

87, February 23

STATE OF MINNESOTA

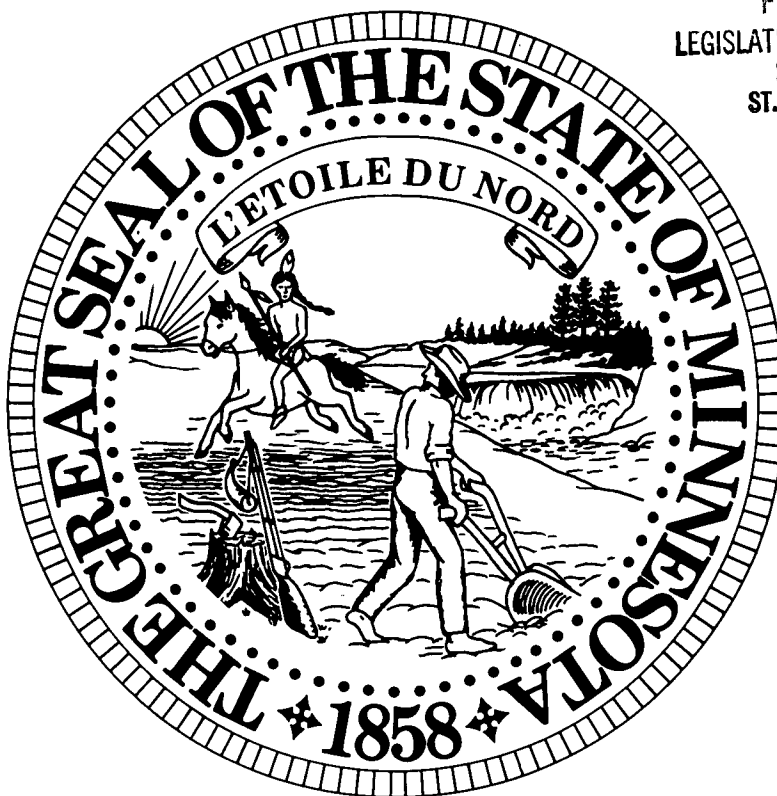
# STATE REGISTER

DEPARTMENT OF ADMINISTRATION—DOCUMENTS DIVISION

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Monday 23 February 1987

**VOLUME 11, NUMBER 34**

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# STATE REGISTER

## Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, official notices to the public, state and non-state public contracts, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

### Volume 11 Printing Schedule and Submission Deadlines

Vol. 11 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
34	Monday 9 February	Monday 16 February	Monday 23 February
35	Monday 16 February	Monday 23 February	Monday 2 March
36	Monday 23 February	Monday 2 March	Monday 9 March
37	Monday 2 March	Monday 9 March	Monday 16 March

\*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 State Register editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

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

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#### The **PROPOSED RULES** section contains:

- 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 requested by an agency.)
- 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 are included in a supplement published 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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Issue 26, cumulative for 1-26  
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Issue 39, cumulative for 1-39  
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# MINNESOTA RULES

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**EXECUTIVE ORDERS****Order #87-2 Providing for Establishment of an Allocation System for Obligations  
Subject to a Federal Volume Limitation Act**

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

WHEREAS, the Minnesota Legislature has passed and the Governor has signed and enacted Minn. Laws 1986, ch. 465 providing for a system of allocation of issuance authority for obligations subject to the Federal Volume Limitation Act; and

WHEREAS, Minn. Laws 1986, ch. 465, art. 1, § 11, subd. 9 defines Federal Volume Limitation Act to mean H.R. 3838 as adopted by the United States House of Representatives on December 17, 1985 or any other law of the United States that is effective after December 31, 1985 that imposes an annual volume cap, allocates the annual volume cap among various uses of the proceeds of obligation or among various issuers of the obligations or both, and allows the Governor or the State Legislature by law to provide for a different allocation of the annual volume cap among users and among issuers; and

WHEREAS, Minn. Laws 1986, art. 1, § 11, subd. 3 provides that if the annual volume cap in a Federal Volume Limitation Act which becomes law is less than the annual volume cap that existed in prior law, the Department of Energy and Economic Development shall adjust the calculations of the allocations available except that the amount reserved for qualified 501(c)(3) bonds may only be adjusted by the action of the Governor pursuant to Minn. Laws 1986, ch. 465, art. 1, § 27; and

WHEREAS, Minn. Laws 1986, ch. 465, art. 1, § 27 provides that if a Federal Volume Limitation Act is enacted into law in a form different than that existing under prior law which eliminates or adds

## EXECUTIVE ORDERS

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any requirement that a specific type of obligation is subject to a volume limitation that is inconsistent with the allocation mechanism provided for in Minn. Laws 1986, ch. 465, art. 1, §§ 9-29 the Governor may, consistent with the federal volume limitation as enacted, by executive order or proclamation, establish such revisions to the allocation system as may be necessary and appropriate and which the Governor, in consultation with the Legislative Advisory Commission and the Attorney General, determines are most consistent with the purposes of and the allocation mechanism provided for in Minn. Laws 1986, ch. 465 §§ 9-29; and

WHEREAS, any executive order made by the Governor pursuant to Minn. Laws 1986, ch. 465, art. 1, § 27 must comply with the requirements set forth in that section; and

WHEREAS, the House and the Senate have adopted and the President has signed the Tax Reform Act of 1986; and

WHEREAS, the Tax Reform Act of 1986 imposes an annual volume cap, allocates the annual volume cap among various uses for which the proceeds of the obligations may be used or among various issuers of obligations or both, and allows the Governor or the State Legislature to provide for a different allocation of the annual volume cap among users and among issuers; and

WHEREAS, section 146 of the Tax Reform Act of 1986 reduces the annual volume cap to the greater of \$75 per capita or 250 million dollars; and

WHEREAS, 501(c)(3) bonds are excluded from the annual volume cap in the Tax Reform Act of 1986; and

WHEREAS, I as Governor of the State of Minnesota in consultation with the Legislative Advisory Commission and the Attorney General, have determined that certain provisions of the Tax Reform Act of 1986 are inconsistent with the allocation mechanism provided for in Minn. Laws 1986, ch. 465, art. 1, §§ 9-29;

NOW, THEREFORE, I HEREBY ORDER THAT:

1. Since 501(c)(3) bonds are excluded from the volume cap under the Tax Reform Act of 1986, all allocations made pursuant to Minn. Laws 1986, ch. 465, art. 1, § 20 are cancelled. The provisions of section 20 are no longer in force and effect and any unrefunded deposit made with the Department of Energy and Economic Development under section 20 shall be refunded.

2. Allocations of the annual volume cap under existing federal tax law pursuant to Minn. Laws 1986, ch. 465, art. 1, are cancelled except to the extent obligations have been issued under such allocations and any unrefunded deposits required with an application for an allocation under the Federal Volume Limitation Act at the option of the issuer.

3. The schedule set forth below for available issuance authority as of October 22, 1986, under section 146 of the Tax Reform Act of 1986 and all subsequent adjustments heretofore made to the schedule for such available issuance authority in accordance with Minn. Laws 1986, ch. 465, art. 1 is hereby ratified and approved; and all subsequent determinations and adjustments made to the schedule of such available issuance authority in accordance with Minn. Laws 1986, ch. 465, art. 1 shall serve as available issuance authority for purposes of section 146 of the Tax Reform Act of 1986 as of the date the schedule is so determined or adjusted.

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**EXECUTIVE ORDERS****ANNUAL VOLUME CAP**

		\$ 314,475,000
<u>Entitlement</u>	<u>Qualified</u>	<u>Any Other</u>
<u>Issuers</u>	<u>Mortgage Bonds</u>	<u>Obligations</u>
Dept. of Finance	\$	\$ 7,500,000
DEED		9,000,000
I.R.R.R.B.		10,000,000
MHFA		42,500,000
City of Minneapolis	16,000,000	15,621,537
City of St. Paul	8,500,000	19,854,544
City of Moorhead		1,890,000
Subtotals	\$ 24,500,000	\$ 106,366,081
<u>Competitive Pool</u>		6,708,919

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

IN TESTIMONY WHEREOF I have set my hand this thirtieth day of January, 1987.



RUDY PERPICH  
GOVERNOR

**Executive Order #87-3 Amending Executive Order No. 83-35 Providing for the Establishment of the Governor's Council on Youth**

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

WHEREAS, Executive Order No. 83-35 was issued on August 17, 1983, providing for the establishment of the Governor's Council on Youth; and

WHEREAS, it is necessary to amend Executive Order No. 83-35 by amendment to and addition of clauses;

NOW, THEREFORE, I hereby order that:

1. Paragraph 1.1 be amended to read as follows:

1.1 The Commissioner of Education shall appoint each member of the Council and designate a member to serve as chair. Non-youth council members shall have a demonstrated interest in the issues of and services for youth. Furthermore, one such member shall be appointed from each congressional district in Minnesota, and two shall be at large.

Paragraph 2 is amended to read as follows:

2. The Council may seek funding and resources from private as well as public agencies. An interagency agreement may be negotiated by the Minnesota Department of Education with other state

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agencies serving youth that are authorized to enter into such interagency agreements to provide additional support needed by the Council.

A paragraph numbered 2.1 is added as follows:

2.1 The Minnesota Department of Education is authorized to receive and administer legislative appropriations and funds from other sources to support, coordinate, and implement the activities and programs of the Council.

Paragraph 4 is amended to read:

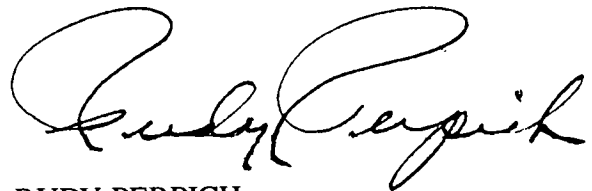
4. If funds are available therefore, the Commissioner of Education may provide staff to assist the Council with implementation of its functions and duties.

Paragraph 5 is amended to read:

5. All Members' terms shall be one year in duration beginning on July 1 of each new year and ending on June 30 of the following year.

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

IN TESTIMONY WHEREOF I have set my hand this fourth day of February, 1987.



RUDY PERPICH  
GOVERNOR

# PROPOSED RULES

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

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

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

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

## Department of Jobs and Training

### Proposed Permanent Rules Relating to Youth Employment Opportunities

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

Notice is hereby given that the State Department of Jobs and Training intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, section 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, sections 268.33 which provides the Department with emergency and permanent rulemaking authority to implement sections 268.31 to 268.36.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. 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 in writing. 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 requests for a public hearing must be submitted to:

Kay Tracy  
Youth Programs Coordinator  
State Job Training Office  
690 American Center Building  
150 East Kellogg Blvd.  
St. Paul, MN 55101  
(612) 296-6064

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

A copy of the proposed rule follows this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Kay Tracy at the above address.

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

**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

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 Kay Tracy at the above address.

Because the proposed rule will have no effect on small business, section 14.115 of the APA does not apply.

Joe Samargia, Commissioner  
Department of Jobs and Training

### Rules as Proposed

#### 3300.0200 PURPOSE AND STATUTORY AUTHORITY.

Parts 3300.0100 to 3300.0700, ~~adopted pursuant to Minnesota Statutes, section 268.33 are designed to establish a procedure for the allocation of funds under govern the administration of the Youth Employment Opportunities program as authorized by the Youth Employment Act of 1977, Minnesota Statutes, sections 268.31 to 268.36, and to establish contracting, operating, and invoicing procedures to be utilized in the expenditure of the funds.~~

#### 3300.0300 ALLOCATION OF FUNDS.

Subpart 1. **Allocations to counties.** The commissioner shall allocate funds available under the act as follows:

A. [Unchanged.]

B. Fifty percent of the funds available under the act shall be allocated to counties according to each county's share of the estimated youth population of the state which is from the ages of 14 years up to but not including 22 years, adjusted for:

(1) historic summer unemployment rates in the county as evidenced by official labor force estimates for the months of June, July, and August for the most recent three-year period for which such data is available; ~~and~~

(2) the county's poverty ratio based upon the percent of children from five to 17 years of age living in families below the poverty line as evidenced by the most recent United States Census figures as adjusted by reference to more recent population surveys, provided that reference to more recent population surveys shall be made only if such data is available for all counties in the state; ~~and~~

(3) the migration of postsecondary school students between counties, where they are counted by the census in March and April, to their home counties where the program is active during the June to September period.

C. The mathematical statement of the allocation to counties is given below:

$$A_i^c = 0.5 (F) \frac{Y P_i^c}{\sum_{i=1}^{87} Y P_i^c} \\ + 0.5 (F) \frac{(Y P_i^c)(U_i^c)(P_i^c)(C_i^c)}{\sum_{i=1}^{87} [(Y P_i^c)(U_i^c)(P_i^c)(C_i^c)]} \\ \text{and } C_i^c = \left[ 1 - \frac{1.5(SC_i^c)}{Y P C_i^c} \right]$$

where:

(1)  $A_i^c$  = total dollar allocation to the  $i^{\text{th}}$  county;

(2)  $F$  = total funds available for allocation;

(3)  $Y P_i^c$  = youth population 14 to 21 years of age in the  $i^{\text{th}}$  county, determined by interpolation for the current year from projections of the state demographer;

(4)  $U_i^c$  = most recent three-year average of official labor force unemployment for the months of June, July, and August for the  $i^{\text{th}}$  county;

(5)  $P_i^c$  = percent of all families with income below the poverty level and with related children five to 17 years of age as evidenced by the most recent United States census or more recent population surveys as referenced in subpart 2, item B;

(6)  $C_i^c$  = the adjustment factor due to the timing of the census in March and April to account for residency flows of postsecondary school enrolled students between their home county and that of school location;

(7)  $SC_i^c$  = count of number of students 20 and 21 years of age enrolled in school in the  $i^{\text{th}}$  county as evidenced in the most recent United States census; and

(8) YPC<sub>i</sub> = youth population 14 to 21 years of age of the i<sup>th</sup> county as evidenced in the most recent United States census.

Subp. 2. [Unchanged.]

### **3300.0400 CONTRACTING.**

The commissioner may enter into contracts for operation of the program with organizations enumerated in part 3300.0100, subpart 4. Selection of contractors ~~with experience in administering summer youth employment programs~~ will be determined by the commissioner ~~taking into consideration recommendations made by local service units. The commissioner may also consider recommendations by other organizations with experience in operating summer youth programs.~~ Consideration will be given to contractors with experience in administering summer youth employment programs and to those who have demonstrated efforts to coordinate state and federal summer youth programs locally.

### **3300.0500 OPERATION PROCEDURES.**

Subpart 1. **Regular program.** Youths who are at least 14 years of age but less than 22 years of age at the time they are to begin employment under the program established by the act are eligible for program employment. Approximately ~~50~~ 60 percent of the youths hired should be from families which meet the definition for economically disadvantaged as established under Public Law Number 97-300, section 4. If there are insufficient eligible youths from economically disadvantaged families available for employment to meet this goal within an area under the jurisdiction of a contractor which has received an allocation under part 3300.0300, and the contractor certifies such insufficiency to the department and the department concurs, the criteria shall be waived with respect to the funds allocated to the area. Hereinafter, this portion of the program is referred to as the "regular program."

Subp. 2. **Postsecondary program.** Notwithstanding subpart 1, at least 33-1/3 percent of the funds allocated to the area served by the contractor are to be used to hire youths who are at least 18 years of age, or a high school graduate, but less than 22 years of age who are certified by the department as intending to enroll or are enrolled in a postsecondary educational institution. Approximately ~~50~~ 60 percent of the youths hired should be from families which meet the definition for economically disadvantaged as established under Public Law Number 97-300, section 4. If there are insufficient eligible youths from economically disadvantaged families available for employment to meet this goal within an area under the jurisdiction of a contractor which has received an allocation under part 3300.0300, and the contractor certifies such insufficiency to the department and the department concurs, the criteria shall be waived with respect to the funds allocated to the area. Hereinafter, this portion of the program is referred to as the "postsecondary program." A partial waiver from this part may be obtained in accordance with part 3300.0700.

Subp. 3. **Eligible youth.** ~~To obtain Recruitment of eligible youths; contractors must place job orders with~~ shall be a cooperative effort between the department and ~~may employ only those youths referred by the department~~ the local contractors selected to deliver the program.

Subp. 4. [Unchanged.]

Subp. 5. **Supervisors.** A contractor may designate one eligible youth as supervisor for every ten youths in its employ under the act. Contractors who employ at least five but less than ten youths may designate one youth as a supervisor. Youths designated as supervisors shall be paid the federal minimum wage plus ~~25~~ 65 cents per hour for up to 40 hours per week for a period not exceeding 12 weeks.

Subp. 6. **Employment of eligible youth.** ~~Upon signing a contract~~ Contractors may begin employing eligible youths referred by the department; however, upon signing the contract. No youth may be employed while attending school as a full-time student. ~~No youth may, nor~~ be employed beyond September 30 of each calendar year.

### **3300.0601 SUPPORT SERVICES.**

~~Using funds allocated under the act;~~ Contractors shall provide or arrange for support services ~~for to~~ eligible youth, using funds allocated under this act. The cost of the support services must not exceed ten percent of the contract. The services may include transportation, meals, career information training, work-related protective devices, and other normal expenses associated with employment funded under the act. Contractors shall not be required to provide support services to eligible youth when funds received under the act have been exhausted.

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## PROPOSED RULES

### Department of Labor and Industry Occupational Safety and Health Division

#### Proposed Revisions to the Occupational Safety and Health Standards

##### Request for Comments

Notice is hereby given that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) proposes to adopt the following revisions to the Minnesota Occupational Safety and Health Standards, as authorized under Minnesota Statutes § 182.655 (1986) amending the Occupational Safety and Health Standards that have already been proposed and adopted by the federal Occupational Safety and Health Administration (Federal OSHA).

Complete copies of the specific revisions are available by writing: Occupational Safety and Health Division, Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101; or by calling (612) 297-3254.

Interested persons are hereby afforded a period of 30 days to submit written data or comments on the described standards. Any interested person may file with the Commissioner written objections to the proposed standards stating the grounds for those objections. Such person may request a public hearing on those objections.

Ray Bohn  
Commissioner of Labor & Industry

##### Standards as Proposed

**5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.** The Minnesota Department of Labor and Industry, Occupational Safety and Health standards and rules are amended by incorporating and adopting by reference, and thereby making a part thereof, Title 29, of the Code of Federal Regulations as follows:

Part 1910—Occupational Safety and Health Standards as published in Volume 43, No. 206 of the *Federal Register* on October 24, 1978 and corrected in Volume 43, No. 216 on November 7, 1978 which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes made prior to ~~August 4, 1986~~ December 31, 1986:

*Federal Register*, Vol. 51, No. 181, dated September 18, 1986—"Commercial Diving Standard; Technical Amendments to Final Rule (1910.430)."

*Federal Register*, Vol. 51, No. 182, dated September 19, 1986—"Accident Prevention Tags, Amendment to Final Rule (1910.145)."

*Federal Register*, Vol. 51, No. 188, dated September 29, 1986—"Recordkeeping Requirements for Tests, Inspections, and Maintenance Checks (1910.68, 1910.106, 1910.157, 1910.179, 1910.180, 1910.181, 1910.217, 1910.218, 1910.252, and 1910.440)."

*Federal Register*, Vol. 51, No. 201, dated October 17, 1986—"Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite; Partial Administrative Stay of Final Rules and Redesignation and Amendment of Final Rule (1910.1101)."

*Federal Register*, Vol. 51, No. 244, dated December 19, 1986—"Hazardous Waste Operations and Emergency Response, Interim Final Rule (1910.120)."

Part 1915—Occupational Safety and Health Standards for Shipyard Employment as published in Volume 47, No. 76 of the *Federal Register* on April 20, 1982; and subsequent changes made prior to December 31, 1986:

*Federal Register*, Vol. 51, No. 188, dated September 29, 1986—"Recordkeeping Requirements for Tests, Inspections, and Maintenance Checks; Final Rule (1915.113 and 1915.172)."

**Summary of Standards:** The following summary of the proposed standards is very brief; persons interested in reviewing the entire standard may obtain a copy at the address noted above.

A) "Commercial Diving Standard; Technical Amendments to Final Rule." On September 18, 1986, Federal OSHA published an amendment to paragraph (e)(1) of 29 CFR 1910.430 which corrects a reference to the OSHA standards on compressed gas cylinders and equipment. Section 1910.430(e)(1) requires that compressed gas cylinders be designed, constructed and maintained in accordance with the applicable provisions of §§ 1910.166 through 1910.171. Because §§ 1910.166 through 1910.168 have been revoked, with their coverage being continued in § 1910.101, it is necessary to correct § 1910.430(e)(1) to reference § 1910.101 instead of §§ 1910.166 through 1910.168. This is a minor amendment which corrects an inaccurate reference in the diving standard and makes no substantive change in the requirements of the standard.

By this notice, Minnesota OSHA proposes to adopt this correction to 29 CFR 1910.430(e)(1) as published in the *Federal Register* on September 18, 1986.

B) "Accident Prevention Tags; Final Rule." On September 19, 1986, Federal OSHA published an amendment to its standards for



Accident Prevention Tags, 29 CFR 1910.145(f), which addresses the temporary marking of workplace hazards, to establish performance criteria for tag design and construction. The amended standard allows employers to use pictographs, words or a combination of both in addition to the signal word or words currently used, provides that the signal word or words of all accident prevention tags be capable of being read at a distance of five feet (1.5 m) and requires the employer to use, as a minimum, a two-tier hazard classification system with the signal words "Danger" or "Caution" on accident prevention tags. This amendment also regulates the design and application of the biological hazard tag.

The amended standard is intended to provide the employer with more flexibility in the use of accident prevention tags as temporary hazard identification devices in the workplace, while maintaining the protection provided by the current regulations. Employers will be able to use a wide variety of "major messages" on their accident prevention tags to improve safety through greater employee awareness of hazards in the workplace.

By this notice, Minnesota OSHA proposes to adopt the amendments to 29 CFR 1910.145(f) as published in the *Federal Register* on September 19, 1986.

C) "Recordkeeping Requirements for Tests, Inspections, and Maintenance Checks, Final Rule 29 CFR Parts 1910 and 1915." On September 29, 1986, Federal OSHA published final rules which revise certain recordkeeping requirements to minimize the paperwork burdens imposed on employers. These final rules eliminate certain requirements under which an employer must prepare and maintain detailed records. The revised provisions require, instead, that the employer simply prepare a certification record, at the time the required work is done, which includes the date the test, inspection, or maintenance check was performed; the signature of the person who performed the work; and the identity of the equipment or machinery that was inspected or tested. In addition, OSHA is revoking two recordkeeping requirements. OSHA has determined that the implementation of the final rule will minimize the paperwork burden on employers, as required by the paperwork Reduction Act of 1980, without reducing the protection of employee safety and health. Standards amended by this notice are:

1910.68(e)(3)—Inspection of Manlifts

1910.106(g)(1)(i)(g)—Inventory of Service Station Storage Tanks [Revoked]

1910.157—Hydrostatic Testing of Fire Extinguishers

1910.179(j)(2)(iii)—Inspection of Hooks on Overhead and Gantry Cranes

1910.179(j)(2)(iv)—Inspection of Hoist Chains/Overhead and Gantry Cranes

1910.179(m)(1); 1910.180(g)(1) and 1910.181(g)(1)—Inspection of Running Ropes on Cranes and Derricks

1910.179(m)(2), 1910.180(g)(2) and 1910.181(g)(3)—Inspection of Idle Ropes on Cranes and Derricks

1910.180(d)(6)—Inspection of Critical Items on Crawler, Locomotive, and Truck Cranes

1910.217(e)(1)(i)—Inspection of Power Presses

1910.217(e)(1)(ii)—Inspection of Test of Power Press Components

1910.218(a)(2)(i)—Inspection of Forging Machines

1910.218(a)(2)(ii)—Inspection of Guards and Point of Operation Devices on Forging Machines

1910.252(c)(6)—Inspection of Welding Equipment

1910.440(a)(1)—Diving Records [Revoked]

1915.113(b)(1)—Testing of Hooks

1915.172(d)—Inspection and Tests of Unfired Pressure Vessels

By this notice, Minnesota OSHA proposes to adopt the amendments to the standards noted above as published in the *Federal Register* on September 29, 1986.

D) "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite; Partial Administrative Stay of Final Rules and Redesignation and Amendment of Final Rule." The revised final standard for occupational exposure to asbestos, tremolite, anthophyllite and actinolite for general industry (1910.1001) and construction (1926.58) were adopted by Minnesota OSHA on November 10, 1986 (11 S.R. 867). This adoption included the partial administrative stay of the revised standard for non-asbestiform tremolite,

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anthophyllite and actinolite which had been granted by Federal OSHA for a nine-month period due to expire on April 21, 1987. The stay was granted for the purpose of reopening the record, reviewing new submissions, and conducting supplemental rulemaking limited to the issue of whether non-asbestiform tremolite, anthophyllite and actinolite should continue to be regulated in the same standards and to the same extent as asbestos, or should be treated in some other way. During the period of the stay, the 1972 standard governing occupational exposure to asbestos will remain in effect with respect to regulation of non-asbestiform tremolite, anthophyllite and actinolite.

To clarify the application of the 1972 standard to non-asbestiform tremolite, anthophyllite and actinolite, and to distinguish it from the newly revised § 1910.1001, Federal OSHA published a notice redesignating the 1972 standard as § 1910.1101. The provisions of the 1972 standard which constituted an Emergency Temporary Standard for Asbestos issued in November 1983 were deleted and a note was added to clarify the scope and application of the redesignated § 1910.1101. No other changes were made in the 1972 standard.

By this notice, Minnesota OSHA proposes to adopt redesignated § 1910.1101 to apply to non-asbestiform tremolite, anthophyllite and actinolite as published in the Federal Register on October 17, 1986.

E) "Hazardous Waste Operations and Emergency Response; Interim Final Rule." On December 19, 1986, Federal OSHA published an interim final rule which amended the OSHA standard for hazardous materials in Subpart H of 29 CFR Part 1910 by adding a new § 1910.120 containing employee protection requirements for workers engaged in hazardous waste operations including emergency response to hazardous substance incidents.

The interim rule covers employees involved in responses covered by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (CERCLA or "Superfund" Act) [Pub. L. 96-510, 42 U.S.C. 9601 et seq, 94 Stat. 2767] such as clean-up of hazardous waste sites, certain hazardous waste operations conducted under the Resource Conservation and Recovery Act of 1976 as amended (RCRA) [Pub. L. 94-580, 42 U.S.C. 6901 et seq, 90 Stat 2795], and emergency response to incidents involving the handling, processing and transportation of hazardous substances. This interim final rule is mandated by section 126(e) of the "Superfund Amendments and Reauthorization Act of 1986" (SARA) [Pub. L. 99-499]. Thus, this standard covers hazardous waste clean-up operations at CERCLA sites, RCRA sites, emergency response sites and those sites designated by State or local governments. It will also cover other hazardous waste operations, such as storage, disposal or treatment of hazardous waste at RCRA facilities. Emergency response employees who respond or will respond to incidents involving hazardous substances are also covered by this rule. The interim final rule does not apply to small quantity generators, employers who have less than 90 days of hazardous waste accumulation, and solid waste disposal operations which do not involve hazardous waste. Also, employees at hazardous waste sites who will not be exposed or do not have the potential to be exposed to hazardous substances are not covered by this final rule. The interim rule will remain in effect until a permanent standard is adopted.

The rule follows the guidance manual developed jointly by OSHA, the Environmental Protection Agency (EPA), the National Institute for Occupational Safety and Health (NIOSH) and the U. S. Coast Guard on hazardous waste site activities. Different provisions of the standard apply to clean-up operations, regular hazardous waste operations, and emergency response to take into account relevant differences in these operations. Most of the requirements apply to clean-up activities of hazardous substances or hazardous wastes at CERCLA sites, corrective actions at RCRA sites, and clean-up operations of hazardous substances at emergency incidents after emergency response personnel have concluded their duties. Since this interim rule does not cover all hazards present at hazardous waste operations, employers must also comply with other applicable standards in 29 CFR Parts 1910 and 1926, as well as with the requirements specifically covered in the interim final rule. If there is a conflict or overlap, the more protective provisions are to apply. General requirements of the rule include:

1. Development by each hazardous waste site employer of a safety and health program designed to identify, evaluate, and control safety and health hazards, and provide for emergency response.
2. A preliminary evaluation of the site's characteristics prior to entry by a trained person to identify potential site hazards and to aid in the selection of appropriate employee protection methods. Included would be all suspected conditions immediately dangerous to life or health, or which may cause serious harm.
3. Implementation of a site control program to prevent contamination of employees. At a minimum it must have a site map, site work zones, site communications, safe work practices, and identification of the nearest medical assistance. Also required is the use of a "buddy system" as a protective measure in particularly hazardous situations so that employees can keep an eye on one another to provide quick aid if needed.
4. Training of employees before they are allowed to engage in hazardous waste operations that could expose them to safety and health hazards. However, experienced workers will be allowed to continue operations and then given refresher courses when appropriate. Specific training requirements are listed for cleanup personnel, equipment operators, general laborers and supervisory employees. Persons completing the training specified shall be certified; those not certified nor with proper experience will be prohibited from engaging in those operations specified by the standard.

5. Medical surveillance at least annually and at the end of employment of all employees exposed to any particular hazardous substance at or above established exposure levels and/or those who wear approved respirators for 30 days or more on site. Such surveillance also will be conducted if a worker is exposed by unexpected or emergency releases.

6. Engineering controls, work practices, and personal protective equipment, or a combination of these methods, must be implemented to reduce worker exposure below established exposure levels for the hazardous substances involved.

7. Air monitoring to identify and quantify levels of hazardous substances with periodic monitoring to assure the proper protective equipment is being used.

8. An informational program (safety and health plan for the site) which includes the names of key personnel responsible for site safety and health, risk analyses, employee training assignments, lists of needed personal protective equipment, plus the remaining requirements outlined in § 1910.120(i).

9. Implementation of a decontamination procedure before any employee or equipment may leave an area of potential hazardous exposure; operating procedures to minimize exposure through contact with exposed equipment, other employees, or used clothing; and showers and change rooms where needed.

10. An emergency response plan to handle possible on-site emergencies prior to beginning hazardous waste operations. Such plans must address personnel roles, lines of authority, training and communications, emergency recognition and prevention, safe places of refuge, site security, evacuation routes and procedures, emergency medical treatment, and emergency alerting.

11. An off-site emergency response plan to better coordinate emergency action by the various local services and to implement appropriate control action.

By this notice, Minnesota OSHA proposes to adopt the interim final rule, § 1910.120 (including the startup dates noted in the rule), as published in the Federal Register on December 19, 1986.

## **Peace Officers Standards and Training Board**

### **Proposed Rules Relating to Licensing**

#### **Notice of Intent to Adopt Rules without a Hearing**

Notice is hereby given that the Minnesota Board of Peace Officer Standards and Training (POST) is proposing to adopt the above entitled rules without a public hearing. The Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. 14.21 through 14.28.

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

If 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the portion of the proposed rule addressed, the particular objection, the suggested modifications, and the evidence, reasons or data relied upon to support the suggested modifications are requested. Any persons requesting a public hearing should state his or her name and address. In the event a public hearing is required, POST will proceed according to the provisions of Minn. Stat. 14.131 through 14.20.

Persons who wish to submit comments or a written request for a public hearing or persons who wish to receive a free copy of this notice and/or a free copy of the proposed rules, should address their correspondence to the address below:

Mark K. Shields  
POST Board  
333 Sibley Street, Suite 495  
St. Paul, MN 55101

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The Board's authority to adopt the proposed rules is contained in Minn. Stat. 214.10, 214.12, 626.843, Subd 1, and 626.845, Subd. 1(i). 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 board upon request.

You are advised, pursuant to Minn. Stat. 14.115, "Small business consideration in rulemaking," that the proposed rules will not have an impact on small business in Minnesota. Also, pursuant to Minn. Stat. 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 final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the date of submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request for the same to the above address.

Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying.

Minn. Stat. 10A.01, Subd. 11, defines a lobbyist as any individual: engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions as to this requirement should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, MN 55101. Telephone: (612) 296-5615.

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

Mark K. Shields, Executive Director  
Minnesota Board of Peace Officer  
Standards and Training

### Rules as Proposed

#### 6700.0100 DEFINITIONS.

Subpart 1. to 20. [Unchanged.]

Subp. 21. Conviction of a felony. "Conviction of a felony" means that a person has been charged with a crime punishable by more than one year and that the person was convicted of that crime regardless of a stay of imposition or stay of execution.

#### ~~6700.0500 PEACE OFFICER PREEMPLOYMENT EDUCATION~~ ACADEMIC AND SKILLS LICENSING EXAMINATIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. [See Repealer.]

~~Subp. 5. Peace officer licensing examination~~ Reinstatement of eligibility. Upon successful completion of the required ~~peace officer licensing examination~~ academic and skills licensing examinations, a person is eligible for licensure as a peace officer for three years. If the person is not licensed after three years, the person may reinstate his eligibility by passing the appropriate licensing examination. The executive director shall determine what examination is appropriate based on the substantive changes in law and police practices.

#### 6700.0501 RECIPROCITY LICENSING EXAMINATION.

Subpart 1. Scope. For the purposes of this part, the terms defined have the meanings given to them.

Subp. 2. Basic police education. "Basic police education" means:

A. a basic course recognized by a state council, state commission, state board, or state agency which leads to licensing or basic certification as a law enforcement officer where the appointing authority is located; or

B. a basic course sponsored by the federal government for its law enforcement officers, including but not limited to, the basic Drug Enforcement Administration's agent school, the Federal Bureau of Investigation's basic agent school, or the Federal Law Enforcement Training Center's uniformed patrol course or basic investigators course.

Subp. 3. Law enforcement officer. "Law enforcement officer" means a person appointed or employed as a peace officer in another state, or a federal law enforcement employee, who has full powers of arrest, authority to carry a firearm, and is classified in a law enforcement position by the office of personnel management, not including any time served in the United States armed services.

**Subp. 4. Comparable preemployment education.** "Comparable preemployment education" means a total of ten points or more.

**A. Years of experience:**

- (1) one to five years, five points;
- (2) five years and one day to ten years, six points;
- (3) ten years and one day to 15 years, seven points;
- (4) 15 years and one day to 20 years, eight points;
- (5) 20 years and one day or more, nine points.

**B. Basic police education:**

- (1) 350 or more hours, five points;
- (2) 280 to 349 hours, four points;
- (3) 210 to 279 hours, three points;
- (4) 140 to 209 hours, two points;
- (5) 100 to 139 hours, one point;
- (6) less than 99 hours, zero points.

**C. Postsecondary degree, one point.**

**Subp. 5. Postsecondary degree.** "Postsecondary degree" means an academic title awarded by a postsecondary institution which is accredited by a member of the Council on Postsecondary Accreditation and authorized to award such titles including, but not limited to, Associate of Arts (A.A.) degrees, Associate of Science (A.S.) degrees, Bachelor of Arts (B.A.) degrees, Bachelor of Science (B.S.) degrees.

**Subp. 6. Years of experience.** "Years of experience" means the total number of years the applicant has been employed as a law enforcement officer since completing the basic police education course.

**Subd. 7. Qualifications.** A person who has comparable preemployment education, who has had one continuous year of employment as a law enforcement officer after completing basic police education, who has served as a law enforcement officer during the past six years, and who has not had a peace officer license, certificate, or the federal equivalent suspended or revoked shall qualify for the reciprocity examination.

**Subp. 8. Eligibility.** The eligibility for a person to take the reciprocity examination shall be void one year after qualifying for the examination. In order to reestablish eligibility, the person shall comply with subpart 7 and part 6700.0600.

**Subp. 9. License eligibility.** Upon successful completion of the reciprocity examination, a person is eligible for a peace officer license. If the person is not licensed after three years, the person may reinstate eligibility by passing the appropriate licensing examination. The executive director shall determine which examination is appropriate based on the substantive changes in law and police practice.

**Subp. 10. Applicability.** This part shall not apply to a person who holds a lapsed, revoked, or suspended peace officer license.

**6700.0601 EXAMINATION STANDARDS.**

**Subpart 1. Grounds for denial.** Violations of the following standards shall be grounds to deny an applicant to take an examination or to deny eligibility for a license.

- A.** making any false material statement to the board;
- B.** communicating with any other person in any way during an examination, except with the express permission of the monitor;
- C.** referring to books or any study material during the examination, except with the express permission of the monitor;
- D.** obstructing a board investigation;
- E.** without board authorization, possessing a copy of any of the board's examinations;

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F. aiding another person to violate items A to E;

G. having been convicted of a felony in any state or federal jurisdiction; or

H. having been convicted of any offense in any other state or federal jurisdiction which would have been a felony if committed in Minnesota.

**Subp. 2. Disciplinary proceedings.** Disciplinary hearings under this rule shall be conducted pursuant to Minnesota Statutes, section 214.10, subdivisions 2 to 5; parts 1400.5100 to 1400.8400; part 6700.1700; the Administrative Procedure Act, Minnesota Statutes, sections 14.01 to 14.69; and the rules of the Office of Administrative Hearings, chapter 1400. The requirement to notify the chief law enforcement officer shall be waived if the person does not currently possess a license.

**Subp. 3. Suspension or revocation of license.** If the board receives a complaint which alleges a violation of subpart 1 after the person receives a license, the board shall begin proceedings to suspend or revoke the license.

### 6700.0700 MINIMUM SELECTION STANDARDS.

**Subpart 1. Selection standards.** A person eligible to be licensed shall meet the following minimum selection standards prior to being appointed to the position of peace officer. The appointing authority may certify that the applicant has already completed certain of these standards, but certification must be documented pursuant to subpart 2.

A. to G. [Unchanged.]

H. An evaluation, including an oral interview, shall be made by a licensed psychologist to determine that the applicant is free from any emotional or mental condition which might adversely affect the performance of peace officer duties.

I. and J. [Unchanged.]

**Subp. 2. Documentation.** The chief law enforcement officer shall maintain documentation necessary to show completion of subpart 1, items A to J. The chief law enforcement officer is not required to obtain documentation for subpart 1, item I, if the applicant completed part 6700.0500, subparts 1 and 2, or subpart 3. The documentation is subject to periodic review by the board, and shall be made available to the board at its request.

Subp. 3. and 4. [Unchanged.]

### 6700.0701 NOTIFICATION OF CONVICTION.

If any background search required by parts 6700.0100 to 6700.1900 reveals a conviction of a felony, the conviction of a crime listed in Minnesota Statutes, section 214.10, subdivision 2a, or the conviction of a crime which was charged under an ordinance but would be a conviction under Minnesota Statutes, section 609.52, if it was charged under state law, the chief law enforcement officer shall immediately notify the board.

### 6700.0901 DEFINITIONS.

For the purpose of this part, the following words and phrases in this part have the meanings given.

**Subpart 1. Accreditation.** "Accreditation" means authority granted by the board to a school, agency, or association of agencies to approve courses for continuing education credit.

**Subp. 2. Continuing education coordinator.** "Continuing education coordinator" means a full-time employee appointed by the continuing education sponsor to manage the day-to-day activities of the accreditation program. The person shall have professionally recognized training and experience in adult education activities.

**Subp. 3. Continuing education sponsor.** "Continuing education sponsor" means a school, agency, or association of agencies which has received accreditation.

**Subp. 4. Disciplinary action.** "Disciplinary action" means one or more of the following: letter of censure to the course sponsor, probation of the course sponsor, or suspension or revocation of the accreditation.

### 6700.0902 ACCREDITATION.

**Subpart 1. Application form.** A school, agency, or association of agencies which seeks to become a continuing education sponsor shall submit a completed application on a form provided by the board. The application must include proof that the applicant has:

- (1) conducted a formal training needs assessment;
- (2) access to the necessary training facilities and equipment to carry out training activities;
- (3) a continuing education coordinator with adequate support staff; and
- (4) policies for the evaluation of each course conducted.

Subp. 2. Provisional accreditation. Upon review of the application, and having determined that the applicant has met the requirements listed in subpart 1, the board shall grant provisional accreditation.

Subp. 3. Accreditation. After the continuing education sponsor has completed a workshop on accreditation procedures and the board has completed an on-site evaluation of the continuing education sponsor, the board shall grant or deny accreditation. Final accreditation must be granted or denied within one year of the date on which provisional accreditation was granted.

Subp. 4. Continuing education coordinator duties. The continuing education coordinator shall have the following duties:

A. approve in the continuing education sponsor's courses pursuant to part 6700.0900, subpart 3, items E, F, and G;

B. calculating the number of continuing education hours for each course the continuing education sponsor approves pursuant to part 6700.0900, subpart 3, item H; and

C. maintaining lesson plans and instructor credentials for each course it sponsors including handout materials, attendance policy, and evaluations.

Subp. 5. Change of continuing education coordinator. The continuing education sponsor shall notify the board within ten days after the continuing education coordinator has left the position. If the position is not filled within 30 days of the position being vacated, the course sponsor shall not use the process prescribed by this part until the new continuing education coordinator is hired. If the continuing education sponsor applies for credit for a course when there is no continuing education coordinator, the continuing education sponsor shall submit the course for approval pursuant to part 6700.0900, subpart 3, item G. The continuing education sponsor shall provide the board the name of the new coordinator before the coordinator's first day of employment.

Subp. 6. Rosters. On a form supplied by the board, the continuing education coordinator shall submit a list of the names of the peace officers or constables who complete each course, each peace officer or constable license number, and the number of continuing education hours which are to be credited to each peace officer or constable. This form must be submitted no later than ten days after the class is completed.

Subp. 7. Course notices. The continuing education coordinator shall publish the following statement in all written notices which advertise a continuing education sponsor's course:

"Peace officers or constables who successfully complete this course will receive (maximum number of continuing education hours) hours of peace officer continuing education credit."

Subp. 8. Documentation. The continuing education coordinator shall maintain copies of the documents received in part 6700.0900, subpart 3, item C for five years. Copies of this documentation shall be made available to the board within five working days of the board's request for it. If compliance is not possible within that time, the continuing education coordinator shall inform the board within five working days of the board's initial request and shall have an additional five working days to comply with the request.

Subp. 9. Course statements. The continuing education coordinator or a designee of the coordinator shall read the following statement at the commencement of each class:

"The (name of the continuing education sponsor) is a continuing education sponsor as approved by the Board of Peace Officer Standards and Training. Peace officers and constables who successfully complete this course (name of the course) will receive (total number of hours) hours of continuing education. A course roster will be mailed to the POST Board no later than ten days after this course is completed. The roster will list the names, license numbers, and continuing education hours for those who successfully complete the course. Any questions about this course can be directed to (the name of the continuing education coordinator)."

Subp. 10. Violations. The board may take disciplinary action against a continuing education sponsor for any violation of this part by the sponsor or the continuing education coordinator. Also, disciplinary action may be taken when the continuing education sponsor, continuing education coordinator, or faculty does not cooperate with the board in the investigation of a violation of this part.

Subp. 11. Disciplinary proceedings. Disciplinary proceedings under this part shall be conducted pursuant to the Administrative Procedure Act, Minnesota Statutes, sections 14.01 to 14.69, and the rules of the Office of Administrative Hearings.

#### **6700.1101 PART-TIME PEACE OFFICERS.**

Subpart 1. to 6. [Unchanged.]

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

## PROPOSED RULES

Subp. 7. **Inactive status of part-time peace officer license.** The chief law enforcement officer shall notify the board within ten days of all voluntary or involuntary terminations of part-time peace officers. The notification shall include the name of licensee, licensee's forwarding address, unless the licensee requests that this information not be divulged, and date of termination.

An individual possessing a part-time peace officer license may maintain the license in inactive status provided that he or she meets the requirements of part 6700.1000, subpart 3.

An individual who is appointed to the position of a part-time peace officer within ~~one year~~ three years of the date when the individual's license was placed on inactive status is not required to comply with selection standards outlined in subpart 2, items A to C.

An individual who is appointed as a part-time peace officer more than ~~one year~~ three years after the date the individual's license was placed on an inactive status is required to ~~comply with~~ complete the selection standards outlined in subpart 2, items A to C, prior to his or her first day of employment. For compliance with this subpart, previously completed standards are not acceptable. The chief law enforcement officer shall maintain the documentation necessary to show compliance with this subpart. The documentation is subject to periodic review by the board and shall be made available upon request by the board.

Subp. 8. [Unchanged.]

### 6700.1201 CONSTABLES.

Subpart 1. to 6. [Unchanged.]

Subp. 7. **Inactive status of constable license.** The chief law enforcement officer shall notify the board within ten days of all voluntary or involuntary terminations of constables. The notification shall include the name of licensee, licensee's forwarding address, unless the licensee requests that this information not be divulged, and date of termination.

An individual possessing a constable license may maintain the license in inactive status provided that he or she meets the requirements of part 6700.1000, subpart 3.

An individual who is appointed to the position of a constable within ~~one year~~ three years of the date when the individual's license was placed on inactive status is not required to comply with selection standards outlined in subpart 2, items A to C.

An individual who is appointed as a constable more than ~~one year~~ three years after the date the individual's license was placed on an inactive status is required to ~~comply with~~ complete the selection standards outlined in subpart 2, items A to C, prior to his or her first day of employment. For compliance with this subpart, previously completed standards are not acceptable. The chief law enforcement officer shall maintain the necessary documentation to show compliance with this subpart. The documentation is subject to periodic review by the board and shall be made available upon request by the board.

Subp. 8. [Unchanged.]

### 6700.1400 INACTIVE STATUS OF PEACE OFFICER LICENSES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Selection standards.** An individual who is appointed to a law enforcement position within ~~one year~~ three years of the date the individual's license was placed on inactive status shall not be required to comply with selection standards outlined in part 6700.0700, subpart 1. An individual who is appointed to a law enforcement position more than ~~one year~~ three years after the date that individual's license was placed on inactive status shall be required to comply with selection standards as outlined in part 6700.0700, subpart 1 prior to his first day of employment. For compliance with this subpart, previously completed standards are not acceptable. The chief law enforcement officer shall maintain necessary documentation to show compliance with this subpart. The documentation is subject to periodic review by the board and shall be made available upon request by the board.

### 6700.1600 VIOLATION OF STANDARDS OF CONDUCT.

Violations of the following standards of conduct by a licensee shall be grounds for revocation, suspension, or nonrenewal of license:

A. to D. [Unchanged.]

E. any violation of a board rule set forth in parts 6700.0100 to 6700.1900; ~~or~~

F. any obstruction, hindrance, interference, or prevention of the execution of part 6700.1700; or

G. the conviction of a crime which was charged under an ordinance but which would be a conviction under Minnesota Statutes, section 609.52 if it was charged under state law.

**REPEALER.** Minnesota Rules, part 6700.0500, subpart 4, is repealed.



## ADOPTED RULES

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

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

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

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

## Department of Labor and Industry

### Adopted Permanent Rules Relating to Workers' Compensation; Insurance Verification

The rules proposed and published at *State Register*, Volume 11, Number 17, pages 737-739, October 27, 1986 (11 S.R. 737) are adopted with the following modifications:

#### Rules as Adopted

##### 5222.2001 CONTENTS OF NOTICE.

Subpart 1. **Form.** Notices relating to policy coverage shall be filed on forms prescribed by the commissioner or as provided in subpart 2. All ~~documents~~ notices submitted must be typewritten or machine printed, on computer magnetic tape in an approved format, or via telecommunications using an approved format and protocol.

Subp. 2. **Use of declaration sheets.** An insurer's policy declaration sheet or insurance binder may be used in place of forms prescribed by the commissioner if the declaration contains at least the following information:

##### 5222.2003 TIME FOR FILING NOTICE.

Subpart 1. **Policy issuance.** Notice of coverage must be filed by the insurer within ten days of issuance (effective date) of a policy or 20 days of issuance (effective date) of a binder or acceptance of an employer's application for insurance, whichever is earlier.

Subp. 4. **Failure to timely file.** ~~Where If an insurer fails to file a timely notice as required by this part, in five or more instances, the commissioner shall issue a warning letter advising it of its responsibilities under the law, and the effect of future noncompliance. If during the 30 days from the date of the warning letter any filing is not timely, the commissioner will, other than a notice of cancellation, termination, or expiration provided for in subpart 2, as required by parts 5222.2000 to 5222.2006 on five percent of all policies for which such notices are due in any calendar month, if greater than five notices, it shall be subject to the sanctions described below. If the commissioner determines that an insurer has exceeded this percentage on more than one occasion in any 12-month period, the commissioner shall issue a warning letter advising the insurer of its responsibilities under the law, and the effect of future noncompliance.~~

If the commissioner determines that an insurer has exceeded this percentage on more than two occasions in any 12-month period, the commissioner may require the insurer to provide to the commissioner a written description of the steps the insurer will take to implement changes in the insurer's notice filing procedures to prevent future untimely delays and periodic written reports as to the progress and success of the implementation of such procedures.

If the commissioner determines that an insurer has exceeded this percentage on more than four occasions in any 12-month period, the commissioner may in addition to the other actions identified in this subpart notify the Department of Commerce and request a review of the insurer's authority to write workers' compensation insurance in Minnesota. This provision subpart does not affect the insurer's continued liability on the policy, as determined by law, for failure to timely file.

**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.

# ANNOUNCEMENTS

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**ADMINISTRATION DEPARTMENT: DOCUMENTS DIVISION** State hiway maps from 1986 are being offered at more than a 60% reduction in price to make room for the 1987 state hiway map. Case lots are available only, with a minimum order of one case (200 maps) for \$39.95 plus tax and \$1.50 per order for shipping and handling. The map is folded 4½" × 7½" and opens to 38" × 26". Phone orders are accepted only with MasterCard/VISA. Great for conventions, workshops, sales force meetings, and program folder stuffers. Call (612) 297-3000 for more information.

**CAPITOL AREA LIBRARY ASSOCIATION (CALCO)** Celebration of the bicentennial of the U.S. Constitution will be observed at the State Capitol in St. Paul with a major exhibition, speakers and colorful opening ceremonies on Monday, March 30. The exhibit, including prints, broadsides, cartoons and maps, will be on display in the North Corridor of the Capitol from March 27-April 11. Two noontime lectures will also be presented free. On March 27 Frank Sorauf, professor of political science at the University of Minnesota, will speak on "The Miracle of Philadelphia," in Room 112 of the Capitol. On April 7, Paul Murphy, professor of history at the University of Minnesota, will speak on "The Living Constitution," also in room 112.

**NATURAL RESOURCES DEPARTMENT (DNR)** Now available is *The Minnesota State Parks Gift Catalog*. Issued by the state park system, it lists items needed at various parks and where the park is located. The catalog asks individuals or groups to pay for items by sending a check in the proper amount and saying what the money is for and the purchase is made in the name of the donor. For more information call 296-8396.

# OFFICIAL NOTICES

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Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

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

## State Board of Investment Investment Advisory Council

### Scheduled Meetings of the Board and Council

The State Board of Investment will meet on Wednesday, March 4, 1987 at 8:30 A.M. in Room 118, State Capitol, Saint Paul, MN.

The Investment Advisory Council will meet on Tuesday, March 3, 1987 at 2:00 P.M. in Conference Room "A", MEA Building, 41 Sherburne Avenue, Saint Paul, MN.

## Department of Labor and Industry

### Notice of Certified Prevailing Wage Rates

On February 1, 1987, the commissioner certified prevailing wage rates for commercial and highway/heavy construction projects in the following Minnesota counties: Aitkin, Becker, Beltrami, Carlton, Cass, Clay, Clearwater, Cook, Crow Wing, Hubbard, Itasca, Kittson, Koochiching, Lake, Lake of the Woods, Mahnommen, Marshall, Norman, Ottertail, Pennington, Polk, Red Lake, Roseau, St. Louis, Wadena, and Wilkin.

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

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

Ray Bohn, Commissioner  
Department of Labor and Industry

## **Metropolitan Waste Control Commission**

### **Public Notice for Prequalifications for MWCC Projects**

Notice is hereby given that the Metropolitan Waste Control Commission is soliciting prequalifications for engineering services for the following:

Blue Lake WWTP Expansion, Step II  
Empire WWTP Expansion, Step II  
Seneca WWTP Expansion, Step II

The prequalification should include the firm's interest to provide services, background data, qualifications and disciplines of employees and the demonstratable experience of the firm.

The prequalification should include information on the firm's programs for compliance with equal employment opportunities, affirmative action and utilization of minority firms. The prequalifications will be used by the Commission as a mechanism for selecting firms to provide engineering services.

Firms not currently on the Commission's prequalification list should submit a letter stating their interest in the projects or services and one copy of its prequalifications. Firms presently on the Commission's prequalification list need only to submit a letter stating their interest in the projects or services and the necessary information, if any, to update their prior prequalifications, to the Metropolitan Waste Control Commission, 350 Metro Square Building, St. Paul, Minnesota 55101. Inquiries regarding the solicitations should be directed to Mr. Ray Payne, Assistant Director of Engineering, (612) 222-8423.

By Order of the  
METROPOLITAN WASTE CONTROL COMMISSION  
Mr. Louis J. Breimhurst  
Chief Administrator

## **Scott County: First Judicial District**

### **Notice of Filing Fees for County Law Library**

Pursuant to Minn. Stat. 140.422, the Scott County Law Library Board of Trustees on December 18, 1986 approved the collection of a \$5.00 Law Library fee on each Conciliation Court Claim and Counter-claim filed. The Scott County Board of Commissioners agreed to this fee on January 27, 1987. The total Conciliation Court filing fee is now \$15.00.

Dated: 27 January 1987

Richard J. Menke, Judge  
Chairman, Board of Trustees

## **Department of Transportation**

### **Petition of the County of Lac Qui Parle for a Variance from State Aid Standards for Bridge Width**

Notice is hereby given that the County Board of Lac Qui Parle has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a bituminous surfacing project on C.S.A.H. 15 between C.S.A.H. 40 and the North County Line, a distance of 2.0 miles.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9914 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit an in-place bridge with a width of 19' remain in-place instead of widening the bridge to the required width of 23'.

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

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

Dated: 13 February 1987

Leonard W. Levine  
Commissioner of Transportation

## OFFICIAL NOTICES

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### Department of Transportation

#### Petition of the County of Murray for a Variance from State Aid Standards for Bridge Width

Notice is hereby given that the County Board of Murray County has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a bituminous surfacing project on C.S.A.H. 42 from C.S.A.H. 3 to T.H. 30, a distance of 11.0 miles.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9914 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit an in-place bridge with a width of 23' to remain in-place instead of widening the bridge to a width of 24' as required.

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

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

Dated: 13 February 1987

Leonard W. Levine  
Commissioner of Transportation

### Department of Transportation

#### Petition of the County of Steele for a Variance from State Aid Standards for Street Width

Notice is hereby given that the County Board of Steele County has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a construction project on C.S.A.H. 45 (Oak Avenue) from Main Street to Holly Street.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a street width of 48' with No Parking Lanes from Main Street to School Street and a street width of 44' with No Parking Lanes from School Street to Holly Street instead of the required street width of 52' with No Parking Lanes.

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

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

Dated: 11 February 1987

Leonard W. Levine  
Commissioner of Transportation

# STATE CONTRACTS AND ADVERTISED BIDS

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency must make reasonable effort to publicize the availability of any 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 whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

## Department of Administration: Procurement Division

### Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers, whose initials are next to each commodity.

Commodity for Bid (and Buyer)	Bid Due Date at 2 pm	Department or Division	Delivery Point	Requisition #
Epson printers (PA)	Feb. 23, 1987	State University	St. Cloud	26-073-19432
Furnish & install control system for elevator (BV)	Feb. 25, 1987	Administration: Plant Mgmt.	St. Paul	02-307-51311
Photocopy machine purchase (JPK)	Feb. 25, 1987	Human Services Nursing Home	Ah-Gwah-Ching	55-510-02875
Photocopy machine purchase—re- bid (JPK)	Feb. 25, 1987	Academy for the Deaf	Faribault	37-001-70470
4-wheel loader (DM)	Feb. 25, 1987	Natural Resources	Grand Rapids	29-000-45481 & 83
Furnish & install new floor (BV)	Feb. 25, 1987	Academy for the Deaf	Faribault	37-001-70522
Asphalt rubber sealant (BV)	Feb. 25, 1987	Transportation	Rochester	79-600-03700
Laundry folder (DRT)	Feb. 25, 1987	Regional Treatment Center	Cambridge	55-201-06891
Herbicides (DK)	Feb. 26, 1987	Various	Various	Various
Toluol (BV)	Feb. 26, 1987	Transportation	St. Paul	Price-Contract
Concrete sealer (BV)	Feb. 26, 1987	Transportation	St. Cloud	79-350-00806
Traffic signal cabinets (BV)	Feb. 26, 1987	Transportation	St. Paul	79-050-19120
Incubator (DK)	Feb. 26, 1987	Agriculture	St. Paul	04-661-72573
Impact tester (DK)	Feb. 26, 1987	State University	St. Cloud	26-073-19396
Injector-sampler (DK)	Feb. 26, 1987	Public Safety	St. Paul	07-300-42059
Organic carbon analyzer (DK)	Feb. 26, 1987	Health	Minneapolis	12-400-99865
Mechanical testing screen (DK)	Feb. 26, 1987	Transportation	St. Paul	79-000-73819
Centrifuge-refrigerated (DK)	Feb. 26, 1987	Natural Resources	St. Paul	29-000-45594
Implement tires (EFS)	Feb. 26, 1987	Correctional Facility	Stillwater	Price-Contract
Spray booth (DM)	Feb. 26, 1987	Correctional Facility	Stillwater	78-620-00104
Nursery stock (CB)	Feb. 26, 1987	Transportation	Various	79-100-03670 etc.
Blanket insurance coverage for fire, extended coverage, vandal- ism & malicious mischief (EFS)	Feb. 26, 1987	Jobs & Training	St. Paul, Mpls, St. Cloud	21-200-14913
Purchase of copier (DPK)	Feb. 27, 1987	Jobs & Training	St. Paul	20-000-00073
DEC upgrade (PA)	Feb. 27, 1987	Housing/Finance Agency	St. Paul	34-000-05217
Furnish & install security alarm devices, etc. (DRT)	Feb. 27, 1987	Community College	Minneapolis	27-000-47486
Crackfiller (BV)	Mar. 3, 1987	Transportation	Various	Schedule 95A
Addendum #2 tractor with craw- ler (DM)	Mar. 3, 1987	Various	Various	29-000-45187
Diamond concrete saw blades (DRT)	Mar. 3, 1987	Transportation	Oakdale	79-900-03359

## STATE CONTRACTS & ADVERTISED BIDS

### Department of Administration: Printing & Mailing Services

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Commodity for Bid (and Buyer)	Bid Due Date at 2 pm	Department or Division	Delivery Point	Requisition #
1987 MN Airport Directory (ALC)	Mar. 3, 1987	Transportation	St. Paul	4933-79000-73916
Admissions brochures (ten)	Mar. 4, 1987	State University	Mankato	5114-26071-17197

### Department of Health

#### Notice of Availability of Contract for Implementing Market Research, Mass Media, and Media Evaluation for Statewide Nonsmoking Initiative

The Center for Nonsmoking and Health of the Minnesota Department of Health is seeking proposals from agencies interested in competing for one or more contracts for implementing mass media, market research, and media evaluation projects for the purpose of promoting a tobacco-free lifestyle among Minnesota teens, pre-teens, and young women.

The contractor(s) for this project will be expected to extend the current market research efforts of the Center for Nonsmoking and Health so that future media messages can be better targeted to market segments. Contractor(s) will also be asked to develop and implement a plan for extending and expanding on the mass media efforts completed to date and to develop a plan for evaluating the effect of mass media efforts conducted as part of the statewide nonsmoking initiative.

Applicants must demonstrate administrative, organizational, fiscal, and creative and/or market research capability to complete the projects to be covered by the contract(s). Other desirable qualifications include experience in producing media messages and conducting market research for public service or public health campaigns, and skills in evaluating the effect of such campaigns.

The anticipated amount of this contract is not more than \$550,000 with market research costs not to exceed \$100,000, mass media production and placement costs not to exceed \$440,000, and cost for a media evaluation plan not to exceed \$10,000. The estimated starting date is April 27, 1987, and the majority of market research projects, and media purchases and production efforts must be completed by June 30, 1987. Final reports and the media evaluation plan will be due by October 30, 1987 and the contract(s) may then be extended through June 30, 1988.

Agencies interested in bidding on these projects should request a copy of the Request for Proposal from:

Darlene Zirk, secretary  
Center for Nonsmoking and Health  
Minnesota Department of Health  
717 S.E. Delaware St.  
Minneapolis, MN 55440  
(612) 623-5272

The Request for Proposal will be available on February 23, 1987. The deadline for submitting proposals is Monday, March 23, 1987.

Dated: 18 February 1987

### Minnesota Historical Society

#### Notice of Availability of Contract for Museum Exhibition Design and Fabrication

The Minnesota Historical Society is seeking individuals and firms with experience in museum exhibitions to submit proposals for design and fabrication of *Minnesota's Quarters No. 1*, a permanent exhibit on the Commandant's House at Historic Fort Snelling.

These services, which will be provided under contract, are outlined in detail in the Request for Proposal (RFP). The formal RFP may be requested and inquiries directed to: Mark Schwartz, Contract Officer, 1500 Mississippi St., St. Paul, MN 55101, (612) 296-2155. The deadline for submitting completed proposals is the end of the business day (5:00 p.m.) March 6, 1987. Late proposals will not be accepted.

## **Supreme Court Legal Services Advisory Committee**

### **Request for Proposals for Grant Funding for Legal Services for Low-Income People**

The Legal Services Advisory Committee is requesting proposals for grant funding for legal services and alternative dispute resolution programs for low income people.

Inquiries should be directed to:

J. L. Rehak  
230 State Capitol  
St. Paul, MN 55155  
Phone: (612) 296-6822

Application Deadline: April 17, 1987.

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## **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.

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## **Metropolitan Council of the Twin Cities Area**

### **Request for Proposals (RFP) to Perform Audits Annually of about 91 Parks and Open Space Grants**

The Metropolitan Council solicits a proposal for entering into a three-year contract to perform audits annually of 91 (more or less) Metropolitan Council Parks and Open Space grants. Four copies of the proposal should be submitted to the Metropolitan Council, Suite 300, Seventh and Robert Streets, St. Paul, MN 55101. Attention: Ron Scherman. All proposals received by the contract manager on or before 4:00 p.m., March 16, 1987 will be considered by the Council.

The Council, by this RFP, does not promise to accept the lowest, or any other proposal and specifically reserves the right to reject any or all proposals, to waive any formal requirements, to reject any provision in any proposal, to obtain new proposals, or to proceed to do the work otherwise.

Businesses owned and controlled by minorities or women will be afforded maximum feasible opportunity to submit proposals, and no proposer will be subjected to discrimination on the basis of race, color, creed, sex, age, affectional preference, religion, disability, public assistance status, marital status, national origin or political affiliation. The Council has established a 15 percent women/minority business participation goal for this contract.

Questions and requests for copies of the RFP should be directed to Ron Scherman (612) 291-6492.

## NON-STATE PUBLIC CONTRACTS

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### Metropolitan Waste Control Commission

#### Advertisements for Bids for Dental Insurance

Sealed proposals will be received in the office of the Metropolitan Waste Control Commission, 7th & Robert Streets, Suite 350, Metro Square Bldg., St. Paul, MN 55101, until 2:00 p.m. Friday, March 20, 1987, all in accordance with a specifications and bid forms available at the Commission's office in St. Paul, Minnesota. Contact Jody Lashinski, Personnel/Benefits Specialist for bid documents (612) 222-8423.

Dated: 18 February, 1987

Louis J. Brinhurse, Chief  
Administrator  
Metropolitan Waste Control  
Commission

## STATE GRANTS

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

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

### Supreme Court

#### Lawyer Trust Account Board

##### Notice of Grant Cycle July 1, 1987 to June 30, 1988

The Minnesota Supreme Court has established a program to use the interest on lawyer trust accounts (IOLTA) to improve the delivery of legal services to the poor, to promote development of law-related education for the public, and to develop programs to enhance the administration of justice.

The Lawyer Trust Account Board has made grants in the amount of over \$4,000,000 to legal services organizations, to programs to enhance the administration of justice and to programs providing legal education for the public in its four prior grant cycles.

The Board is soliciting proposals to distribute funds to projects in any of the three program areas. The Board will support not only traditional approaches, but will encourage projects that show innovative approaches to recognize needs throughout the state. For application information, contact the Executive Director, 318 Capitol, St. Paul, MN 55155. The deadline for submitting applications is April 15, 1987.

Dated: 13 February 1987

## SUPREME COURT DECISIONS

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### Decisions Filed Friday 13 February 1987

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

**C6-86-906** *State of Minnesota v. Prudence Elaine Srey, a.k.a. Rachael P. Ward, Petitioner-Appellant. Court of Appeals.*

In determining whether to depart from presumptive sentence for offense of uttering a forged instrument, a charge to which defendant pleaded guilty, trial court properly considered course of conduct underlying the charge.

Reversed and judgment of conviction and sentence reinstated. Amdahl, C.J.

**C8-85-2212** *Orrin M. Haugen et al., Richard M. Smith v. Muriel V. Peterson, petitioner, Appellant. Court of Appeals.*

The repeal of Minn. Stat. § 500.20, subd. 2 (1980) does not revive the effect of a terminated restrictive covenant.



A covenant's automatic extensions do not extend the effect of the covenants.

The estoppel arguments of the respective parties have been waived.

Reversed. Yetka, J.

Took no part, Amdahl, C.J.; Kelley and Coyne, JJ.

**C2-86-983 Laurel Carpenter v. Woodvale, Inc. and Employee Benefits Administration, Relators and A. J. Schaub, D.A.B.C.D. Workers' Compensation Court of Appeals.**

Document filed by *pro se* litigant did not meet statutory requirements to confer jurisdiction on WCCA.

Reversed and remanded. Yetka, J.

**C1-86-456 Rodger K. Marklund v. Farm Bureau Mutual Insurance Company, petitioner, Appellant. Court of Appeals.**

Injuries sustained by a patron of a self-service gas station as the result of slipping and falling on ice as he was proceeding to pay for a gasoline refill he had just completed, did not arise out of the "maintenance" of a motor vehicle as that word is used in Minn. Stat. § 65B.43, subd. 3 (1986).

Reversed. Kelley, J.

**C7-86-817 Abby Johnson, Relator v. State of Minnesota, Department of Veterans Affairs, self-insured, Minnesota Department of Human Services, intervenor. Workers' Compensation Court of Appeals.**

Absent a firm, bona fide offer of work that an injured employee can do in his or her partially disabled condition, an employee cannot be said to have refused an offer of suitable employment.

Reversed and remanded for reinstatement of the decision of the compensation judge. Coyne, J.

**C5-86-1125 Richard Beer v. Minnesota Power & Light Company, Appellant. Itasca County.**

In actions for inverse condemnation or compensation for damages resulting from the limitation of access only, where the public authority is not in adverse possession of the landowner's property, the six-year statute of limitations (Minn. Stat. § 541.05 (1986)) is applicable.

Reversed. Coyne, J.

## **Orders**

**C8-86-1846 In the Matter of the Application for the Discipline of David E. Henke, an Attorney at Law of the State of Minnesota. Supreme Court.**

Indefinitely suspended. Amdahl, C.J.

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## **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.

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### **Order for Judgment Dated: February 4, 1987**

**Docket No. 4652**

**Harry P. Perrins, Appellant, vs. Commissioner of Revenue, Appellee.**

The above-entitled matter came on for hearing before the Honorable Earl B. Gustafson, Chief Judge of the Minnesota Tax Court, on January 20, 1987 at the Courtroom of the Tax Court, 520 Lafayette Road, St. Paul, Minnesota.

Harry P. Perrins, appellant, appeared *pro se*.

Michele M. Owen, Special Assistant Attorney General, appeared on behalf of appellee.

## **TAX COURT**

The appeal is from the Commissioner of Revenue's Order dated May 23, 1986, relating to income tax for the years 1983 and 1984. The issue is whether certain spousal maintenance payments paid by appellant to his ex-wife under a 1983 divorce decree are deductible on his income tax returns.

The Court, having heard and considered the evidence adduced at the hearing and upon all of the files and records herein, now makes the following:

### **FINDINGS OF FACT**

1. Appellant is a cash basis, calendar year taxpayer who was a resident and domiciliary of the State of Minnesota during 1983 and 1984, the years in question.
2. Appellant timely filed his 1983 and 1984 Minnesota income tax returns, deducting all maintenance payments made to his former spouse in 1983 and 1984.
3. These payments were taken as deductions in arriving at appellant's federal adjusted gross income for 1983 and 1984.
4. Appellant's 1983 divorce decree had two separate paragraphs relating to spousal maintenance.
5. Paragraph no. 2 related to payments to be made from appellant's pension plan and are to continue "until respondent [former wife] remarries or dies."
6. The second maintenance provision, paragraph no. 3 of the decree, contains no such contingencies and reads as follows:
  3. That petitioner shall pay to respondent as spousal maintenance to supplement her personal and household necessities and medical, dental and educational needs in the amount of \$500.00 per month from and after the first day of the month following the Decree of Dissolution to be entered herein, and on the first of each succeeding month thereafter for a period of 35 additional months.
7. The Commissioner of Revenue denied the deductions under paragraph no. 3 of the divorce decree which amounted to \$2,000 in 1983 and \$6,000 in 1984.

### **CONCLUSIONS OF LAW**

1. The spousal maintenance payments under paragraph no. 3 of appellant's divorce decree contain no contingencies.
2. The appellee properly denied these deductions in arriving at appellant's Minnesota gross income.
3. The Order of the Commissioner of Revenue dated May 23, 1986 is hereby affirmed.

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

BY THE COURT,

Earl B. Gustafson, Chief Judge  
Minnesota Tax Court

## **Order for Judgment Dated: February 11, 1987**

### **Docket No. 4624**

**Michael T. Syfco and Celine M. Syfco, Appellants, 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 January 12, 1987, at the Courtroom of the Tax Court, 520 Lafayette Road, St. Paul, Minnesota.

Michael T. Syfco, one of the appellants, appeared pro se.

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

The issue presented by this appeal is whether appellants were residents of Minnesota during the taxable years 1982 and 1983, specifically September, 1982 through May, 1983.

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

### **FINDINGS OF FACT**

1. Appellants, Michael T. and Celine M. Syfco, were undisputably domiciled in Minnesota from the date of their marriage in September, 1967 through August, 1982.
2. Appellants purchased a home in Oakdale, Minnesota in May, 1972. They resided there continuously with their two children until August, 1982.
3. Appellants purchased a second home at Balsam Lake, Wisconsin in 1980. This lake home was used for seasonal recreational purposes during 1980 and 1981.

4. Appellants and their two children moved to the Balsam Lake residence in September, 1982 and continuously resided there through May, 1983.

5. Appellants leased their Oakdale home for a one year period beginning September 1, 1982. They did not attempt to sell due to unfavorable market conditions at that time.

6. Appellants did not file a homestead declaration on the Oakdale property on January 2, 1983.

7. Appellants moved all their personal belongings from Oakdale to Balsam Lake.

8. Appellants had all utilities at the Oakdale residence transferred into the lessee's name.

9. Appellants converted their Oakdale homeowners policy to a renter's policy. They had homeowner's coverage in force on the Balsam Lake property on a policy issued by a Wisconsin agent.

10. Appellants enrolled their two children in the Balsam Lake school system, where they attended continuously throughout the school year September, 1982 through May, 1983.

11. Mr. Syfco was employed at NCR Comten in Roseville before, during and after the period at issue; Mrs. Syfco worked for the City of Oakdale. Both continued to commute to the Twin Cities daily.

12. Mrs. Syfco attempted to find employment in the Balsam Lake area to be nearer her family, but was unsuccessful. She eventually left her job with the City of Oakdale in April, 1983.

13. Appellants purchased a new automobile in October, 1982. They registered and licensed the car in Wisconsin and paid the appropriate sales tax to the Wisconsin Department of Transportation.

14. Appellants owned a second, older car which was not driven during winter months. This car was licensed in Minnesota but stored at the Balsam Lake residence.

15. Appellants owned other recreational vehicles, some licensed in Minnesota, others in Wisconsin.

16. Appellants maintained proper insurance on all vehicles in compliance with Wisconsin residency.

17. Mr. Syfco attempted to obtain a Wisconsin driver's license when he registered his new car in October, 1982. However, since he did not have a copy of his birth certificate with him, a new license could not be issued.

18. Mr. Syfco was issued a 1983 Wisconsin resident's fishing license.

19. Appellants made permanent address changes with all creditors, banks, credit unions, magazine publishers and with the U. S. Post Office. After September 1, 1982, all mail was received at the Balsam Lake address.

20. Appellants maintained checking and savings accounts at their Twin Cities bank since that bank provided a convenient electronic transfer machine at Mr. Syfco's place of employment.

21. Both appellants' employers issued W-2 forms for the 1982 tax year and mailed them to their Balsam Lake address.

22. Appellants filed income tax returns for 1982 and 1983 in both Minnesota and Wisconsin, apportioned for the months of residency in each state. These returns were prepared by an accounting firm in Wisconsin.

23. Appellants returned to their Oakdale, Minnesota home in June, 1983.

#### **CONCLUSIONS OF LAW**

1. Appellants were not residents of the State of Minnesota from September, 1982 through May, 1983.

2. The Orders of the Commissioner of Revenue dated December 27, 1985, assessing additional income tax against appellants for the 1982 and 1983 tax years, are hereby reversed.

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

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

#### **Order for Judgment Dated: February 12, 1987**

**Docket No. 4690**

**Paul Heilskov, d/b/a/ Heilskov Auction Service, Appellant, vs. Commissioner of Revenue, Appellee.**

The above-entitled matter came on for hearing before the Honorable Arthur C. Roemer, Judge of the Minnesota Tax Court, on January 15, 1987 at the Courtroom of the Tax Court, 520 Lafayette Road, in St. Paul, Minnesota.

Richard Bins, Attorney at Law, appeared on behalf of appellant.

## **TAX COURT**

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David T. Schultz and Thomas K. Overton, Special Assistants to the Attorney General, appeared on behalf of appellee.

The issue presented by this appeal is whether the appellant, an auctioneer, had a reasonable basis for believing that \$4,000 of the \$10,171.50 proceeds of a household auction sale represented property of the children. The Commissioner of Revenue maintains that the \$4,000 was distributed in defraud of creditors and that the appellant is subject to the \$4,000 plus 25% penalty and interest as provided by law.

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

### **FINDINGS OF FACT**

1. On June 14, 1986 and at all times subsequent thereto, William and Karen McMurtry have owed the State of Minnesota substantial income taxes, the present amount exceeding \$70,000.
2. On June 14, 1986, appellant, who is a licensed auctioneer, conducted a sale of the "executive household" goods of William and Karen McMurtry. Appellant conducted the sale at the house owned by the McMurtrys.
3. At the conclusion of the auction, appellant was served with the State of Minnesota, Department of Revenue's Notice of Levy in the amount of \$14,917.21. At the time the levy was served, appellant was instructed by Department of Revenue personnel not to pay out any of the proceeds of the sale.
4. The appellant reported the total proceeds of the sale amounted to \$10,171.50, which, after deducting a 10% auctioneer's commission and expense of sale, amounted to a net of \$8,506.01.
5. On June 14, 1986, the appellant paid \$4,000 to Jennifer McMurtry, the balance of the proceeds being remitted to the Commissioner of Revenue approximately a month later.
6. The proceeds of the sale did not include any monies attributable to three items listed for sale on the handbill.
7. The appellant failed to exercise good faith in his discussions with the Commissioner of Revenue.
8. The appellant did not have reasonable cause for distributing \$3,181.49 of the \$4,000.

### **CONCLUSIONS OF LAW**

1. The distribution of \$3,181.49 of the proceeds was wrongfully surrendered to Jennifer McMurtry and constituted a transfer in fraud of creditors.
2. The appellant is indebted to the Commissioner of Revenue of a sum in the amount of \$3,181.49 plus penalty as provided in Minn. Stat. § 270.07, subds. 8 and 9, and interest as provided by law.

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

BY THE COURT,  
Arthur C. Roemer, Judge  
Minnesota Tax Court

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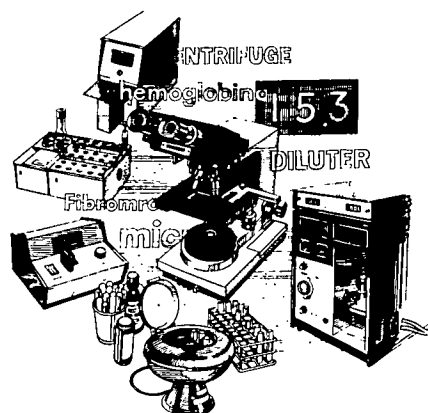
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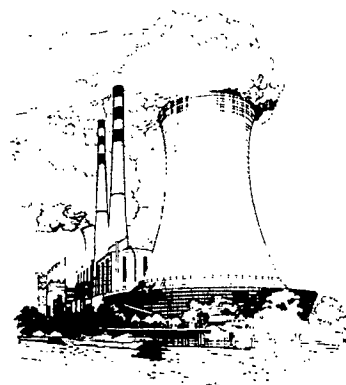
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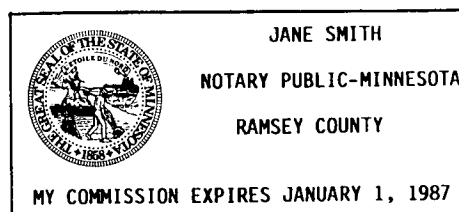


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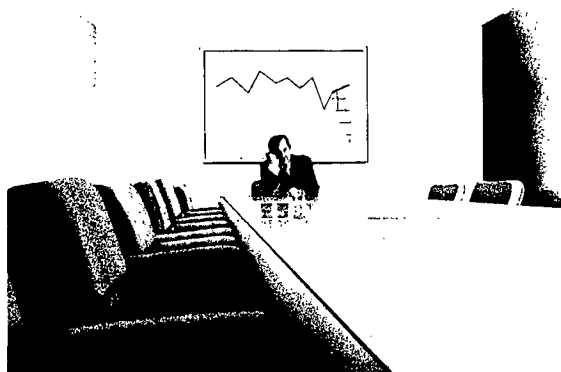
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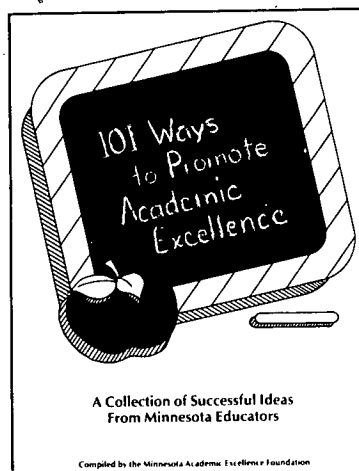
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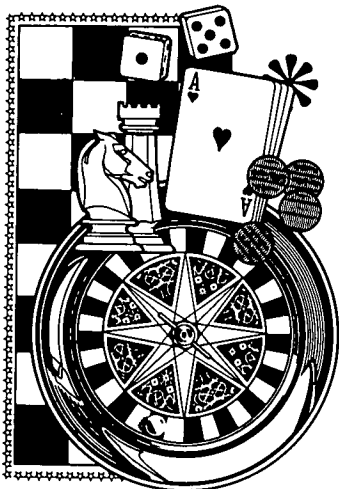
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Its voice severs the bonds to the world of cities, traffic, crowds, lights and noise. The lyrical magic of the loon, sometimes hauntingly eerie, makes the skin tingle, and the hair on the back of the neck stand on edge, awakening a primitive response. Its solitary wail turns the shadowy wilderness into a mysterious path into eternity.

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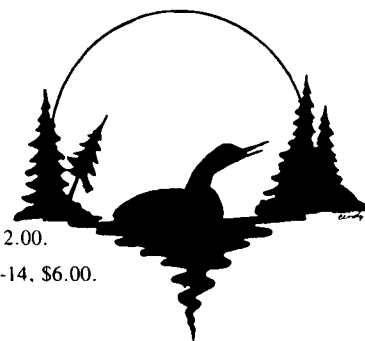
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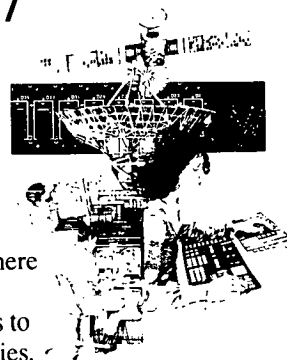


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## NEW Human Services Laws and Rules

### Human Services Laws 1986

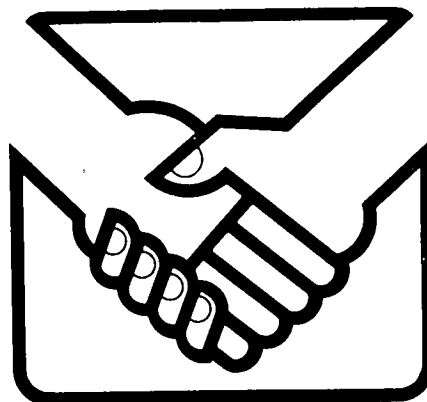
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