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STATE OF MINNESOTA

4



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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			
40	Friday March 14	Friday March 21	Monday March 31
41	Friday March 21	Monday March 31	Monday April 7
42	Monday March 31	Monday April 7	Monday April 14
43	Monday April 7	Monday April 14	Monday April 21

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

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

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

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

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

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

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MCAR AMENDMENTS AND ADDITIONS

TITLE 12 SOCIAL SERVICE

**Part 2 Public Welfare Department
(now HUMAN SERVICES)**

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PROPOSED RULES

Pursuant to Minn. Stat. of 1984, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

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

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

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

**Department of Energy and Economic Development
Energy and Economic Development Authority**

Proposed Rules Relating to Tourism Loan Program

Notice of Proposed Adoption of a Rule without a Public Hearing

Notice is hereby given that the Minnesota Energy and Economic Development Authority (hereinafter the "Authority") proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minn. Stat. sections 116M.07 and 116M.08, subd. 4.

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

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

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

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

Mark Smith
Department of Energy and Economic Development
Financial Management Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 297-1980

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

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

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

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Mark Smith.

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

Rules as Proposed (all new material)

CHAPTER 8300

MINNESOTA ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY

TOURISM LOAN PROGRAM

8300.3060 PURPOSE OF TOURISM LOAN PROGRAM.

The purpose of the tourism loan program of the authority is to provide loans to upgrade and improve Minnesota's small tourism businesses. This program would match loans by local financial institutions, share credit risks, and provide for lower interest rates than are otherwise now available.

8300.3061 DEFINITIONS.

Subpart 1. **Statutory terms.** The definitions in Minnesota Statutes, section 116M.03 and this part apply to parts 8300.3060 to 8300.3070.

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

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of energy and economic development.

Subp. 4. **Eligible borrower.** "Eligible borrower" means a person, partnership, firm, or corporation engaged in, and determined by the authority to constitute, a tourism business as defined by the standard industrial classification (SIC) codes of 7011 and 7033, as set out in Code of Federal Regulations, title 13, section 121.2, and a targeted small business. Any person to whom a loan has been made under parts 8300.3060 to 8300.3070 must maintain the SIC code classification throughout the term of the loan.

Subp. 5. **Eligible project.** "Eligible project" means a project proposed by an eligible borrower that meets the public purpose standards of part 8300.3068, subpart 5.

Subp. 6. **Participation.** "Participation" means a contract by which the authority purchases a share of the financial institution's loan to an eligible borrower.

8300.3062 ELIGIBILITY OF PROJECT FOR TOURISM LOANS.

In order to receive loan participation by the authority, a financial institution's loan must be to an eligible borrower for an eligible cost in an eligible project. The maximum state participation is 50 percent of the cost of the project, with a maximum for any one project of \$50,000. The financial institution shall make application for participation on behalf of an eligible borrower.

8300.3063 ELIGIBLE COSTS FOR TOURISM LOANS.

Subpart 1. **Eligible costs.** Eligible costs for financing by the authority include any costs not prohibited by subpart 2 for:

- A. building construction and improvement;
- B. site preparation;
- C. equipment;
- D. construction;
- E. engineering;
- F. authority fees including application fees of the authority; and
- G. interest due on the loan during the period of construction.

Subp. 2. **Ineligible cost.** Capital expenditures for project costs made more than 30 days prior to submission of an application cannot be financed with a tourism loan.

8300.3064 INTEREST RATE FOR TOURISM LOANS.

The interest rate on the authority's participation under the tourism loan program is three percentage points below a full faith and credit obligation of the United States government of comparable maturity, calculated at the time of submission of a completed application to the authority. The authority may, in the alternative, set interest rates at a different rate after reviewing market rates and comparable sources of financing available to the borrowers at the time the financial assistance is extended.

8300.3065 TERM OF LOAN FOR TOURISM LOANS.

The maximum term of any loan will not exceed the average useful life of the real property, or 80 percent of the useful life of the equipment or machinery, or the following limits, whichever is less:

- A. for real property (land or buildings), ten years;
- B. for equipment or machinery, five years; and/or
- C. for a combination of items A and B, a weighted average of those years will be used.

The financial institution is permitted to amortize the loan over a period of years up to 15 years. If the note between the financial institution and the borrower matures before the expiration of the contract between the financial institution and the authority and the note is renewed, the contract shall remain in effect until the expiration of the contract. The authority need not participate in the refinancing of any remaining portion of the principal not fully amortized and paid at the maturity of the contract between the financial institution and the authority.

8300.3066 SECURITY REQUIREMENTS FOR TOURISM LOANS.

All loans for real property or equipment must be secured by collateral. The financial institution must take a security interest in any collateral acceptable to the financial institution. The personal guarantee of principal owners, officers, sole proprietors, partners, major shareholders or corporate officers of the borrower, or other related entities such as subsidiaries or parent corporations of the borrower, must also be given to the financial institution before loan participation will be approved. For the purposes of this part, principal owners are those having 20 percent or more ownership of any tourism project.

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

PROPOSED RULES

8300.3067 CONTENTS OF APPLICATION FOR TOURISM LOANS.

An application for participation must be made by the financial institution on behalf of the eligible borrower on a form provided by the commissioner and must contain or be accompanied by:

- A. a copy of the financial institution's file regarding the borrower's loan application;
- B. a statement by the borrower, in the form provided in Minnesota Statutes, section 13.05, subdivision 4, paragraph (d), or a form similar to it if the borrower is a corporation, consenting to the dissemination of any private or nonpublic data applicable to the loan;
- C. a letter containing the financial institution's assessment of the risks associated with the loan, and the credit worthiness of the borrower; and
- D. a letter from the borrower demonstrating how the project meets the public purpose requirements of part 8300.3068.

8300.3068 PROCEDURES FOR TOURISM LOAN APPROVAL.

Subpart 1. **Preliminary eligibility review.** An application is considered to have been made upon the commissioner's receipt of a completed application with all required documentation and exhibits. The commissioner shall make a preliminary determination whether the application is complete and whether the borrower, project, and costs are eligible for consideration under the statutes and rules of the tourism loan program.

Subp. 2. **Notification of deficiencies.** If the commissioner determines the application to be incomplete, the commissioner or his or her designee shall notify the borrower, specifying the deficiencies. The financial institution has 60 days from the date of the commissioner's notification to complete the application in accordance with parts 8300.3060 to 8300.3070. If an application is not made complete within 60 days of the date of the commissioner's notification of deficiencies, the application shall be rejected for processing and the financial institution must resubmit the application at a later date in order for it to be considered by the authority. An application which is completed by the last day of the month must be reviewed at the next month's authority meeting.

Subp. 3. **Approval for processing.** When an application is determined to be complete, the commissioner shall review it to assess the ability of the borrower to reasonably repay the loan and approve or disapprove the application for processing under subpart 4.

Subp. 4. **Evaluation procedures.** An application which, in the judgment of the commissioner, meets the standards and requirements in the act and parts 8300.3060 to 8300.3070 shall be submitted to the authority with a recommendation for its approval at the earliest possible time. Applications which do not meet the criteria, standards, and requirements of the act and parts 8300.3060 to 8300.3070 shall not be submitted to the authority for its consideration until the application documents have been modified to conform to the standards of the program. If a completed application has not been modified to meet the program financial requirements within 60 days after submission, it is considered rejected and the financial institution must submit a new application for further consideration.

Subp. 5. **Requirements of public purpose.** Loan applications by eligible borrowers for eligible costs shall be recommended for approval by the authority only after the commissioner has determined that the project meets one or more of the following standards of public purpose:

- A. that the project would contribute to upgrading, expanding, and improving Minnesota's tourism industry;
- B. that the project, in order to be competitive and bring in new travelers to the area, offer additional amenities and improve the quality of the tourism facilities in the state;
- C. that the project will protect and enhance the tax base;
- D. that the borrower can demonstrate a positive economic impact to the surrounding community; and
- E. that the project will retain lakeshore for public use.

Subp. 6. **Approval.** The authority may reject or disapprove any application for participation that does not provide sufficient documentation or otherwise comply with the provisions of the act and parts 8300.3060 to 8300.3070. If the authority approves an application for participation, it shall pass a resolution stating the name of the borrower, a brief description of the project, the amount of participation, and the amount of and interest charged on participation.

Subp. 7. **Participation agreement.** After participation in a loan is approved by the authority, the financial institution shall provide the authority with copies of its documents for the loan. The financial institution must also submit a certificate to the authority stating that the interest approved by the authority will be passed on to the borrower.

8300.3069 LOAN SERVICING.

The financial institution shall collect payments according to the payment schedule outlined in the note. The financial institution shall notify the authority in case of default, as determined by the financial institution. The financial institution may retain interest

collected as payment for duties performed by it pursuant to the contract in the amount of one percent per annum of the authority's proportional share of the loan.

8300.3070 AMORTIZATION SCHEDULES.

The financial institution shall allow loan payments to be made on other than a monthly basis in order to meet the amortization schedule established by the financial institution. A nonmonthly payment schedule shall allow for seasonal payments, where income is generated, or primarily generated, because of seasonal business.

Department of Health

Proposed Rules Relating to Health, Morticians, Funeral Directors, Fees, and Licensing

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Commissioner of Health (hereinafter "Commissioner") proposes to adopt amendments to Minnesota Rules, chapter 4610, which relates to mortuary science and the disposition of the dead.

A copy of the proposed amendments is attached to this notice. One additional free copy is available upon request from David F. Schwietz at the address shown below.

The Commissioner has determined that the proposed amendments will be noncontroversial in nature and has elected to follow the provisions of Minnesota Statutes, sections 14.22 to 14.28 (1984). Sections 14.21 to 14.28 provide for an expedited process for the adoption of administrative rule changes without the holding of a public hearing.

The implementation of these amendments will not require the expenditure of public money by local bodies of greater than \$100,000.00 in either of the two years following their adoption, nor do the amendments have any impact on agricultural land. The small business considerations in rulemaking are not believed to apply to these amendments pursuant to Minnesota Statutes, section 14.115. Nevertheless, in accordance with section 14.115, subdivision 4(b), notice of this proceeding has been given to the Minnesota Funeral Directors Association for publication in their bulletin. This Association has a membership of 95% of the state's licensed funeral establishments.

The public is hereby advised that:

1. They have 30 days in which to submit comment in support of or in opposition to the proposed amendments, and comment is encouraged;
2. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed;
3. If twenty-five or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held pursuant to Minnesota Statutes, sections 14.13 to 14.20;
4. All comments and any written requests for a public hearing shall be submitted to David F. Schwietz, Supervisor, Mortuary Science Unit, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440;
5. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed;
6. The proposed amendments may be modified if modifications are supported by the data and views submitted and do not result in a substantial change in the proposed language;
7. Under this expedited procedure, if a hearing is not required the department must submit any action on its rules to the attorney general for review of the form and legality of the rule change. Notice of the date of submission of the proposed amendments to the attorney general for review will be mailed to any person who requests to receive the notice. Requests to receive notice must be submitted to David Schwietz at the above address;

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.

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8. Authority to amend Minnesota Rules chapter 4610 is contained in Minnesota Statutes, sections 16A.128, subd. 2a (Supp. 1985), 144.12(3), 144.122, and 149.05, subds. 2 and 4 (1984). Additionally a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendment has been prepared and is now available. Anyone wishing to receive a copy of this document may contact David Schwietz at the above address;

9. If twenty-five or more persons request a public hearing on this matter, notice of any such hearing will be published in the *State Register*;

10. Any amendment made pursuant to this proceeding shall be effective five working days after publication in the *State Register* of notice of the adoption of the amendment.

March 7, 1986

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed

4610.0200 RESIDENT TRAINEE IN MORTUARY SCIENCE.

~~No~~ A person shall be permitted to register as a resident trainee ~~until he shall have~~ after that person has completed 45 credit hours or 30 semester hours, during the first year of academic training as provided in Minnesota Statutes, section 149.03.

~~No~~ All service in mortuary science ~~may~~ shall be performed by a resident trainee ~~except~~ under the personal direction of and in the presence responsibility of the licensed person under whom ~~he~~ the trainee is registered ~~or under another licensed mortician in the same establishment. A trainee shall be registered under only one mortician at any given time.~~

~~No~~ one may at one and the same time be registered under more than one mortician A licensed mortician shall have only one trainee registered to him or her at any given time.

4610.0300 RESIDENT TRAINEE REGISTRATION.

Resident trainee registration with the commissioner of health shall show the date on which ~~such~~ the traineeship began, the name and address of the mortician under whom ~~he~~ the trainee is registered, and the name and address of the company, corporation, or firm of which ~~such~~ the mortician is the owner, partner, or employee. Discontinuance of ~~such~~ training or transfer to some other mortician for service as a trainee shall be immediately reported to the commissioner of health. The trainee shall file with the commissioner of health not less than 25 ~~comprehensive~~ case reports upon the forms provided by the commissioner, which shall be signed by the mortician under whom the trainee is registered. ~~If the mortician under whom one is registered is not the owner or manager of the establishment in which such mortician and his trainee are working, then in such case all trainee case reports and all statements concerning the period of training, in addition to being signed by the mortician under whom registered, shall also be approved and signed by the employer of such mortician and trainee.~~

The application for the initial or renewal registration shall be accompanied by a ~~\$40~~ registration fee in an amount specified in part 4610.2800. The initial and renewal registration shall be issued for the calendar year for which application is made and shall expire on December 31 of ~~such~~ each year. Renewal applications and fees shall be submitted no later than December 31 of the year preceding the year for which application is made.

~~Effective January 1, 1969,~~ mortuary science Trainee registration shall be permitted for no more than three years; provided, ~~however,~~ that for good cause the ~~Committee of Examiners in~~ Mortuary Science Advisory Council may extend the registration for an additional period not to exceed one year.

4610.0400 MORTICIANS' QUALIFICATIONS.

Subpart 1. **Requirements.** Every person who wishes to qualify as ~~competent~~ to engage in the practice of mortuary science shall comply with the following requirements.

Subp. 2. **License.** An applicant shall apply to the ~~Minnesota~~ commissioner of health for a license. The application shall contain the full name of the applicant, age, mailing address, and ~~such~~ other pertinent identifying information as the commissioner may require.

Subp. 3. **Age and education.** The applicant shall be at least 18 years of age and shall have successfully completed a minimum of 60 semester or 90 quarter credits at an accredited college or university with credit evaluation in course areas as follows: communications, ~~15~~ 12 quarter credits to include speech and English; the social sciences, ~~18~~ 20 quarter credits to include sociology and psychology; natural science, ~~24~~ 20 quarter credits to include general or inorganic chemistry and biology ~~or zoology;~~ health education (to include personal or community health) 4 quarter credits; and elective areas, ~~36~~ 34 quarter credits. Following this academic work, the applicant shall have completed and have secured a verification of completion of the prescribed course of study from any college of ~~mortuary science~~ funeral service education accredited by the ~~Conference of Funeral Service Examining Boards of U.S., Inc. or the~~ American Board of Funeral Service Education.

Subp. 4. ~~Written Examination.~~ After these education qualifications in the order specified have been acquired, the applicant shall attain a satisfactory level of achievement in a comprehensive examination, approved by the commissioner of health in ~~such~~ subjects related to the practice of mortuary science as the commissioner may prescribe. If an applicant for a license to practice mortuary science has satisfactorily passed the National Board Examination given by the Conference of Funeral Service Examining Boards of the U.S., Inc., and is so certified to the commissioner by the conference, ~~effective January 1, 1976,~~ the commissioner shall, subject to the criteria listed below, accept the results of the National Board Examination and require the applicant to ~~successfully~~ pass an examination on the laws of ~~the state of~~ Minnesota and the rules of the commissioner pertaining to registration of deaths, embalming, transportation, disposition of dead human bodies, and funeral directing. In order to accept the results of ~~such~~ the National Board Examination, the commissioner shall first determine that the knowledge and skills assessed by the examination adequately and accurately evaluate the knowledge and skills needed for actual job performance and ensure that the public health is ~~adequately served and~~ protected. An applicant who fails to attain a satisfactory level of achievement on any examination given by or on behalf of the commissioner may be reexamined ~~on application at the next examination.~~

Subp. 5. **Experience.** After successful completion of required examinations the applicant shall serve at least one year as a trainee in mortuary science under a mortician licensed by the state of Minnesota. During ~~such this period of experience~~ the applicant shall be registered as a trainee in mortuary science with the commissioner and shall ~~assist~~ participate under the supervision of a mortician in embalming at least 25 bodies and in the arrangements and direction of at least 25 funerals.

4610.0500 LICENSE APPLICATION, RENEWAL, AND ENDORSEMENT FEES.

Subpart 1. **Examination fee.** An applicant for examination for a license in mortuary science, shall submit an application ~~therefor~~ to the commissioner on forms provided by the commissioner of ~~health~~ together with a fee of \$25 in an amount specified in part 4610.2800.

Subp. 2. **License fee.** When the applicant has successfully completed the examination and all other requirements for original license, the applicant shall submit to the commissioner a license application on a form ~~prescribed~~ provided by the commissioner and a fee of \$25 in an amount specified in part 4610.2800 payable to, the treasurer, state of Minnesota, after which the license shall be duly issued.

Subp. 3. **License by endorsement.** An applicant for a license in mortuary science by endorsement without examination as to ~~technical qualification~~ qualifications pursuant to Minnesota Statutes, section 149.03, subdivision 2, shall submit an application ~~therefor~~ on forms provided by the commissioner of ~~health~~ together with a fee of \$75 in an amount specified in part 4610.2800. The applicant shall ~~prior to licensure~~ pass an examination on the Minnesota laws and rules relating to mortuary science only prior to licensure.

Subp. 4. [See Repealer.]

Subp. 5. **License issuance and renewal.** Initial and renewal mortuary science licenses ~~or courtesy cards~~ shall be issued for the calendar year for which application is made and shall expire on December 31 of that year.

Renewals ~~thereof~~ shall be obtained on an annual basis. Application for license ~~or courtesy card~~ renewal, together with the renewal fee of \$25 in an amount specified in part 4610.2800 shall be submitted to the commissioner of ~~health~~ on forms provided no later than December 31 of the year preceding the year for which application is made. Failure to submit the renewal application and fee by the date specified above shall result in an increase in the fee to \$35 in an amount specified in part 4610.2800. If the renewal application and fee are not submitted within 31 days after the expiration date, the license ~~or courtesy card~~ shall automatically lapse. ~~Such persons shall be required to apply for a new license and meet all the requirements therefor.~~

4610.0600 FUNERAL DIRECTORS.

Subpart 1. **Licensing requirement.** Every person who wishes to qualify as ~~competent~~ to engage in the practice of funeral directing, under ~~Laws of Minnesota 1959, chapter 395~~ Statutes, chapter 149, shall comply with the following requirements.

Subp. 2. ~~Application content and affidavit.~~ He shall make application to the Minnesota commissioner of health for a license. ~~Such application shall contain the name of the applicant in full, age, and place of residence. It shall be accompanied by affidavits from at least two reputable residents of the county in which the applicant resides certifying that the applicant is of good moral character. The applicant shall also submit two affidavits from ordained religious leaders of his the applicant's faith substantiating the beliefs and convictions of the applicant's faith which forbids the practice of embalming.~~

The applicant shall be at least ~~24~~ 18 years of age, shall have satisfactorily completed at least two years at an accredited college

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or university with approximate credit evaluation in course areas as follows: speech and English, ~~45~~ 12 quarter credits; the social sciences, ~~46~~ 20 quarter credits; natural science, ~~27~~ 20 quarter credits; health education (to include personal or community health) 4 quarter credits, and elective areas, ~~32~~ 34 quarter credits. Following such academic work applicants shall have completed a course of study at the Department of Mortuary Science at the University of Minnesota or and submit the applicant's official transcript from any school of mortuary science accredited by the American Board of Funeral Service Education in order to verify completion of all credits with the exception of embalming.

~~Such courses to include a minimum of 21 quarter credits in mortuary management, 29 quarter credits in the mortuary arts and sciences exclusive of any courses in embalming theory and practice.~~

After the educational qualifications in the order ~~herein~~ specified have been acquired, the applicant shall have served at least one year as a trainee in funeral directing under a Minnesota licensed mortician. During the period of practical experience or traineeship the applicant shall have been registered as a trainee in funeral directing with the commissioner of ~~health~~ and shall have ~~assisted participated~~ under supervision in the arranging and direction of at least 25 funerals. The applicant shall attain a satisfactory level of achievement in a comprehensive written examination given by the commissioner of ~~health~~ in such subjects as anatomy, ~~baacteriology microbiology~~, business methods, chemistry, mortuary funeral service directing and funeral service management, pathology, public health Minnesota laws and regulations rules as they apply to mortuary science, and the practice of funeral directing. ~~At the discretion of the commissioner, a practical examination in funeral directing may also be required.~~ An applicant who fails to attain a satisfactory level of achievement may be reexamined ~~on application at the next annual examination at the discretion of the commissioner.~~

Subp. 3. **Application for license.** An applicant for a funeral directors license, by examination, shall submit an application ~~therefor~~ on forms provided by the commissioner of ~~health~~ together with a fee of \$25 in an amount specified in part 4610.2800.

Subp. 4. **Renewal.** Initial or renewal funeral director licenses shall be issued for the calendar year for which application is made and shall expire on December 31 of such year. Renewals ~~thereof~~ shall be obtained on an annual basis. Applications for license renewal, together with the renewal fee of \$25 in an amount specified in part 4610.2800, shall be submitted no later than December 31 of the year preceding the year for which application is made. Failure to ~~so~~ submit the renewal application and fee within 31 days of the date specified above shall result in an automatic lapse ~~in the license which shall not thereafter be reinstated.~~

Subp. 5. [See Repealer.]

4610.0650 FUNERAL ESTABLISHMENT PERMIT.

Applications for an original or renewal permit to operate a funeral establishment must be submitted on forms provided by the commissioner together with a fee in an amount specified in part 4610.2800. Original permits are effective from the day of issuance to the next June 30. Renewal permits must be issued on an annual basis from July 1 to June 30 of the following year. Failure to submit the renewal application and fee by the expiration date results in an increase in the fee in an amount specified in part 4610.2800. If the renewal application and fee are not paid within 31 days after the expiration date, the permit automatically lapses.

4610.0700 COMMUNICABLE DISEASE DEATHS, PRIVATE FUNERALS.

Only morticians shall be permitted to take charge of the remains of persons who have died of any communicable disease. When such body is to be ~~shipped transported~~, preparation shall be in accordance with part 4610.1000.

When death is due to communicable disease, the funeral shall be strictly private when the death has been due to diphtheria or smallpox. In the case of a smallpox death the casket shall be hermetically or permanently sealed if so directed by the commissioner.

~~A private funeral allows only the presence of those individuals who have been in immediate contact with the deceased within 24 days before the death occurred, the morticians, and a minister who shall be present only when the morticians in charge of the funeral are also present and who shall be directed by the morticians as to the precautions to be taken. If individuals who have been in such immediate contact with the deceased are not to be present at the funeral a private funeral need not be held. Attendance at interment is limited to those enumerated herein.~~

For purposes of this part, a private funeral is a funeral service where contact and viewing of the dead human body may be restricted or limited because of the cause of death to ensure the public's health, safety, and welfare.

4610.0800 REGULATIONS GOVERNING TRANSPORTATION OF THE DEAD.

When a dead human body is transported by common carrier to a destination outside the state, it shall be embalmed and transported in accordance with the transportation regulations of the commissioner of health. The transportation of dead human bodies shall be governed by the transportation regulations adopted by the Minnesota commissioner of health. The transportation of dead human bodies is governed by this part. When a dead human body is transported by public transportation to a destination outside the state, it must be embalmed. Only a mortician person licensed to engage in the practice of mortuary science shall ~~call for and embalm~~ the body of a person whose death is caused by a disease listed as communicable in part 4610.1000 remove a dead human body from the place

of death. Following preparation of the body by ~~embalming and~~ embalming of the body, either a mortician or a funeral director shall have charge of such body for the purposes of transportation and final disposition.

This part does not apply to nor shall it in any way interfere with the duties of any officer of any public institution, or with the duties of any officer of a medical college, county medical society, anatomical association, accredited college of mortuary science, or to any person engaged in the performance of duties prescribed by law relating to the conditions under which indigent dead human bodies are held subject to anatomical study; duly authorized personnel from a licensed ambulance service in the performance of their duties; the coronor or medical examiner in the performance of the duties of the office as prescribed by Minnesota Statutes, chapter 390; or to the customs or rites of any recognized religion in the burial of their dead.

4610.0900 TRANSPORTATION PERMIT.

A burial-removal-transit permit shall be required for each dead human body transported by ~~common carrier, and in all cases when~~ transported by automobile, aircraft, rail, bus, or any other conveyance ~~in lieu of common carrier~~. It shall be issued by the local registrar of the place of death or a subregistrar or, if necessary to avoid delay, by the state registrar.

It shall contain the information required on the permit form as furnished by the commissioner of ~~health~~ and be properly signed by the local registrar or a subregistrar, the mortician or funeral director, and the person in charge of the conveyance. When the cause of death is a communicable disease the permit shall be signed by the mortician who prepared the body. Where a firm name is used in the signing of the burial-removal-transit permit it shall be supported by the personal signature of a licensed member of the firm.

The burial-removal-transit permit ~~may~~ shall be given to the person in charge of the remains, or attached to the ~~shipping transportation~~ container, and in either case delivered with the body at the destination ~~to the sexton or other person in charge of the cemetery, or to the health officer in cities that have local ordinances requiring burial permits by him in all cases.~~

Officials, agents, and employees of all public transportation facilities throughout the state of Minnesota shall not receive for transportation a dead human body unless the body is accompanied by a burial-removal-transit permit properly completed and signed.

4610.1000 TRANSPORTING DEAD OF ANY COMMUNICABLE DISEASE.

Subpart 1. **Communicable diseases.** The removal and transportation of bodies dead of the following communicable diseases as specified in part 4605.7040 shall be permitted only under the conditions in subparts 2 to 4:

- | | |
|-----------------------------------|----------------------------|
| Aetnomyeosis | Diarrhea, Epidemic |
| Anthrax | Diphtheria |
| Botulism | Dysentery |
| Brucellosis (Undulant Fever) | (a) Amebic |
| Chickenpox (over 16 years of age) | (b) Bacillary |
| Cholera, Asiatic | Encephalitis (all types) |
| Conjunctivitis, Epidemic | Glanders |
| Gonorrhea | Syphilis |
| Hepatitis, Infectious | Trachoma |
| Hepatitis, Serum | Trichinosis |
| Mononucleosis, Infectious | Influenza |
| Ophthalmia Neonatorum | Leprosy |
| Paratyphoid Fever | Leptospirosis |
| Plague | Malaria |
| Pneumonia | Measles |
| Poliomyelitis | Meningitis (all types) |
| Psittacosis | Tuberculosis |
| Rabies | Tularemia |
| Rheumatic Fever | Typhoid Fever |
| Ringworm of the Scalp | Typhus Fever |
| Rocky Mountain Spotted Fever | Whooping Cough (Pertussis) |
| Smallpox | Yellow Fever |
| Streptococcal Diseases, including | |
| Scarlet Fever and Epidemic | |
| Sore Throat | |

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Subp. 2. **Covering body before removal.** Before removal by any of the conveyances authorized by part 4610.1500, other than by ~~common carrier~~ public transportation, the body shall be ~~properly covered and encased in a zipper pouch, bag, or wrapped in a~~ waterproof sheet, properly covered and encased in a secure pouch, and transported ~~in a standard mortuary basket, on a regulation ambulance cot, or on an aircraft ambulance stretcher.~~ All Sanitary precautions in the preparation for removal and in the removal shall be observed for the protection of the public health.

Subp. 3. **Embalming.** In all cases of communicable disease deaths the body shall be embalmed as soon as practicable, and when ~~the destination will not be reached within 18 hours after death, the body shall be thoroughly embalmed before transportation.~~ When a body, dead from a communicable disease, is held by a medical institution beyond 18 hours, the body must be embalmed as soon as possible after that time. Embalming shall include both arterial and cavity treatment, all orifices ~~and,~~ discharging sinuses, and areas of broken skin closed with absorbent cotton and the body washed with a disinfecting fluid.

Subp. 4. **Common carrier Public transportation use.** When a ~~common carrier~~ public transportation is to be used, embalming is mandatory ~~and both a casket and an outside~~ acceptable container shall be ~~provided~~ used.

4610.1100 TRANSPORTING DEAD BY AIRCRAFT.

The transportation of human dead bodies by aircraft shall be permitted under the following conditions.

When the destination is outside the state, a body transported by aircraft shall be first ~~thoroughly~~ embalmed. It ~~may shall~~ be transported ~~in a standard mortuary basket, on a regulation ambulance cot, or aircraft ambulance stretcher.~~ When transported by ~~common~~ public air carrier it shall be embalmed and enclosed in a ~~casket and tight outside an~~ acceptable container.

Where a death caused by a disease listed as communicable in part ~~4610.1000~~ 4605.7040 occurs in a remote and inaccessible locality, the body in an emergency may be brought by aircraft to the nearest point having facilities and there ~~thoroughly~~ embalmed and prepared, as provided in ~~these rules parts 4610.0700 to 4610.1800,~~ before being transported further by aircraft.

4610.1200 TRANSPORTING DEAD OF NONCOMMUNICABLE DISEASE.

The transportation of human bodies dead of noncommunicable disease shall be permitted under the following conditions:

A. When the destination will be reached within 18 hours after death, the body shall be enclosed in a casket and a tight outside container. When transportation is to be made by automobile or aircraft, the outside container may be omitted, or the casket and outside container may both be omitted, and in such case the body shall be properly covered and encased in a ~~zipper secured~~ pouch, bag, or waterproof impermeable sheet and transported ~~in a standard mortuary basket, on a regulation an~~ ambulance cot, or on an aircraft ambulance stretcher.

B. When the destination will not be reached within 18 hours after time of death or if held by a medical institution beyond the 18 hours' notice of release from place of death, the body shall be thoroughly embalmed and ~~shipped transported~~ in accordance with the provisions in item A. Final disposition must be accomplished within 72 hours for all unembalmed bodies. Refrigeration is not considered a form of preservation or disinfection and does not alter the 72-hour rule.

4610.1300 TRANSPORTING DISINTERRED BODIES.

No disinterred body dead from any disease or cause shall be transported unless approved, as is required by parts 4610.2400 to 4610.2700, by the health authorities having jurisdiction. A burial-removal-transit permit signed by the local registrar or a subregistrar, as provided in part 4610.0900, is required.

All disinterred remains shall be enclosed in a sound, tight ~~box~~ container and not thereafter opened, provided that bodies in a receiving vault when prepared by morticians shall not be regarded as disinterred bodies unless the health officer so rules. ~~In townships having no physician as medical health officer for the township, a body shall be regarded as disinterred after the expiration of 30 days from the time of death.~~

4610.1500 KIND OF CONVEYANCES PERMITTED.

In the transportation of any dead body ~~the following conveyances may be used: baggage or express car, boat, hearse, ambulance, any standard automobile properly designed and manufactured for the transportation of dead human bodies, any wagon or sleigh, or airplane.~~ all such conveyances or vehicles shall have ample enclosed area to accommodate a ~~standard mortuary basket, a regulation an~~ ambulance cot, or aircraft ambulance stretcher in a horizontal position and shall be so designed as to permit loading or unloading without excessive tilting of the cot ~~or basket~~.

4610.1550 REMOVAL OF INFANTS.

Any body measuring less than 36 inches may be transported in a passenger automobile after having been properly covered and encased.

For purposes of this part "passenger automobile" means a motor vehicle designed and used for carrying not more than ten persons, including station wagons, but excluding motorcycles and motor scooters.

4610.1600 MOVING BODIES LOCALLY.

When the ~~transportation rules parts 4610.0800 to 4610.1550~~ do not apply, embalming is not required if the body is to be buried or cremated within 72 hours after death.

4610.1700 ~~ARSENICAL~~ FORBIDDEN COMPOUNDS IN EMBALMING FLUIDS ~~CHEMICALS.~~

No embalming fluid containing compounds of arsenic, mercury, zinc, or other poisonous metals shall be sold or used in Minnesota for or in the embalming of dead human bodies ~~for burial~~.

~~Provided that in case it appears necessary to hold a dead human body for 30 days or more before burial, the county coroner after an investigation by him as to the cause of death may issue a written order permitting the use of compounds of arsenic, mercury, zinc, or other poisonous metals in the preservation of such body.~~

In the ~~shipment~~ transport of the dead in Minnesota when embalming is carried out, the fluid shall be of a quality and used in sufficient quantity to properly embalm the body.

4610.1800 ~~OUTSIDE~~ TRANSPORTATION CONTAINER.

Every ~~outside~~ transportation container shall bear at least four handles and when over five feet six inches in length shall bear six handles.

4610.1900 ~~OPENING OF SEALED~~ DISINTERRED CASKETS.

The opening of ~~hermetically sealed~~ caskets containing disinterred remains of persons ~~dead from any cause and shipped for burial in Minnesota~~ is ~~hereby~~ forbidden except when so ordered by a court of competent jurisdiction.

4610.2000 ~~ASHES OF THE DEAD~~ CREMATED REMAINS.

Cremation of a dead human body shall be considered as a final ~~disposal~~ disposition of that body. No additional permit covering transportation, interment, or other ~~disposal~~ disposition of ashes of a ~~cremated body cremains~~, or concerning the kind of container in which ~~such ashes the cremains~~ are placed for preservation or transportation is required. When cremation is selected as a method of disposition, cremation must be accomplished 72 hours from the time of death on all unembalmed bodies.

When a container or urn for cremains is offered or provided, it shall be of adequate size to enclose the entire cremains. Commingling of cremains shall not be permitted without written permission from next of kin.

4610.2100 SERVING OF FOODSTUFFS IN FUNERAL ESTABLISHMENTS.

In the interest of safeguarding public health, safety, welfare, and sanitation, the serving of food to the public in a funeral establishment is prohibited. For the purpose of this part, beverages served in single use disposable containers shall not be considered food.

4610.2200 PERMIT FOR DISINTERMENT AND REINTERMENT.

No person except a mortician, and then only after first having obtained a permit ~~therefor~~ from the local health officer and the local registrar or a subregistrar, as hereinafter prescribed, shall disinter the body of a deceased person; provided, the authorities in charge of a cemetery may transfer bodies buried therein from one part of ~~such the~~ cemetery to another part thereof with the approval and under supervision of the local health officer. Any person desiring ~~such~~ a permit shall first secure from the ~~actuary or secretary or other~~ person in charge of the cemetery records a written statement showing that ~~such the~~ body is buried in that cemetery and ~~giving thereon~~ give the name of deceased, age at the time of death, date of death, cause of death, and date of burial. ~~He~~ A person shall present this statement to the proper local health officer and make application for permission to disinter and remove ~~such the~~ body.

Provided, if there is no ~~such~~ cemetery record then ~~such a~~ statement by relatives of the deceased or other competent person or persons who are empowered to cause such disinterment and removal shall be presented. ~~Provided further,~~ If the health officer has cemetery records of the cemeteries in ~~his the~~ the municipality of the health officer and a record of ~~such~~ interment, no ~~such~~ written statement need be secured or filed ~~with him~~.

The local health officer shall question the applicant as to the manner in which it is proposed to disinter, handle, and dispose of the remains, and shall give and enforce ~~such~~ directions for disinterment, removal, and reinterment as ~~he deems~~ necessary for the protection of the public health. ~~Such~~ The local health officer shall ~~thereafter~~ notify the local registrar or subregistrar orally or in writing if ~~he that the~~ the application has been approved ~~such~~ application. The applicant shall ~~thereupon~~ apply to the registrar or ~~to a~~

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subregistrar, who shall issue in duplicate a written disinterment-reinterment permit, using for such purpose the burial-removal-transit form now provided by the commissioner of health for original interments and noting thereon on the forms the words "disinterment-reinterment permit."

The mortician shall furnish give the sexton or person in charge of any cemetery, burial place, or other premises in which the disinterment is made, a duplicate copy of the disinterment-reinterment form. The sexton or person in charge of the final resting place shall not inter or permit the interment or other disposition of the disinterred body of a deceased person until he receives a disinterment-reinterment permit is received.

4610.2300 SANITARY CONDITION OF MORTUARIES FUNERAL ESTABLISHMENTS.

Subpart 1. [See Repealer.]

Subp. 2. **Preparation and embalming room.** All mortuaries and funeral directing establishments preparation and embalming rooms shall be maintained in a sanitary manner at all times. A properly lighted and ventilated preparation and embalming room shall be provided in every mortuary or funeral directing establishment. It shall have a tile, terrazzo, concrete, composition, or linoleum-covered nonporous floor which shall be kept in a smooth and easily cleanable condition and made free and clear clean and free of dust, dirt, refuse, and other contaminations contaminates. The operating or embalming table shall have a tile, metal, or other hard surface sanitary top. Each room must have a nonporous preparation and embalming table. The floors and floor, walls, and ceiling of the preparation and embalming room and all embalming or tables, dressing tables, portable couches, cooling boards temporary tables, removal cots, stretchers, and transfer easels transportation containers shall be kept in a clean and sanitary condition.

Subp. 3. **Embalming room.** The operating or embalming and preparation room shall be provided with an adequate a water supply approved by the department of health. Liquid Waste from the operating or embalming tables process shall be directed to an open fixture which is properly vented and connected to the building drainage system. Where a municipal sewerage system is available, the building drainage system shall be discharged into the municipal sewage system; where such a system is not available, the building drainage system must be discharged into a satisfactory private system of waste disposal. There shall be no connection or other arrangement from any plumbing fixture or device whereby unsafe water or other foreign material may be discharged or drawn into a safe water supply. Every plumbing fixture, receptacle, and water supply tank shall be provided with a proper air gap or other acceptable device to prevent backflow into the water supply. (See appendix to plumbing code.)

Subp. 4. **3. Removal of waste.** Refuse, bandages, cotton, and other wastes shall be collected in proper and convenient approved receptacles which shall be as provided in the operating and embalming and preparation rooms room. All such waste shall be handled in a sanitary manner and destroyed by incineration and all. Embalming tables, hoppers, sinks, receptacles, instruments, positioning blocks, and other appliances used in the embalming of dead human bodies shall be thoroughly cleaned immediately after the preparation of the case is completed upon completion of preparation and embalming.

4610.2400 DEFINITIONS.

Subpart 1. **Application.** For the purposes of parts 4610.0200 to 4610.2700 4610.2800, the words, terms, and phrases listed in this part shall have the meaning stated herein, unless the language and context clearly indicates that a different meaning is intended.

Subp. 1a. **Alternative container.** "Alternative container" means a rigid container other than a casket used for burial, cremation, or entombment of a dead human body.

Subp. 2. [See Repealer.]

Subp. 3. **Cash advanced items advance item.** "Cash advanced items advance item" means items any item of merchandise and services provided by other than the mortician, funeral director, or funeral establishment, the liability for which is incurred by the mortician, funeral director, or funeral establishment on behalf of the funeral arranger and listed on the itemization form or service described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to, the following items: cemetery or crematory services, casket bearers, public transportation, clergy honoraria, flowers, musicians or singers, obituary notices, gratuities, and death certificates.

Subp. 4. **Casket.** "Casket" means a container commonly used to enclose a dead human body for the purposes of the funeral and final disposition.

Subp. 4a. **Commissioner.** "Commissioner" means commissioner of the Department of Health.

Subp. 4b. **Cremins.** "Cremins" means the ashes of a dead human body.

Subp. 5. **Cremation/calination.** "Cremation/calination" means the use of direct flames or intense heat to reduce the dead human body to ashes and inorganic bone fragments.

Subp. 6. **Destination.** "Destination" means the city or town of final disposition.

Subp. 6a. Direct cremation. "Direct cremation" means a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

Subp. 7. [See Repealer.]

Subp. 8. **Embalming.** "Embalming" means a process of chemically treating the dead human body to reduce the presence and growth of organisms, to retard organic decomposition and to restore an acceptable physical appearance.

Subp. 9. **Funeral service.** "Funeral service" means the rites or ceremonies ~~connected~~ associated with the ~~final~~ disposition of a dead human body with the body present.

Subp. 9a. Funeral establishment. "Funeral establishment" has the meaning given the term in Minnesota Statutes, section 149.08.

Subp. 9b. Funeral goods. "Funeral goods" means goods that are sold or offered for sale directly to the public for use in connection with funeral services.

Subp. 10. [See Repealer.]

Subp. 10a. Immediate burial. "Immediate burial" means a disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present.

Subp. 10b. Memorial service. "Memorial service" means the rites or ceremonies without the body present.

Subp. 10c. Outer burial container. "Outer burial container" means a container that is designed for placement in the grave into which the casket is placed including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

Subp. 11. **Preparation of the body.** "Preparation of the body" includes such items of care as ~~the setting of features, restorative procedures, washing, disinfecting, care of hair, shaving, dressing, and casketing~~ washing, disinfecting, shaving, positioning of features, restorative procedures, care of hair, dressing, and casketing.

Subp. 12. **Professional services.** "Professional services" includes the provision of staff for arrangements, visitations, funeral, memorial service ~~when the body is not present~~, final disposition, counseling, and administrative services such as ~~counseling~~, securing, and preparing necessary documents.

Subp. 12a. Public transportation. "Public transportation" means all forms of transportation available to the general public including airlines, buses, and rail.

Subp. 13. **Transportation costs.** "Transportation costs" includes the vehicle used for the initial transfer of the deceased, funeral coach, funeral sedans, flower car, service/utility car, ~~and the use of common carriers~~ public transportation where needed, and others.

Subp. 14. **Use of facilities.** "Use of facilities" means:

- A. provision of chapel or room for the funeral or memorial service and/or provision of facilities for parking, ~~counseling~~ arrangement offices, and other administrative purposes; and
- B. provision of chapel or room for visitation/reviewal.

4610.2500 ITEMIZATION OF FUNERAL COSTS.

~~Before final agreement is reached between the client and funeral establishment~~ At the time funeral arrangements are made the mortician or funeral director shall give or cause to be given to the person(s) making arrangements, a written disclosure with the items and costs listed separately as required by Minnesota Statutes, section 149.09, subdivision 1.

As a minimum the disclosure shall include a statement of charges for casket, outer burial vault container, use of facilities for reviewal, use of facilities for funeral services, specifically itemized transportation costs, specifically itemized funeral ~~service merchandise goods~~, embalming, preparation of the body, other professional services, ~~and~~ anticipated cash advances and expenditures, and if applicable, forwarding of remains, receiving of remains, immediate burials, and direct cremations. When cremation is ~~to be~~ the method of final disposition the disclosure shall have printed in conspicuous print: "Minnesota law does not require that remains be placed in a casket before or at the time of cremation."

A copy of the itemized statement (~~funeral expense contract~~) of funeral goods and services selected shall be given the person(s)

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making funeral arrangements. The contract shall be signed by both parties and the funeral establishment shall retain a copy for three years thereafter.

If the charge for any item is not known at the time the contract is entered into, the establishment representative shall give his/her best estimate of the charges and advise the purchaser(s) of the exact charge as soon as the information becomes available.

No funeral establishment shall bill or cause to be billed any item that is referred to as a "~~cash advanced~~" advance item unless the net amount paid for such item or items by the funeral establishment is the same as is billed to the funeral establishment. The term "net" is not meant to include any discounts that may be allowed for prompt payment by the funeral establishment.

4610.2700 FORM OF AUTHORIZATION TO EMBALM.

The written authorization statement shall be as follows:

Authorization to Embalm

I authorize _____ and its staff, agents or representative to embalm the body of _____. I am a relative of the deceased and/or am entitled to custody of the deceased. I understand that embalming is ~~not~~ required by Minnesota law ~~except~~ as provided by parts 4610.0800 to 4610.1600.

- 1) The deceased is to be sent out of state by ~~common carrier or aircraft~~ public transportation,
- 2) Death is due to communicable disease,
- 3) More than 18 hours will elapse from time of death to arrival at the destination, or
- 4) Final disposition of the deceased is longer than 72 hours after death.

name, relationship

name, establishment representative

4610.2800 FEES.

Subpart 1. Generally. Fees for registration, examination, and licenses under parts 4610.0200 to 4610.0600 are in subparts 2 and 3.

Subp. 2. Mortuary science fees. The following fees are mortuary science fees:

- A. trainee registration and renewal fee, \$25;
- B. examination fee, \$50;
- C. original license fee, \$40;
- D. license by endorsement, \$200;
- E. renewal fee, \$40; and
- F. renewal fee late charge, \$10.

Subp. 3. Funeral directors. The following fees are funeral director fees:

- A. application fee, \$50;
- B. renewal fee, \$40; and
- C. renewal fee late charge, \$10.

Subp. 4. Funeral establishments. The following fees are funeral establishment fees:

- A. funeral establishment permit fee, \$110;
- B. renewal permit fee, \$110; and
- C. renewal permit late charge, \$15.

RENUMBERING INSTRUCTION. Renumber parts 4610.0200 as 4610.0410; 4610.0300 as 4610.0420; and 4610.2100 as 4610.2210.

REPEALER. Minnesota Rules, parts 4610.0500, subpart 4; 4610.0600, subpart 5; 4610.1400; 4610.2300, subpart 1; and 4610.2400, subparts 2, 7, and 10; are repealed.

Pollution Control Agency

Proposed Rule Relating to Hazardous Waste Solvent Mixtures

Notice of Intent to Adopt Amendments to Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt without a public hearing amendments to Minn. Rule Part 7045.0135, governing the lists of hazardous wastes.

The proposed amendments, if adopted, will add solvent mixtures to the list of hazardous wastes from nonspecific sources. The amendments are proposed in order to make Minnesota's hazardous waste rules consistent with federal regulations.

The proposed amendments are authorized by Minn. Stat. § 116.07, subd. 4 (1984). The proposed rule amendments are published below. One free copy of the rules is available on request from the Agency. Please contact the person whose name and address appears below.

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

Carol Nankivel
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7260

Interested persons have until 4:30 p.m. on April 25, 1986, to submit comments on the proposed amendments. The Agency encourages persons to comment. Comments should be submitted to Carol Nankivel at the address stated above and should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the data and views received by the Agency before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed amendments.

Unless the Agency receives twenty-five written requests for a public hearing on the proposed amendments during the comment period, a public hearing will not be held. If twenty-five written requests for a hearing on the proposed amendments are submitted within the comment period, a public hearing will be held in which case the Agency will proceed according to the provisions of Minn. Stat. §§ 14.131-14.20 (Supp. 1985). Persons wishing to request a hearing should send a written request to Carol Nankivel at the address above. This written request should include the name and address of the person requesting the hearing. Persons asking for a public hearing are also requested to identify the particular provisions they object to, the modifications to the proposed amendments they suggest, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the amendments by the Agency Board, the amendments as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final amendments as adopted will be sent to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendments as adopted, should submit a written statement of such request to Carol Nankivel at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (Supp. 1985), "Small business considerations in rulemaking," that the proposed amendments will have a minimal impact on small businesses. First, the MPCA is merely adopting as a state rule a regulation already in effect on the federal level. Second, some solvent mixtures may already be regulated as hazardous wastes in Minnesota as a result of their toxicity. Finally, alternatives for the management of nonhazardous solvents are currently limited and in many cases the only available management option is to treat them as if they were hazardous wastes.

March 7, 1986

Michael Robertson
for Thomas J. Kalitowski
Executive Director

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Rule as Proposed

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. [Unchanged.]

Subp. 2. **Hazardous wastes from nonspecific sources.** Hazardous wastes from nonspecific sources are listed as follows:

Hazardous Waste No.	Hazardous Waste	Hazard Code
Generic:		
F001	The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; and sludges from the recovery of these solvents in degreasing operations; <u>all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten percent or more by volume of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.</u>	(T)
F002	The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, orthodichlorobenzene, and trichlorofluoromethane; <u>all spent solvent mixtures/blends containing, before use, a total of ten percent or more by volume of one or more of the above halogenated solvents or those solvents listed in F001, F004, and F005; and the still bottoms from the recovery of these spent solvents and spent solvent mixtures.</u>	(T)
F003	The following spent nonhalogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; <u>all spent solvent mixtures/blends containing, before use, only the above spent nonhalogenated solvents; and all spent solvent mixtures/blends, containing, before use, one or more of the above nonhalogenated solvents and a total of ten percent or more by volume of one or more of those solvents listed in F001, F002, F004, and F005; and the still bottoms from the recovery of these spent solvents and spent solvent mixtures.</u>	(I)
F004	The following spent nonhalogenated solvents: cresols and cresylic acid, and nitrobenzene; <u>all spent solvent mixtures/blends containing, before use, a total of ten percent or more by volume of one or more of the above nonhalogenated solvents or those solvents listed in F001, F002, and F005; and the still bottoms from the recovery of these spent solvents and spent solvent mixtures.</u>	(T)

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Hazardous Waste No.	Hazardous Waste	Hazard Code
Generic:		
F005	The following spent nonhalogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, and pyridine; <u>all spent solvent mixtures/blends containing, before use, a total of ten percent or more by volume of one or more of the above nonhalogenated solvents or those solvents listed in F001, F002, and F004;</u> and the still bottoms from the recovery of these <u>spent solvents and spent solvent mixtures.</u>	(I,T)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum, (2) tin plating on carbon steel, (3) zinc plating (segregated basis) on carbon steel, (4) aluminum or zinc-aluminum plating on carbon steel, (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel, and (6) chemical etching and milling of aluminum	(T)
F007	Spent cyanide plating bath solutions from electroplating operations	(R,T)
F008	Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process	(R,T)
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process	(R,T)
F010	Quenching bath residues from oil baths from metal heat-treating operations where cyanides are used in the process	(R,T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat-treating operations	(R,T)
F012	Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process	(T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum	(T)
F020	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the production or manufacturing use as a reactant, chemical intermediate, or component in a formulating process of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-tri-chlorophenol.	(H)

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Hazardous Waste No.	Hazardous Waste	Hazard Code
Generic:		
F021	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the production or manufacturing use as a reactant, chemical intermediate, or component in a formulating process of pentachlorophenol, or of intermediates used to produce its derivatives.	(H)
F022	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the manufacturing use as a reactant, chemical intermediate, or component in a formulating process of tetra-, penta-, or hexachlorobenzenes under alkaline conditions.	(H)
F023	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the production of materials on equipment previously used for the production or manufacturing use as a reactant, chemical intermediate, or component in a formulating process of tri- and tetrachlorophenols. This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5-trichlorophenol.	(H)
F024	Wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. This does not include light ends, spent filters and filter aids, spent dessicants, wastewater, wastewater treatment sludges, and spent catalysts.	(T)
F026	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the production of materials on equipment previously used for the manufacturing use as a reactant, chemical intermediate, or component in a formulating process of tetra-, penta-, or hexachlorobenzene under alkaline conditions.	(H)
F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.	(H)
F028	Residues resulting from the incineration or thermal treatment of soil contaminated with hazardous waste Nos. F020, F021, F022, F023, F026, and F027.	(T)

Subp. 3. to 5. [Unchanged.]

OFFICIAL NOTICES

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

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

State Board of Education Department of Education Development and Partnership Effectiveness Division Outside Information or Opinion Sought Regarding Proposed Rules Governing Multicultural, Gender Fair Curriculum

Notice is hereby given that the State Board of Education is seeking information or opinions from sources outside the agency in preparing to propose the adoption of these rules governing multicultural, gender fair curriculum. The adoption of these rules is authorized by Minnesota Statutes, section 121.11, subdivisions 7 and 12.

The State Board of Education requests information and opinions concerning the subject matter of these rules. Interested persons may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Cynthia Kelly
Minnesota Department of Education
980 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-5147 and in person at the above address.

All statements of information and opinions shall be accepted until April 24, 1986 at the close of the business day. Any written material received by the State Board of Education shall become part of the rulemaking record in the event that the rules are adopted.

March 24, 1986

Nan Skelton
Assistant Commissioner

Department of Energy and Economic Development Policy Analysis Division Current and Projected Residential Energy Costs, by Region and State

In fulfillment of Minnesota Statutes, 116J.27, Subdivision 1, the Commissioner of the Department of Energy and Economic Development hereby certifies the following current and projected average residential energy prices. Sample surveys of energy utilities and distributors were used to estimate the regional average prices for 1984-85 presented in Table 1. Sampling errors of these surveys are given in Table 1A. Ten year forecasts of residential energy prices based on state average prices for the four heating fuels are given in Table 2. Table 3 gives ten year projections of residential electric prices, including space heating and non-space heating components, based on regional averages for the 13 development regions of the state.

These prices are to be used with discretion. The formulas used to calculate regional and statewide numbers tend to average out differences in tariff structures among individual utilities and distributors, and do not take into account advantages that some purchasers obtain through quantity discounts. If the user finds the prices presented are higher or lower than actual unit energy prices as documented by their most recent energy bill, the forecasts can be adjusted by applying the changes in prices between years, provided in tables 2 and 3, to the appropriate base for his or her locality.

The average non-space heating prices reported here for natural gas and electricity are not directly comparable to the average non-space heating prices reported in previous years for those fuels. This is due to the addition of service charges in the calculation of the current averages. Service charges are flat fees added by utility companies to the energy use portion of the consumer bill. After a utility's tariff schedule is applied to the non-space heating or baseload consumption estimate, the flat fee is added and the sum is divided by consumption to estimate the average price.

Average prices for the 1983-84 heating season were recalculated by adding the pertinent service charges, and are included here in Table 1¹.

Minnesota Development Regions

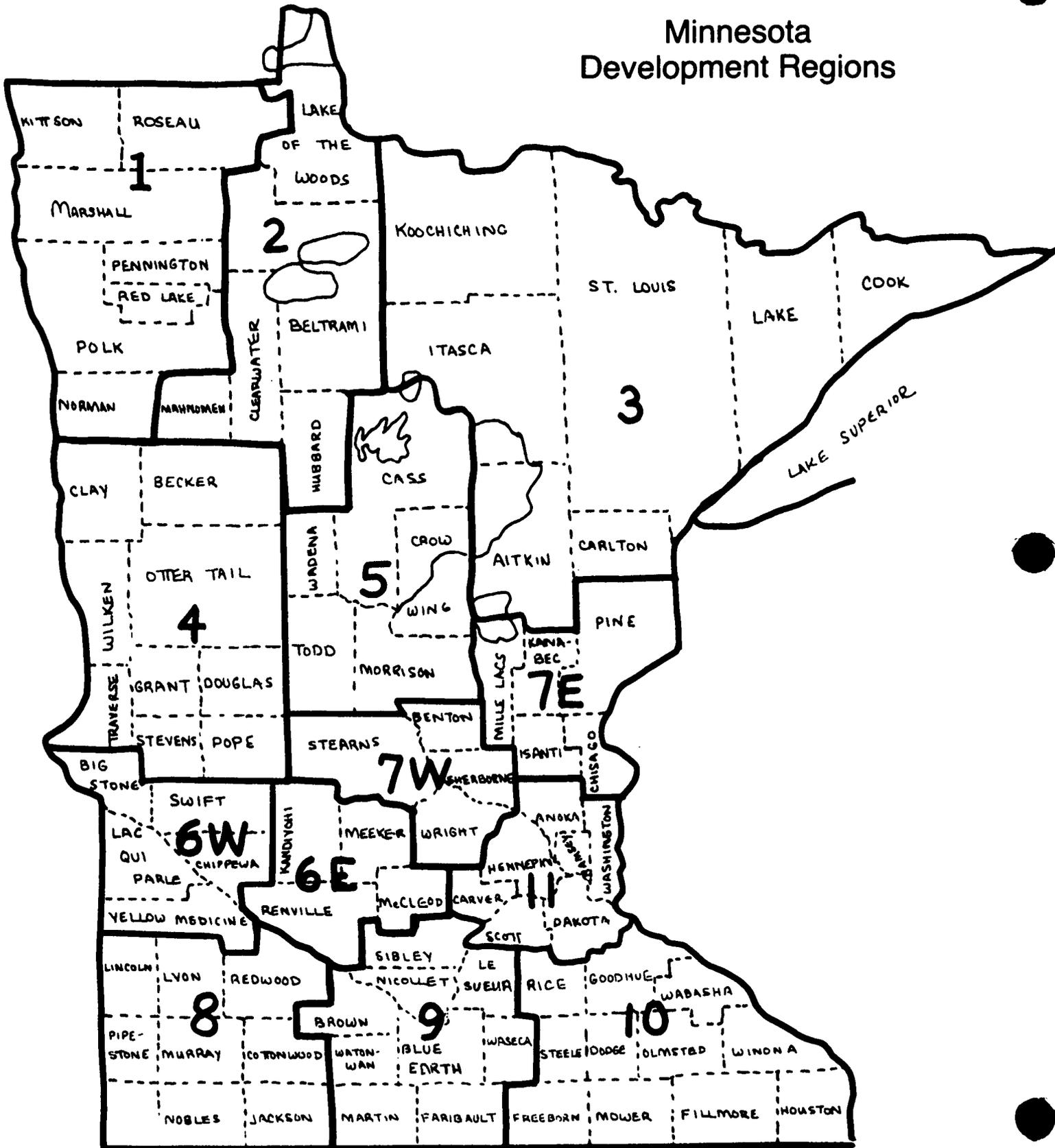


TABLE 1. Average Residential Energy Prices, by Region and State,
Heating Season 1984-85

Region	Natural Gas ^a (\$/1000 cu. ft.)		Electricity ^a (¢/kwh)		Fuel Oil ^b (\$/gallon)	Propane ^b (\$/gallon)
	NSH	SH	NSH	SH		
1	7.08	6.23	6.60	4.75	.92	.74
2	6.79	5.75	7.11	5.52	.98	.74
3	6.65	6.07	5.47	5.32	1.04	.80
4	6.81	5.84	5.56	4.88	.96	.74
5	6.69	5.97	6.48	5.97	.98	.78
6E	6.36	5.65	6.41	5.02	.97	.68
6W	6.71	5.94	6.63	5.19	.94	.70
7E	6.23	5.60	7.50	6.42	.97	.78
7W	6.42	5.92	6.72	5.32	.97	.81
8	6.68	5.81	5.82	4.41	.90	.62
9	6.61	5.81	6.88	5.30	.92	.64
10	6.70	5.67	7.00	5.67	.96	.66
11	6.51	5.90	6.75	5.26	1.07	.75
State	6.56	5.88	6.49	5.30	1.00	.74

SH = Space Heating
NSH = Non-Space Heating

a. Prices calculated from rate schedules submitted by utilities in response to a survey conducted by the Policy Analysis Division of DEED. Where declining block rates are in effect, space heating requirements bias prices toward the lowest blocks of residential rate schedules. The above prices are weighted averages of summer and winter prices with service charges and cost adjustments added to natural gas and electric prices.

b. Average prices calculated from responses to a survey conducted in April of 1985 by the Policy Analysis Division of DEED.

Table 1A. Standard Errors of Sample Prices, Residential Fuel
Price Survey, Heating Season 1984-1985

Region	Natural Gas \$/1000 cu. ft.		Electricity ¢/kwh		Fuel Oil \$/gallon	Propane \$/gallon
	NSH	SH	NSH	SH		
1	.069	.037	.395	.239	.014	.010
2	.212	.293	.246	.076	.008	.009
3	.094	.061	.541	.378	.012	.010
4	.037	.022	.475	.199	.009	.028
5	.159	.131	.476	.361	.018	.008
6E	.058	.042	.451	.388	.013	.006
6W	.033	.055	.315	.145	.013	.014
7E	.227	.100	.280	.223	.011	.018
7W	.154	.074	.403	.343	.012	.016
8	.028	.035	.363	.323	.012	.011
9	.026	.011	.394	.405	.011	.011
10	.118	.075	.310	.193	.015	.014
11	.075	.037	.393	.319	.008	.028
State	.029	.015	.177	.140	.033	.006
Sample Size		105		130	130	130

Table 1¹. Recalculated 1983-84 Natural Gas and Electric Prices Including Service Charges.

Region	Natural Gas (\$/1000 c.f.)		Electricity (¢/kwh)	
	NSH	SH	NSH	SH
1	6.34	5.97	6.24	4.29
2	6.51	5.68	6.95	4.97
3	6.36	5.72	6.75	5.73
4	6.30	5.83	6.55	5.15
5	5.42	5.73	7.30	5.68
6E	5.59	5.57	5.76	4.97
6W	6.48	5.85	7.33	6.10
7E	6.67	5.92	7.79	6.46
7W	6.56	6.02	6.58	5.14
8	6.44	5.70	5.60	3.73
9	5.79	5.72	6.60	5.23
10	7.10	5.85	6.42	5.15
11	6.14	5.90	6.23	5.02
Statewide	6.23	5.86	6.40	5.12

Table 2. Projected State Average Residential Prices for Fuel Oil, Propane, Natural Gas, and Electricity, Including Inflation, Heating Seasons 1984-85 through 1994-95.

	ACTUAL		PROJECTIONS								
	1984-1985	1985-1986	1986-1987	1987-1988	1988-1989	1989-1990	1990-1991	1991-1992	1992-1993	1993-1994	1994-1995
#2 Fuel Oil ^a (\$/gallon)	1.000	0.898	0.796	0.800	0.834	0.868	0.902	0.960	1.057	1.178	1.318
Propane ^b (\$/gallon)	.740	.682	.649	.644	.667	.696	.725	.768	.836	.922	1.002
Natural Gas ^c (\$/1000 c.f.)											
NSH	6.560	6.429	6.345	6.320	6.434	6.697	6.992	7.502	8.253	9.103	10.077
SH	5.880	5.762	5.687	5.665	5.767	6.003	6.267	6.725	7.397	8.159	9.032
Electricity ^d (¢/kwh)											
NSH	6.490	6.607	6.759	6.928	7.066	7.215	7.402	7.624	7.868	8.144	8.469
SH	5.300	5.395	5.519	5.657	5.771	5.892	6.045	6.226	6.426	6.650	6.916
—Projected Rates of Change (%)— ^e											
#2 Fuel Oil		-10.2	-11.4	0.6	4.2	4.1	3.9	6.4	10.1	11.5	11.9
Propane		-7.8	-4.9	-0.8	3.7	4.3	4.1	6.0	8.8	10.3	8.7
Natural Gas		-2.0	-1.3	-0.4	1.8	4.1	4.4	7.3	10.0	10.3	10.7
Electricity		1.8	2.3	2.5	2.0	2.1	2.6	3.0	3.2	3.5	4.0

a. Assumes that world production will remain high and crude prices will remain low into the 1990's.

b. Historical relationship between crude oil and LPG in terms of price per million BTU content are continued into the future.

c. Because of wellhead price deregulation, natural gas is in direct competition with #6 residual fuel oil in the industrial market. This leads to wellhead prices moving in concert with crude oil prices.

d. Electric prices growing at less than the inflation rate due to rising dependence on coal and nuclear, the low projected price of fuel oil, and decreasing investment in additional capacity by the utilities.

e. Rates of change are taken from the March 7, 1986 Residential Energy Price Projections Produced by the Policy Analysis Division of DEED.

Table 3. Projected Residential Electricity Prices by Region (¢/kwh), Including Inflation.

Region	Type of Heating	Actual		Projections								
		1984-1985	1985-1986	1986-1987	1987-1988	1988-1989	1989-1990	1990-1991	1991-1992	1992-1993	1993-1994	1994-1995
1	Space	4.752	4.917	5.171	5.412	5.599	5.798	5.989	6.199	6.420	6.628	6.908
	Non-Space	6.600	6.829	7.181	7.516	7.777	8.053	8.319	8.610	8.916	9.206	9.594
2	Space	5.523	5.715	6.002	6.294	6.518	6.752	6.974	7.211	7.467	7.715	8.039
	Non-Space	7.113	7.360	7.730	8.106	8.395	8.696	8.982	9.287	9.617	9.936	10.353
3	Space	5.320	5.498	5.779	6.045	6.254	6.474	6.693	6.909	7.162	7.400	7.663
	Non-Space	5.467	5.650	5.938	6.212	6.427	6.652	6.868	7.100	7.360	7.604	7.874
4	Space	4.878	5.079	5.346	5.600	5.799	6.009	6.209	6.426	6.661	6.882	7.141
	Non-Space	5.562	5.791	6.096	6.385	6.613	6.852	7.080	7.327	7.595	7.848	8.143
5	Space	5.971	6.172	6.491	6.794	7.032	7.283	7.522	7.781	8.063	8.328	8.620
	Non-Space	6.475	6.693	7.038	7.367	7.625	7.897	8.156	8.438	8.743	9.031	9.348
6E	Space	5.025	5.199	5.472	5.731	5.936	6.151	6.357	6.578	6.819	7.044	7.261
	Non-Space	6.409	6.631	6.980	7.310	7.571	7.845	8.107	8.390	8.698	8.984	9.261
6W	Space	5.191	5.373	5.651	5.916	6.127	6.345	6.552	6.780	7.026	7.254	7.528
	Non-Space	6.629	6.862	7.216	7.555	7.824	8.103	8.367	8.658	8.972	9.264	9.614
7E	Space	6.418	6.641	6.983	7.308	7.567	7.835	8.114	8.395	8.697	8.978	9.297
	Non-Space	7.498	7.758	8.158	8.538	8.840	9.154	9.479	9.808	10.161	10.489	10.861
7W	Space	5.317	5.499	5.786	6.060	6.275	6.501	6.718	6.945	7.191	7.424	7.637
	Non-Space	6.715	6.945	7.308	7.654	7.924	8.210	8.485	8.772	9.082	9.375	9.645
8	Space	4.414	4.569	4.804	5.026	5.205	5.389	5.570	5.765	5.973	6.173	6.386
	Non-Space	5.818	6.022	6.332	6.624	6.861	7.103	7.342	7.599	7.873	8.137	8.417
9	Space	5.302	5.487	5.768	6.035	6.250	6.470	6.681	6.909	7.158	7.391	7.627
	Non-Space	6.875	7.116	7.480	7.826	8.104	8.390	8.664	8.959	9.282	9.584	9.890
10	Space	5.636	5.827	6.128	6.413	6.638	6.874	7.100	7.342	7.605	7.853	8.110
	Non-Space	6.998	7.235	7.608	7.63	8.243	8.535	8.815	9.116	9.443	9.751	10.070
11	Space	5.260	5.443	5.722	5.987	6.194	6.413	6.622	6.850	7.099	7.334	7.504
	Non-Space	6.750	6.985	7.342	7.683	7.949	8.230	8.498	8.791	9.110	9.412	9.630

Historical Society

State Review Board Regular Meeting

A meeting of the State Review Board will be held on Thursday, April 17, 1986, at 7:00 p.m. in the Auditorium, Fort Snelling History Center, Fort Snelling, Minnesota.

Department of Labor and Industry

Certified Prevailing Wage Rates

On April 1, 1986 the commissioner will certify prevailing wage rates for commercial construction projects in the following Minnesota counties: Blue Earth, Brown, Cottonwood, Faribault, Fillmore, Freeborn, Goodhue, Houston, Jackson, Lac Qui Parle, LeSueur, Lincoln, Lyon, Martin, Mower, Murray, Nicollet, Nobles, Olmsted, Pipestone, Redwood, Renville, Rice, Rock, Sibley, Steele, Wabasha, Waseca, Watonwan, Winona and Yellow Medicine.

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

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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 & Industry

Department of Transportation

Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed Under Minn. Stat. § 169.825, Order No. 71011, Nobles County

Whereas, the Commissioner of Transportation has made his Order No. 68884 as amended by Orders Nos. 69226, 69269, 69270, 69344, 69353, 69595, 69770, 69796, 70006, 70031, 70152, 70455, 70520, 70580, 70652, 70698, 70747, 70749, and 70765 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minnesota Statutes § 169.825, and

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

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

County Roads

Nobles—C.S.A.H. 33 from South Jct. T.H. 60 to North Jct. T.H. 60 (12 month).

[Note: The effective date of 5/15 established by Order 69344 has been removed.]

March 17, 1986

Richard P. Braun
Commissioner

Department of Transportation

Meeting, State Aid Standard Variance Committee

Notice is hereby given that the Commissioner of Transportation has appointed a State Aid Standard Variance Committee who will conduct a meeting on Thursday, March 27, 1986 at 9:30 a.m. in Room 605 State Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This notice is given pursuant to Minnesota Statute § 47k.705.

The purpose of the open meeting is to investigate and determine recommendations for variances from minimum State Aid roadway standards as governed by Minnesota Rules for State Aid Operations § 8820.3400, Subp. 3 adopted pursuant to Minnesota Statutes 161 and 162.

The agenda will be limited to these questions.

1. Petition of the City of Alexandria for a variance from standards clearance requirements on Municipal State Aid Street 113 (10th Avenue) between Cedar Street and Broadway.
2. Petition of the City of Columbia Heights for a variance from standards for design speed on Municipal State Aid Street 119 (Johnson Street) from 37th Avenue to 40th Avenue.
3. Petition of the City of Eden Prairie for a variance from standards for street width on Municipal State Aid Street 103 (Valley View Road) from Edenvale Boulevard to Penny Hill Road.
4. Petition of the City of Mendota Heights for a variance from standards for design speed on Municipal State Aid Street 108 (Chippewa Avenue) Dodd Road to Annapolis Street.
5. Petition of the City of Minneapolis for a variance from standards for design speed on Municipal State Aid Street 332 (Cedar Avenue) from 15th Avenue South to Trunk Highway 12.

6. Petition of the City of Robbinsdale for a variance from standards for street width and related parking restrictions on Municipal State Aid Street 306 (Regent Avenue) from 36th Avenue North to 41st Avenue North.

7. Petition of the City of St. Paul for a variance from standards for street width on 8th Street (Trunk Highway 5) from Minnesota Avenue to Jackson Street. The variance is necessary so that the City of St. Paul can finance the project with their Municipal State Aid Street funds.

8. Petition of the City of St. Paul for a variance from standards for street width and related parking restrictions on Municipal State Aid Street 145 (Hamline Avenue) from Como Avenue to Hoyt Avenue.

9. Petition of the City of St. Paul for a variance from standards for design speed and street width on Municipal State Aid Street 231 (Snelling Avenue) from Edgumbe Road to West Seventh Street.

10. Petition of the City of West St. Paul for a variance from standards for design speed on Municipal State Aid Street 120 (Emerson Avenue) between Bidwell Street and Imperial Drive.

11. Petition of the City of Winona for a variance from standards for street width on Municipal State Aid Street 103 (Fith Street) from High Street to Huff Street.

12. Petition of the County of Wadena for a variance from standards for design speed on County State Aid Highway 21 from the east limits of Menahga to CSAH 23.

13. Petition of the City of St. Cloud for a variance from standards for street width and related parking restrictions on Municipal State Aid Street 128 (East St. Germain) from Wilson Avenue to Trunk Highway 10.

The cities and counties listed above are requested to follow the following time schedule when appearing before the Variance Committee.

9:30 am	City of West St. Paul
9:50 am	City of Columbia Heights
10:10 am	City of Mendota Heights
10:30 am	City of Eden Prairie
10:50 am	City of Robbinsdale
11:10 am	City of Winona
11:30 am	County of Wadena
1:00 pm	City of Alexandria
1:20 pm	City of Minneapolis
1:40 pm	City of St. Paul
2:15 pm	City of St. Cloud

March 13, 1986

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of City of St. Cloud for a Variance from State Aid Standards for Street Width and Associated Parking Requirements

Notice is hereby given that the City Council of the City of St. Cloud has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a construction project Municipal State Aid Street 128 (East St. Germain Street) from Wilson Avenue to Trunk Highway 10.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit parking on both sides of the street instead of no parking as required.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

March 18, 1986

Richard P. Braun
Commissioner of Transportation

STATE CONTRACTS

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

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

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

Department of Administration Contract Management Division

Request for Proposals for Court Reporting and Transcription Services

The Minnesota Department of Administration is acting as contracting agent for state departments and agencies that have a need for:

1. Court reporting services to provide an accurate and verbatim record of proceedings and depositions required by state and federal law, and
2. Transcription services to prepare an accurate and verbatim typewritten record from proceedings recorded on single track or four track audio magnetic recording devices; such as 5" reel-to-reel tapes and standard cassette tapes.

All state agencies needing one or both of these services will be required to use the contracts resulting from this proposal. Some of the state agencies having a need for the services are the Attorney General's Office, Office of Administrative Hearings (Administrative Procedure Act and Workers' Compensation Law hearings), Department of Labor and Industry, Tax Court, Public Utilities Commission, Department of Public Services, Environmental Quality Board, Pollution Control Agency, Mediation Services, Human Services, Transportation and Economic Security.

It is unlikely that we will be soliciting additional proposals during fiscal year 1987.

Additional information on the requested services will be included in the request for proposals which will be sent to all persons or associations who ask to receive one. Persons or associations desiring to receive a request for proposals must request one by notifying Dennis Reek, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone 612/341-7643, no later than 4:30 p.m., April 18, 1986. Final proposals must be returned to the Office of Administrative Hearings at the above address by 4:30 p.m., Friday April 25, 1986.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
26-074-10814-6603	Winona University 1986 Fall Class Schedule	Winona State University	Winona	Contact buyer
79-000-52220	Armored Cable	Transportation	St. Paul	Contact buyer
79-200-WS	Winter Sand	Transportation	Bemidji	Contact buyer
02-310-14539	Casegoods, Library Furnishings/Tables	MN Correctional Facility	Shakopee	Contact buyer
79-500-A	Aggregates	Transportation	Golden Valley	Contact buyer
21-200-12269 Contract	Janitorial Service Contract	Jobs & Training	Shakopee	Contact buyer
11-015-07799	Rental of Photocopy Machine	Examiners	St. Paul	Contact buyer
26-073-18720	Rental of Photocopier	St. Cloud State University	St. Cloud	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
26-073-18719	Purchase of Photocopy Machine	St. Cloud State University	St. Cloud	Contact buyer
Sch. 170-CA Contract	A Line of Coated Abrasive Cloth and Paper	Various	Various	\$30,000-35,000
27-150-48456	Sound Equipment	Community College	Virginia	Contact buyer
26-073-18717	Projection System	St. Cloud State University	St. Cloud	Contact buyer
79-200-A	Aggregates	Transportation	Bemidji	Contact buyer
79-000-52339	Rental of Photocopier	Transportation	St. Paul	Contact buyer
02-310-14541	Misc Room/Office Accessories	MN Correctional Facility	Shakopee	Contact buyer
79-000-52216	Stainless Steel Poles	Transportation	St. Paul	Contact buyer
79-500-PC	Portland Cement	Transportation	Minneapolis	Contact buyer
01-000-04534	Telephone System	National Guard Armory	Bloomington	Contact buyer
Rebid				
79-300-RM	Ready Mix Concrete	Transportation	Brainerd	Contact buyer
79-000-52086	Reproduction Paper	Transportation	St. Paul	Contact buyer
02-310-14548	Furnish & Install Gymnasium Equipment	MN Correctional Facility	Shakopee	Contact buyer
26-073-18646	Broadcast Equipment	St. Cloud State University	St. Cloud	Contact buyer
43-000-06869	Lease/Purchase for Electric Sign	Ironworld, USA	Chisholm	Contact buyer
Contract	Rotary Lawn Mowers	Various	Various	\$12,000-18,000
79-500-B	Hot Mix Bituminous	Transportation	Minneapolis, MN	Contact buyer
79-500-RM	Ready Mix Concrete	Transportation	Minneapolis	Contact buyer
78-620-25859	Security Equipment	MN Correctional Facility	Stillwater	Contact buyer
02-310-14538	Lounge, Office, Miscellaneous Seating	MN Correctional Facility	Shakopee	Contact buyer
Sch. 169-H	Safety Caps & Liners	Transportation	Various	Contact buyer
79-800-A	Aggregates	Transportation	Willmar	Contact buyer
79-0000-52243	Rental of Photocopy Machine	Transportation/Administration-Truck Livestock	S. St. Paul	Contact buyer
02-310-14612	Removal of Asbestos on Mechanical Equipment Basement Level Mechanical Room, Centennial Office Building, St. Paul	Administration	St. Paul	Contact buyer
79-250-RM	Ready Mix Concrete	Transportation	Crookston	Contact buyer
26-070-11341	Purchase of Photocopy Machine	Bemidji State University	Bemidji	Contact buyer
Sch. 95	Bituminous Road Materials	Transportation	Various	Contact buyer
43-0000-06421	Amphitheatre Phase II Package 8 - Thrust Stage	Iron Range Interpretive Center	Chisholm	Contact buyer
79-382-01068	Sand Spreaders	Transportation	St. Paul	Contact buyer
55-100-03513	Elevator Repair	Human Services		Contact buyer
		Anoka-Metro Regional Treatment Center		
79-300-B	Plant Mix Bituminous	Transportation	Brainerd	Contact buyer
26-073-18715	Purchase of Photocopy Machine	St. Cloud State University	St. Cloud	Contact buyer
79-000-52215	Luminaires	Transportation	St. Paul	Contact buyer
29-001-09853, etc.	Fiberglass Workboats	Natural Resources	Various	Contact buyer
Sch. 170-LC	Ladders—Wood	Various	Various	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
02-310-14631	Lateral Files	MN Correctional Facility	Shakopee	Contact buyer
20-000-43349, etc.	Outboard Motors	Natural Resources	Various	Contact buyer
55-000-93775-76	Purchase of Microfilm Camera & Terminal	Human Services	St. Paul	Contact buyer
79-300-A	Aggregates	Transportation	Brainerd	Contact buyer
27-152-46270	Computer Equipment	Anoka Ramsey Community College	Coon Rapids	Contact buyer

Contact 296-6152 for referral to specific buyers.

Office of Administrative Hearings

Request for Proposals for Administrative Law Judge Services

The Minnesota Office of Administrative Hearings will be contracting with qualified attorneys to serve as administrative law judges for fiscal year 1987, beginning July 1, 1986, and ending on June 30, 1987.

Attorneys must be admitted to practice law in the State of Minnesota at the time they apply. Remuneration for contractual administrative law judges is \$40.00 per hour. Additional information on the requested services is detailed in the request for proposals which will be sent to all persons who ask to receive one. Persons desiring to receive a request for proposals must request one by notifying Duane R. Harves, Chief Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone 612/341-7640, no later than 4:30 p.m. on Friday, April 18, 1986. Final proposals must be received by the Office of Administrative Hearings by 4:30 p.m. on Friday, April 25, 1986.

Anoka-Ramsey Community College

Request for Real Estate Instructors

Anoka-Ramsey Community College is looking for a company to teach real estate pre-licensure and continuing education courses. Two to three courses will be taught during Fall, Winter and Spring Quarter of the 1986-87 academic year. One course will be taught each summer session beginning June 17, 1986. Individual instructors must be certified/approved instructors by the Minnesota Dept. of Commerce. The college anticipates writing two contracts for \$12,000 each. One contract will service the Pine City and Cambridge area. The other will service classes from White Bear to Brooklyn Park.

Proposals must be submitted by April 10, 1986. Submit proposals to:

Peggy Karsten
Anoka-Ramsey Community College
11200 Mississippi Blvd. NW
Coon Rapids, Mn. 55433

Board of Teaching

Correction to Request for Proposals for Teacher Education Program Evaluation Services

The above notice was printed in the *State Register* on Monday, March 10, 1986, page 1867. The date cited for receipt by the Board of Teaching of completed proposals was incorrectly given as 4:00 p.m. April 15, 1986. The correct date is 4:00 p.m. on April 25, 1986.

NON-STATE PUBLIC CONTRACTS

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Hennepin County Department of Environment and Energy

Contract Available for Transfer Station Design Project

The Hennepin County Department of Environment and Energy is seeking assistance from qualified consultants for preparation of preliminary and detail design plans and specifications for a series of transfer stations to be part of the County's resource-recovery system. Transfer stations are currently planned to be located and sized as follows:

Bloomington—a transfer station on an approximately 5-acre site on 96th Street, east of James Ave. and having a design capacity of approximately 800 tons per day. This involves demolition of an existing block building on site.

Brooklyn Park—a transfer station on approximately 12 acres on Winnetka Blvd., north of I-694, having a design capacity of approximately 800 tons per day.

Hopkins—a transfer station on approximately 7 acres of land owned by the County at its Department of Transportation yard at the corner of Third Street South and Fifth Avenue South, and having a design capacity of approximately 1,200 tons per day.

Minneapolis—demolition of a former incinerator now used as a transfer station, and construction of a new transfer station having approximately 800 tons per day capacity on an approximately one-acre site at the corner of East 29th Street and South 20th Avenue.

General Scope of Services

Following is the anticipated scope of services. Hennepin County may expand or reduce the scope of services as the need dictates. It is the County's intention to retain one firm to design all the transfer stations. The County owns the Hopkins site, and is in various stages of acquisition of the other sites.

1. Conduct field surveys including topography, utilities and other pertinent information.
2. Develop conceptual layouts of transfer stations including loadout method, provision for recycling and handling of hazardous waste.
3. Review conceptual layout and plans and specifications with local city, County and Minnesota Pollution Control Agency. Obtain County approval of conceptual layout and plans and specifications.
4. Develop site plans including site entrance, roadways on site, queuing, scale house, transfer station and landscaping.
5. Prepare final construction plans, construction specifications, cost estimates, bid forms, and construction contract documents. Such work is to be in compliance with applicable standards, ordinances, etc.
6. Assist in evaluation of bids for construction.
7. Identify and prepare all permit and license applications and approvals needed; and assist in obtaining local, County and State approvals.
8. Perform construction, inspection and reporting.

Expression of Interest

Those Consultants who wish to be considered for the aforementioned design work, please furnish the following information:

1. Submit a Statement of Qualifications for the development and design work described above.
2. Indicate whether or not you are an Equal Opportunity firm and have an Affirmative Action plan.
3. If your Statement of Qualifications does not include a list of client references, provide a list of client references with an overview of the scope and the results of the project performed for those clients.

If more information concerning the specific project(s) is desired, the firm should contact Warren Porter, Project Manager, phone number 348-6848.

NON-STATE PUBLIC CONTRACTS

Consulting firms wishing to submit Statements of Qualifications should submit eight copies to the Hennepin County Department of Environment and Energy, A-1603 Government Center, 300 S. Sixth Street, Minneapolis, Minnesota, 55487, by 3:00 P.M. April 3, 1986.

Selection Procedure

Selection will be made in accordance with the established "Process for Selection of Consultant Engineering/Professional Services for the Bureau of Public Service" dated December 3, 1980, a copy of which is on file with the Clerk of the Board.

The County will negotiate a contract with the consultant selected by the County Board.

February 10, 1986

SUPREME COURT DECISIONS

Decisions Filed Friday, March 14, 1986

C7-85-1844 Deborah A. Rindahl v. Brighton Wood Farms, Inc., and Aetna Life and Casualty Company, Relators. Workers' Compensation Court of Appeals.

The compensation judge's finding that employee's physical injuries were a substantial contributing cause of her depression is without evidentiary support and manifestly contrary to the evidence.

Reversed. Simonett, J.

C9-84-863 In the Matter of the Petition of Brainerd National Bank for Issuance of New Certificate of Title. Court of Appeals.

A trial court does not have jurisdiction under Minn. R. Civ. P. 60.02 to vacate a Torrens title decree for excusable neglect.

After foreclosure of a mortgage on real property, a senior lienholder must file notices of intent to redeem each lien held, even though the liens are consecutive, in order to protect those interests.

Reversed; judgment of the trial court reinstated. Wahl, J.

C6-84-1209 Patrick E. Hosley, et al., Petitioners, Appellants v. Armstrong Cork Company, et al., and Pittsburgh Corning Corporation. Court of Appeals.

A plaintiff's settlement with some defendants through *Pierringer* releases does not waive joint liability among all defendants.

Minn. Stat. § 604.02, subd. 2 (1984), should be applied to reallocate a severed defendant's share of a judgment.

Affirmed in part, reversed in part and remanded with instructions. Scott, J.

Took no part, Coyne, J.

C6-84-1274 Kevin Kohoutek and Barbara Kohoutek, Individually and as Parents and Guardians Ad Litem of Nathan Kohoutek, a Minor v. R. J. Hafner, M.D., et al., Petitioners, Appellants and W. H. Wall, M.D., et al., Petitioners, Appellants and St. Francis Hospital. Court of Appeals.

The trial court did not abuse its discretion in refusing to submit a claim of battery to the jury, in failing to define the term "malpractice" in its instructions, or in using the term "malpractice" in the special verdict form submitted to the jury.

Reversed. Scott, J.

Concurring specially, Kelley, J.

Dissenting, Yetka, J.

C0-85-857 In the Matter of the Application for the Discipline of G. M. Gorgos, an Attorney at Law of the State of Minnesota. Supreme Court.

Suspended. Per Curiam.

C7-85-2010 In the Matter of the Application for the Discipline of Lynnel L. Jones, an Attorney at Law of the State of Minnesota. Supreme Court.

Numerous and varied violations of the Code of Professional Responsibility by a lawyer demonstrate such deficiency in judgment and

competence, disregard for ethical standards of the profession, disdain for the authority of the courts, and unconcern for the welfare of clients to compel disbarment.

An offer of a licensed attorney at law to resign without admitting unethical conduct will be rejected when the alleged conduct, if proven, would merit serious public discipline.

Disbarred. Per Curiam.

TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

**State of Minnesota Tax Court
Regular Division**

Alan C. and Diane Page, Appellants, v. Commissioner of Revenue, Appellee, Docket No. 4011

Findings of Fact, Conclusions of Law and Order for Judgment Dated March 12, 1986

The above-entitled matter came on for hearing before the Honorable M. Jean Stepan, Judge of the Minnesota Tax Court, on July 18, 19 and 22, 1985, at the Tax Court hearing room in St. Paul, Minnesota.

Howard J. Kauffman, of the firm of Lindquist and Vennum, appeared for appellants.

Jay B. Kelly, of the firm of Opperman and Paquin, appeared for appellee.

After the trial, briefs were submitted to the Court along with a Stipulation agreed to by both parties. That Stipulation addressed a federal income tax audit for one of the years here at issue and a change in election by the appellants to the use of the combined return for Minnesota income tax purposes for 1979 and 1981.

The Court, having heard the evidence adduced and the arguments of counsel, being fully advised in the premises and upon all of the files, records and proceedings herein, now makes the following:

Findings of Fact

1. Appellants, Alan C. Page and Diane Sims Page, were residents of Minnesota in 1978.
2. Appellant Alan Page was a professional football player employed by the Minnesota Vikings from 1967 to 1978. Appellant Diane Page was a freelance market researcher during that time.
3. In 1975, Mr. Page enrolled in the University of Minnesota Law School. He graduated from that school in 1978. Mr. Page's motivation in obtaining a law degree was to plan for his eventual retirement from football. In the summer of 1978, he took the Minnesota Bar exam.
4. In 1977, Mr. Page was offered and accepted employment with Lindquist and Vennum, a law firm in Minneapolis. The offer was for employment during the football off-season until Mr. Page retired from football, and for full-time employment thereafter. At the time he accepted this offer, Mr. Page planned to retire from football at the end of the 1979 Vikings football season (in approximately December, 1979).
5. In the fall of 1978, Mr. Page learned that he had not passed the Minnesota Bar exam. A few weeks later, the Vikings fired him. Appellants were very bitter about the firing. They perceived the Minnesota Vikings fans as supporting the firing.
6. The day after his being fired by the Vikings, the Chicago Bears football club claimed Mr. Page on waivers, and he agreed to play for them until his current contract expired at the end of the 1979 football season. Mr. Page immediately went to Chicago. Mrs.

TAX COURT

Page and appellants' children went to Chicago about a week after Mr. Page. Appellants rented a house in Lake Forest, Illinois for the 1978 football season.

7. Mr. Page was received with warmth and enthusiasm by the Chicago Bears and their fans. This warm reception caused Mr. Page to consider the Chicago Bears' request that he continue playing for them beyond the end of the 1979 football season. In February, 1979, Mr. Page signed contracts to play with the Chicago Bears for the 1980 and 1981 football seasons.

8. In early 1979 appellants obtained the services of a real estate agent in Chicago. In June, 1979, they signed an agreement to purchase a large, decorator furnished townhome in Highland Park, Illinois for about \$150,000. They moved into the home in August, 1979.

9. Appellants obtained a mortgage on this home through an Illinois bank.

10. Appellants enrolled their children in Lake Forest Country Day School, a private school in Lake Forest, Illinois, in 1979, 1980 and 1981 during the football seasons.

11. During the off-seasons in 1979, 1980 and 1981, appellants came up to Minnesota for Mr. Page's employment with Lindquist and Vennum.

12. Mr. Page earned a substantial salary from his professional football career. Mr. Page actively explored legal and other employment opportunities in the Chicago area so that he would have employment in Chicago after the termination of his football career. Mrs. Page engaged in market research in Chicago.

13. Mr. Page's primary motivation in legal employment was to gain broad legal experience. He therefore rejected an overture from Chicago firms who wanted him only to represent professional athletes. He retained his employment with Lindquist and Vennum because it provided him with broader experience than the Chicago law firms he had considered.

14. Mr. Page took the Minnesota Bar exam in February, 1979. He investigated the requirements for admission to the Illinois Bar, and discussed plans to take the exam with a football colleague, during the years at issue.

15. Appellants joined several clubs in the Chicago area, and were involved in speaking engagements, charities and other activities in the Chicago community.

16. At the suggestion of colleagues in Chicago, Mr. Page considered running for the U.S. House of Representatives as a representative of a Chicago district.

17. Appellants registered to vote and voted in Illinois in 1980. Appellants did not vote in Minnesota during 1979, 1980 and 1981, despite Mr. Page's active support in a 1978 election contest of one of the 1979 Minneapolis mayoral candidates.

18. Appellants rented out their Minneapolis house during the football seasons. They rented out their Illinois house during the off-seasons. Rental income was greater from the Chicago house due in part of a stronger real estate market there. Appellants' cost of owning each house was \$600 more than the rent received each month from that house. They sought to protect the furnishings and value of each house.

19. Appellants took out a large mortgage, and a loan for \$80,000 from Illinois banks during the years 1979 through 1981. In early 1982 they took out an additional \$50,000 loan from an Illinois bank.

20. Appellants had several investments in Chicago concerns or through Chicago contacts during the years 1979 through 1981.

21. Mr. Page became a member of the Board of Directors of the Chicago Association of Retarded Citizens in 1981.

22. The Chicago Bears nominated Mr. Page for a Jaycees' award, which he received, during these years. The American Bar Association, which is located in the Chicago area, asked Mr. Page to be on a committee there, and he agreed.

23. Appellants were not active in many community or charitable activities in Minnesota during these years, despite their presence in Minnesota each off-season. They maintained athletic club memberships in Minnesota to maintain their fitness. Mr. Page's football career required that he remain fit.

24. Mr. Page often returned to Chicago during the off-seasons, but went to Minneapolis only once during the football season, in the years 1979 through 1981. Mrs. Page only went to Minneapolis two or three times during the football seasons in these years, each time for business reasons.

25. Appellants used Chicago area bank accounts to pay bills which came due while they were in Chicago, and used Minneapolis accounts to pay bills which came due while they were in Minneapolis. The Chicago accounts were inactive during the off-season and the Minneapolis accounts were inactive during the football season.

26. Several of appellants' acquaintances and friends considered appellants to be Illinois residents and believed that appellants would remain in Chicago indefinitely.

27. In each of the calendar years 1979, 1980 and 1981, appellants were physically present in Illinois and intended to make

Illinois their home. They became domiciliaries of Illinois in February, 1979 and remained domiciled in Illinois thereafter through 1981.

28. All of appellant Alan Page's earnings from the Chicago Bears for the 1979, 1980 and 1981 football seasons were earned after appellants ceased being Minnesota residents.

Conclusions of Law

1. Appellants were not Minnesota residents from February, 1979 through the end of the calendar year 1981.
2. The Order of the Commissioner of Revenue determining appellants' Minnesota income tax liability for the calendar years 1979, 1980 and 1981 shall be modified consistent with the foregoing and consistent with the Stipulation submitted by the parties subsequent to the hearing.

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

March 12, 1986

By the Court,
M. Jean Stepan, Judge
Minnesota Tax Court

State of Minnesota Tax Court Regular Division

**Gary L. and Sharon F. Walter, Appellants, v. Commissioner of Revenue, Appellee,
Docket No. 4209**

Findings of Fact, Conclusions of Law, and Order for Judgment Dated March 12, 1986

The above-entitled matter came on for hearing before the Honorable M. Jean Stepan, Judge of the Minnesota Tax Court, on October 24, 1985, at the Hennepin County Government Center in Minneapolis, Minnesota.

Charles E. Olson, Attorney at Law, appeared for the appellants.

Thomas K. Overton, Special Assistant Attorney General, appeared for appellee.

Post trial briefs were submitted by both parties.

The Court, having heard and considered the evidence adduced at the hearing, now makes the following:

Findings of Fact

1. Appellants are cash basis calendar year taxpayers.
2. Mr. Walter has been a sales representative for various shoe manufacturers for 18 years. In 1979 his business had grown to the point where he needed assistance. The Walters decided that, rather than hire an assistant for Mr. Walter, Mrs. Walter would take a more active role in assisting her husband's business starting in mid-1980. Prior to that time Mrs. Walter had worked as a nurse for 20 years.
3. During their 11 years of marriage, Mrs. Walter had always helped out with her husband's business. His office was in their home and she had taken phone orders and assisted in other ways at their home/office.
4. In 1980 Mrs. Walter began as a sales representative by making appointments, attending shoe shows, sales meetings and conventions with her husband, and generally acquiring on-the-job training. In the following years she would accompany Mr. Walter on trips for making sales calls, and at times Mr. Walter would travel alone. Mrs. Walter's involvement in the business varied. When they worked shoe shows, Mrs. Walter would work more than 8 hours a day, but at other times she would work less than 20 hours per week in the business.
5. Appellants timely filed their Minnesota income tax returns for the years 1980, 1981 and 1982. Those returns were audited by the Minnesota Department of Revenue in 1984 and that audit resulted in the assessment of additional tax and penalty, by order of the Commissioner of Revenue dated September 14, 1984. The assessment of the additional tax was due to the disallowance of various business expense deductions claimed by appellants for the years at issue.
6. Subsequent to the issuing of the order, and continuing through and after the time of trial, various concessions and adjustments were made by each party with respect to some of the deductions at issue. As of the time this matter is submitted for decision by this Court, and after resolution of the deductibility of numerous expenses by the parties, the items remaining at issue are as follows:

TAX COURT

<u>YEAR</u>	<u>DEDUCTION FOR</u>	<u>CLAIMED BY APPELLANTS</u>	<u>ALLOWED BY COMMISSIONER</u>	<u>AMOUNT AT ISSUE</u>
1980	Auto	\$ 4,593.00	\$ 3,550.00	\$ 1,043.00
	Airfare	2,012.00	1,713.00	299.00
	Motels	1,869.00	1,616.00	253.00
	Food	3,307.00	791.00	2,516.00
	Taxi/Parking	381.00	204.00	177.00
	Wages	5,000.00	-0-	5,000.00
				\$ 9,288.00
1981	Auto	\$ 4,595.00	\$ 3,550.00	\$ 1,045.00
	Airfare	2,143.00	1,256.00	887.00
	Motels	2,738.00	2,175.00	563.00
	Food	4,496.00	693.00	3,803.00
	Taxi/Parking	379.00	124.00	255.00
	Wages	10,000.00	-0-	10,000.00
				\$16,553.00
1982	Auto	\$ 4,574.00	\$ 3,550.00	\$ 1,024.00
	Airfare	2,367.00	2,117.00	250.00
	Motels	2,473.00	1,763.00	710.00
	Food	3,866.00	758.00	3,108.00
	Taxi/Parking	419.00	173.00	246.00
	Wages	10,000.00	-0-	10,000.00
				\$15,582.00

7. The business expense deductions allowable to appellants for the years at issue (including those agreed to by the parties subsequent to the issuance of the Commissioner's Order) are as follows:

<u>DEDUCTION</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>
Advertising	\$ 177.00	\$ 239.00	\$ --
Dues/Publications	481.00	480.00	1,498.00
Auto	3,550.00	3,550.00	3,550.00
Home/Office	1,664.00	1,686.00	2,099.00
Contributions	--	200.00	--
Airfare	1,713.00	1,647.00	2,117.00
Motels	1,616.00	2,175.00	1,763.00
Food	791.00	693.00	758.00
Taxi/Parking	204.00	124.00	173.00
Shoe Shows and Business Promotions	764.00	895.00	1,449.00
Telephone/Postage	1,476.00	1,470.00	1,652.00
Auto Rental	131.00	-0-	-0-
Postage/UPS	-0-	-0-	373.00
Purchase of Samples	100.00	211.00	--
Entertainment	201.00	199.00	104.00
Supplies	--	--	2,544.00
Wages	-0-	-0-	-0-
	\$12,868.00	\$13,569.00	\$18,080.00

8. The attached Memorandum is hereby made a part of these Findings of Fact.

Conclusions of Law

1. The Order of the Commissioner of Revenue dated September 14, 1984 is modified to allow deductions as indicated in the Findings of Fact, Number 7, above.

2. The Order of the Commissioner of Revenue at issue is affirmed with respect to the assessment of a five percent (5%) penalty for negligence or intentional disregard of the rules and regulations pursuant to Minn. Stat. § 290.53, subd. 3(a).

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

March 12, 1986

By the Court,
M. Jean Stepan, Judge
Minnesota Tax Court

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