchanged.]

Subp. 15. **Handwashing.** A child's hands must be washed with soap and water ~~after each diaper change~~ when soiled, after the use of a toilet or toilet training chair, and before eating a meal or snack. The provider shall monitor and assist the child who needs help.

A. In sinks and tubs accessible to children, hot water temperatures must be no higher than 110 degrees Fahrenheit to prevent children from scalding themselves while washing.

B. [Unchanged.]

Subp. 16. **Care of ill children, medicine administration.** The following provisions must be followed for the care of ill children and the administration of medicine.

A. ~~The provider's policies on the care of ill children must be given to parents prior to admission.~~

~~B.~~ The provider shall notify the parent immediately when a child in care develops any of the following symptoms:

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## PROPOSED RULES

- (1) underarm temperature of 100 degrees Fahrenheit or over, or an oral temperature of 101 degrees Fahrenheit or over;
- (2) vomiting;
- (3) diarrhea; or
- (4) rash, other than mild diaper or heat-related rash.

~~C.~~ B. The provider shall follow written instructions from ~~the parent~~ a health officer or the physician of an ill child placed in the provider's care ~~with if the child has~~ any of the illnesses specified in item ~~F~~ E.

~~D.~~ C. The provider shall require that a child's parent notify the provider within 24 hours of the diagnosis of a serious contagious illness or parasitic infestation listed in item ~~F~~ E so the provider may notify the parents of other children in care.

~~E.~~ D. The provider shall inform a parent of each exposed child the same day the provider is notified a positive diagnosis has been made for any of the illnesses or parasitic infestations in item ~~F~~ E.

~~F.~~ E. The provider shall notify the health officer or Minnesota Department of Health of any suspected case of reportable disease as specified in part ~~4605.0200~~ 4605.7000. The agency shall provide the provider with a copy of part ~~4605.0200~~ 4605.7000 at the time of initial licensure.

~~G.~~ F. The following govern the administration of medicine by the provider to children in care:

(1) The provider shall obtain written permission ~~and instructions~~ from the child's parent prior to administering medicine, diapering products, sunscreen lotions, and insect repellants. Nonprescription medicines, diapering products, sunscreen lotions, and insect repellants must be administered according to the manufacturer's instructions unless there are written instructions for their use provided by a licensed physician or dentist.

(2) [Unchanged.]

### 9502.0445 WATER, FOOD, AND NUTRITION.

Subpart 1. **Water.** There must be a safe water supply in the residence.

A. [Unchanged.]

B. Drinking water must be available to the children and offered at frequent intervals. ~~Drinking water for children, including older infants, must be provided~~ in separate or single service drinking cups or bottles.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Food safety.** Food must be handled and stored properly to prevent contamination and spoilage.

A. [Unchanged.]

B. Food ~~needing~~ requiring refrigeration must be ~~stored~~ maintained at no more than 40 degrees Fahrenheit. Food requiring heating must be maintained at no less than 150 degrees Fahrenheit. Frozen food must be maintained in a solid state until used.

C. [Unchanged.]

D. ~~Except for home-canned meat, fish, and poultry, the use of home-canned food is acceptable if processed by methods approved by the United States Department of Agriculture, Bulletin number 8, or University of Minnesota, Extension Bulletin 413, "Homecanning Fruits, Vegetables and Meats." No hermetically sealed (canned), nonacid or low-acid food which has been processed in a place other than a commercial food-processing establishment shall be served to children in care.~~

REPEALER. Minnesota Rules, parts 9502.1315, subpart 23; and 9502.0415, subparts 2 and 11 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 Health

#### Adopted Rules Relating to Health Care Equipment Loan Program

##### Rules as Adopted

The rules proposed and published at *State Register*, Volume 10, Number 22, pages 1204-1208, November 25, 1985 (10 S.R. 1204) are adopted with the following modifications:

##### 4647.0200 REVIEW OF APPLICATIONS.

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

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

(2) A loan to the hospital for cash outlays made by the hospital for eligible equipment purchased, ordered, or installed after the effective date of parts 4647.0100 to 4647.0400 shall be allowed, provided that the hospital applies to the authority, or to the private insurer which issues the letter of credit or bond insurance for the authority's bonds, within 90 days of the earlier of the date of purchase, order, or installation of the eligible equipment. The applicant must provide evidence of the date of purchase, order, or installation of the eligible equipment.

### Department of Human Services

#### Adopted Rules Relating to Reimbursement for Cost of Care of Patients in a State Hospital

The rules proposed and published at *State Register*, Volume 10, Number 12, pages 648-652, September 16, 1985 (10 S.R. 648) are adopted as proposed.

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# OFFICIAL NOTICES

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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.

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## Department of Commerce

### Outside Opinion Sought Regarding Proposed Insurance Funding Agreements Including the Impact of the Rules on Small Business

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing Insurance Funding Agreements. Promulgation of these rules is authorized by Minnesota Statutes, Sections 45.023 and 61A.276.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Statutes § 14.115, subdivision 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-5689.

All statements of information and comment shall be accepted until February 21, 1986. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

January 13, 1986

Michael A. Hatch  
Commissioner of Commerce

## Historical Society

### State Review Board Regular Meeting

A meeting of the State Review Board will be held on Thursday, February 20, 1986, at 7:00 p.m. in the Auditorium, Fort Snelling History Center, Fort Snelling, Minnesota.

## Department of Human Services Income Maintenance Bureau Health Care Programs Division

### Outside Opinion Sought Concerning Assignment of Health Insurance and Other Third-Party Benefits by Medical Assistance Applicants or Recipient and of Establishment of Paternity of Minor Child Who Is a Medical Assistance Applicant or Recipient

Notice is hereby given that the Minnesota Department of Human Services is seeking information or opinions from sources outside the agency in preparing an emergency rule to replace Minnesota Rules, Part 9500.0820, subpart 6, Assignment of Benefits.

This rule is authorized by Minnesota Statutes, section 256B.04, Subd. 2 in regard to the Medical Assistance Program and by Minnesota Statutes, section 14.29, Subd. 1 in regard to the amendment of a rule to comply with federal laws, 42 CFR 433.137, 42 CFR 433.145, and 42 CFR 433.148 (see 50 FR 41887 and 50 FR 46652). The emergency rule governs the assignment of health insurance and other third-party benefits available to medical assistance applicants and recipients for the reimbursement of medical expenses and the requirements for cooperation in establishing paternity and obtaining support for the minor child who is a medical assistance applicant or recipient.

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

Mary Kennedy  
Health Care Programs Division  
444 Lafayette Road  
St. Paul, MN 55101

Oral statements of information and comments will be received over the telephone at 612/297-3200 during regular business hours.

Statements of information and comment will be accepted until 4:30 p.m. on February 7, 1986.

## **Department of Labor and Industry**

### **Certified Prevailing Wage Rates, February, 1986**

On February 1, 1986, the commissioner will certify prevailing wage rates for commercial and highway/heavy construction projects in the following Minnesota Counties: Aitkin, Becker, Beltrami, Carlton, Cass, Clay, Clearwater, Cook, Crow Wing, Hubbard, Itasca, Kittson, Koochiching, Lake, Lake of the Woods, Mahnomen, Marshall, Norman, Ottertail, Pennington, Polk, Red Lake, Roseau, St. Louis, Wadena and Wilkin.

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

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

Steve Keefe, Commissioner  
Department of Labor and Industry

## **Metropolitan Council**

### **Public Hearing on 1986 Federal Grant Application and 1986-88 Health Systems Plan**

The Metropolitan Council and Health Planning Board will hold a public hearing Thursday, February 20, 1986, beginning at 7:00 p.m. at the Metropolitan Council Chambers, 300 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota, on its 1986 federal grant application and the 1986-88 Health Systems Plan. The grant application and revised Health Systems Plan partially fulfill the requirements of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641) as amended in 1979 (P.L. 96-79) for continued funding as the designated Health Systems Agency for Minnesota Region V, for which the Metropolitan Council intends to apply by April 2, 1986.

The Health Systems Plan, revised every three years, serves as the region's long range health plan for 1986-1988. It is a detailed statement of policies and policy direction dealing with issues of the area population's health status and with specific health care services directed at the region's health problems. Certain health status and health system goals contained within the plan have been designated priorities for community attention and action within the next three to five years. They deal with prenatal care, the use of alcohol, violence and abuse, and certain hospital and long term care services.

All interested people are encouraged to attend the hearing and offer comments. People may register to speak at the hearing in advance by contacting Carole Peterson at 291-6559. Questions on the draft application or plan should be directed to Malcolm Mitchell at 291-6351 or Carole Peterson at 291-6559. Single copies of the draft application and plan are available free of charge.

## OFFICIAL NOTICES

beginning January 23 from the Council's Communications Department at 291-6464. Copies are also available for public inspection beginning January 23 at the following locations:

Metropolitan Council Library  
300 Metro Square Building  
St. Paul, Minnesota 55101

Minneapolis Public Library  
Government Documents Room  
300 Nicollet Mall  
Minneapolis, Minnesota 55401

St. Paul Public Library  
Science and Industry Room  
90 West Fourth Street  
St. Paul, Minnesota 55102

Anoka County Library—Blaine Branch  
707 Highway 10  
Blaine, Minnesota 55434

Carver County Library—Chaska Branch  
314 Walnut Street  
Chaska, Minnesota 55318

Dakota County Library—Eagan Branch  
1340 Wescott Road  
Eagan, Minnesota 55123

Hennepin County Library—Southdale Branch  
7001 York Avenue  
Edina, Minnesota 55435

Ramsey County Library—Roseville Branch  
2180 North Hamline Avenue  
Roseville, Minnesota 55113

Scott County Library—Shakopee Branch  
235 South Lewis Street  
Shakopee, Minnesota 55379

Washington County Library—Park Grove Branch  
7520-80th Street South  
Cottage Grove, Minnesota 55106

Sandra S. Gardebring, Chair  
Metropolitan Council

## Metropolitan Council

### Review Schedule: Adoption of Amendments to the Water Resources Management Part 1 Development Guide/Policy Plan

Part 1 of the Water Resources Management Development Guide/Policy Plan was prepared under federal requirements for a regional wastewater management plan (U.S. Code, title 33, sec. 1288) and state legislation requiring a regional development guide (Minn. Stat., sec. 473.145) and policy plan (Minn. Stat., sec. 473.146) for sanitary sewer facilities.

The Council uses Part 1 to fulfill its responsibilities established in the federal and state statutes cited above. These functions include reviewing applications for federal financial assistance or approval of water quality-related projects proposed for the Metropolitan Area, reviewing proposals of the MWCC, including its five-year Development Program and annual Capital Budget, and reviewing local comprehensive sewer policy plans prepared by cities and townships under requirements of the 1969 Metropolitan Sewer Act and 1976 Metropolitan Land Planning Act. Most significant, Part 1 is the Council's statement of how metropolitan and local wastewater treatment facilities should develop to the year 2000. It is also the Council's strategy for reducing the pollution in the region's water bodies attributable to point discharges of wastes.

The following is a tentative schedule for review of the proposed amendments:

January 9, 1986 Metropolitan Council approves proposed amendment for public hearing and sets public hearing date.

February 11, 1986 Public Hearing.

February 26, 1986 Hearing record closes.

March 11, 1986 Metropolitan Systems Committee reviews hearing record and recommends adoption of proposed amendments to Water Resources Management Development Guide Part 1.

March 13, 1986 Metropolitan Council adopts amendments.

This schedule is tentative and is subject to change. If you have any questions regarding the schedule or amendments to the Water Resources Management Guide Chapter, call Jack Frost of the Council's Parks and Natural Resources Division at 291-6519.



## **Metropolitan Council**

### **Review Schedule: Amendment to Recreation Open Space Capital Improvement Program**

The city of St. Paul, an implementing agency for the Regional Recreation Open Space System, has requested that the Metropolitan Council amend its capital improvement program for recreation open space. The proposed change would transfer Fiscal Year (FY) 1986 funds allocated for redevelopment at Como Regional Park and Como Zoo to redevelopment at the Como Conservatory.

As proposed, the Council would:

- Reduce the Como Regional Park allocation of \$1,800,000 by \$500,000 to a new amount of \$1,300,000;
- Reduce the Como Zoo allocation of \$2,000,000 by \$300,000 to a new amount of \$1,700,000; and
- Add a new allocation of \$800,000 for continuing redevelopment in the Como Conservatory.

The following is a tentative schedule for review the city of St. Paul's request to amend the Recreation Open Space Capital Improvement Program:

January 13, 1986	Metropolitan Parks and Open Space Commission reviews staff report and recommends hearing.
January 14	Metropolitan Systems Committee reviews staff report and commission recommendations.
January 23	Metropolitan Council considers committee recommendation and sets public hearing.
February 25	Public hearing before the Metropolitan Systems Committee, 11 a.m., Conference Room E.
March 10	Metropolitan Parks and Open Space Commission reviews hearing comments and staff response; makes recommendation.
March 11	Hearing Record closes.
March 11	Metropolitan Systems Committee reviews commission's recommendation.
March 27	Metropolitan Council considers committee action and makes final recommendation.

This schedule is tentative and subject to change. A notice of public hearing will be published. If you have questions regarding the schedule or CIP amendment, call Jack Mauritz at 291-6602.

## **Metropolitan Council**

### **Review Schedule: 1986 Federal Grant Application and 1986-88 Health Systems Plan**

The Metropolitan Council/Metropolitan Health Planning Board, as the federally-designated Health Systems Agency for the Seven-County Metropolitan Area, will begin its review of the 1986 federal grant application and the 1986-88 Health Systems Plan. The grant application and triennial revision of the Health Systems Plan partially fulfill the requirements of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641) as amended in 1979 (P.L. 96-79) for continued funding as the designated Health Systems Agency for Minnesota Region V, for which the Metropolitan Council intends to apply by April 2, 1986.

The revised Health Systems Plan serves as the region's long range health plan for 1986-1988. It is a detailed statement of policies and policy direction dealing with issues of the area population's health status and specific health care services directed at the region's health problems.

The plan is divided into two parts. The first part describes socio-demographic factors and health status indicators used to identify the major health problems of the Seven-County Metropolitan Area. This health status data has been translated into a set of health status goals in the areas of alcohol use, automobile occupant safety restraints, environmental health risks, immunization, nutrition, physical activity levels, prenatal care, smoking, and violence and abuse. Several of these policy goals have been given priority status to be accomplished over the next five years.

The plan's second part includes policy for the health care system. It consists of a series of specific health care service components ranging from the least intensive and costly community-based health services to the most intensive and sophisticated tertiary care. Each service component contains one or more measurable policy goals and a set of specific guidelines about how the service should be delivered. As with the health status goals, certain system goals have been identified as priorities to receive special attention and action by community decision-makers. All goals are intended to be achieved by the community within a three- to five-year period.

## OFFICIAL NOTICES

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The following is a tentative schedule for review of the documents.

January 8	Health Planning Board review and accept the proposed grant application and plan for public hearing on February 20, 1986.
January 9	Metropolitan Council review and accept the proposed grant application and plan for public hearing on February 20, 1986.
February 20	Public hearing.
March 6	Hearing record closes.
March 26	Health Planning Board review and adoption of final grant application and plan.
March 27	Council review and adoption of final grant application and plan.

This schedule is tentative and subject to change. A subsequent notice of public hearing will be published. If you have any questions regarding the schedule or amendment, please call Carole Peterson of the Metropolitan Council's health planning staff at 291-6559.

## Board of Vocational Technical Education

### Public Hearing on the Proposed Minnesota State Plan for Vocational Technical Education

Notice is hereby given that a public hearing will be held on the Proposed State Plan for Vocational Technical Education in Conference Room D of the Veterans Service Building, 20 W. 12th St., St. Paul, Minnesota, 55155, on Monday, March 10, 1986, commencing at 9:00 a.m. and continuing until all interested persons have had an opportunity to participate.

## Water Resources Board

### Consent to Intervene and Notice of Hearing

A petition requesting intervention of the Water Resources Board in the matter of an application for a state animal feedlot permit (MPCA-P 0029) by North Pine Sales, Inc. for a proposed turkey feedlot operation in Lake Eunice Township in Becker County was filed by Mr. Jay D. Carlson pursuant to Minnesota Statutes section 105.75:

At its January 10, 1986 meeting the Board found that the petition was sufficient; that it showed an important question of water policy involving conflicts between the preservation of the aesthetic and recreational values of lakes and laws governing the regulation of development and land use; and that Board intervention in the public interest was justified in order to provide a forum for airing the policy questions presented in the proceeding.

The Board, therefore, consents to intervene and will consider the following questions of public water policy:

1. Does the existing framework of governmental authorities and rules adequately take into consideration the recreational uses and other public values associated with the state's water resources in regard to the siting and regulation of new development; and provide adequate opportunity for public input?
2. Do current governmental review processes adequately take into consideration the cumulative impacts that development and land use decisions may have on the state's water resources?
3. Is the placement of a large animal feedlot operation within close proximity to a major recreational lake consistent with the intent of the State Environmental Policy Act?

Notice is hereby given that a public hearing will be conducted to receive testimony on the above-stated policy questions on Wednesday, February 5, 1986 beginning at 7:00 p.m. in the main courtroom of the Becker County Courthouse in Detroit Lakes, Minnesota 56501; and continuing on Thursday, February 6, 1986 beginning at 1:30 p.m. in the Conference Room of the Cable Communications Building at 500 Rice Street, St. Paul, Minnesota 55103.

The purpose of the public hearing will be to fully inform the Board about all aspects of the public interest involved in the above-stated questions, and to enable the Board to make recommendations based upon an impartial, scientific, and fully considered judgment.

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## STATE CONTRACTS

All interested persons are invited to make comments and submit written material at the hearing that are relevant to the questions under consideration. The Board requests that persons wishing to make lengthy oral presentations notify the Board's office by February 3, 1986 of the time requested for those comments, so that orderly receipt of testimony can be accomplished.

For more information contact the Water Resources Board, 500 Lafayette Road, St. Paul, Minnesota 55146; (612) 296-2840.

Duane R. Ekman, Chair  
Minnesota Water Resources Board

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## 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 final submission date of completed contract proposal.

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 296-2513. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

### Department of Administration Procurement Division

#### Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
Contract	Diploma Covers & Inserts	Minn. Community Colleges	Various	\$9,000-11,000
Sch. 183	Traffic Cones	Transportation	Various	Contact buyer
79-000-51975	Fiberglass Underground Fuel Storage Tanks	Transportation	Various	Contact buyer
27-150-48449	EDP Specialized Computer Accessories	Mesabi Community College	Virginia	Contact buyer
02-410-48158-1	Printer Accessories	Administration—Information Management Bureau	St. Paul	Contact buyer
26-071-16296	Tractor Shovel	Mankato State University	Mankato	Contact buyer
26-074-10666, 10673 Rebid	Library Shelving	Winona State University	Winona	Contact buyer
79-250-WS	Washed Sand	Transportation	Crookston	Contact buyer
Contract	Paints & Related Materials for Furniture Finishing Program	MN Correctional Facility	Lino Lakes	\$24,000-26,000
07-700-37628, 79-000-51775, 07-700-37629	Modular Office System	Transportation & Public Safety	S. St. Paul	Contact buyer
Contract	Castors—Industrial, Institutional & Hospital	Various	Various	\$5,000-8,000
26-173-03232	Modular Office System	St. Cloud State University	St. Cloud	Contact buyer

## STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
12-900-90020	Move Work Stations	Health	Minneapolis	Contact buyer
37-090-15177	Purchase of Photocopy Machine	Education	St. Paul	Contact buyer
Contract	Ice Cream Products	Minn. Veterans Home	Hastings & Minneapolis	\$6,500-7,500
79-000-50572, etc.	Trailers	Transportation	Various	Contact buyer
78-620-25773	Steel Tubing	MN Corrections Facility	Stillwater	Contact buyer
21-700-11992	Vending Machines	Jobs & Training	Hopkins	Contact buyer
55-000-93645-5506	Nursing Home Notification	Human Services	St. Paul	Contact buyer
22-400-01050-5498	Bed & Breakfast/Historic Inns	Energy & Economic Development	St. Paul	Contact buyer
39-000-03985	Telephone System	Governor's Residence	St. Paul	Contact buyer
Sch. 113C	Automobiles	Various	Various	Contact buyer
79-382-01029	Chain Saws	Transportation—Central Services	St. Paul	Contact buyer
26-071-16393	Milling Machines	Mankato State University	Mankato	Contact buyer
79-382-01020	Concrete Saw	Transportation—Central Services	St. Paul	Contact buyer
27-154-46546	Compugraphic Typesetting System	Lakewood Community College	White Bear Lake	Contact buyer
55-000-93646-5507	Child Support Mailer	Administration—Central Stores	St. Paul	Contact buyer
29-000-43277-5434	Boating & Water Safety	Natural Resources	St. Paul	Contact buyer
29-000-43290-5502	1986 MN Boating Guide	Natural Resources	St. Paul	Contact buyer

Contact 296-6152 for referral to specific buyers.

## Iron Range Resources and Rehabilitation Board

### Request for Proposals for Marketing Services

**Request for proposals for a qualified consultant to provide professional services in the area of marketing; for both the agency and existing or potential northeastern Minnesota clients identified by the agency.**

The IRRRB requests that respondents explain in detail their proposed plans to accomplish the stated objectives in each of the following areas of consideration:

1. Assistance to IRRRB staff in evaluating marketing programs of IRRRB funding applicants.
2. Assistance to existing or new northeastern Minnesota businesses in the development of marketing strategies (at IRRRB's discretion and direction).
3. Assistance to IRRRB staff in identifying community and business development opportunities relative to existing and future market opportunities.

Respondents should estimate what percentage of the total time and total allotted costs will be devoted to each area of consideration; break down each general area of consideration into specific tasks; and detail the respective time and money needed to accomplish each task.

Respondents should also outline how they would propose to work with and report to IRRRB staff concerning their ongoing progress in each area of consideration.

The total cost of this contract for all services and for all costs, both direct and indirect, shall not exceed \$75,000.00.

For further information and formal RFP documents, contact Iron Range Resources and Rehabilitation Board, P.O. Box 441, Eveleth, Minnesota 55734. (218) 744-2993.

The deadline for receipt of proposals is 4:30 p.m., Tuesday, February 18, 1986.

## **Iron Range Resources and Rehabilitation Board**

### **Request for Proposals to Search for Industrial/Manufacturing Candidates for Expansion within the Taconite Tax Relief Area**

**Request for proposals for a consultant to assist in the identification and attraction of qualified candidates for industrial/manufacturing expansions within the Taconite Tax Relief Area of northeastern Minnesota.**

The IRRRB requests that respondents address the following general areas of consideration and explain in detail their proposed plans to accomplish the stated objectives in each field. Respondents should estimate what percentage of the total time and total cost allotted will be devoted to each area of consideration; correspondingly break down each general area of consideration into specific tasks; and detail the respective time and money needed to accomplish each specific task.

General areas of consideration are:

1. Identification and contact of qualified candidates for industrial/manufacturing expansions within northeastern Minnesota.
  - a. This may come from the noted target sectors or from other sectors which the consultant and IRRRB mutually ascertain as viable options for northeastern Minnesota.
  - b. While the IRRRB suggests that this candidate search be limited to the upper Midwest, Minnesota, or even the Twin Cities metro area, the consultant should propose a specific geographic search area and justify the same.
2. Assistance to IRRRB staff in researching and developing proposals necessary to attract and secure such industrial/manufacturing expansions.
3. Formulation of strategies, detailing specific objectives, for same.
4. Coordination of preliminary negotiations with qualified business expansion candidates.
5. Progress reports covering all of the above.

The total cost of this contract for all services and for all costs, both direct and indirect, shall not exceed \$75,000.00.

For further information and formal RFP documents, contact Iron Range Resources and Rehabilitation Board, P.O. Box 441, Eveleth, MN 55734. (218) 744-2993.

The deadline for receipt of proposals is 4:30 p.m., Tuesday, February 18, 1986.

## **Metropolitan Council**

### **Request for Proposals to Assist in Phase II of the Long-Range Transit Analysis**

The Metropolitan Council solicits a proposal for entering into a contract to assist in conducting the second phase of the Long-Range Transit Analysis for assessing the feasibility of major capital improvements in transit in the Twin Cities Area through the years 2010 to 2020.

Eight copies of the proposal should be submitted to the Metropolitan Council, Suite 300, Seventh and Robert Streets, St. Paul, Minnesota 55101. Attention: Karen Lyons, Transportation. All proposals received on or before 8:30 a.m. on February 17, 1986, will be considered by the Council.

The Council, by this RFP, does not promise to accept the lowest, or any other proposal and specifically reserves the right to reject any or all proposals, to waive any formal requirements, to investigate the qualifications and experience of any proposer, to reject any provision in any proposal, to obtain new proposals, to negotiate the requested services and contract terms with any proposer, or to proceed to do the work otherwise.

The Metropolitan Council hereby notifies all proposers that businesses owned and controlled by minorities or women will be afforded maximum feasible opportunity to submit proposals, and no proposer will be subjected to discrimination on the basis of race, color, sex, age, religion, ancestry, handicap, public assistance status, marital status, national origin or political affiliation. A ten percent disadvantaged business enterprise participation goal has been set for this contract.

Questions and requests for copies of the RFP should be directed to Karen Lyons (612) 291-6345.

## STATE CONTRACTS

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### Department of Transportation

#### Debarment Order for Charles E. Regenscheid

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

Minnesota Rule 1230.3100, Subpart 9, states:

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

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

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

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

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

This order takes effect on the date shown on this Order and continues until and including: January 28, 1986.

January 21, 1986

R. McDonald  
Deputy Commissioner

## STATE GRANTS

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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 Community Development Division

#### State Grants Available for Solid Waste Disposal

The Commissioner of the Minnesota Department of Energy and Economic Development announces the availability of state grants for regional solid waste disposal programs. These grants were authorized by Laws of Minnesota 1984, Chapter 597, Section 8, as amended by Minnesota Laws, 1985 Extra Session, Chapter 13, Section 28, Subdivision 6.

As defined by Laws of Minnesota 1984, Chapter 597, Section 8, the original proposal was for a grant to the City of Bagley to develop a solid waste disposal, incineration, and district heating pilot project involving seven counties. The purpose of the project was to deal with solid waste disposal as a rural problem and provide more reliable energy to the incineration site through a district heating system.

As amended by Minnesota Laws, 1985 Extra Session, Chapter 13, Section 28, Subdivision 6, the appropriation may be paid as grants to one or more counties or groups of counties among the seven counties formerly involved in that project to be used to deal with solid waste disposal. A grant may not be made until the Commissioner of Energy and Economic Development has determined that the additional financing necessary to complete the project has been committed by other sources. A total of \$400,000 is available for these grants. The following counties are eligible applicants: Beltrami, Clearwater, Hubbard, Mahanomen, Norman, Polk and Red Lake counties. The application deadline is April 1, 1986.

For further information on this program and application procedures, contact Michael J. McMahon, Community Development Division, at 900 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, or phone: (612) 296-4756.

# SUPREME COURT DECISIONS

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**Decisions Filed Friday, January 17, 1986**

**Compiled by Wayne O. Tschimperle, Clerk**

**C2-85-147 Vincent T. Effinger, Petitioner, Appellant, v. State of Minnesota, Respondent. Court of Appeals.**

District court did not err in denying appellant's petition for resentencing under the current sentencing guidelines.

Error committed by the district court in refusing to transport appellant to his post-conviction relief hearing at state expense was not prejudicial. While it is the better practice in more serious felony cases to order the defendant present at a post-conviction relief hearing, the decision is ultimately within the discretion of the trial court.

District court did not err in denying appellant's petition to vacate his sentence for unauthorized use of a motor vehicle since his actions constitute a separate criminal objective and, therefore, do not fall under Minn.Stat. § 609.035 (1984).

District court did not err in denying appellant's petition to apply jail credit time to the second of his consecutive sentences.

Appellant made no showing of prejudice on the part of the district court. The earlier parole of appellant's codefendant was not a violation of appellant's constitutional rights.

Affirmed. Yetka, J.

Took no part, Peterson, J.

**C9-84-1320, C6-84-1291, C0-84-1271 Austin P. Keller Construction Company, Inc., et al., Respondents, Allen Montgomery, Respondent, v. Commercial Union Insurance Company, et al., Defendants, North Central Public Service, Respondent, City of Anoka, Defendant, Drew Agency, Inc., Respondent, Maryland Casualty Insurance Company, Petitioner, Appellant, Mission Insurance Company, Defendant, Cedarleaf, Cedarleaf & Cedarleaf, Inc., Respondent, Great American Insurance Company, Defendant. Court of Appeals.**

An insurer in a contractor's comprehensive general liability insurance policy containing an exclusion for unnamed joint ventures is not liable to defend and indemnify on claims arising out of the conduct of a dissolved joint venture which was not named as a named insured in the policy.

Reversed and remanded for trial. Kelley, J.

Took no part, Coyne, J.

**CX-84-547 Darrell M. Paske, et al., Appellants, v. County of Dakota, Respondents. Court of Appeals.**

County court reporters are employees of the county for purposes of compensation.

Affirmed in part, reversed in part, and remanded for further proceedings. Coyne, J.

## TAX COURT

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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

**Darryl Lee Bayer, Appellant, v. the Commissioner of Revenue, Appellee, Docket No. 4313**

**Findings of Fact, Conclusions of Law, and Order for Judgment Dated January 13, 1986**

The above-entitled matter came on for hearing before the Honorable Earl B. Gustafson, Judge of the Minnesota Tax Court, on December 6, 1985 at the Tax Court Hearing Room in St. Paul, Minnesota.

Darryl Lee Bayer, Appellant, appeared pro se.

## TAX COURT

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Amy Eisenstadt, Special Assistant, Attorney General, appeared on behalf of 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. In 1982, Appellant was in a Ph.D. program in psychology at the University of Maine. She finished her course work in that year.
2. In the spring of 1982 Appellant was hired as an assistant professor at Bemidji State University, Bemidji, Minnesota. She began working in the fall of 1982 and taught at the school for three full academic years.
3. It was not necessary to have a Ph.D. for a position as an assistant professor at Bemidji State University. However, an assistant professor with a Ph.D. received a larger salary and a Ph.D. was a prerequisite for promotion and tenure.
4. Appellant was hired with the understanding that she would be granted her Ph.D. She ultimately lost her position.
5. In the fall of 1982, Appellant was notified by the University of Maine that it would not schedule an oral examination regarding her thesis and therefore would not be granting her a Ph.D. degree.
6. In the fall of 1983, Appellant hired an attorney to represent her in her attempts to obtain her degree. She incurred \$4,200 in legal expenses in 1983.
7. Appellant deducted the \$4,200 in legal fees as an itemized deduction on her 1983 income tax return. The Commissioner of Revenue disallowed this deduction and by Order dated March 29, 1985, reduced her claimed refund by the amount of \$464.64.
8. Appellant has incurred additional legal fees in 1984 and 1985.
9. The primary reason Appellant incurred legal expenses was to protect her teaching position, her principal source of income.

### Conclusions of Law

1. Appellant properly deducted the legal expenses of \$4,200 incurred in 1983 as a business related expense.
2. The Commissioner's Order dated March 29, 1985 is reversed.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

January 13, 1986

By the Court  
Earl B. Gustafson, Judge  
Minnesota Tax Court



## ORDER FORM

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