

STATE REGISTER

STATE OF MINNESOTA

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STATE REGISTER

Volume 10

Printing Schedule

Submission Deadlines

Vol. 10 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
53	Monday 16 June	Monday 23 June	Monday 30 June
Vol. 11 #1	Friday 20 June	Friday 27 June	Monday 7 July
2	Friday 27 June	Monday 7 July	Monday 14 July
3	Monday 7 July	Monday 14 July	Monday 21 July

*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) 296-4273.

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This Week—weekly interim bulletin of the House.

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How to Follow State Agency Rulemaking Action in the *State Register*

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

The **PROPOSED RULES** section contains:

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

The **ADOPTED RULES** section contains:

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

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

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

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

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

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

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MINNESOTA RULES AMENDMENTS AND ADDITIONS

4695.0300; .0800 (adopted)	1908
4705.0100; .0300; .0400; .0500; .0600; .0900; .1400 (proposed)	684
4705.0600, s.3, i.D.; .1600 (proposed repealer)	684

HIGHER EDUCATION COORDINATING BOARD

4810.2100; .2500; 4830.0100; .0400; .0600; .0700; .2200; .2300; .2500; .2600; .5200; .5300; .5400; 4840.0500 (proposed)	1649
4810.2100; .2500; 4830.0100; .0400; .0600; .0700; .2200; .2300; .2500; .2600; .5200; .5300; .5400; 4840.0500 (adopted)	2319
4810.2100; .2500; 4830.0100; .0400; .0600; .0700; .2200; .2300; .2500; .2600; .5200; .5300; .5400; 4840.0500 (second notice)	1757
4830.0600, s.3; .5200 s.2 (proposed repealer)	1649
4830.0600, s.3; 5200 s.2 (second notice on repealer)	1757
4830.0600, s.3; .5200 s.2 (adopted repealer)	2319
4830.1000-.1500 (proposed supercession)	90
4830.1000-.1500 (superceded)	922
4830.1000; .1100; .1200; .1300; .1400; .1500 (proposed repealer)	1654
4830.1550-.1556 [Emer] (proposed)	90
4830.1550-.1556 [Emer] (adopted)	922
4830.1550-.1555 (proposed)	1654
4830.1550-.1555 (adopted)	2417
4850.0010-.0018 (adopted)	1852
4850.0010-.0018 [Emer] [9 SR 1783; 2400] (adopted)	66
4850.0010-.0018 (proposed)	818

MN HOUSING FINANCE AGENCY

4900.0010; .1300 (proposed)	1117
4900.0010 (proposed)	2282
4900.0010; .1330 (adopted)	1557
4900.0381 [Emer] (proposed)	2077
4900.0550; .0750; .0760; .0770; .0780 (proposed)	1115
4900.0550; .0750; .0760; .0770; .0780 (adopted)	1557
4900.1200; .1210 [9 SR 2400] (adopted)	354
4900.1360-4900.1362 (proposed)	2053
4900.1700-.1703 [9 SR 2472] (adopted)	353
4900.1800-.1803 (proposed)	1495
4900.1800-.1803 (adopted)	2181
4900.1804-.1808 (proposed)	1497
4900.1804-.1808 (adopted)	2161
4910.0010, s.23, i.B. (proposed repealer)	1117
4910.0010, s.23, i.B. (repealed)	1557

HUMAN RIGHTS DEPARTMENT

5000.0050; .0300; .0400; .0500; .0510; .0520; .0530; .0540; .0550; .0560; .0570; .0580; .0700; .0750; .0800; .0900; .1100; .1200; .2000; .2100; .2200; .2250; .2300; .2400 (proposed)	2471
5000.0200; .0600; .0700 s.3,4,5,6,7; .1000; .1300; .1400; .1500; .1600; .1700; .1800; .1900 (proposed repealer)	2471

DEPARTMENT OF LABOR AND INDUSTRY

5205.0010 [Standards] (proposed)	1150
5205.0010 [Standards, 10 SR 1150] (adopted)	1507
5205.0010 (proposed revision)	2157
5205.0010 (adopted)	2418

5205.0100 [Standards] (proposed)	13
5205.0100 [Standards] (adopted)	354
5206.1300; .1400; .1500; .1600; .1700; .1800; .1900 [Standards, 9 SR 1551] (adopted)	623
5220.1400 [9 SR 2172] (adopted)	17
5220.2510-.2950 (proposed)	1880
5220.2500; .2600; .2700; .2800; .2900; .3000; .3200; .3600; .5000 (proposed repealer)	1880
5221.0100-.3200 [republished] (adopted)	765
5221.0100-.3200 [republished] (Errata)	974
5221.0100-.3200 [republished] (Errata)	1548
5221.2250, s.10; .2500, s.3-10; .2600, s.3-5; .2700, s.3; .2800, s.3; .3000, s.3-5; .3100, s.3 [republished] (repealed)	765
5221.2250, s.10; .2500, s.3-10; .2600, s.3-5; .2700, s.3; .2800, s.3; .3000, s.3-5; .3100, s.3 [republished] (Errata)	974
5222.0010-.0420 (proposed)	425
5222.0010-.0420 (withdrawn)	1354
5222.0010-.0340 (proposed)	1404
5222.0010-.0340 (adopted)	1852
5222.0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900; .1000 (proposed repealer)	2283
5220.2550-.2930 (proposed)	2389
5223.0010; .0020; .0030; .0040; .0060 (proposed)	313
5223.0010; .0020; .0030; .0040; .0060 (adopted)	1124
5225.0200 (proposed repealer)	881
5225.0200 (repealed)	1379
5225.0300; .8600 (proposed)	881
5225.0300; .8600 (adopted)	1379

BUREAU OF MEDIATION SERVICES

5510.1210 (proposed)	2224
5510.1410; .1510; .1710 (proposed)	2583
5510.2710; .2810; .2910; .3010; .3110 (proposed)	451
5510.2710; .2810; .2910; .3010; .3110 (adopted)	997

BOARD OF MEDICAL EXAMINERS

5600.2500 (proposed)	749
5600.2500 (adopted)	1476
5600.2600-.2665 [9 SR 1404] (adopted)	476

DEPARTMENT OF NATURAL RESOURCES

6100.1710 (proposed)	2258
6105.1291 (proposed)	2399
6110.1200; .1500; and .1900 (proposed)	1905
6115.0010; .0020; .0030; .0060; .0080; .0090; .0110; .0130 (adopted)	236
6110.1200; .1500; and .1900 (adopted)	2346
6131.0010-.0030; .0100-.0340 [9 SR 1236, 1980] (adopted)	277

MN BOARD OF PHARMACY

6800.0400; .1250 (proposed)	2259
6800.1500; .1600; .2250; .3100; .3110; .3120; .3650; .9900 (proposed)	383
6800.1500; .1600; .2250; .3100; .3110; .3120; .3650; .9900 (adopted)	2007
6800.1500, s.8 (proposed repealer)	383
6800.1500, s.8 (repealer)	2007

BOARD OF PEACE OFFICER STANDARDS & TRAINING

6700.1100; .1101; .1200; .1201 [9 SR 2576] (adopted)	354
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MINNESOTA RULES AMENDMENTS AND ADDITIONS

MN POLLUTION CONTROL AGENCY

7001.0010; .0020; .1400-.1470 (proposed)	1358
7001.0010; .0020; .1400-.1470 (adopted)	2235
7001.0520; 7045.0020; .0075; .0120; .0125; .0135; .0214; .0219; .0296; .0450; .0542; .0552; .0640; .0665; .0675; .0685 (proposed)	827
7001.0520; 7045.0020; .0075; .0120; .0125; .0135; .0214; .0219; .0296; .0450; .0542; .0552; .0640; .0665; .0675; .0685 (adopted)	1688
7001.0560; .0580; .0590; .0600; .0610; .0620; 7045.0127; .0135; .0139; .0219; .0526; .0528; .0532; .0534; .0536; .0538; .0542; .0552 (proposed)	460
7001.0560; .0580; .0590; .0600; .0610; .0620; 7045.0127; .0135; .0139; .0219; .0526; .0528; .0532; .0534; .0536; .0538; .0542; .0552 (Errata)	663
7001.0560; .0580; .0590; .0600; .0610; .0620; 7045.0127; .0135; .0139; .0219; .0526; .0528; .0532; .0536; .0538; .0542; .0552 (adopted)	1212
7001.0650; .0135; .0214 [9 SR 2833] (adopted)	70
7002.0010-.0110 (proposed)	456
7002.0010-.0110 (adopted)	1537
7002.0210-.0310 (proposed)	1360
7002.0210-.0310 (adopted)	2010
7005.4010-.4050 (proposed)	1354

Solid and Hazardous Waste Division

7035.1100-.1115 (proposed)	97
7035.1100-.1115 (second notice)	750
7035.1100-.1115 (adopted)	2009
7035.8000-.8160 [Emer] (proposed)	687
7035.8000-.8160 [Emer] (adopted)	1311
7035.8000-.8160 [Emer] (extended)	2262
7045.0020, s.69; .0125, s.2; .0142 (proposed repealer)	827
7045.0020, s.69; .0125, s.2; .0142 (repealed)	1688
7045.0065; .0552; .0638 (proposed)	824
7045.0065; .0552; .0638 (adopted)	1688
7045.0135 (proposed)	1975
7045.1240; .1250; .1260 (proposed repealer)	824
7045.1240; .1250; .1260 (repealed)	1688
7045.0219; .0292; .0365; .0450; .0550 [9 SR 2745] (adopted)	929
7045.0219; .0292; .0365; .0450; .0550 [9 SR 2745] (adopted)	929R

Air Quality Division

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

Water Quality Division

7075.0100-.0432; .2000; .2200 [9 SR 1793] (adopted)	278
7075.0100; .0400; .0401; .0411; .0414; .0419; .0428; .0433 (proposed)	884
7075.0100; .0400; .0401; .0411; .0414; .0419; .0428; .0433 (adopted)	1758
7075.0418 (proposed repealer)	884
7075.0418 (repealed)	1758

BOARD OF PSYCHOLOGY

7200.1700 [9 SR 2474] (adopted)	477
7200.6100 (proposed)	752

7200.6100 (adopted)	1266
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DEPARTMENT OF PUBLIC SAFETY

Driver and Vehicle Services Division

7410.2500 (proposed)	953
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Administration Division

7415.0500 (proposed)	183
7415.0500 (adopted)	1035
7419.0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800 (proposed)	2506
7440.0100; .0300; .0350; .0400 (proposed)	2508
7440.9910; .9915 (proposed repealer)	2511

Bureau of Criminal Apprehension

7500.0100-.3600 (proposed)	1364
7500.0100, s.12,15,20,21; .0900; .1000; .1100; .1700; .1800, s.5; .1900; .2300; .2800; .3200; s.1; .3300 (proposed repealer)	1364
7501.0100-.0800 (proposed)	1711
7501.0100-.0800 (adopted)	2512
Chapter 7503 (proposed)	580
Chapter 7503 (adopted)	1427

Crime Victims Reparations Board

7505.0100; .0900; .1200; .1900 (proposed)	502
7505.1300; .1400; .1500; .1600; .1700; .1800; .2000; .2100; .2200 (proposed repealer)	502

Liquor Control Division

7520.0100; .0500; .0550; .0600; .0620; .0640; .0650; .0700; .1000; .1100 (proposed)	753
7520.0100; .0500; .0550; .0600; .0620; .0640; .0650; .0700; .1000; .1100 (adopted)	1507
7520.0530, s.3-5 (proposed repealer)	753
7520.0530, s.3-5 (repealed)	1507

PUBLIC SERVICE DEPARTMENT

7600.6800; .7200; .7210; .7500; .7700; .7750; .7900; 7650.0100 (proposed)	269
7600.6800; .7200; .7210; .7500; .7700; .7750; .7960; 7650.0100 (adopted)	998

PUBLIC UTILITIES COMMISSION

7840.0200-.1400 (proposed)	470
7840.0200-.1400 (adopted)	1266

CHARITABLE GAMBLING CONTROL BOARD

7860.0010; .0030; .0040; .0100; .0120; .0160; .0190; .0200; .0220; .0230; .0240; .0250; .0260; .0270; .0280; .0400 (proposed)	2536
7860.0070 s.1; .0220 s.2 (proposed repealer)	2536

RACING COMMISSION

7869.0100; 7873.0217; .0130; .0140; 7875.0200; 7876.0110; 7877.0110; .0120; .0130; .0140; .0145; .0170; .0175; .0180; 7878.0130; .0140; .0150; .0160; 7883.0100; .0140; .0150; 7891.0100; 7892.0150; 7895.0125; .0250; .0275; .0300; .0350 (proposed)	1672
7869.0100; 7873.0127; .0130; .0140; 7875.0200; 7876.0110; 7877.0110; .0120; .0130; .0140; .0145; .0170; .0175; .0180; 7878.0130; .0140; .0150; .0160; 7883.0100; .0140; .0150; 7891.0100; 7892.0150; 7895.0125; .0250; .0275; .0300; .0350 (adopted)	2161
7890.0100-.0150 (proposed)	759

MINNESOTA RULES AMENDMENTS AND ADDITIONS

7890.0100-.0150 (adopted)	1908
7897.0100; .0120; 7873.0550; 7874.0100;	
7879.0100; .0200; .0300; 7895.0100; .0110 [9 SR 2651]	
(withdrawn)	1151
7897.0100; .0120; 7873.0550; 7874.0100;	
7879.0100; .0200; .0300; 7895.0100; .0110 (proposed)	1151
7897.0100; .0120; 7873.0550; 7874.0100;	
7879.0100; .0200; .0300; 7895.0100;	
.0110 (adopted)	1908

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

7950.0100-.0400 (proposed)	2284
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REVENUE DEPARTMENT

Income Tax Division

8017.5000 [9 SR 2003] (adopted)	478
8019.0400 (proposed)	2286

Property Equalization Division

8100.0200; .0300 (proposed)	2225
8100.0300 [9 SR 2374] (adopted)	18
8105.0100; .0200; .0300; .0400; .0500; .0600;	
.0700; .9900 (proposed repealer)	2058
8106.0100-.9900 (proposed)	2058
8122.0300-.1600 (proposed)	185

SECRETARY OF STATE

8200.1500; .9919; 8210.0200; .9930; .9955;	
8235.1000; 8250.0200; .0600; 8220.0050-.4250;	
8230.0050-.2350; .3050-.4250 (proposed)	1158
8200.1500; .9919; 8210.0200; .9930; .9955;	
8235.1000; 9250.0200; .0600; 8220.0050-.4250;	
8230.0050-.2350; .3050-.4250 (adopted)	1690
8200.2300; 8220.0100-.0500; .1000-.1400;	
.2000-.3200; .4000-.4800; .5000-.6400;	
8230.0200-.0500; .1000-.2600; .2610; .2700-.3000;	
.3300; .3500-.4400; .5000-.5800 (proposed repealer)	1158
8200.2300; 8220.0100-.0500; .1000-.1400;	
.2000-.3200; .4000-.4800; .5000-.6400;	
8230.0200-.0500; .1000-.2600; .2610; .2700-.3000;	
.3300; .3500-.4400; .5000-.5800 (repealed)	1690
8200.5100 (proposed)	2231
8220.0750; .1250; .1350; 8230.4350 (proposed)	2609
8260.0100; .0200 [9 SR 2173] (adopted)	70

SMALL BUSINESS FINANCE AGENCY

(Under ENERGY & ECONOMIC DEVELOPMENT)

8300.0050; .0100; .3011; .3012; .3013; .3020; .3021;	
.3022; .3023; .3024; .3025; .3026; .3030; .3031;	
.3032; .3033; .3034; .3039; .3040; .3041; .3042	
[9 SR 2513] (adopted)	475
8300.3060-.3070 [Emer] [9 SR 2527] (extended)	922
8300.3060-.3070 (proposed)	1961
8300.3060-.3070 [Emer] (adopted)	2417
8300.3081-.3090 [Emer, 9 SR 2052, 2700] (extended)	1212
8300.3091-.3097 [Emer] (withdrawn)	140
8300.3091-.3097 [Emer] (proposed)	138
8300.3100-.3106 [Emer] (proposed)	721
8300.3100-.3106 [Emer, 10 SR 721] (withdrawn)	1335
8300.3190-.3106 [Emer] (proposed)	1331
8300.3100-.3106 [Emer] (adopted)	1814
8300.3200-.3204 (proposed)	1202
8300.3200-.3204 (adopted)	1813
9300.4010-.4028 (proposed)	1021
8300.4010-.4028 (adopted)	1714

8300.4100-.4112 [Emer] [9 SR 2381] (extended)	921
8300.4101-.4112 (proposed)	2466
8300.5000-.5006 [Emer] (adopted)	226

SOIL AND WATER CONSERVATION BOARD

8400.4000-.4080 (proposed)	2101
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TRANSPORTATION REGULATION BOARD

8900.0100-.0900 [9 SR 1510] (withdrawn)	695
8900.0100-.1100 (proposed)	2401

BOARD OF TEACHING

8700.0310; .3810; .5503-.5512; .6410; .7500 (proposed)	896
8700.0310; .3810; .5503-.5512; .6410; .7500 (proposed)	896R
8700.3800 (proposed repealer 7/1/89)	896
8700.3800 (proposed repealer 7/1/89)	896R
8700.5400; .5401; .5402; .5403; .5404; .5405;	
.5406; .6400 (proposed repealer 7/1/90)	896
8700.5400; .5401; .5402; .5403; .5404; .5405;	
.5406; .6400 (proposed repealer 7/1/90)	896R

VETERINARY MEDICINE BOARD

9100.0400; .0500 (proposed)	2479
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WASTE MANAGEMENT BOARD

9200.6000-.6011 [9 SR 2271] (adopted)	540
9200.6000-.6800 [Emer] (proposed)	220
9200.6000-.6800 [Emer] (adopted)	844
9200.6000-.6800 [Emer] (extended)	1854
9200.6000-.6800 (proposed)	2405
9200.8100-.9100 (proposed)	2411
9200.8100 s.21; 9200.8700 s.1; 9200.8800;	
9200.9000 s.1-.3; 9200.9100 s.5-.6	
9200.9200 (proposed repealer)	2411
9200.9501-.9504; .9506; .9508 (proposed)	106
9200.9501-.9504; .9506; .9508 (adopted)	846
9200.9501; s.4; .9504; s.1 (proposed repealer)	106
9200.9501, s.4; .9504, s.1 (repealed)	846

DEPARTMENT OF PUBLIC WELFARE

(Now HUMAN SERVICES)

9500.0010; .0020; .0030; .0040; .0050; .0060;	
.0070; .0080; .0090; .0100; .0110; .0120; .0130;	
.0140; .0150; .0160; .0170; .0180; .0190; .0200;	
.0210; .0220; .0230; .0240; .0250; .0260; .0270;	
.0280; .0290; .0300; .0310; .0320; .0330; .0340;	
.0350; .0360; .0361; .0370 (proposed repealer)	2107
9500.0500; 9555.3401; .3403; .3404; .3406;	
9500.0530, i.E (proposed repealer)	1343
9500.0500; 9555.3401; .3403; .3404; .3406;	
9500.0530 i.E (repealed)	1715
9500.0510 to .1202; .0520 to .1204;	
9500.0750; .0760; .0770; .0780; .0790; .0800; .0810;	
.0820; .0830; .0840; .0850; .0860; .0910; .0920;	
.0930 s.1-3; .0940; .0950; 9505.0211 (proposed repealer)	2583
9500.1200; .1206; .1258; .1260; .1262; .1264;	
.1266; .1268; .1270; .1300; .1302; .1304; .1306;	
.1308; .1310; .1312; .1314; .1316; .1318 (proposed)	2211
9500.1204; .1206; s.7,10,28, .1208; .1234; .1236;	
.1244; .1249 (adopted repealer)	2322
9500.1205; .1209; .1214-.1232 (adopted)	2322
9500.1450-.1474 [Emer] (extended)	2293
9500.2000-.2880 (proposed)	2107
9502.0315-.0365; .0375-.0445 (adopted)	2612

MINNESOTA RULES AMENDMENTS AND ADDITIONS

9502.1315, s.23; .0415, s.2, 11 (repealed)	2612
9505.0010-.0150 (proposed)	2556
9505.0211; .0212 (proposed repealer)	2583
9505.0211 (adopted)	2320
9505.0212 (adopted)	2320
9525.1220 (adopted)	2417
9530.6600-.6655 (proposed)	2545
9549.0050-.0059 (proposed temporary)	2016
9550.6200-.6240 (adopted)	2005
9555.3400 to 9500.1206; 9500.0530 to .1208; .0531 to .1210; .0532 to .1212; .0540 to .1234; .0555 to .1236; .0560 to .1238; .0570 to .1240; .0580 to .1242; .0590 to .1244; .0600 to .1246; .0610 to .1248; 9555.3402 to 9500.1249; 9555.3408 to 9500.1250; 9555.3409 to 9500.1252 (proposed renumbering)	1343
9500.0510 to .1202; .0520 to .1204; 9555.3400 to 9500.1206; 9500.0530 to .1208; .0531 to .1210; .0532 to .1212; .0540 to .1234; .0555 to .1236; .0560 to .1238; .0570 to .1240; .0580 to .1242; .0590 to .1244; .0600 to .1246; .0610 to .1248; 9555.3402 to 9500.1249; 9555.3408 to 9500.1250; 9555.3409 to 9500.1252 (renumbered)	1715
9500.0820; s.6 [Emer] (proposed repealer)	1814
9500.0940 [Emer] (proposed supercession)	1814
9500.1090-.1155 (adopted)	227
9500.1090-.1155 (Errata)	867
9500.1101-.1108 [Emer] (proposed)	92
9500.1101-.1108 [Emer] (adopted)	695
9500.1101-.1108 [Emer] (extended)	1688
9500.1200; .1206; .1254; .1256 (proposed)	1343
9500.1200; .1206; .1254; .1256 (adopted)	1715
9500.1204; .1206, s.7,10,28; .1208; .1234; .1236; .1244; .1249 (proposed repealer)	1797
9500.1205; .1209; .1214-.1232 (proposed)	1797
9500.1210-.1221 [Emer] (proposed)	306
9500.1210-.1221 [Emer] (adopted)	923
9500.1210-.1221 [Emer] (adopted)	923R
9500.1210-.1221 [Emer] (extended)	1688
9500.1450-.1475 [9 SR 488] (2nd extension)	653
9500.1800-.1821 (proposed)	420
9500.1800-.1821 (adopted)	1298
9502.0315-.0365; .0375-.0445 (proposed)	1573
9502.1315, s.23; .0415, s.2,11 (proposed repealer)	1573
9505.0211 [Emer] (proposed)	1814
9505.0212 [Emer] (proposed)	1814

9505.5000-.5105 [9 SR 2367] (adopted)	842
9510.1020-.1140 (proposed)	54
9510.1020-.1140 (adopted)	922
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PROPOSED RULES

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

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

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

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

Department of Health

Proposed Permanent Rules Relating to Holidays

Notice of Proposed Adoption of Rule Amendments without a Public Hearing

Notice is hereby given that the State Department of Health proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing, Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 144.071.

All persons have 30 days (until 4:30 P.M. on July 30, 1986) in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. 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 agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written request for a public hearing must be submitted to:

Ralph W. Corey
Merit System Supervisor
Minnesota Department of Human Services
Fourth Floor—Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: (612) 296-3996

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.

The Minnesota Merit System rules apply to all positions funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration. The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow, so as to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 CRF Part 900).

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

If adopted, the proposed changes would allow appointing authorities to determine whether or not a specified holiday shall be a paid holiday. The proposed changes also remove language which specifies those employees eligible to receive holiday pay, how payment of a holiday should be handled during vacation or sick leave, and how payment to part-time employees should be handled. These amendments will provide appointing authorities with the opportunity to develop and administer a comprehensive holiday policy for their employees without any restrictions from the Merit System. A free copy of the rule is available upon request from Ralph W. Corey, Merit System Supervisor, Minnesota Department of Human Services, Fourth Floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155.

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 Ralph Corey upon request.

There will be no cost to local public bodies to implement the proposed changes.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted 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 Ralph Corey.

10 June 1986

Sister Mary Madonna Ashton
Commissioner

Rules as Proposed

4670.3070 HOLIDAYS.

Subpart 1. **Holidays.** ~~Full-time permanent, probationary, provisional, and limited term employees whose normally scheduled work day falls on a holiday listed below shall receive time off with pay for that day. Compensatory time off shall be allowed for work done on these days except when payment is received. Emergency employees are not eligible for holiday pay. The following are holidays~~ Holidays for employees not represented by an exclusive representative shall include the following days:

A. to G. [Unchanged.]

H. Thanksgiving Day, the fourth Thursday in November; and

I. Christmas Day, December 25; and

J. any other day adopted as county-wide policy by the appointing authority.

Payment for the above specified holidays shall be determined by the appointing authority.

Subp. 2. and 3. [Unchanged.]

Subp. 4. to 6. [See repealer.]

REPEALER. Minnesota Rules, parts 4670.3070, subparts 4, 5, and 6; and 4670.3080, subpart 3 are repealed.

Department of Human Services

Proposed Permanent Rule Relating to Holidays

Notice of Proposed Adoption of Rule Amendments without a Public Hearing.

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing, Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 256.012.

All persons have 30 days (until 4:30 P.M. on July 30, 1986) in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

PROPOSED RULES

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 agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written request for a public hearing must be submitted to:

Ralph W. Corey
Merit System Supervisor
Minnesota Department of Human Services
Fourth Floor—Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: (612) 296-3996

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.

The Minnesota Merit System rules provide for a system of personnel administration for 75 county welfare and human service agencies. The rules apply to all positions and employees engaged in the administration of community social services or income maintenance programs, funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration. The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow so as to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 CFR Part 900).

If adopted, the proposed changes would allow appointing authorities to determine whether or not a specified holiday shall be a paid holiday. The proposed changes also remove language which specifies those employees eligible to receive holiday pay, how payment of a holiday should be handled during vacation or sick leave, and how payment to part-time employees should be handled. These amendments will provide appointing authorities with the opportunity to develop and administer a comprehensive holiday policy for their employees without any restrictions from the Merit System. A free copy of the rule is available upon request from Ralph W. Corey, Merit System Supervisor, Minnesota Department of Human Services, Fourth Floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155.

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 Ralph Corey upon request.

There will be no cost to local public bodies to implement the proposed changes.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted 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 Ralph Corey.

6 June 1986

Leonard W. Levine
Commissioner

Rule as Proposed

9575.1070 HOLIDAYS.

Subpart 1. ~~In general~~ **Holidays.** Full-time permanent, probationary, provisional, limited-term, and trainee employees whose normally scheduled work day falls on a holiday listed below shall receive time off with pay. Compensatory time off shall be allowed

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

~~for work done on these days except when payment is received. Emergency employees are not eligible for holiday pay. The following days are holidays~~ Holidays for employees not represented by an exclusive representative shall include the following days:

A. to H. [Unchanged.]

I. Christmas Day, December 25; and

J. Any other day adopted as county-wide policy by the appointing authority.

Appointing authorities may designate one or both of the following as holidays: Christopher Columbus Day, the second Monday in October; and the Friday after Thanksgiving.

Payment for the above specified holidays shall be determined by the appointing authority.

Subp. 2. ~~Monday-Sunday, Saturday holidays.~~ When New Year's Day, Independence Day, Veteran's Day, or Christmas Day falls on Sunday, the following Monday shall be a holiday. When New Year's Day, Independence Day, Veteran's Day, or Christmas Day falls on Saturday the preceding Friday shall be a holiday.

Subp. 3. to 5. [See repealer.]

REPEALER. Minnesota Rules, parts 9575.1070, subparts 3, 4, and 5; and 9575.1080, subpart 3 are repealed.

Secretary of State Election Division

Proposed Permanent Rules Relating to Optical Scan Voting Systems

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Secretary of State proposes to adopt the above-entitled rules without a public hearing. The Secretary has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Election Division and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the Secretary of State will proceed according to the provisions of Minnesota Statutes, sections 14.13 to 14.18.

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

Grace Haukoos
Election Division Director
180 State Office Building
St. Paul, MN 55155-1299
(612) 296-9217

Authority for the adoption of these rules is contained in Minnesota Statutes, section 206.57. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Election Division upon request.

You are advised, pursuant to Minnesota Statutes, section 14.115 "Small business consideration in rulemaking", that the proposed rules will not have an impact on small business in Minnesota. Also, pursuant to Minnesota Statutes, section 14.11 "Special Notice of Rulemaking", the adoption of these rules will not have any impact upon agricultural land nor cost local public bodies any money for two years immediately following the adoption of these rules within the meaning of that law.

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

The rules proposed for adoption are as follows:

Rules as Proposed**8220.0750 PREPARATION OF COMPUTER PROGRAMS.**

Computer programs must be prepared so as to tabulate accurately each voter's choices for all candidates, offices, and measures for which the voter is lawfully entitled to vote in conformity with the laws of Minnesota and parts 8220.0050 to 8230.4250.

Computer programs must include instructions requiring that machine-readable precinct identification be required on all ballot cards. Two identical header cards may precede the deck of ballot cards of each precinct. The program may provide that if two identical header cards do not appear in front of the ballot cards of a precinct, no counting of ballots for that precinct may take place.

A data processing card may follow the ballots of each precinct instructing the computer that all ballots of the precinct have been counted. The program may provide that if header cards contain instructions to the computer that all ballots of the preceding precinct have been counted, no separate end card is needed.

The vote tabulation portion of the computer program must be prepared as follows:

A. to H. [Unchanged.]

I. If the counting equipment can examine and return a ballot card to the voter before counting it, the computer program must check for and reject without counting any ballot card with an overvote or, at a partisan primary, with votes cast for candidates of more than one party. When the ballot card is returned to a voter, an error message must indicate the type of defect but not the specific office or question where the defective condition was found.

J. When a write-in vote is indicated by a machine-readable punch or mark, a punch or mark indicating a write-in is a vote for the purpose of determining if an overvote condition exists. Except where an overvote condition for the office exists, the computer program must record that a write-in has been indicated. The program must count and record valid votes on the ballot for all other offices and questions before a ballot with a write-in recorded is separated from ballots with no write-ins recorded. The program must report, by office, the total number of write-ins recorded.

8220.1250 DOCUMENTING TEST BALLOTS.

A documentation, record, chart, or listing must be prepared indicating the punches or marks recorded in the test ballots and whether the punches or marks are valid or invalid.

8220.1350 PRELIMINARY TESTING OF COMPUTER PROGRAMS.

Prior to the public accuracy test, the election jurisdiction providing the computer programs shall test the computers and programs to ascertain that they will correctly count the votes for all offices and measures. The computer programs must be tested on all precincts.

The election jurisdiction requesting the computer programs shall compare the edit listing against the ~~ballot labels~~ ballots of all precincts to ascertain that the appropriate ~~labels~~ ballots are in each precinct, and the ballot position numbers for each candidate and proposal appearing on the ballot ~~labels~~ agree with those recorded on the edit listing for each precinct. Each election jurisdiction shall make a certificate as to the above matters and file it with the county auditor.

The test must be conducted using the test deck or ballot image prepared under the direction of the election jurisdiction, and the results must be compared against the predetermined results of the test deck or ballot image. For the purpose of this test, the test deck may be reproduced onto standard data processing cards.

All prom packs, memory packs, and similar devices containing the election program must be secured with a metal seal and a certificate must be prepared indicating the seal number.

Rules as Proposed (all new material)**8230.4350 OPTICAL SCAN VOTING SYSTEMS**

Subpart 1. **Applicability.** This part applies to optical scan voting systems, as defined in Minnesota Statutes, section 206.90, subdivision 1. Parts 8220.0050 to 8220.2850 apply to the use of optical scan voting systems. To the extent possible, parts 8220.3050 to 8230.4250 for use of punch-card voting systems apply to the use of optical scan voting systems, unless this part provides otherwise.

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

PROPOSED RULES

Subp. 2. **Ballot cards.** The name of the precinct and machine-readable precinct identification must be printed on each ballot card. Voting instructions must be printed at the top of the ballot card on each side that includes ballot information. The instructions must include an illustration of the proper mark to be used to indicate a vote. Detachable stubs or consecutive numbers are not required. Lines for the initials of at least two election judges must be printed on one side of the ballot card so that the judges' initials are visible when the ballot is enclosed in a secrecy sleeve.

Ballot cards must meet or exceed the specifications the equipment manufacturer has filed with the secretary of state. The election official responsible for preparing the ballots must supply to the ballot printer the manufacturer's recommended standards and specifications for ballot printing.

The equipment manufacturer must file with the secretary of state recommended procedures and standards for checking ballot specifications. Upon receipt of the ballots the election jurisdiction must immediately examine the ballot cards to determine that they meet the required specifications. The ballot cards must be packaged and stored in a manner to protect against moisture.

Subp. 3. **Supplies.** Each precinct must be supplied with secrecy sleeves that will shield voting marks from view while the voter deposits the ballot into the ballot box. Ballot boxes must be made of metal or high-impact plastic.

Ballot boxes used with counting equipment that reads the ballot as it is inserted into the ballot box may be separate or part of the equipment so long as the ballot is fed directly into a locked or sealed ballot box. At a general election, the ballot boxes must have two separate compartments into which the equipment can feed ballots. One compartment must receive ballots on which all votes have been counted and recorded, and the other compartment must receive the ballots on which all votes have been counted except for those offices for which a write-in indication has been recorded. An auxiliary ballot box, that may be separate or an additional compartment, must be supplied to be used if the equipment fails to function and to receive ballots that cannot be read by the equipment.

A writing instrument without an eraser that will produce marks that can be accurately read by the automatic tabulating equipment must be provided to each voter.

Subp. 4. **Testing.** Computer programs and counting equipment must be tested as required by Minnesota election laws and rules. In addition, as necessary to ensure accuracy of vote counting, diagnostic test capabilities of the equipment and additional test procedures recommended by the equipment manufacturer must be used. The equipment manufacturer must file with the secretary of state recommended test procedures and instructions.

Subp. 5. **Precinct counting equipment.** Precinct counting systems that read ballots as they are inserted into the ballot box may not be used for a central counting center, except that one ballot counter may be supplied for two precincts if one of the precincts has fewer than 200 registered voters. Separate prom packs must be used for each of the two precincts. Except as provided in this subpart, at least one ballot counter must be supplied to each precinct.

If the ballot counter will be used to count ballots of only one precinct, machine-readable ballot configuration identification may be printed on each ballot card in place of the precinct name and identification required by subpart 2. A ballot configuration means a unique ballot format prepared for use in one or more precincts in which all ballot information, including offices and questions to be voted on, candidate names, and rotation sequence, is identical.

If the locked ballot box cannot be detached from the ballot counter, the number of ballot counters supplied to the precinct must be sufficient so that the number of ballots expected to be counted on any counter will be at least ten percent less than the maximum capacity of the ballot box. The maximum capacity must be determined on the basis of the size of the ballot to be voted at the election.

The auditor or clerk must test each prom pack individually and, after testing, seal it with a numbered seal. Each ballot counter must be tested to ensure that the components are operating properly. The election judges shall verify that the ballot counter at the precinct has the correct seal number and certify the seal number on the summary statement.

Before opening the polls, the election judges shall initialize the ballot counter in accordance with the manufacturer's instructions. The judges shall verify that the initial counts for the voting positions are zero, that the public counter is set at zero, and that the ballot positions and other ballot information for each candidate and proposal printed on the initial tape agree with those on the ballot cards.

If the ballot counter is programmed to return to the voter a ballot having defects, the rejected ballot must be treated as a spoiled ballot and a new ballot must be issued to the voter after the spoiled ballot has been deposited in the spoiled ballot container. The election judges shall read the error message to the voter and may explain the conditions that cause a ballot to be rejected, but the judges shall not examine the voted ballot unless the voter requests assistance as provided in Minnesota Statutes, section 204C.15.

If the ballot counter is programmed to return to the voter a ballot having defects, no means of overriding the rejection may be used that do not meet the conditions in items A to C.

A. The override must be protected against being inadvertently activated.

B. The override must not allow more than one ballot to be processed each time it is operated.

C. A message, to be initiated by the election judges who activated the override, must be printed on the results tape each time the override is operated.

As soon as voting has ended, the election judges shall process any ballots in the auxiliary ballot box and then secure the ballot counter against receiving any more ballots. The election judges shall produce a printed record of results and sign the certificate that is part of the printed record.

At a general election, after the ballot counter has been secured against receiving additional ballots, the election judges shall open the write-in compartment and count and record on the summary statement the valid write-in votes.

One unbroken tape that includes the initial zero report at the opening of the polls, messages printed during the hours of voting, and the first printout of results must be certified to the county canvassing board. In the event of equipment failure, the election judges and any technicians working on the equipment shall make entries on the tape of initials and time of occurrence to indicate the points at which the equipment failed and was returned to service. If the tape has been broken, the election judges shall seal the parts together and sign over the seal so that it cannot be broken without disturbing the continuity of the signatures. Additional copies of the record of results must be certified as required by the election jurisdiction.

Subp. 6. Absentee ballots. The election judges shall examine the absentee ballots as they are removed from the ballot envelope and separate any ballots with erasures, marked with a carbonless writing instrument, or otherwise marked so they cannot be read by the counting equipment. The separated absentee ballots must be counted manually and the results added to the printed record of results or duplicated for tabulating as provided in part 8230.3850.

When printing instructions to be supplied with absentee ballots, the election jurisdiction may change item (6) on the instructions to absent voter in parts 8210.0500 and 8210.9920 to include the proper method for marking and folding the optical scan voting system ballot cards.

Subp. 7. Ballots at counting center. Except for ballots that must be counted manually, ballots for a precinct must be tabulated together. After tabulation of votes for candidates whose names appear on the ballot at a general election, at least two election judges of different political parties shall count the valid write-in votes on ballots with a write-in indication. The judges shall record the valid write-in votes on the summary statement.

ADOPTED RULES

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

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

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

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

Department of Human Services

Adopted Rules Relating to Licensing of Family Day Care and Group Family Day Care

The rule proposed and published at *State Register*, Volume 10, Number 31, pages 1573-1588, January 27, 1986 (10 S.R. 1573) is adopted with the following modifications:

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.

ADOPTED RULES

Rules As Adopted

9502.0315 DEFINITIONS.

Subp. 6. to 49 10. [Unchanged.]

Subp. 11. **Family day care.** "Family day care" means day care for no more than ten children at one time of which no more than six are under ~~first grade~~ school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.

Subp. 12. to 19. [Unchanged.]

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

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

Subp. 28. **School age.** "School age" means a child ten years of age or younger and enrolled in the first day of ~~school~~ kindergarten in the local school district.

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

9502.0335 LICENSING PROCESS.

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

C. An initial inspection of the residence by a fire marshal to determine compliance with the Minnesota Uniform Fire Code and compliance with orders issued are conditions of licensure for all residences with freestanding solid fuel heating appliances; manufactured (mobile) homes; new applicants for licensure with a licensed capacity of more than ten; day care residences which use the basement for child care; and residences in mixed or multiple occupancy buildings. "Multiple occupancy building" means a structure with two or more residential dwelling units such as a duplex, apartment building, or townhome. "Mixed occupancy building" means a residence in a structure that contains nonresidential occupancies or an attached garage.

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

Subp. 3. to 5. [Unchanged.]

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

A. Abuses prescription drugs or uses controlled substances as specified in Minnesota Statutes, chapter 152, or alcohol, to the extent that the use or abuse has or may have a negative effect on the ability of the provider to give care or is apparent during the hours children are in care. Caregivers who have abused prescription drugs or have been dependent on controlled substances as specified in Minnesota Statutes, chapter 152, or alcohol, such that the use, abuse, or dependency has had a negative effect on the ability to give care, was apparent during the hours children are in care, or required treatment or therapy, must have 12 months of verified abstinence before licensure.

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

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

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

A. [Unchanged.]

B. If no attempt has been made within 30 days to obtain a license, then the attorney with jurisdiction to bring charges for misdemeanors shall be notified immediately so legal action may be pursued. The operator of a residence required to be licensed under parts ~~9502.0300~~ 9502.0315 to 9502.0445, which is operating without a license, is subject to misdemeanor prosecution and injunction under Minnesota Statutes, section 245.803.

9502.0341 NEGATIVE LICENSING ACTIONS.

Subpart 1. and 2. [Unchanged.]

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

Subp. 4. to 9. [Unchanged.]

Subp. 9a. **Correction orders and fines.** If the commissioner finds that the residence or provider does not comply with the provisions of parts ~~9502.0300~~ 9502.0315 to 9502.0445, the commissioner ~~may~~ must issue a correction order in accordance with Minnesota Statutes, section 245.805, and the provider may, upon reinspection, be subject to a fine for each uncorrected deficiency.

Subp. 10. and 11. [Unchanged.]

9502.0355 CAREGIVER QUALIFICATIONS.

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

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

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

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

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

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

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

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

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

C. Certification or licensure indicating:

(1) completion of a two-year child development or early childhood education associate or certificate program at an accredited college or university;

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(2) completion of a nine-month child development assistant program at an accredited vocational-technical institute;

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

(4) a kindergarten through sixth grade teaching degree from an accredited university or college that includes a minimum of 30 hours of child development training; or

(5) documentation of a minimum of six months satisfactory experience as a full-time teacher at a state-licensed group day care center.

9502.0367 CHILD/ADULT RATIOS; AGE DISTRIBUTION RESTRICTIONS.

A. Family Day Care:

Child/Adult Ratio		Age Restrictions	
Licensed Capacity	Adults	Total children under <u>first grade school age</u>	Total infants and toddlers
10	1	6	Of the total children under <u>first grade school age</u> , a combined total of no more than 3 shall be infants and toddlers. Of this total, no more than 2 shall be infants.

B. Specialized Infant and Toddler Family Day Care:

(1) 5	1	3	No more than 3 shall be infants.
(2) 6	1	4	No more than 2 shall be infants.

C. Group Family Day Care:

(1) 10	1	8	Of the total children under <u>first grade school age</u> , no more than 3 shall be infants and toddlers. Of this total, no more than 2 shall be infants.
(2) 12	1	10	Of the total children under <u>first grade school age</u> , no more than 2 shall be infants and toddlers. Of this total, no more than 1 shall be an infant.
(3) 14	2	10	Of the total children under <u>first grade school age</u> , a combined total of no more than 4 shall be infants and toddlers. Of this total, no more than 3 shall be infants.

A helper may be used in place of a second adult caregiver when there is no more than 1 infant or toddler present.

D. Specialized Infant and Toddler Group Family Day Care:

9	2	7	Of the total children, no more than 4 shall be infants.
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Both caregivers shall be adults.

9502.0375 REPORTING TO AGENCY.

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

C. within 48 hours after the occurrence of a fire that requires the service of a fire department so the agency may determine continued substantial compliance with parts ~~9502.0300~~ 9502.0315 to 9502.0445; and

9502.0405 ADMISSIONS; PROVIDER RECORDS; REPORTING.

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

N. a complete copy of parts ~~9502.0300~~ 9502.0315 to 9502.0445;

9502.0415 ACTIVITIES AND EQUIPMENT.

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

A. an infant seat or high chair; and

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

9502.0425 PHYSICAL ENVIRONMENT.

Subp. 7. ~~to 9 and 8.~~ [Unchanged.]

Subp. 9. **Infant and newborn sleeping space.** There must be a safe, comfortable sleeping space for each ~~child under school age infant and newborn~~. A crib ~~or~~ a portable crib or playpen with waterproof mattress or pad must be provided for each infant or newborn in care. The equipment must be of safe and sturdy construction ~~which that~~ conforms to volume 16, parts 1508 to 1508.7 and parts 1509 to 1509.9 of the Code of Federal Regulations, its successor, or have a bar, ~~mesh,~~ or rail pattern such that a 2-3/8 inch diameter sphere cannot pass through. Playpens with mesh sidings must not be used for the care or sleeping of infants or newborns.

9502.0435 SANITATION AND HEALTH.

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

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

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

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

A. In sinks and tubs accessible to children, ~~hot the water temperatures~~ temperature must be ~~no higher than 110~~ not exceed 120 degrees Fahrenheit to prevent children from scalding themselves while washing.

9502.0445 WATER, FOOD, AND NUTRITION.

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

A. [Unchanged.]

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

C. [Unchanged.]

D. No hermetically sealed (canned), nonacid or low-acid food which has been processed in a place other than a commercial food-processing establishment shall be served to children in care. Low-acid food includes meats, fish, and poultry and most vegetables and is required to be steam-pressure canned by the United States Department of Agriculture in Bulletin number 8.

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"Home Canning of Fruits and Vegetables," 1983 Edition. Fresh and frozen foods, properly canned tomatoes, pickled foods, and canned fruits such as apples, berries, peaches, apricots, jams, and jellies may be served to children in care. The USDA "Home Canning of Fruits and Vegetables," Home and Garden Bulletin number 8, 1983 Edition, is incorporated by reference. It is not subject to frequent change and is available through Minitex interlibrary loan system, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington D.C., 20402.

Department of Jobs and Training

Adopted Rule Relating to Rehabilitation Services Fees

The rule proposed and published at *State Register*, Volume 10, Number 34, pages 1709-1710, February 17, 1986 (10 S.R. 1709) is adopted as proposed.

EMERGENCY RULES

Proposed Emergency Rules

According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

- 1) that a free copy of the proposed emergency rule is available upon request from the agency;
- 2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
- 3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
- 4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

(Emergency rules published in this issue)

8400.3000-.5500 (proposed emergency) 2622

Department of Agriculture

Proposed Emergency Rules Relating to the Reinvest In Minnesota Program

Notice of Intent to Adopt Emergency Rules

Notice is hereby given that the Minnesota Department of Agriculture and the Soil and Water Conservation Board propose to adopt the above entitled emergency rules. The Board will follow the procedures set forth in Minnesota Statutes, sections 14.29-14.36 in adopting these rules.

Persons interested in these emergency rules shall have 25 days from the date the rules are published in the *State Register* to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the department.

Persons who wish to submit oral or written comments should submit the comments to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-6906.

Authority to adopt this rule is contained in Laws of Minnesota 1986, chapter 383, section 6. The Commissioner is authorized by this section to adopt emergency rules to implement the Reinvest in Minnesota Conservation Reserve Program. The program is intended to provide for conservation easements to keep marginal, highly erodible agricultural land out of production and to re-establish a perennial vegetation cover.

Upon adoption of the emergency rules, this Notice, all written comments received, and the emergency Rules as Adopted, will be delivered to the Attorney General for review as to form and legality.

One free copy of this Notice and the proposed emergency rules may be obtained by contacting Ms. Milligan. Persons who wish to be notified by mail that the proposed emergency rule has been submitted to the Attorney General or who wish to receive a copy of the emergency rule as adopted should also contact Ms. Milligan.

9 June 1986

Ron Nargang, Director
Soil and Water Conservation Board

Rules as Proposed (all new material)

SOIL AND WATER CONSERVATION BOARD RIM RESERVE PROGRAM

8400.3000 [Emergency] AUTHORITY.

Minnesota Statutes, chapter 40, authorizes the state board, in cooperation with the districts, state and local private groups, and state and federal agencies, to administer a program of retiring marginal agricultural land from crop production and establishing on those lands permanent vegetative cover. Parts 8400.3000 to 8400.5600 [Emergency] provide procedures and criteria to be followed by the state board in allocating funds to districts and standards and guidelines that the district boards shall use in allocating funds to landowners.

8400.3100 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 8400.3000 to 8400.5600 [Emergency], the definitions in this part, in addition to those in Minnesota Statutes, chapter 40, apply.

Subp. 2. **Agricultural crop production.** "Agricultural crop production" means an agricultural activity devoted to the production of horticultural, row, close grown, rotation pasture, or hayland crops.

Subp. 3. **Agricultural property.** "Agricultural property" means land devoted to farming, exclusive of buildings.

Subp. 4. **Agricultural Stabilization and Conservation Service.** "Agricultural Stabilization and Conservation Service" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

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Subp. 5. **Annual plan.** "Annual plan" means a plan prepared by the district under Minnesota Statutes, section 40.07, subdivision 9, and according to the most recent version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans published by the state board. That publication is subject to frequent change, is available at the State Law Library, and is incorporated by reference.

Subp. 6. **Approved practice.** "Approved practice" means a soil and water conservation practice that qualifies for RIM reserve program funding and that has been approved by the state board.

Subp. 7. **Authorized farm corporation.** "Authorized farm corporation" means a corporation meeting the following standards:

- A. it has no more than five shareholders;
- B. its shareholders, other than any estate, are natural persons;
- C. it has no more than one class of shares;
- D. its revenue from rent, royalties, dividends, interest, and annuities does not exceed 20 percent of its gross receipts; and
- E. shareholders holding a majority of its shares reside on the farm or are actively engaged in farming.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subp. 9. **Conservation easement, easement.** "Conservation easement" or "easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include keeping or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property. Public access must be controlled by the landowner.

Subp. 10. **Converted wetland.** "Converted wetland" means wetland that has been drained, dredged, filled, leveled, or otherwise sufficiently manipulated since approval of an easement to render the land suitable for agricultural crop production.

Subp. 11. **Cropland.** "Cropland" means an area devoted to agricultural crop production.

Subp. 12. **District.** "District" means a soil and water conservation district organized under Minnesota Statutes, chapter 40.

Subp. 13. **District board.** "District board" means the five supervisors of a district authorized to carry out the functions of the district.

Subp. 14. **District cooperator.** "District cooperator" means a landowner who has requested the assistance of a district in controlling conservation problems. The request must be formalized by the signing of a district cooperator's agreement on a form provided by the state board and approved by the district board.

Subp. 15. **District technician.** "District technician" means a district employee or other nonfederal employee assigned to the district who has expertise in the design and application of soil and water conservation practices.

Subp. 16. **Enduring practice.** "Enduring practice" means a soil and water conservation practice that is designed for an effective life of ten years or more.

Subp. 17. **Family farm.** "Family farm" means an unincorporated farming unit owned by one or more persons residing on the farm or actively engaging in farming.

Subp. 18. **Family farm corporation.** "Family farm corporation" means a corporation founded to farm and to own agricultural land, the majority of the voting stock of which is held by and the majority of the stockholders of which are persons or the spouses of persons related to each other within the third degree of kindred according to the rules of civil law, at least one of the stockholders of which is residing on or actively operating the farm, and none of whose stockholders are corporations. A family farm corporation does not cease to qualify because of a devise or bequest of shares of voting stock.

Subp. 19. **Farm operation.** "Farm operation" means property owned or leased by the landowner that is associated with farming.

Subp. 20. **Farming.** "Farming" means the production of (1) agricultural products; (2) livestock or livestock products; (3) milk or milk products; or (4) fruit or other horticultural products. It does not include processing, refining, or packaging the products, providing spraying or harvesting services, or producing timber, forest products, or poultry products.

Subp. 21. **Field Office Technical Guide.** "Field Office Technical Guide" has the meaning given in part 8400.0100, subpart 15.

Subp. 22. **Fish and Wildlife Service.** "Fish and Wildlife Service" means the Fish and Wildlife Service of the United States Department of the Interior.

Subp. 23. **Hydric soil.** "Hydric soil" means a soil in its natural undrained condition that is saturated at or near the surface or flooded frequently during much of the growing season, and that can support hydrophytic vegetation. A list of hydric soils may be found in the Field Office Technical Guide.

Subp. 24. **Hydrophytic vegetation.** "Hydrophytic vegetation" means herbaceous or woody plants that grow in water, in wet or saturated soils, or in soils that are at least periodically deficient in oxygen as a result of excess water.

Subp. 25. **Inherently unproductive.** "Inherently unproductive" means that the soil properties of available water capacity, bulk density, and pH in the uppermost 100 centimeters (39 inches) of a soil, are present so that an unfavorable rooting environment exists for agronomic crops.

Subp. 26. **Landowner.** "Landowner" means a Minnesota resident who owns or is a buyer under contract for deed, of land that qualifies as a family farm, a family farm corporation, or an authorized farm corporation.

Subp. 27. **Local emergency.** "Local emergency" means an emergency declared under Minnesota Statutes, section 12.29. The commissioner, after consulting with the commissioner of natural resources, must concur with a decision to declare a local emergency that affects easement provisions.

Subp. 28. **Marginal agricultural land.** "Marginal agricultural land" means land with cropland soils that are inherently unproductive for agricultural crop production and subject to significant potential soil productivity loss from erosion. The state board shall provide districts with a list of soils indicative of marginal agricultural land. Districts may add to or delete soils from the list as necessary to reflect local soil characteristics. Changes must be approved by the state board.

Subp. 29. **Natural vegetation.** "Natural vegetation" means plant species including, but not limited to, grasses, trees, shrubs, or hydrophytic vegetation that form an area's noncultivated plant community, excluding the area immediately adjacent to buildings.

Subp. 30. **Nonproduction practice.** "Nonproduction practice" means a soil and water conservation practice that is installed or applied to control soil erosion or sedimentation, protect or improve water quality, or create or enhance wildlife habitat. Practices installed or applied primarily to bring land into production or to increase short-term productivity are not nonproduction practices.

Subp. 31. **Permanent pasture.** "Permanent pasture" means an area of forage species, harvested by grazing, that has not been cultivated within the last ten years. These areas are not considered to be in agricultural crop production.

Subp. 32. **Protected water.** "Protected water" means water basins, water courses, and wetlands, as defined in Minnesota Statutes, section 105.37, on the inventory of public waters and wetlands under Minnesota Statutes, section 105.391, subdivision 1, and identified on a protected waters and wetlands inventory map available in the county auditor's office.

Subp. 33. **Range.** "Range" means an area supporting an understory or periodic cover of herbaceous or shrubby plants suitable for grazing that has not been cultivated within the last ten years.

Subp. 34. **Relevant geographic area.** "Relevant geographic area" is an area established by the state board to minimize discrepancies in Federal Conservation Reserve Program bid values across county lines.

Subp. 35. **RIM reserve program.** "RIM reserve program" means the reinvest in Minnesota resources conservation reserve program established in Laws 1986, chapter 383, section 4.

Subp. 36. **Rotation pasture.** "Rotation pasture" means a cultivated or interseeded area devoted to the production of forage consisting of introduced or native species, and harvested by grazing. These areas are managed in a rotation of row crops or small grains and are considered to be in agricultural crop production. Areas of permanent pasture are excluded.

Subp. 37. **Screening committee.** "Screening committee" means a group established and chaired by a district, composed of representatives of private, state, and local organizations or clubs, and state and federal agencies with an interest in the RIM reserve program. A screening committee must include representatives of the Department of Natural Resources, the Pollution Control Agency, the Agricultural Stabilization and Conservation Service, the Fish and Wildlife Service, and the Soil Conservation Service.

Subp. 38. **Significant potential soil productivity loss.** "Significant potential soil productivity loss" means that soil productivity loss due to erosion may occur in a short time unless management measures are initiated to control soil erosion. The method of calculation combines the rating of a soil as a rooting environment with landscape characteristics that represent erosion potential.

Subp. 39. **Soil and water conservation practice.** "Soil and water conservation practice" means structural or vegetative practices applied to land to control soil erosion, sediment, or other water pollutants.

Subp. 40. **Soil Conservation Service.** "Soil Conservation Service" means the Soil Conservation Service of the United States Department of Agriculture.

Subp. 41. **Soil mapping unit.** "Soil mapping unit" means a kind of soil or combination of soils shown at the scale of mapping for the defined purposes and objectives of a soil survey.

Subp. 42. **State board.** "State board" means the State Soil and Water Conservation Board created under Minnesota Statutes, section 40.03.

Subp. 43. **Wetland.** "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, or that periodically does support, a predominance of hydrophytic

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vegetation typically adapted for life in saturated soil conditions. Wetland does not include converted wetlands as defined by subpart 10 and prohibited by part 8400.4900 [Emergency].

8400.3200 [Emergency] ESTABLISHING APPROVED VEGETATIVE AND SUPPORTING PRACTICES.

The state board, in consultation with the districts and state and federal agencies, shall develop a list of practices that are eligible for RIM reserve program funds and a schedule of maximum rates. The list is contained in parts 8400.5200 to 8400.5600 [Emergency] and the schedule in part 8400.4300 [Emergency]. Changes to the list and schedule must be made under Minnesota Statutes, chapter 14.

8400.3300 [Emergency] CRITERIA FOR APPROVED PRACTICES.

Practices approved by the state board must be enduring in nature and have as their primary purpose the control of soil erosion or sedimentation, protection or improvement of water quality, or creation or improvement of wildlife habitat. Practices cost-shared under this program must be designed for a minimum effective life of ten years, be nonproduction practices, and have specifications providing for the use of plant species and construction techniques that provide quality fish and wildlife benefits.

8400.3400 [Emergency] ELIGIBLE LAND.

Land may be enrolled in the RIM reserve program if the land:

- A. is marginal agricultural land, or is adjacent to marginal agricultural land that is being enrolled if enrollment of the adjacent land is beneficial to resource protection or necessary for efficient recording of the land description and if at least 50 percent of the total proposed acreage is marginal agricultural land;
- B. was in agricultural crop production or rotation pasture for at least two years during the period 1981 to 1985;
- C. was owned by the applicant on January 1, 1985, or for an application made on or after January 1, 1988, was owned by the applicant for at least three years before the date of application;
- D. is at least five acres in size, or is a whole field as defined by the Agricultural Stabilization and Conservation Service;
- E. is not currently set-aside, enrolled, or diverted under another federal or state government program including, but not limited to, Federal Conservation Reserve, Federal Production Adjustment Set-Aside, or state or federal Water Bank;
- F. is physically possible to crop; and
- G. as enrolled does not exceed 20 percent of the landowner's total acreage of agricultural property in the state.

8400.3500 [Emergency] CONSERVATION EASEMENTS.

A district board may acquire, on behalf of the commissioner and state, conservation easements on eligible land. An easement may be permanent or for ten years. By signing an agreement, a landowner agrees:

- A. to convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;
- B. to seed the land subject to the conservation easement contained in the agreement, to establish and maintain permanent cover of either a grass-legume mixture or native grasses for the term of the easement, at seeding rates determined by the state board, or to plant trees or install supporting practices required due to site conditions for soil and water conservation or wildlife management in parts 8400.5200 to 8400.5600 [Emergency];
- C. that other noncrop or permanent pasture land supporting natural vegetation owned or leased as part of the same farm operation during the term of the easement will not be converted to agricultural crop production or pasture as specified in part 8400.4900 [Emergency];
- D. to the enforcement of the maintenance provisions in part 8400.4700 [Emergency];
- E. not to alter wildlife habitat and other natural features of the land, unless specifically approved by the state board;
- F. to refrain from agricultural crop production, unless specifically approved by the district for wildlife management purposes such as food plots;
- G. to prohibit grazing of livestock unless approved by the commissioner, after consultation with the commissioner of natural resources, in the case of severe drought or a local emergency;
- H. to prohibit spraying with chemicals or mowing, except as necessary to comply with state and county noxious weed control laws, for emergency control of pests necessary to protect public health, or to maintain permanent vegetative cover as approved by the district; and
- I. to allow maintenance of public drainage systems. The activities must not damage the conservation purpose of the easement area. In addition, any authorization granted by the district must provide that the easement area be restored to the condition required by the terms of the conservation easement.

8400.3600 [Emergency] ALLOCATION OF FUNDS.

The state board shall authorize a district board to obligate funds based on the following factors:

- A. the extent of marginal agricultural land in the district; and
- B. the need for soil erosion or sediment control, protection or improvement of water quality, or improvement of fish and wildlife habitat.

The state board may also consider the expressed interest of landowners and the readiness of the district board and cooperating groups and agencies to implement the program.

The state board may increase or decrease its obligation as necessary to maximize the use of funds among districts, and may require enrollment periods.

8400.3700 [Emergency] ADMINISTRATION OF FUNDS.

Following authorization to obligate funds from the state board, a district is responsible for administration of the funds in accordance with Minnesota Statutes, chapter 40 and other applicable laws. The district board may make decisions concerning use of these funds in accordance with parts 8400.3000 to 8400.5600 [Emergency].

As a condition to participating in the program, the district shall ensure compliance with the maintenance provisions of part 8400.4700 [Emergency] and Minnesota Statutes, chapter 40 by monitoring easements in a manner prescribed by the state board.

Before considering any requests from landowners, the district board shall establish a screening committee. Then, in cooperation with the screening committee, local priority areas must be established. In addition, administrative procedures necessary to efficiently implement the program must be developed. Priority areas must be based on the following factors:

- A. the extent of high priority erosion or water quality problems in the district as outlined in the district comprehensive and annual plans;
- B. the potential of the land for fish and wildlife production, reducing erosion, and protecting water quality;
- C. advice of technical experts familiar with the district;
- D. priorities as established by the district in consultation with other members of the screening committee;
- E. current programs administered by the Agricultural Stabilization and Conservation Service, the Fish and Wildlife Service, and the Department of Natural Resources; and
- F. RIM reserve program funds available.

8400.3800 [Emergency] APPLICATION FOR FUNDS BY LANDOWNERS.

Landowners interested in participating in the RIM reserve program shall apply to the districts on forms provided by the state board and available from the district office. An application must be filled out in its entirety. A district technician is then responsible for making a determination of easement eligibility and a cost estimate to establish permanent vegetative cover and, if necessary, supporting practices. Actual determination of need and a cost estimate may be done by district-approved representatives from other agencies. Additional information that may be required by the district board in its consideration of the application must be included.

8400.3900 [Emergency] LAND IN MORE THAN ONE DISTRICT.

If a request involves land in more than one district, application must be made to each district containing proposed land. The affected districts must cooperate to ensure a consistent and timely review of the proposed lands.

8400.4000 [Emergency] CRITERIA FOR DISTRICT BOARD REVIEW.

The criteria for district board review are listed in this part.

- A. The applicant must be a district cooperator.
- B. The practices needed to establish permanent vegetative cover must be on the list of approved practices.
- C. The primary purpose of the requested easement must be the control of soil erosion or sedimentation, the protection or improvement of water quality, or the improvement of fish and wildlife habitat. In cases where the primary purpose is questionable, the district board in cooperation with the screening committee shall make a determination of the acceptability of the application.
- D. The requested easement and vegetative practices must be consistent with local plans and priorities.
- E. The easement must be maintained by the landowner, who is responsible for operation and maintenance of vegetative and other supporting practices applied under this program.
- F. The practice must comply with the technical requirements of the Field Office Technical Guide. Technical review must be

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completed by a district technician or Soil Conservation Service employee who has applicable job approval authority or by district-approved representatives from other agencies.

8400.4100 [Emergency] DISTRICT APPROVAL.

After completion of a priority determination and cost estimate, the district board shall either approve or deny the application. If it is approved, the district board shall instruct the chair or acting chair to sign the application. Once it is signed, the application becomes an agreement between the state and landowner and serves as the authorization to begin establishing vegetative cover and, if required, other supporting practices. In addition, district approval obligates payment for the easement and vegetative cover establishment, provided the landowner complies with parts 8400.3000 to 8400.5600 [Emergency]. Practices begun before district approval are ineligible for financial assistance. The requirements for vegetative cover establishment and maintenance must be specified in a plan prepared by the district technician or district-approved representatives from other agencies. If an application is denied, the district board shall notify the landowner in writing within 30 days after district board action of the reason for denial of the application. Changes in any provisions of the agreement are subject to review and approval by the district board.

8400.4200 [Emergency] CONSERVATION EASEMENT PAYMENTS.

After approval of an application, easement documents provided by the state board must be completed by the district. Once completed, the easement is considered conveyed. Upon conveyance, the following easement payments must be made:

A. for a permanent easement, 70 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue when the easement is conveyed; and

B. for a ten-year easement, 90 percent of the present value of the average of the acceptable bids for the Federal Conservation Reserve Program in the relevant geographic area and on bids made immediately before the easement is conveyed. The commissioner shall establish, at least annually, the discount rate to be used for calculating present value. If federal bid figures have not been determined for the area or the federal program has been discontinued, the rate must be determined by the state board.

8400.4300 [Emergency] ESTABLISHMENT OF VEGETATIVE PRACTICES.

Subpart 1. **Installation of practices.** Establishment of vegetative practices must be monitored by the district board to ensure compliance with part 8400.4000 [Emergency], item F. Upon completion, a district technician shall certify whether or not the practice has been satisfactorily performed, including certification that the practice meets the requirements of part 8400.4000 [Emergency], item F. No certification may be made until all specifications have been satisfied. Exceptions must be in accordance with subpart 4. Upon certification of completion, the landowner shall contact the district for payment and present documentation of the costs incurred in the installation of the practice in the form of receipts or invoices.

Subp. 2. **In-kind services.** In-kind services provided by the landowner including, but not limited to, earthwork, seedbed preparation, and seeding, may be credited to the landowner's share of the total cost of the practice. The district board shall determine whether charges for in-kind services are practical and reasonable.

Subp. 3. **Actual cost differing from estimated cost.** If the actual cost of a practice exceeds the estimated cost, the district may only authorize payment of the approved rate unless an amendment to the vegetative cover agreement has been approved. Because of extreme circumstances including, but not limited to, weather or unforeseen geologic conditions, it may be desirable to increase the estimated cost or postpone the starting or completion date of the practice. These changes must be approved by the district board in advance of completion of the work with an amendment to the vegetative cover agreement covering the changes. Amendments may not be authorized for providing final payments in excess of the maximum rate established in subpart 5. Amendments may not be authorized after final approval of payment has been made on the original agreement. If the actual cost is less than the estimated cost, the district shall only authorize payment of the actual cost of the practice. The district board shall review the receipts or invoices provided by the landowner to determine the actual cost of the practice. If the district determines that the claims are practical and reasonable, it shall authorize payment. Payments may not exceed the rates established in subpart 5. If the district board determines that certain claims are not justified, it shall notify the landowner in writing of the unjustified claims within 30 days. The district board shall then authorize the issuance of a check for the justified claims.

Subp. 4. **Partial payment.** If weather, unanticipated circumstances beyond the control of the land occupier, or management considerations such as dormant seedings force postponement of certification of completion, the state board or its authorized representative may authorize a district board to issue a partial payment for the work that has been completed. The following conditions must be met before the state board or its authorized representative will consider authorizing a partial payment:

- A. The anticipated completion date will not cause unreasonable delays in establishing vegetative cover.
- B. The completed work meets the requirements of part 8400.4000 [Emergency], item F.
- C. The state board's authorized representative must review the work and concur in the payment decision.

Subp. 5. **Payment conditions.** If the state board or its authorized representative authorizes a partial payment under subpart 4, the following conditions apply:

- A. Payment rates must comply with this subpart.
- B. The balance of the project must be paid by the district board upon the satisfactory completion of the total project.
- C. Expenses incurred in correcting damage caused to the project by virtue of its incompletion must be borne by the landowner.
- D. Landowners receiving partial payments must complete the project within a time considered reasonable by the district board.
- E. Landowners not completing partially-paid projects are in violation of part 8400.4700 [Emergency] and must be directed to return the amount of financial assistance received plus interest.
- F. Partial payment authorizations must not be construed as precedent-setting. A request will be considered by the state board or its authorized representative on its merits.

Subp. 6. **Denial.** If the state board or its authorized representative denies a request for partial payment under subpart 4, the district board must be notified within 30 days of the reasons for denial of the request.

Subp. 7. **Payments for establishment of vegetative cover.** After certification by an assigned district technician that permanent vegetative cover is established, the district shall notify the state board to make the following payments to the landowner:

- A. to establish the permanent cover or supporting practices required by the agreement, the actual cost up to \$75 per acre; and
- B. for the cost of planting trees required by the agreement, the actual cost up to \$75 per acre;

Payments for establishing permanent cover, trees, or other improvements are limited to the actual cost, up to \$75 per acre. Supporting practices must be required by the vegetative cover agreement. These include practices or components of practices listed in parts 8400.5200 to 8400.5600 [Emergency]. Supporting practices must be installed in conjunction with permanent cover or trees. If trees are combined with a cover practice, payments increase to a combined actual cost up to \$150 per acre, or up to \$75 per acre each for trees and cover.

RIM reserve payments may be supplemented by funds from other programs or organizations, including sportsmen's groups or state or federal cost-share programs. Requirements for supplementing payments must be determined by the contributing agency or group.

8400.4400 [Emergency] MAXIMUM PAYMENT.

The state board may not pay more than \$50,000 annually to a landowner for the landowner's vegetative cover agreements and conservation easements. The district shall record the easement document with the county recorder.

8400.4500 [Emergency] DISTRICT RECORDS.

The district shall maintain a current ledger of vegetative cover agreements and easements on forms provided by the state board. The ledger must specify the landowners with whom the district has developed agreements, the soil mapping units of enrolled land, the vegetative practices involved, the status of vegetative establishment, the total of funds obligated and spent, the size and type of easements, and their effective date. Recording must be done, to the extent possible, in a manner compatible with the needs of cooperating agencies and groups. In addition, the location of easements must be recorded on base maps provided by the Land Management Information Center of the State Planning Agency to facilitate entry into a state data base.

8400.4600 [Emergency] EASEMENT RENEWAL.

When a ten-year conservation easement expires, a new permanent or ten-year conservation easement may be acquired by written concurrence of the district and the landowner. The district may recommend that the state board adjust payment rates as a result of renewing a ten-year conservation easement only after examining the condition of the established cover, supporting practices, and land values.

8400.4700 [Emergency] MAINTENANCE.

A landowner is responsible for operation and maintenance of vegetative and supporting practices applied under this program and ensuring that easement restrictions in parts 8400.3500 [Emergency] and 8400.4900 [Emergency] are followed to ensure that the easements conservation objective is met and the effective life of ten or more years is achieved.

Should the landowner fail to install or maintain the practices or comply with easement restrictions during their effective life, the landowner may be subject to:

- A. damages up to the amount of financial assistance received for practice installation and easement payment plus interest accrued from the date of nonmaintenance determination;

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B. a mandatory court-imposed injunction; or

C. other actions directed at correcting the maintenance violation. The district board, in consultation with the state board and legal counsel, shall determine how maintenance violations must be corrected. Easements remain in effect even if maintenance violations have occurred.

The landowner is not liable for financial assistance received if the failure was caused by reasons beyond the landowner's control; in those instances, the district may authorize payment for the repair. Payments for repair must comply with part 8400.4300 [Emergency]. In no case may a district provide financial assistance to a landowner for the reapplication of vegetative or supporting practices that were removed or altered by the landowner during their effective life or failed due to improper maintenance.

8400.4800 [Emergency] MONITORING.

The state board may require reports from the district to monitor the progress of the RIM reserve program and the use of funds. The reports must be on forms provided by the state board.

8400.4900 [Emergency] NONCROPLAND CONVERSION.

From approval of vegetative cover agreements until the end of the easement, land supporting natural vegetation, including, but not limited to, trees, shrubs, permanent pasture, range, or wetland, must not be converted to cropland. This restriction applies to all land owned or leased as part of the landowner's farm operation.

8400.5000 [Emergency] APPEALS.

If a landowner feels unfairly treated, the landowner may request that the district board review its decision. Should the landowner and the district board reach an impasse, the landowner may petition in writing for a hearing before the state board. If it grants the hearing, which must be informal, the state board or a referee appointed by it shall hear all testimony offered, and shall accept written testimony for ten days after the hearing. The referee, if one is used, shall report the findings and recommendation to the state board, which shall within 60 days of the hearing date make its decision on the appeal, upholding, reversing, or amending the decision of the district board.

8400.5100 [Emergency] VARIANCES.

If a district board feels that a particular requirement of part 8400.3400 [Emergency] prevents a RIM reserve program application from being funded, a request for a variance may be filed with the director of the state board. The request must be in writing and contain:

- A. the name and address of the district board making the request and the signature of the district chair;
- B. the nature of the variance being sought, including an identification of the applicable rule from which the variance is sought, the time period for which it is sought, and the reason for seeking the variance;
- C. a statement of alternatives for dealing with the funding of the affected project if the variance is not granted; and
- D. a statement of the effects on applicable natural resources and the public if the variance is granted.

Variance requests must be submitted to the director of the state board at least 30 days before the state board meeting at which the variance is requested to be heard. Within 45 days after the meeting, the state board must approve or deny the variance request and provide written notification of the decision to the applicant. A variance must not be granted if it is in conflict with any statute. The state board may grant a variance upon conditions it prescribes.

If a variance has been granted by the state board, the district board holding the variance may file with the state board at any time a written request for modification or amendment of the variance. The request for modification or amendment, and the state board's consideration of the request, must comply with this part.

8400.5200 [Emergency] APPROVED PRACTICE: STRUCTURES.

Subpart 1. **Definition.** For the purpose of this part, "structure" includes, but is not limited to, floodwater retarding dams, levees, or drain tile plugs designed to provide temporary storage of floodwater, control the release rate of water providing downstream channel stability, impound water, or restore or create wetland areas. Structures are supporting practices.

Subp. 2. **Purpose.** The purpose of structures is to permit the establishment of vegetative cover, control soil erosion, protect or improve water quality, or create or improve wildlife habitat. An erosion control structure may provide multiple benefits including, but not limited to, recreation, flood control, and channel stability.

Subp. 3. **Applicability.** Structures may be used on enrolled lands where they are necessary to permit establishment of vegetative cover, for the control of soil erosion, water quality protection or improvement, or creation or enhancement of wildlife habitat. Structures may also be installed on nonenrolled lands if necessary to enhance or protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

- A. only for the construction of structures that provide for reduction of soil erosion, water quality protection or improvement, or creation or enhancement of wildlife habitat;
- B. for permanent fencing of a structure as determined by the district board;
- C. for tree and shrub plantings adjacent to the structure and seeding necessary to stabilize the structure and adjacent critical areas, including, when possible, the use of those species that provide quality wildlife habitat;
- D. for structures that provide multiple benefits if the primary benefit is soil erosion control, water quality protection or improvement, or creation or improvement of wildlife habitat; and
- E. for temporary materials and seedings necessary to properly stabilize the structure during construction.

8400.5300 [Emergency] APPROVED PRACTICE: DIVERSIONS.

Subpart 1. **Definition.** For purposes of this part, “diversion” means a channel with a supporting ridge on the lower side constructed across the slope. Diversions are supporting practices.

Subp. 2. **Purpose.** The purpose of a diversion is to permit the establishment of vegetative cover or divert water away from erosive areas or areas that pose a threat to water quality to areas where it can be used or disposed of safely. Diversions may provide additional benefit to wildlife.

Subp. 3. **Applicability.** A diversion may be used where:

- A. runoff from higher areas is eroding enrolled lands or is needed to establish vegetative cover; or
- B. surface and shallow subsurface flow is damaging sloping enrolled lands or contaminating ground or surface water.

Diversions may be installed on nonenrolled lands if necessary to enhance or protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

- A. for tile systems necessary for the establishment and operation of diversions;
- B. for construction necessary to properly establish diversions including earthwork, materials, and seedings;
- C. for temporary materials and seedings necessary to properly stabilize diversions during construction; and
- D. for permanent fencing of diversions as determined by the district board.

8400.5400 [Emergency] APPROVED PRACTICE: STORMWATER CONTROL SYSTEMS.

Subpart 1. **Definition.** For purposes of this part, “stormwater control system” means a practice or system of practices including, but not limited to, grassed waterways and grade stabilization structures installed to convey storm runoff to a constructed or natural outlet in a nonerosive manner. This practice does not apply when the primary purpose is drainage to expand or improve crop production or making the cropping system more convenient. Stormwater control systems are supporting practices.

Subp. 2. **Purpose.** The purpose of a stormwater control system is to permit the establishment of vegetative cover, provide a means of regulating or removing runoff to control erosion, or protect or improve water quality. Additional benefit may be provided through creation of wildlife habitat.

Subp. 3. **Applicability.** A stormwater control system may be used on enrolled lands by using vegetative or structural measures for control of erosion or protection or improvement of water quality. Stormwater control systems may also be installed on nonenrolled lands if necessary to protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

- A. for the construction of practices required in a complete stormwater control system, including, but not limited to, a lined waterway or outlet, detention ponds, permanent sod cover, and permanent vegetation including trees, shrubs, and grasses;
- B. for tile systems necessary for the establishment and operation of stormwater control systems;
- C. for temporary materials and seedings necessary to properly stabilize a stormwater control system during construction; and
- D. for permanent fencing of stormwater control systems as determined by the district board.

8400.5500 [Emergency] APPROVED PRACTICE: FIELD WINDBREAKS.

Subpart 1. **Definitions.** For purposes of this part, “field windbreak” means a strip or belt of trees or shrubs established within or adjacent to a field.

Subp. 2. **Purpose.** The primary purpose of a field windbreak is to reduce wind erosion. Additional benefits may be the creation of wildlife habitat, increased moisture conservation by controlling snow deposition, and beautification and enhancement of the landscape.

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Subp. 3. **Applicability.** Field windbreaks may be used in or around open fields that need protection against wind erosion. Additional benefits may be realized from the creation of wildlife habitat.

Subp. 4. **Policies.** Funding is authorized:

A. for field windbreaks if the inter-windbreak area is established in permanent vegetative cover at the time the windbreak is established; and

B. for site preparation, planting materials, planting, chemicals for weed control, and other applicable costs necessary to establish a field windbreak.

The landowner is responsible for controlling competitive vegetation for two years following planting and must bear the cost of control. Tree planting must not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage systems.

8400.5600 [Emergency] APPROVED PRACTICE: ESTABLISHMENT OF PERMANENT VEGETATIVE COVER.

Subpart 1. **Definition.** For purposes of this part, "permanent vegetative cover" means planting permanent vegetation on enrolled lands, including trees, shrubs, vines, grasses, and legumes.

Subp. 2. **Purpose.** The purpose of permanent vegetative cover is to control soil erosion, protect or improve water quality, or create or improve wildlife habitat.

Subp. 3. **Applicability.** Permanent vegetative cover may be used on enrolled lands if vegetation is needed to control soil erosion, protect or improve water quality, or create or improve wildlife habitat.

Subp. 4. **Policies.** Funding is authorized for:

A. earthwork, materials, seed, and seedlings, and other associated costs necessary to stabilize the area;

B. temporary materials and seedlings necessary to stabilize the area during construction; and

C. permanent fencing of the area as determined by the district board.

Subp. 5. **Conflicts.** Tree planting must not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage systems.

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.

Minnesota Board of Dentistry

Outside Information or Opinions Sought Regarding Existing Rules Including Those on Auxiliary Personnel and Proposed Rules Regarding General Anesthesia and Intravenous Conscious Sedation

Notice is hereby given that the Minnesota Board of Dentistry is seeking information or opinions from sources outside the agency regarding its existing rules governing the functions which dental auxiliary personnel may perform and regarding a new rule which will address the administration of general anesthesia and intravenous conscious sedation. The Board is also seeking comments and suggestions with respect to all of its existing rules to determine which, if any, should be amended. The adoption of rules by the Board is authorized under Minn. Stat. § 150A.04 (1984) which permits the Board to adopt rules to carry out and make effective the provisions and purposes of Minn. Stat. § 150A.01 to 150A.12, the laws governing the practice of dentistry. Section 150A.04 also specifically authorizes the Board to set forth the training and education necessary for administering general anesthesia and intravenous conscious sedation.

The Board of Dentistry requests information and opinions on the matters referenced above. Interested or affected persons or groups may submit data, information suggestions, or opinions orally or in writing. Written statements should be addressed to: Dale J. Forseth, Executive Director, Minnesota Board of Dentistry, Suite 109, 2700 University Avenue West, St. Paul, Minnesota 55114. Oral statements will be received during regular business hours over the telephone at (612) 642-0579 and in person at the above address.

Any written materials received by the Board of Dentistry shall become part of the rulemaking record to be submitted to the Attorney General or an administrative law judge in the event that a rule is adopted.

Dated: 18 June, 1986

Dale J. Forseth
Executive Director

Department of Human Services: Health Care Programs Division

Public Notice Regarding Changes in Minnesota's Medical Assistance Program

Notice is hereby given to all providers and recipients of Minnesota Medical Assistance, and to the public, of changes in the levels of reimbursement for certain Medical Assistance services. This notice is published pursuant to federal regulations which govern administration of the Medical Assistance program at 42 CFR §§ 447.205.

Personal Care Attendant Services

State law (Minnesota Statutes 256B.02, subdivision 8, item 17) requires annual adjustment of payments to personal care attendants to reflect changes in the cost of living or of providing services. Accordingly, the payment rate for personal care attendant services will increase from \$5.88 per hour to \$6.08 per hour effective July 1, 1986. This represents a 3.4% increase, which is based on the projected Consumer Price Index (CPI) for urban areas for fiscal year 1987. (The CPI is prepared by the Department of Labor, Bureau of Labor Statistics and is a measurement of the cumulative increase in the price of consumer goods.)

Private Duty Nursing Services

In order to ensure that private duty nursing services are available to Medical Assistance recipients to the same extent the services are available to the general population, maximum payment rates will be increased effective July 1, 1986 to reflect the projected 3.4% increase in the CPI for urban areas for fiscal year 1987. Payment for private duty nursing services provided by RNs will increase from \$11.52 per hour to \$11.91 per hour. For LPNs, payment will increase from \$8.64 per hour to \$8.93 per hour.

Information on implementation of these provisions will be sent as needed to local welfare agencies via instructional and informational bulletins, to MA recipients via their MA cards, and the health care providers enrolled in the Medical Assistance program via provider bulletins. Copies of this material may be reviewed at the county welfare or social services department.

The estimated aggregate cost of these changes for fiscal year 1987 is \$250,000.

Written comments and questions may be addressed to:

Health Care Programs Professional Services Section
2nd Floor, Space Center
444 Lafayette Road
St. Paul, Minnesota 55101

Comments and suggestions from the public may be viewed at the same address during normal working hours.

Department of Jobs and Training

Notice of Availability of 1987 Community Services Block Grant Plan for Public Review

Notice is hereby given that the State Plan for the use and distribution of the Fiscal Year 1987 Community Services Block Grant is available for public review.

This plan will be available for review at the local offices of current Community Services Block Grantees; Community Action agencies, Indian Reservations and the Minnesota Migrant Council.

A single copy of the plan may be obtained by writing:

Beverly J. Gleeson
Minnesota Department of
Jobs and Training
Community Services Office
690 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Office of the Secretary of State**Notice of Vacancies in Multi-Member State Agencies**

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612)296-2805. Application deadline is July 22, 1986.

METROPOLITAN TRANSIT COMMISSION has 1 vacancy open for a member who is a resident of the Transit Service Area of the commission and lives outside of Minneapolis and St. Paul. Each member must have management experience. The Commission will provide transit services within the metropolitan area in conformance with the implementation plan of the Regional Transit Board. Members may not, during office, be a member of the Metropolitan Council, Regional Transit Board, the Metropolitan Waste Control Commission, the Metropolitan Airports Commission, the Metropolitan Sports Facilities Commission or any other independent regional commission, board or agency or hold any judicial office. Members are appointed by the Regional Transit Board. Members must file with the Ethical Practices Board. Members receive \$50 per diem plus expenses. For specific information contact the Metropolitan Transit Commission, 560 6th Ave. N., Mpls. 55411-4398; (612)349-7400.

COSMETOLOGY ADVISORY COUNCIL, has 1 vacancy open for a public member. The council advises the Commissioner of Commerce on matters relating to cosmetology services and on licensing procedures for cosmetologists. Meetings at least once a year at the call of the Commissioner. Members are appointed by the Commissioner of Commerce; members are compensated for expenses. For specific information contact the Cosmetology Advisory Council, Dept. of Commerce, 500 Metro Square Bldg., St. Paul 55101; (612)297-3562.

ARCHITECTURE, ENGINEERING, LAND SURVEYING AND LANDSCAPE ARCHITECTURE BOARD has 1 vacancy open for a public member. The board licenses and regulates architects, engineers, land surveyors and landscape architects. Members are appointed by the Governor. Members must file with the Ethical Practices Board. Meetings are held four times a year; members receive \$35 per diem plus authorized expenses. For specific information contact the Architecture, Engineering, Land Surveying and Landscape Architecture Board, 162 Metro Square Bldg., St. Paul 55101; (612)296-2388.

CODE ENFORCEMENT ADVISORY COUNCIL has 1 vacancy open for an employer representative. The council advises the Commissioner on matters pertaining to Boiler and High Pressure Steampiping Standards. Members must be users or involved in the boiler and high pressure steampiping industry and trades. Members are appointed by the Commissioner of Labor and Industry. Members receive \$35 per diem plus expenses. Quarterly meetings. For specific information contact the Code Enforcement Advisory Council, Dept. of Labor and Industry, Office of Public Affairs, 444 Lafayette Rd., St. Paul, MN 55101; (612)297-3467.

INTERGOVERNMENTAL INFORMATION SYSTEMS ADVISORY COUNCIL has 1 vacancy open for member at large. The council assists local governments in developing automated information systems by awarding grants. Members are appointed by the Commissioner of Administration. For specific information contact the Intergovernmental Information Systems Advisory Council, Centennial Office Bldg., 5th Floor, 658 Cedar St., St. Paul 55155; (612)297-2172.

TASK FORCE ON INSURANCE CONTINUING EDUCATION has 2 vacancies open for members employed by insurance companies. The task force provides suggestions for rules relating to mandatory continuing education for insurance licensees. All members must be residents of Minnesota. Members are appointed by the Commissioner of Commerce. Members are compensated for expenses. For specific information contact the Task Force on Insurance Continuing Education, Dept. of Commerce, 500 Metro Square Bldg., St. Paul 55101; (612)296-6313.

STATE CONTRACTS

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

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

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

Department of Administration—Procurement Division

Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers.

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Storage Racks	June 30, 1986	Transportation—Elect. Services	St. Paul	79-000-52567
Class Schedule Typesetting	June 30, 1986	Metro State University	St. Paul	26-176-02610 8553
Special PERA Newsletter	June 30, 1986	Central Mail—PERA	St. Paul	63-000-00883 7957
1986-88 Catalog	June 30, 1986	Metro State University	St. Paul	26-176-02612 8555
Class Schedule Printing	June 30, 1986	Metro State University	St. Paul	26-176-02611
Ammunition	June 30, 1986	Public Safety	St. Paul	07-500-36691
Pickup	June 30, 1986	Natural Resources	Grand Rapids	29-000-43863
4-Wheel Articulated Loader	June 30, 1986	Mankato State University	Mankato	26-071-16296
Cargo Trailer	June 30, 1986	Public Safety	St. Paul	07-200-36717
Telephone System	June 30, 1986	Natural Resources	Silver Bay	29-002-12285
Dishless Server System	June 30, 1986	Correctional Facility	Oak Park Heights	78-630-06463
Infrared Spectrometer	June 30, 1986	Public Safety	St. Paul	07-300-38054
Tank—Storage	June 30, 1986	Natural Resources Fields Services	Brainerd	29-003-10043
Move	July 1, 1986	Transportation	St. Paul	79-000-53999
Extended Campus Class Schedules	July 1, 1986	Metro State University	Mankato	26-071-16692 8381
Facsimile Equipment	July 1, 1986	Revenue	St. Paul	67-240-11415
Repairs to Various Equipment	July 1, 1986	Mankato State University	Mankato	26-071-16469 Rebid
Janitorial Service	July 1, 1986	Health	St. Paul	02-307-48030
College Catalog 1986-88	July 1, 1986	Northland Community College	Thief River Falls	27-149-48196 8577
Reprint/"Lifestyle" booklet	July 1, 1986	Southwest State University Relations	Marshall	26-175-06651 8674
Well Drilling	July 2, 1986	Pollution Control	Roseville	32-300-14481
Steel Bar Sheet & Tubing	July 2, 1986	Correctional Facility	Stillwater	78-620-00016-17
Influenza Virus Vaccine	July 2, 1986	Various	Various	Various-Various
Earth Drill Supplies	July 2, 1986	Transportation	Various	Price-Contract
Radiation Film Badges	July 2, 1986	Various	Various	Various-Various
Mobile Traffic Radar	July 3, 1986	Public Safety	St. Paul	07-500-36708
Purchase of Automated Office Systems	July 3, 1986	Mn School for the Arts	St. Paul	25-000-00135
Camera Mounting System	July 3, 1986	Transportation	St. Paul	79-0000-53067
Explosive Device	July 3, 1986	Natural Resources Southern Service Ctr.	St. Paul	29-006-05101
Environmental Controls Service Contract	July 7, 1986	State University	Winona	26-074-10982

STATE CONTRACTS

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Lease/PBX System	July 7, 1986	State University	Bemidji	26-070-11652
PA System	July 7, 1986	State University	Bemidji	26-070-12005

Department of Energy and Economic Development: Policy Analysis Division

Request for Proposals for Graphic Design Services

The Policy Analysis Division of the Department of Energy and Economic Development is requesting proposals from design studios for a 200 page technical report, including statistical tables and approximately 60 charts and graphs. Contractors must be available to begin work immediately and must be able to provide quick turn-around.

Up to \$22,000 is available for this project. Proposals should state time and cost estimates for each phase of work. To be considered, samples of large reports must be included.

Contractors must apply for a Certificate of Compliance from the Minnesota Department of Human Rights. Applications can be obtained by written request from the Minnesota Department of Human Rights, Fifth Floor, Bremer Building, St. Paul, MN 55101. All contract bids must include a statement indicating that the bidder has applied for the certificate.

All questions related to this notice should be directed to:

Judy Duclos
(612) 296-8341

All proposals must be submitted no later than 4:00 p.m., July 21, 1986, to:

Lee W. Munnich, Jr.
Assistant Commissioner
Policy Analysis Division
Minnesota Department of Energy and Economic Development
900 American Center Building
150 E. Kellogg Boulevard
St. Paul, Minnesota 55101

Minnesota Department of Health Division of Environmental Health

Contract for Consultants' Services to Provide Radiation Exposure Dose Assessment and Protective Action Guidance

The Minnesota Department of Health is requesting proposals from qualified Health Physicists for consulting services to provide assistance in determining protective actions necessary during accidents involving radioactive materials—particularly at nuclear power reactors and during drills and meetings in preparation for such emergencies.

Qualifications for the consultants are: Master's degree in Health Physics or equivalent field, 3 years of experience in a radiation safety program and familiarity with the Criteria for Radiological Emergency Response Plans required by the Federal Emergency Management Agency. The consultants must be able to respond during emergencies and be available for drills and meetings.

Consulting services will be needed for an estimated 7 days plus 50 hours meeting time during the coming year. Up to \$3000 each for two consultants is available. The deadline for submission of proposals is July 21, 1986

Proposals and inquiries should be directed to:

Alice T. Dolezal Hennigan, Chief
Section of Radiation Control
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, Minnesota 55440
(612) 623-5351

Department of Natural Resources: Boat and Water Safety Section

Television and Radio Public Service Announcement Contract Available

The Department of Natural Resources—boat and water safety section, is seeking proposals from advertising agencies and film production houses to produce 30 second television public service announcements (PSAs) and 30 second radio PSAs on various boat and water safety topics, such as intoxicated boat operation, learning to swim, hypothermia, life jackets (PFDs), etc. Television spots will be shot on 16 mm film, with most or all shooting done on location July-September 1986. Vendor will work with DNR personnel establishing concepts, locations for television PSAs and scripts for television and radio PSAs.

Details of the plan are contained in a Request for Proposals. Copies of the Request for Proposals may be obtained at the Department of Natural Resources, Bureau of Information and Education—Boat and Water Safety Section, Box 46—500 Lafayette Road, St. Paul, MN 55155.

Estimated cost of the contract is not to exceed \$50,000. Final date for submitting proposals for the contract is 4:00 p.m., Friday, July 18, 1986.

Department of Public Safety: Office of Traffic Safety

Request for Proposals for Occupant Restraint Program

The Department of Public Safety is seeking proposals to plan and conduct the Minnesota occupant restraint program; a statewide effort to educate and convince people on the need to use and promote the use of seat belts and child safety seats. Details of the plan are contained in a Request for Proposals which may be obtained by calling or writing:

Telephone: (612) 296-3804

Address: Office of Traffic Safety, Department of Public Safety
207 Transportation Building
St. Paul, MN 55155

Contact: Thomas A. Boerner

Estimated cost of the contract is \$240,000.00. Final date for submitting proposals is Monday, July 21 by 4:00 p.m.

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.

Great Lakes Country USA

Request for Proposal to Engage a Marketing Consultant for 1986 International Tourism July 1, 1986-June 30, 1987

BACKGROUND

State travel and tourism agencies in seven Great Lakes states (Ohio, Indiana, Illinois, Wisconsin, Michigan, Minnesota and Iowa) oversee advertising and promotion campaigns to sell their individual states as travel destinations. They compete against each other and against other states for the domestic traveling dollar, but they also cooperate as a group to sell the Great Lakes region as a whole to international travelers. This regional group is called Great Lakes Country USA.

NON-STATE PUBLIC CONTRACTS

For the past three years, in various combinations, the seven states have participated jointly at the World Travel Market in London, the ITB in Berlin and JATA in Tokyo. At these travel trade market places, the cooperative state travel representative pool their promotional efforts on the assumption that international visitors do not choose one community or state to visit, but visit a larger region or area.

ORGANIZATION

The structure under which the Great Lakes Country USA operates is two-tiered. The first and policy-making group is the Great Lakes States Travel Directors, chaired for 1985-86 by John Savich, Travel Director of Michigan. The second group, the International Marketing Directors, represent the State Travel Directors and are the ones who actually implement the international program. The consultant's liaison for the Great Lakes States is the marketing director of the state whose travel director is chair. The 1985-86 liaison is Deborah Hart, Promotion Director of Michigan's Travel Bureau.

COOPERATIVE MARKETING

The Great Lakes States have defined their primary markets as the United Kingdom, German-speaking countries and Japan. (Marketing strategies for Canada are handled by individual states.) As mentioned above, the states have collectively exhibited at travel trade shows in Europe and Japan. Other joint cooperative activities have included:

- Publications of a four-language brochure, 1982
- Sales Mission to Japan, 1984
- Production of a Great Lakes film for Japan, 1984
- Fly/drive package with Icelandair, 1985
- Publication of a Great Lakes Travel Planner in German and English with a price sheet, 1985
- Werner Schmidt coordinated a tour of the Great Lakes States for Meiers Welt Reisen's 1986 catalog
- Cooperative advertising for trade shows, 1985-86

SITUATION

To become more effective in attracting the international traveler requires great commitments of time, coordination and balance, more than any one state can provide or more than a representative committee can easily address. The projects of the home state are more immediate; the needs of the over all region take secondary priority.

The participating states believe in a growing need to position the Great Lakes region as a desirable vacation destination for international visitors. Since the international traveler may not be familiar with the Great Lakes states, individually, it appears more practical to promote this region as a large geographical area. By emphasizing accessibility through numerous points of entry, the international traveler will become acquainted with the vacation opportunities available, thus providing higher visibility for the area. Furthermore, the regional approach coincides with the United States Travel and Tourism Administration's (USTTA) promotional strategy of marketing the USA by region. Finally, it is more financially prudent to promote as a region than as a single state.

GOAL

The short-term goal of the Great Lakes Country USA is to work cooperatively to attract the more distant travelers and to continue to test new markets to increase travel in the region.

The member states of Great Lakes Country USA, therefore, are initiating a program during fiscal year July 1, 1986 to June 30, 1987 to coordinate the efforts of the states to bring balance and equity to the programs and to offer counsel to the Directors on proposed procedures and programs.

STRATEGY

AUDIENCE:

The primary audience for this program is the travel trade and the media. Directors agree that efforts directed at those audiences, will thereby increase consumer awareness.

MESSAGES:

Great Lakes Country USA offers World-class recreational opportunities to travelers. This region, as a whole, is not only easily accessible and affordable to the international traveler, but is also provides scenic and undiscovered surroundings that exemplify the core of Americana.

RESPONSIBILITIES

The following means should be used to implement the International Marketing Strategy for Great Lakes Country USA and would be the primary responsibilities for the consultant.

SPECIFIC PROJECTS:

Identify a sponsor for and coordinate and produce a fly/drive brochure, organize distribution and ad campaign and produce materials (e.g. posters).

Coordinate the details for the Great Lakes Country USA participation at the ITB and World Travel Market. This would include coordinating all details regarding booth space and set-up, as well as acquisition of new booth materials.

Coordinate all aspects of a 10-day sales mission to three cities in Germany and London, England for spring of 1987. (38 participants)

ON-GOING:

Function as accountant and bookkeeping agent for Great Lakes Country USA. He/she will invoice the state of Minnesota, as fiscal agent for Great Lakes Country USA. This will require monthly budget analyses and appropriate record-keeping functions.

Attend quarterly meetings of the International Marketing Directors, usually held in the region.

Make written recommendations to the International Marketing Directors on ways to increase the visibility and influence of the Great Lakes region in the international market.

Recommend in writing a public relations plan as a means to provide current information about Great Lakes Country USA to the international trade and media. Implementation will be subject to the Directors' subsequent approval.

BID PROCESS

The **total budget** for this program for Great Lakes Country USA will be \$96,500, consultant fees and project costs for the fiscal year including from July 1, 1986 to June 30, 1987. The \$96,500 fee is based on the following assumptions:

A) All consultant fees and expenses (i.e. travel, meals, phone calls, etc.) will be included in the contract amount.

B) Production costs of the fly-drive brochure (i.e. layout, design, printing and translation) are included in the contract amount. If sponsors are secured, production costs may be offset and money would be available for other uses.

C) Costs associated with the upgrade of two booths to be used at WTM/ITB and Jata. Fees for trade shows are *not* included in the total budget.

D) All costs of sales mission including receptions in all markets, audio visual presentations, sales kits and promotional items.

Proposal should include the following:

1. An estimate of the number of hours, broken out by project, necessary to carry out the responsibilities indicated above. Include on the bid recommendations specifics on how the fly/drive brochure and the trade mission to England and Germany would be coordinated.

2. An itemized recommendation of how budget should be allocated.

3. The name, background, and related international experience of the individual who will handle this account.

To give us better indication of your ideas and abilities, please include answers to the following questions in your proposal:

1. What do you suggest would be the most productive promotional projects/avenues for the Great Lakes Country USA to pursue?

2. What do you perceive as the potentials for the Great Lakes region in the international market, and why?

SELECTION PROCESS

All proposals must be submitted no later than July 18, 1986 at 5:00 p.m. eastern time. Eight (8) copies of the proposal should be enclosed (to be distributed to the interviewing and screening committee). Late proposals will not be accepted. Prices and terms of the proposal, as stated, must be valid for the length of the project. All bids must be signed in ink by authorized member of the firm.

Send proposals to:

Deborah Hart, Promotions Director
Michigan Travel Bureau
P.O. Box 30226
Lansing, MI 48909

Decisions for finalists will be made July 30, 1986. Further interviews, if necessary, will be held on August 4, 1986 in Chicago. The Great Lakes Country USA reserves the right to refuse any and all proposals.

Please direct all questions regarding this proposal to Deborah Hart at 517/373-0670.

SUPREME COURT DECISIONS

Decisions Filed Friday 20 June, 1986

Compiled by Wayne O. Tschimperle, Clerk

C3-85-2215 In the Matter of John Desmond. Court of Appeals.

Affirmed as modified. Wahl, J.

C3-85-805 White Bear Rod and Gun Club, petitioner, Relator v. City of Hugo. Court of Appeals.

Under the particular circumstances of this case, certiorari to the court of appeals will lie to review a narrow legal procedural issue involved in a city's denial of an amendment to a special use permit.

The city council having given no reasons or fact findings for its denial of a use permit amendment, the matter is remanded to the city council.

Both the city council under its zoning ordinance and the district court in an environmental rights action have jurisdiction, within their appropriate spheres of authority, to act on applicant's proposed use of its land.

Reversed and remanded. Simonett, J.

Concurring specially, Wahl, J.

C1-86-103 Louise Kulenkamp, Relator v. Pauline's of Shelard and American Druggist Insurance Company. Workers' Compensation Court of Appeals.

The Workers' Compensation Court of Appeals' finding that the employer and insurer were entitled to a credit for compensation paid employee between December 17, 1983, and August 9, 1984, is manifestly contrary to the evidence.

The compensation judge's finding that the employer and insurer were entitled to a credit for benefits paid employee between June 7 and September 3, 1984, has substantial support in the evidence, and the credit was authorized by Minn. Stat. § 176.179 (1984).

Reversed and remanded for reinstatement of the compensation judge's decision. Kelley, J.

C0-86-75 Darrel G. Christopherson and Shirley Christopherson, Relators v. Federal Land Bank of St. Paul. Polk County.

The language of Minn. Stat. § 583.03, subd. 2 (Supp. 1985) excluding from protection under the Mortgage Moratorium Act property encumbered by enumerated debts incurred after the May 24, 1983 effective date of the Act, is clear and unambiguous.

Affirmed. Coyne, J.

TAX COURT

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

State of Minnesota Tax Court: Regular Division

Order Dated: June 13, 1986

Docket Nos. 4471 and 4375

Alton E. Howe, Appellant, vs. Commissioner of Revenue, Appellee.

The above-entitled matter came on for hearing before the Honorable M. Jean Stepan, Judge of the Minnesota Tax Court, on April 30, 1986 at the Courtroom of the Tax Court in St. Paul, Minnesota.

Alton E. Howe, appellant, appeared on his own behalf.

Michele M. Owen, Special Assistant Attorney General, appeared for appellee.

The issue presented by this appeal is whether appellant was a resident of Minnesota during the 1981, 1982 and 1983 tax years.

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

FINDINGS OF FACT

1. Appellant Alton E. Howe was a resident of Minnesota continuously from 1956 through March, 1981.
2. In April, 1981, appellant moved to North Dakota but spent the winter months in Minnesota for the period of 1981 through 1983.
3. Appellant's income for the period January, 1981 to April, 1981 was reported on his 1981 Minnesota income tax return.
4. Appellant was employed full-time by the College of St. Thomas from November 1, 1975 to April 1, 1981. From the period April 1, 1981 through December 31, 1983, appellant was not employed in Minnesota.
5. During the years in questions, appellant's wife lived and worked in Hopkins, Minnesota. Appellant was at no time at issue legally separated from his wife.
6. During the years in question appellant maintained checking and savings accounts at First Bank Hopkins, Minnesota.
7. During the years in question appellant owned a one-half interest in a home in Hopkins, Minnesota, with his wife.
8. During the years in question, appellant owned an interest in farmland and a home in North Dakota.
9. Appellant claimed a homestead credit for the house in Hopkins, Minnesota.
10. During the years in question appellant maintained securities accounts in Minnesota at two separate brokerage firms.
11. Appellant owned a Visa card during the relevant period from the Bankcard Center, St. Paul, Minnesota.
12. During the relevant years appellant had a valid Minnesota driver's license.
13. Appellant owned four automobiles during the relevant years of which a family car and a camper van were registered in Minnesota. Two other trucks were registered in North Dakota.
14. Appellant paid premiums on a home insurance policy in Hopkins, Minnesota, in his name during the relevant years.
15. Appellant was registered to vote in Hopkins, Minnesota, during the relevant years.
16. During the relevant years appellant filed income tax returns in North Dakota.

CONCLUSIONS OF LAW

1. Appellant was a resident of the State of Minnesota during all of the 1981, 1982 and 1983 tax years.
2. The Orders of the Commissioner of Revenue dated May 25, 1985 and August 1, 1985, assessing additional income tax against appellant for the 1981, 1982 and 1983 tax years, are hereby affirmed.

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

DATED: 13 June, 1986.

BY THE COURT,
M. Jean Stepan, Judge
Minnesota Tax Court

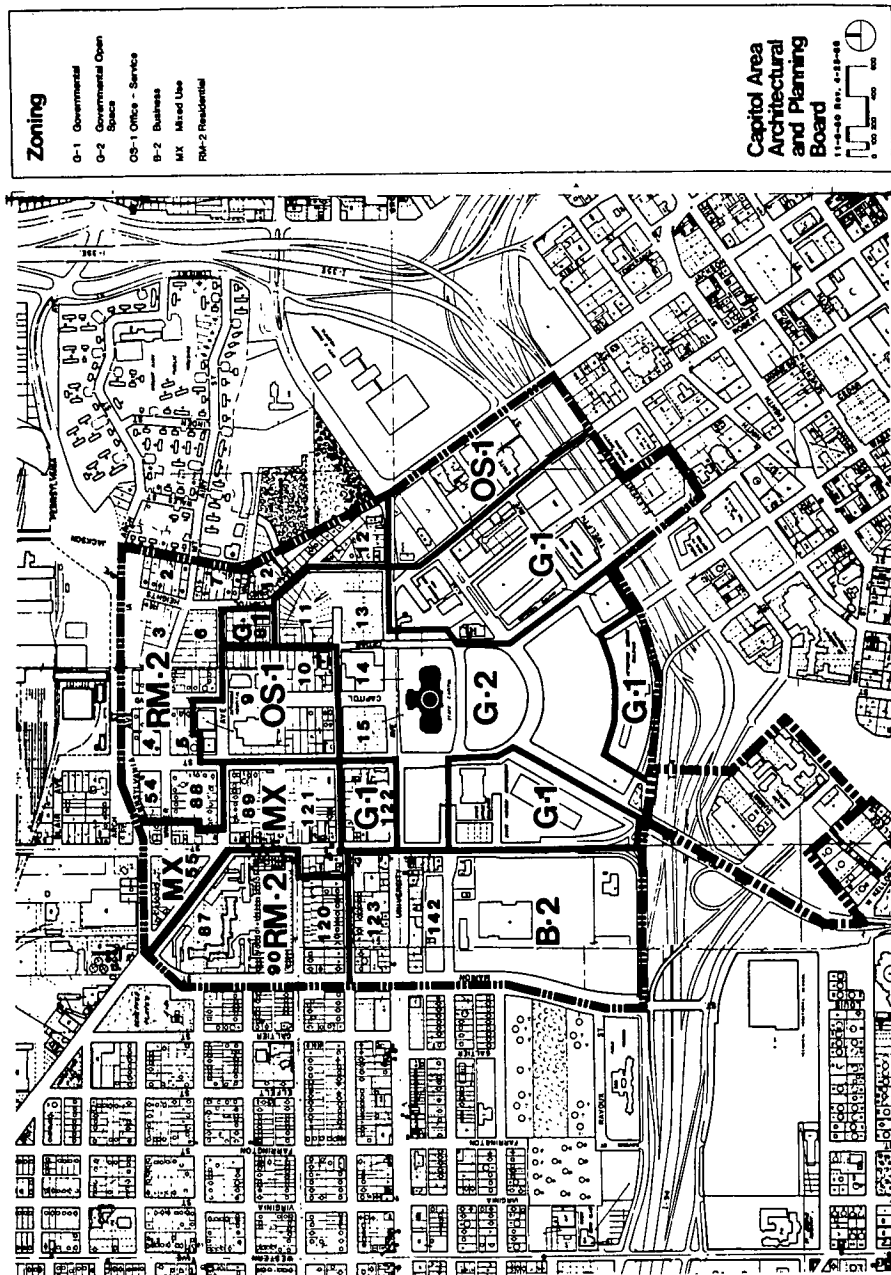
ERRATA

Capitol Area Architectural and Planning Board Proposed Rules Governing Zoning Districts for the Capitol Area

Incorrect Information Presented on the Official Zoning Map

The zoning map found on page 10 S.R. 2367 had incorrectly displayed a zoned district as B-1 rather than B-2. The map is reprinted here with the correction made.

Proposed Rules Governing Zoning Districts for the Capitol Area Incorrect Information Presented on the Official Zoning Map



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Airport Directory, 1986 Minnesota Department of Transportation (MnDOT). Compact and comprehensive. List of airports throughout the state. Includes approaches, detailed markings, elevation, latitude, longitude, repair potential and Public Seaplane Bases. Paperbound. 178 pp. Code #1-8. \$4.50.

Banking Laws Supplement 1985. Department of Commerce. Statutes governing banks, savings banks, trust companies and other financial institutions. Looseleaf. Code #2-76s1. \$5.00.

RELATED PUBLICATIONS:

Aeronautical Chart, 1983. Map of Minnesota (folded 7½" × 10¼"; open 31" × 25") showing all airports in the state. Airport data includes radio facilities. Code #1-10. \$2.00.

Pilot's Handbook of Aeronautical Knowledge, 1980, U.S. Department of Aeronautics. Essential pilot training. How to use (a) flight information publications; (b) the Aircraft Flight Manual and Pilot's Operation Handbook. Paperback. 257 pp. Code #16-28. \$10.00.

Banking Laws and Related Statutes, 1984. Department of Commerce. Complete basic text of state law. Looseleaf. Code #2-76. \$26.00.

Banking Rules 1985. Department of Commerce. Chapter 2675 from the Minnesota Rules containing the complete rules relating to loans, investments and banking procedures. Saddlestitched. Code #3-81. \$5.00.

Minnesota Guidebook to State Agency Services 1984-85. Department of Administration. A 623-page guide describing all agencies in the three branches of state government, listing services, maps, guides, reports available from each. Includes explanation of administrative rulemaking, legislative lawmaking, and judicial processes in state. Paperback. Code #1-4. \$12.50 plus 75¢ tax.

Minnesota Laws 1985. All laws passed in the Regular and Special Sessions. Code #18-3. \$37.00, plus \$2.22 tax.

Minnesota Rules 1985. 10-volume set. Code #18-200. Single volumes: \$13.00 plus 78¢ tax; Full set: \$125.00 plus \$7.50 tax.

Minnesota Rules 1986 Supplement Number 1. Code #18-200A. \$15.00 + 90¢ tax.

Minnesota Statutes 1985 Supplement. Pocket part supplement to Minnesota Statutes 1984. Code #18-7. \$25.00 plus \$1.50 tax.

State Register Index. Contains cumulative finding aids to Volume 9 of the *State Register*, including Minnesota Rules Amendments and Additions, Executive Orders list & index, Agency & Subject Matter indices. Code #13-9 SR INDEX. \$5.00.

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