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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.

Printing Schedule and Submission Deadlines

Vol. 13 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
3	Friday 1 July	Monday 11 July	Monday 18 July
4	Monday 11 July	Monday 18 July	Monday 25 July
5	Monday 18 July	Monday 25 July	Monday 1 August
6	Monday 25 July	Monday 1 August	Monday 8 August

*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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For Legislative News

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:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

Contents

Minnesota Rules:

Amendments & Additions

Issues 1-3 inclusive 108

Proposed Rules

Agricultural Department

Department of Agriculture, Reinvest in Minnesota
 .(RIM) Reserve Program 109

Commerce Department

Securities offerings 119

Labor & Industry Department

Revisions to the Occupational Safety and Health
 Standards 122

Natural Resources Department

Permit requirements for water aeration systems 124

Adopted Rules

Higher Education Coordinating Board

Financial assistance 128

Human Services Department

Nursing Home property reimbursement rate 130

Rural Development Board

Challenge grants 130

Emergency Rules

Health Department

Procedures for exceptions to moratoriums 130

Official Notices

Arts Board

Board meeting 138

Agricultural & Economic Development Board

Public hearing on proposed development in the city
 of Wyoming and issuance of bonds 138

Human Services Department

Opinion sought on merit system rules for
 compensation plans 139

Minnesota Job Skills Partnership

Cancellation of meeting, new meeting dates, grant
 application deadlines 139

Metropolitan Council

Review schedule for the council's 1989 work
 program and budget 140

State Contracts & Advertised Bids

Administration Department

Materials Management Division Contracts 140
 Awards 142

Printing & Mailing Services Division Contracts 143
 Awards 144

Finance Department

Request for proposals for marketing survey 145

Minnesota Historical Society

Contract available for cultural resource survey and
 planning work 146

Human Services Department

Request for proposal for food stamp outreach
 programs for the homeless in Minnesota 147

Request for proposal for high risk neonatal resource
 utilization project 147

Investment Board

Request for proposal for master custodian 148

Natural Resources Department

Request for proposals for a market assessment study
 of a proposed interpretive center 148

Request for proposals for television and radio public
 service announcement production 149

Telecommunications Access for Communication Impaired Persons Board (TACIP)

Request for proposals for a study on the economic
 impact of implementing the TACIP program 149

Tourism Office

Request for proposal for creative and design services 150

Non-State Public Contracts

Metropolitan Transit Commission

Request for proposals for a comprehensive
 communications audit 151

State Grants

Education Department

Prekindergarten grant program notice 152

Housing Finance Agency

Availability of federal funds for permanent housing
 for handicapped and homeless persons program 153

Supreme Court Decisions

Decisions and orders filed Friday 15 July 1988 153

Announcements

Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the *Official Notices* section of the *State Register*. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*; only the changes made since their publication as **Proposed Rules**. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*; the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-652-9747 and ask for "Documents."

Agriculture Department

1547.0001-.0112 (adopted) 38

Commerce Department

2875.0115; .0116; .3500; .3531-.3533 (proposed) 119
2875.3500 s.4 (proposed repealer) 119

Education Department

3500.0710 (proposed) 77
3500.0700 (proposed repealer) 77

3520.0200; .0300; .0400; .1000; .1200; .1800; .2400;
.3000; .3680; .3700; .3701; .3801; .3802; .3900; .4001;
.4100; .4201; .4301; .4400; .4500; .4510; .4531; .4540;
.4550; .4560; .4570; .4600; .4610; .4620; .4630; .4640;
.4650; .4670; .4680; .4701; .4711; .4720; .4731; .4741
.4750; .4761; .4801; .4811; .4831; .4840; .4850; .4900;
.4910; .4930; .4980; .5000; .5010; .5111; .5120; .5141;
.5151; .5160; .5171; .5180; .5190; .5200; .5220; .5230;
.5300; .5310; .5330; .5340; .5361; .5370; .5380; .5401;
.5450; .5461; .5471; .5481; .5490; .5510; .5520; .5531;
.5551; .5560; .5570; .5580; .5600; .5611; .5700; .5710;
.5900; .5910; .5920 (proposed) 5
3520.0500; .0700; .0800; .0900; .1100; .1700; .1900;
.2000; .2100; .2200; .2300; .3700 s.2,3; .3800; .4000;
.4100 s.4; .4200; .4210; .4220; .4230; .4240; .4250;
.4260; .4300; .4510 s.1,2; .4520; .4530; .4580;
.4600 s.2,3,4,5; .4610 s.3,4; .4660; .4690; .4700; .4710;
.4730; .4740; .4760; .4770; .4800; .4810; .4820; .4830;
.4850 s.2,4; .4860; .4870; .4900 s.1,2,3,4,5,8,9,10;
.4920; .4940; .4950; .4960; .4970; .4990; .5020; .5100;
.5110; .5130; .5140; .5150; .5170; .5200 s.5; .5210;
.5300 s.2; .5320; .5350; .5360; .5400; .5410; .5420;
.5430; .5440; .5450 s.2; .5460; .5470; .5480; .5530;
.5540; .5550; .5580 s.3; .5610; .5800 (proposed repealer) ... 5

Rural Development Board

4370.0010-.0080 (adopted) 130

Health Department

4655.1070-.1100 (proposed emergency) 130

Higher Education Coordinating Board

4830.0100; .0400; .0600; .0700; .1552; .1555; .1560-.1565;
.2600; 4850.0011; .0014; .0016; .0017 (adopted) 128
4830.0600 s.1 b-1 d (repealed) 128

Housing Finance Agency

4900.1530-.1533; .1550; .1560; .1570 (proposed repealer) 80

Labor & Industry Department

5205.0010 (proposed) 122

Natural Resources Department

6105.0900; .0910 (adopted) 38
6116.0010-.0070 (proposed) 124

Minnesota Racing Commission

7869.0100; 7870.0490; 7877.0110; .0170; .0175;
7883.0160; .7884.0170; 7890.0100; .0140;
7891.0100; 7895.0100 (adopted) 38

Reinvest in Minnesota (RIM) Reserve Program

8400.3000-.3930 (proposed) 109

Transportation Department

8850.6900-.9050; 8855.0300-.0850 (adopted) 38
7800.0100 s.2,9,10; .0300; .1200; .1300; .1900; .3500;
.3700-8200; 7805.1400-.3600 (repealed) 38

Human Services Department

9549.0059; .0060 (adopted) 130

Workers' Compensation Court of Appeals

9800.0100; .0300; .0400; .0500; .0510; .0900 .1000;
.1100; .1400; .1500; .1600; .1710; .1720; .1800 (proposed) .. 34
9800.0500 s.2; .0600; .0900 s.4; .1300 (proposed repealer) .. 34

Proposed Rules

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

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

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

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

Department of Agriculture

Proposed Permanent Rules Relating to Department of Agriculture, Reinvest in Minnesota (RIM) Reserve Program

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Agriculture intends to adopt the above-entitled rule without a public hearing, following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, Sections 14.22-14.28. The statutory authority to adopt this rule is *Minnesota Statutes*, Section 40.45.

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 their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to *Minnesota Statutes*, Sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

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

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

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

The proposed rule applies to and would have an impact on farms defined as small businesses by *Minnesota Statutes* section 14.115 if they choose to enroll in the RIM Reserve Program. For the following reasons, the Department considers the rules to pose a minimum impact on small businesses.

The proposed rules:

1. Do not impose any additional compliance or reporting requirements other than what is required by the corporate farm statutes;
2. Deal primarily. The proposed rule is necessary to ensure groundwater protection during chemigation and must apply to large or small businesses.

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

3. Do not impose any additional application or enrollment requirements for small businesses; and
4. Include limitations on the maximum acreage that a landowner may enroll.

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

Dated: 22 June 1988

Jim Nichols, Commissioner
Department of Agriculture

Rules as Proposed (all new material)

DEPARTMENT OF AGRICULTURE RIM RESERVE PROGRAM

8400.3000 AUTHORITY.

Minnesota Statutes, sections 40.40 to 40.45 and 84.95, authorize the commissioner, in cooperation with the state board, districts, state and local private groups, and state and federal agencies, to implement a program of retiring certain agricultural land from crop production and establishing on that land permanent vegetative cover, restoring altered wetlands, or establishing windbreaks adjacent to highways. Parts 8400.3000 to 8400.3930 provide procedures and criteria to be followed by the commissioner, state board, and district boards in implementing *Minnesota Statutes*, sections 40.40 to 40.45.

8400.3030 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 8400.3000 to 8400.3930.

Subp. 2. **Agricultural crop production.** "Agricultural crop production" means an agricultural activity:

- A. including but not limited to tillage, planting, or harvesting operations; and
- B. devoted to the production of horticultural, row, close grown, introduced pasture, or introduced hayland crops.

Subp. 3. **Altered wetland.** "Altered wetland" means a former natural wetland that has been altered by draining, dredging, filling, leveling, or other manipulation sufficient to render the land suitable for agricultural crop production. The alteration must have occurred before December 23, 1985, and must be a legal alteration as determined by the Department of Natural Resources.

Subp. 4. **Annual plan.** "Annual plan" means a plan prepared by the district under *Minnesota Statutes*, section 40.07, subdivision 9, and according to the most recent version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans published by the state board. That publication is subject to frequent change. The most recent version is available at the district office and state board office and is incorporated by reference.

Subp. 5. **Approved practice.** "Approved practice" means a soil and water conservation practice that qualifies for RIM reserve program funding. All approved practices are described in the RIM reserve conservation practice specifications.

Subp. 6. **Authorized farm corporation.** "Authorized farm corporation" has the meaning given in *Minnesota Statutes*, section 500.24, subdivision 2.

Subp. 7. **Beginning farmer program.** "Beginning farmer program" means the program created by *Minnesota Statutes*, section 41B.039.

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

Subp. 9. **Conservation agreement.** "Conservation agreement" means a written contract stating the terms and conditions for conveying the conservation plan and the conservation easement by the landowner to the commissioner.

Subp. 10. **Conservation easement, easement.** "Conservation easement" or "easement" has the meaning given for "conservation easement" in *Minnesota Statutes*, section 84C.01, paragraph (1).

Subp. 11. **Conservation plan.** "Conservation plan" means a written description of the approved practices that must be applied to the easement area.

Subp. 12. **Crop history.** "Crop history" means a sequence of agricultural crop production that includes at least one of the following activities on an annual basis: tillage, planting, or harvesting. For purposes of this part, land with a crop history includes acres devoted to "set-aside" and "conserving use" for the United States Department of Agriculture programs.

Subp. 13. **Cropland.** "Cropland" means an area devoted to agricultural crop production.

Subp. 14. **District.** "District" means a local soil and water conservation district organized under *Minnesota Statutes*, section 40.04.

Subp. 15. **District board.** "District board" means the five supervisors of a district authorized to carry out the functions of the district.

Subp. 16. **District cooperator.** "District cooperator" means a landowner who has requested the assistance of a district board in controlling conservation problems and has entered into a written cooperator's agreement with the district board.

Subp. 17. **District technician.** "District technician" means a district employee or other nonfederal employee assigned to the district who has expertise in the design and application of soil and water conservation practices.

Subp. 18. **Enduring practice.** "Enduring practice" means a soil and water conservation practice that is designed for an effective life of 20 years or more.

Subp. 19. **Family farm.** "Family farm" has the meaning given in *Minnesota Statutes*, section 500.24, subdivision 2.

Subp. 20. **Family farm corporation.** "Family farm corporation" has the meaning given in *Minnesota Statutes*, section 500.24, subdivision 2.

Subp. 21. **Farm operation.** "Farm operation" means property owned or leased in Minnesota by the landowner that is associated with farming.

Subp. 22. **Farming.** "Farming" has the meaning given in *Minnesota Statutes*, section 500.24, subdivision 2.

Subp. 23. **Food plot.** "Food plot" means an area established annually for the purpose of providing food for wildlife.

Subp. 24. **Highway windbreak.** "Highway windbreak" means a strip or belt of trees, shrubs, or grass barriers at least six rows deep and within 300 feet of the right-of-way of a highway. Grass barriers must be used in conjunction with trees and shrubs.

Subp. 25. **Hydric soil.** "Hydric soil" means a soil in its natural undrained condition that is saturated at or near the surface or flooded frequently during much of the growing season, and that can support hydrophytic vegetation. The current list of hydric soils is available at the state law library and the district office, is subject to frequent change, and is incorporated by reference.

Subp. 26. **Hydrophytic vegetation.** "Hydrophytic vegetation" means herbaceous or woody plants that grow in water, in wet or saturated soils, or in soils that are at least periodically deficient in oxygen as a result of excess water.

Subp. 27. **Individual.** "Individual" means a person or legal entity, whether or not a resident of Minnesota.

Subp. 28. **Inherently unproductive.** "Inherently unproductive" means that the soil properties of available water capacity, bulk density, and pH in the uppermost 100 centimeters (39 inches) of a soil, are present so that an unfavorable rooting environment exists for agronomic crops.

Subp. 29. **Introduced hayland.** "Introduced hayland" means an area devoted to the production of forage and cultivated in a rotation of row crops or small grains or interseeded with introduced or nonnative species at least twice during the period 1976 to 1985. These areas must be harvested by mechanical methods at least two years during the period 1981 to 1985. These areas are considered to be in agricultural crop production.

Subp. 30. **Introduced pasture.** "Introduced pasture" means an area devoted to the production of forage and cultivated in a rotation of row crops or small grains or interseeded with introduced or nonnative species at least twice during the period 1976 to 1985. These areas must be harvested by grazing at least two years during the period 1981 to 1985. These areas are considered to be in agricultural crop production.

Subp. 31. **Landowner.** "Landowner" means an individual, family farm, family farm corporation, or authorized farm corporation who either owns eligible land or is purchasing eligible land under a contract for deed in Minnesota.

Subp. 32. **Local emergency.** "Local emergency" means an emergency declared under *Minnesota Statutes*, section 12.29.

Subp. 33. **Marginal agricultural land.** "Marginal agricultural land" for the RIM reserve program means land with cropland soils that are inherently unproductive for agricultural crop production or subject to significant potential soil productivity loss from erosion. For the beginning farmer program, "marginal agricultural land" means land in the land capability classes 6 to 8, as defined by the United States Department of Agriculture, *Agricultural Handbook Number 210*. This publication is available at the state law library and at district offices, is not subject to frequent change, and is incorporated by reference. The state board shall provide districts with a list of soil mapping units indicative of marginal agricultural land. Districts may change the list as necessary to reflect local soil characteristics. Changes must be approved by the commissioner and the state board. This list, with changes, is available at the state law library and at district offices, is subject to frequent change, and is incorporated by reference.

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. 34. **Natural vegetation.** "Natural vegetation" means plant species including, but not limited to, grasses, trees, shrubs, or hydrophytic vegetation that form an area's noncultivated plant community, excluding the area immediately adjacent to buildings. An area is not considered in natural vegetation if it has been in agricultural crop production for at least one year since January 1, 1981.

Subp. 35. **Nonproduction practice.** "Nonproduction practice" means a soil and water conservation practice that is installed or applied to control soil erosion or sedimentation, protect or improve water quality, or create or enhance wildlife habitat. Practices installed or applied primarily to bring land into production or to increase short-term productivity are not nonproduction practices.

Subp. 36. **Permanent cover.** "Permanent cover" means the water area created by a restored wetland and the permanent vegetative cover established under the RIM reserve program.

Subp. 37. **Present value.** "Present value" means the value today of an amount that would have been received later, at a discount rate established annually by the commissioner.

Subp. 38. **Protected water.** "Protected water" means public waters or wetlands, as defined in *Minnesota Statutes*, section 105.37, and inventoried under *Minnesota Statutes*, section 105.391. A copy of the inventory is available in the district office.

Subp. 39. **Public access.** "Public access" means the right of individuals to enter and exit private property. Under the RIM reserve program, public access is controlled by the landowner.

Subp. 40. **Restored wetland.** "Restored wetland" means an altered wetland restored under the RIM reserve program if the wetland meets the definition of a wetland in subpart 48.

Subp. 41. **RIM reserve conservation practice specifications.** "RIM reserve conservation practice specifications" means the current edition of the Minnesota Department of Agriculture publication containing detailed descriptions of the approved conservation practices found in part 8400.3660. This publication is subject to frequent change, is available at the state law library and at district offices, and is incorporated by reference.

Subp. 42. **RIM reserve program.** "RIM reserve program" means the Reinvest in Minnesota Resources Conservation Reserve program established in *Minnesota Statutes*, sections 40.41 to 40.45.

Subp. 43. **Screening committee.** "Screening committee" means a group established by the district board to assist in implementing the RIM reserve program. The screening committee is chaired by a district board member and is composed of representatives of private, state, and local organizations or clubs, and state and federal agencies with an interest in the RIM reserve program. A request for participation must be sent at least annually to the: Minnesota Department of Natural Resources, Minnesota Pollution Control Agency, United States Agricultural Stabilization and Conservation Service, United States Fish and Wildlife Service, and United States Soil Conservation Service.

Subp. 44. **Significant potential soil productivity loss.** "Significant potential soil productivity loss" means that soil productivity loss due to erosion may occur in a short time unless soil and water conservation practices are initiated to control soil erosion. The method of calculation combines the rating of a soil as a rooting environment with landscape characteristics that represent erosion potential.

Subp. 45. **Soil and water conservation practice.** "Soil and water conservation practice" means an approved conservation practice applied to land to control soil erosion, sediment, or other water pollutants as described in the RIM reserve conservation practice specifications.

Subp. 46. **Soil mapping unit.** "Soil mapping unit" means a unit or type of soil or combination of soils shown on a soil survey map.

Subp. 47. **State board.** "State board" means the Board of Water and Soil Resources.

Subp. 48. **Wetland.** "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, or that periodically does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, including wetlands as defined in *Minnesota Statutes*, section 105.37.

8400.3060 CRITERIA FOR ALLOCATION OF FUNDS.

The commissioner shall allocate funds to participating district boards through the state board based on the following criteria:

- A. the number of applications recommended for approval by the district board;
- B. the proportion of marginal agricultural land in the district as compared to state totals;
- C. the potential for restoring wetlands;
- D. the need for highway windbreaks;
- E. the need for soil erosion or sediment control, protection or improvement of water quality, or improvement of fish and wildlife habitat; and

F the expressed interest and readiness of the district board, cooperating groups, and agencies to implement the program.

The allotted funds may be increased, decreased, or shifted as necessary to maximize the use of funds among districts.

8400.3100 ADMINISTRATION OF FUNDS.

The participating district board is responsible for administration of the funds in accordance with *Minnesota Statutes*, sections 40.40 to 40.45 and other applicable laws. The district board may make recommendations concerning use of these funds in accordance with parts 8400.3000 to 8400.3930.

8400.3130 PRIORITY SETTING.

Annually, before considering any applications from landowners, the participating district board shall call a screening committee meeting. The screening committee must establish priority areas within the district. Establishment of priority areas must be based on the following criteria:

- A. the location of high priority erosion or water quality problem areas in the district as outlined in the district comprehensive and annual plans;
- B. the potential of the land for fish and wildlife production, reducing erosion, and protecting water quality;
- C. recommendations from technical agricultural and natural resource experts familiar with the district;
- D. the established priorities of the agencies and organizations represented on the screening committee;
- E. maximizing the benefits of current programs administered by the United States Agricultural Stabilization and Conservation Service, United States Fish and Wildlife Service, and Minnesota Department of Natural Resources; and
- F the amount of RIM reserve program funds available.

8400.3160 CRITERIA FOR ELIGIBLE LAND.

Land eligible for the RIM reserve program must meet at least one of the following criteria:

- A. The land is marginal agricultural land.
- B. The land is agricultural land adjacent to marginal agricultural land that is being enrolled if enrollment of the adjacent land is beneficial to resource protection or necessary for efficient recording of the land description and if at least 50 percent of the total proposed acreage is marginal agricultural land.
- C. The land is an altered wetland and cropland adjacent to the altered wetland, with up to four acres of nonmarginal cropland for each acre of wetland restored.
- D. The land is land that with a highway windbreak would control snow drifting and be beneficial to resource protection.

In addition, eligible land must have all of the following characteristics:

- (1) a crop history for at least two years during the period 1981 to 1985;
- (2) was owned by the landowner, or a parent or other blood relative of the landowner, for at least three years before the date of application;
- (3) is at least five acres in size, except for a highway windbreak, or is a whole field as defined by the Agricultural Stabilization and Conservation Service;
- (4) is not set-aside, enrolled, or diverted under another federal or state government land retirement program including, but not limited to, federal conservation reserve, federal production adjustment set-aside, or state or federal water bank; and
- (5) is physically possible to crop, except for altered wetlands.

8400.3200 MAXIMUM ENROLLMENT.

The total enrolled land of a landowner in the RIM reserve program may not exceed 20 percent of the landowner's total agricultural land acreage in Minnesota, if the landowner owns at least 200 acres of agricultural land. If a landowner owns less than 200 acres of agricultural land, the amount that may be enrolled in the conservation reserve is:

- (a) all agricultural land owned, if 20 acres or less; or

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Proposed Rules

(b) if the total agricultural land owned is more than 20 acres but less than 200 acres, 20 acres plus ten percent of the total.

The total enrolled land of a landowner in the beginning farmer program may not exceed 20 percent of the total agricultural acreage of the enrolled farm operation.

8400.3230 APPLICATION BY LANDOWNERS.

Landowners interested in participating in the RIM reserve program must submit an application to the appropriate district office in which the land is located, during the application period established by the commissioner, and on forms provided by the commissioner. The landowner must complete the application in its entirety along with any supportive information required for proper consideration of the application. The supportive information includes, but is not limited to:

- A. crop history of the parcel;
- B. total agricultural acres owned by the applicant in Minnesota;
- C. aerial photographs or a sketch of the parcel; and
- D. description of other land owned or leased as part of the same farm operation at the time of application.

The district technician shall make an initial determination of easement eligibility at the time of application. Applications having questionable eligibility must be referred to the district board for eligibility determination. Providing proof of eligibility is the responsibility of the landowner. The district technician shall develop a cost estimate for the easement and approved practices for all eligible applications. Other organizations and agencies may be requested to provide technical assistance in preparing cost estimates.

8400.3260 LAND IN MORE THAN ONE DISTRICT.

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

8400.3300 CRITERIA FOR SCREENING COMMITTEE REVIEW.

Upon completion of the application period and initial eligibility determination by the district technician, the screening committee shall confer and prioritize each eligible application. The criteria for screening committee prioritization are as follows:

- A. consistency with the purpose and policy of the RIM reserve program;
- B. the parcel's relationship to the priority areas previously determined in part 8400.3130;
- C. the parcel's potential impact on reducing erosion and sedimentation, improving water quality, and enhancing fish and wildlife habitat;
- D. potential title problems and encumbrances;
- E. compatibility with established priorities of the organizations and groups represented; and
- F. highest priority must be given to permanent easements that are consistent with *Minnesota Statutes*, section 40.41.

All eligible applications must be prioritized with recommendations and submitted to the district board for review. Applications with eligibility questions must be referred to the district board for eligibility determination before screening committee prioritization.

8400.3330 CRITERIA FOR DISTRICT BOARD REVIEW.

Upon the receipt of the applications with screening committee prioritization, the district board shall meet and review the applications. Criteria for district board review are as follows:

- A. criteria in part 8400.3300 used in screening committee review;
- B. compatibility with district plans and priorities; and
- C. availability of funds from RIM reserve and other sources.

8400.3360 DISTRICT ACTION ON APPLICATIONS.

Upon completion of district board review of the eligible applications, the following action must be taken:

- A. Applications approved for further processing are designated as approved and must be signed by the district chair or acting chair.
- B. High priority applications for which there are insufficient funds are designated as pending, with the consent of the landowner. These applications may be held in a pending status for up to 60 days while additional funds are sought.
- C. Applications not eligible or not of sufficient priority are designated as denied. The reason for the denial must be stated on the application.

D. The district board shall notify all applicants in writing of their application designation status within 30 days after the end of the application period.

E. All applications must be kept at the district office for a minimum of three years for future reference.

F. When district board action results in prioritization differing from the screening committee recommendations, the screening committee must be notified within 30 days in writing by the district board.

8400.3400 CONSERVATION AGREEMENT FOR EASEMENT.

The district board shall develop a conservation agreement for all approved applications in which the landowner agrees to:

A. convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;

B. establish and maintain permanent cover and other conservation practices on the land subject to the easement as described in the conservation plan approved by the commissioner, which is incorporated into the conservation easement;

C. convey to the state a permanent wetland restoration easement when an altered wetland is being restored;

D. not convert to agricultural crop production or pasture any other land supporting natural vegetation owned or leased as part of the same farm operation during the term of the easement, if those lands support natural vegetation or have not been used in agricultural crop production or introduced pasture;

E. the enforcement of the terms of the easement and agreements by an action for specific performance, a mandatory injunction, or for damages in an amount not to exceed the total amount paid by the state to the landowner, with interest from the date of each default under the agreement or any combination of these remedies;

F. not alter wildlife habitat, natural features, or the vegetative cover and other conservation practices established in the conservation plan, except by the prior written approval of the commissioner;

G. not produce agricultural crops, unless approved by the commissioner for wildlife management purposes;

H. not graze livestock except with the prior written approval of the commissioner, after consultation with the commissioner of the Department of Natural Resources, in the case of severe drought or a local emergency;

I. be responsible for weed control and not to spray with chemicals or mow, except as necessary to comply with noxious weed control laws, or emergency control of pests necessary to protect public health, or to maintain permanent vegetative cover as approved by the district;

J. restore the easement area to the condition described in the conservation plan after any lawful repair or improvement of a public drainage system;

K. notify the commissioner in writing at least 30 days before the conveyance of all or part of the title or interest in the land in which the easement area is located by providing the names and addresses of the grantees, assignees, or heirs;

L. pay, when due, all taxes and assessments that may be levied against the easement area;

M. the running of the easement with the land and its being binding on all persons and entities who come into ownership or possession of the affected lands;

N. not place, erect, or construct temporary or permanent structures on the easement area;

O. allow the commissioner and the commissioner's employees and agents to enter the easement area for the purposes of inspection or enforcement of the terms and conditions of the easement; and

P. undertake the protection and management of the easement area in accordance with the conditions in the easement.

The conservation agreement must be recordable and on forms approved by the commissioner.

8400.3430 PROCEDURE FOR REVIEW OF CONSERVATION AGREEMENT.

After the conservation agreement has been developed by the district board, the unsigned agreement must be processed as follows:

A. It must be reviewed by a representative of the state board.

B. It must have a review and determination by the commissioner.

C. The landowner must be notified of the commissioner's decision.

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Proposed Rules

D. If it is approved by the commissioner, the agreement must be given to the landowner for signature.

E. The agreement must be returned to the commissioner for signature by the necessary state officials and encumbrance of state funds.

F. A copy of the signed agreement must be provided to the landowner.

8400.3460 ABSTRACT AND TITLE REQUIREMENTS.

After notification of the commissioner's signing of the conservation agreement, the landowner, at the landowner's expense, shall deliver to the district office an original up-to-date abstract of title or registered property abstract, with certifications as to liens, bankruptcies, real estate taxes, and judgments. The landowner must have good and marketable title, not subject to any prior liens or encumbrances, as determined by the Attorney General, or an insurable title under a title insurance policy, not subject to any prior liens or encumbrances, approved by the Attorney General. Any title defect, liens, or encumbrances must be promptly removed or corrected by the landowner including, but not limited to, the following: lien waivers, releases or consent and subrogation from mortgagees, release or satisfaction of judgments, and receipt for payment of delinquent real estate taxes. The landowner's abstract of title must be returned to the landowner.

8400.3500 EASEMENT CONVEYANCE.

Upon delivery and recording of a properly executed conservation easement, approved by the commissioner, and the vesting of the easement interest in the commissioner, not subject to any prior lien or encumbrances, payment must be made for the easement to the landowner, landowner's designees, assignees, or heirs.

8400.3530 PAYMENT RATES.

Subpart 1. **Calculation.** The payment rate for the conservation easement must be calculated according to subparts 2 to 4.

Subp. 2. **New easements.** For permanent easements, payments are per acre figures derived from county average cash rent adjusted for countywide variations in estimated township market value. The figures are established on a township basis with the lower of the following two values selected as the payment:

A. 100 percent of the present value of the derived per acre figure calculated for perpetuity; or

B. 90 percent of estimated township market value. This payment method provides higher values for better quality land and ensures that payments do not exceed estimated market values. A schedule of payments for townships and unorganized areas is developed annually and is available at district offices or from the commissioner.

For limited duration easements not less than 20 years in length, payments are based on 65 percent of the permanent easement payment.

Payment rates may be modified prior to the sign up by the commissioner if the commissioner determines the rates established above do not reflect current market values based on the most recent land value market indicators.

The commissioner shall annually establish the discount rate to be used for calculating present value. Average cash rent and estimated market value are based on information provided by the Department of Revenue in cooperation with local assessors.

Subp. 3. **Conversion to permanent easement.** When converting limited duration easements to permanent easements, the payment is the difference between the amount paid per acre for the permanent easement as established for the most recent sign-up period and the amount already paid for the limited duration easement on the area.

Subp. 4. **Approved practices.** The payment rate for the approved conservation practice to be applied to the easement area is described in *Minnesota Statutes*, section 40.43, subdivision 6.

8400.3560 PAYMENTS.

Payments for easements will be a one-time lump sum amount unless the landowner requests a split payment for up to four equal annual installments for which no interest is paid. Payments may be assigned by the landowner.

8400.3600 EASEMENT RENEWAL AND CONVERSION.

A. When a conservation easement of limited duration expires, a new conservation easement and agreement for an additional period of not less than 20 years may be acquired by agreement of the commissioner and the landowner under the rules in force at that time. The commissioner may adjust payment rates as a result of renewing an agreement and conservation easement only after examining the condition of the established cover, conservation practices, and land values.

B. The easement duration may be lengthened through mutual agreement with the commissioners of the Departments of Agriculture and Natural Resources if they determine that the changes effectuate the purpose of the program or to facilitate its administration.

8400.3630 CRITERIA FOR APPROVED PRACTICES.

Approved practices must be enduring in nature and have as their primary purpose the control of soil erosion or sedimentation, protection or improvement of water quality, or creation or improvement of fish and wildlife habitat. The list is contained in part 8400.3660 and is further specified in the RIM reserve conservation practice specifications. Practices under this program must be designed for a minimum effective life of 20 years, be nonproduction practices, and have specifications providing for the use of plant species and construction techniques that provide quality fish and wildlife benefits. Production practices that do not qualify as approved practices include, but are not limited to, Christmas tree plantations and fruit orchards. Food plots are not eligible for RIM reserve cost-sharing, but are allowed on enrolled acres if they are included in the conservation plan and approved by the commissioner.

8400.3660 LIST OF APPROVED PRACTICES.

Approved practices include, but are not limited to:

- A. permanent vegetative cover;
- B. tree and shrub planting;
- C. field windbreak;
- D. highway windbreak;
- E. stormwater control system;
- F. diversion; and
- G. structures for water control.

The approved practices are further described in the RIM reserve conservation practice specifications.

8400.3700 ESTABLISHMENT OF APPROVED PRACTICES.

Subpart 1. Installation of approved practices. Establishment of approved practices must be monitored by the district board to ensure compliance with the easement. Upon completion of an annual component or the entire plan a district technician shall certify whether or not the practice has been satisfactorily performed, including certification that the practice meets the RIM reserve conservation practice specifications. Upon certification of completion, the landowner shall present documentation to the district of the costs incurred in the installation of the practice in the form of receipts or invoices.

Subp. 2. Costs for approved practices.

A. The district board shall review the receipts and invoices provided by the landowner to determine the actual cost eligible for RIM reserve payment. If the district board determines that the claims are reasonable and practical, it shall recommend payment to the landowner by submitting a completed certification of practice completion and a cost-share voucher to the commissioner. If the district board determines that certain claims are not justified or not eligible, it shall notify the landowner in writing of the unjustified claim within 30 days. The landowner may request reconsideration of this determination by the district board within 15 days of receipt of the determination. If additional eligible costs are justified, the district board shall then recommend payment for the approved amount.

B. The state is only financially obligated up to the amount encumbered for each approved practice as stated in the conservation plan attached to the conservation easement, and any costs exceeding this amount are the responsibility of the landowner.

C. If the actual cost of installing the approved practices in the conservation plan are less than the encumbered amount, the state shall only pay the applicable cost of the installation in accordance with the limits in *Minnesota Statutes*, section 40.43, subdivision 6, clauses (1) and (2).

D. The commissioner may encumber additional funds for eligible costs if the additional encumbrance is consistent with the purpose and policy of the RIM reserve program and the maximum amounts in *Minnesota Statutes*, section 40.43, subdivision 6, clauses 1 and 2, are not exceeded.

Subp. 3. Payment for in-kind services. In-kind services provided by the landowner including, but not limited to, earthwork, seedbed preparation, and seeding, may be credited to the landowner's share of the total cost of the practice. The district board shall determine whether charges for in-kind services are practical and reasonable.

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Proposed Rules

Subp. 4. **Funds from other sources.** RIM reserve funds may be augmented by funds from other agencies, organizations, or individuals. Securing these funds is the responsibility of the landowner. Requirements for obtaining these funds are determined by the contributor.

8400.3730 FAILURE OF APPROVED PRACTICES.

A landowner is not in violation of the conservation easement if the failure of approved practices was caused by reasons beyond the landowner's control such as extreme weather conditions. In these instances, the district board may recommend to the commissioner that additional RIM reserve funds be encumbered for reinstallation of the approved practices. The encumbrance must comply with the limits in *Minnesota Statutes*, section 40.43, subdivision 6, clauses (1) and (2), and cannot exceed the amount encumbered for the initial installation. In no case may a district board provide financial assistance to a landowner for the reapplication of approved practices that were removed, altered, or failed due to improper maintenance during the term of the easement.

8400.3760 MAXIMUM PAYMENT.

The commissioner may not pay more than \$50,000 total in RIM reserve program funds to a landowner for all approved practices and conservation easements. This is the maximum cumulative amount that may be received over the landowner's lifetime.

8400.3800 MAINTENANCE.

A landowner is responsible for planting, establishment, operation, and maintenance of approved practices described in the conservation agreement and for ensuring that easement restrictions are followed so that the easement's conservation objective is met and the effective life of 20 or more years is achieved.

8400.3830 VIOLATIONS.

The commissioner may enforce the easement and agreement by the following legal action:

- A. specific performance;
- B. mandatory injunction;
- C. damages in an amount not to exceed the total amount paid by the state to the landowner from RIM reserve funds, with interest from the date of each default; or
- D. any combination of the above remedies.

The district board may recommend to the commissioner appropriate measures to be taken to correct violations. Easements remain in effect even if maintenance violations have occurred.

8400.3860 MONITORING.

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

8400.3900 DISTRICT BOARD RECORDS.

The district shall maintain a current ledger of easements on forms provided by the commissioner. The ledger must specify the names of the landowners with whom the easements have been developed, the approved practices involved, the status of permanent cover establishment, the total of funds encumbered and expended, the size and type of easements, and their effective date.

8400.3930 RECONSIDERATION AND REVIEW.

Subpart 1. **Procedures.** Procedures for reconsideration and review of applications are in subparts 2 to 4.

Subp. 2. **Reconsideration by district.** An affected landowner may request the district board to reconsider its recommendations that deny landowner acceptance under the RIM reserve program by mailing a written request to the district within 15 days of receipt of the notice of denial of ineligibility, stating the specific reasons for claiming eligibility or a higher priority and including additional evidence to support the landowner's claims. The district shall notify the landowner of the final recommendation of the district board.

Subp. 3. **Review by state board.** An affected landowner may request the state board to review, on the record, the final recommendations of the district board that deny a landowner eligibility under the RIM reserve program by mailing a written request to the state board within 15 days after receipt of the final recommendation of the district board, stating the specific reasons for claiming eligibility, or a higher priority. The state board shall notify the landowner and district board of its recommendations.

Subp. 4. **Review by commissioner.** An affected landowner may request the commissioner to review, on the record, the recommendations of the state board that deny a landowner eligibility under the RIM reserve program, by mailing a written request to the commissioner within 15 days after receipt of the state board recommendation, stating the specific reasons for claiming eligibility, or a higher priority. The commissioner shall notify the landowner of the commissioner's decision.

Department of Commerce

Proposed Permanent Rules Relating to Securities Offerings

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, Section 45.023 and 80A.25 subd. 1.

All persons have 30 days to submit comments 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. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing 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 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 department will proceed pursuant to *Minnesota Statutes*, sections 14.13 to 14.20.

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

Elizabeth Moran
Acting Deputy Commissioner
Department of Commerce
500 Metro Square Building
St. Paul, MN 55101
(612) 296-6325

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

Pursuant to *Minnesota Statutes* Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

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

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2875.0115 SECURITIES GUARANTEED BY A GOVERNMENTAL UNIT OR INSTRUMENTALITY.

Subpart 1. Definition of "guaranteed." For the purpose of *Minnesota Statutes*, section 80A.15, subdivision 1, paragraph (a), the term "guaranteed," when used with reference to a security issued by the United States, any state, any political subdivision of a state, or any corporate or other instrumentality of one or more of the foregoing, shall include any debt obligation which:

A. is a general obligation of the issuer, to which the issuer has pledged to its full faith and credit (whether or not the issuer has general taxing powers); or

B. the issuer is obligated to repay out of, and only out of, public funds.

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Proposed Rules

Subp. 2. Definition of "public funds." For the purposes of this part, "public funds" means:

A. any money derived from:

(1) taxation;

(2) special assessments;

(3) revenues or other service charges derived by the issuer from a public facility or enterprise owned and operated by or on behalf of and under the control of the issuer;

(4) government grants or loans received by the issuer; or

(5) the proceeds of any bond insurance, letter of credit, line of credit, or other credit enhancement device obtained by the issuer; or

B. any other money subject to the control of and appropriation by the governing body of the issuer.

Except with respect to funds identified in item A, subitem (4) or (5), public funds does not include money received by the issuer from any person other than in the person's capacity as a member of the general public.

2875.0116 NONISSUER TRANSACTIONS INVOLVING PREVIOUSLY EXEMPTED SECURITIES.

Subpart 1. Scope. This part applies to any security which was issued and exempt under Minnesota Statutes, section 80A.15, subdivision 1, paragraph (a), prior to July 1, 1987, but which is not exempt under the amended provisions of Minnesota Statutes, section 80A.15, subdivision 1, paragraph (a), which became effective July 1, 1987.

Subp. 2. Nonissuer transactions. Any security described in subpart 1, shall be exempt for purposes of nonissuer transactions effected on or after July 1, 1987, provided that the nonissuer transaction does not constitute a public distribution.

2875.3500 DIVIDEND AND INTEREST COVERAGE.

Subpart 1. [Unchanged.]

Subp. 2. **Debt securities.**

A. In connection with the offering of debentures, notes, bonds, investment certificates, or similar interest-bearing securities, (other than bonds or similar interest-bearing securities issued by the United States, any state, any political subdivision, or any corporate or other instrumentality of one or more of those entities), whether convertible or not, the cash flow of the issuer, computed in accordance with generally accepted accounting principles, exclusive of extraordinary income, for its last fiscal year prior to the public offering, or the average of its last three fiscal years prior to the public offering, shall be sufficient to cover the interest, including that which is deferred and not paid, on the securities proposed to be offered to the public.

B. In connection with the offering of bonds or similar interest-bearing securities issued by the United States, any state, any political subdivision of any state, or any corporate or other instrumentality of one or more of those entities, except those which are exempt from registration under Minnesota Statutes, section 80A.15 or are rated in one of the top four rating categories by Fitch Investors Service, Inc., Standard and Poor's Corporation, or Moody's Investor Services, Inc., the cash flow of the user or borrower of the offering proceeds or, if a different entity, the cash flow of the entity obligated to make payment of principal and interest on the bonds or securities or obligated to make payments under a lease, sale, loan, or guarantee arrangement sufficient to make principal and interest payments on the bonds or securities, computed in accordance with generally accepted accounting principles, exclusive of extraordinary income, for its last fiscal year prior to the public offering, or the average of its last three fiscal years prior to the public offering, shall be sufficient to cover the interest, including that which is deferred and not paid, on the bonds or securities proposed to be offered to the public. If the bonds or securities proposed to be offered are unconditionally guaranteed, both as to payment of interest and as to the repayment of principal, by an entity other than the user or borrower of the proceeds, then the cash flow of the guarantor shall be used in determining whether the bonds or securities qualify for registration.

C. In connection with the offering of bonds or similar interest-bearing securities issued by the state of Minnesota, its political subdivisions, governmental agencies, or corporate or other instrumentalities, if the cash flow requirements of the previous paragraph are not satisfied, then the application for registration must be accompanied by a financial forecast, examined by an independent certified public accountant who must express an opinion on the forecast. The examination must be made in accordance with the Guide for Prospective Financial Statements as promulgated by the American Institute of Certified Public Accountants, and the financial forecast must attest to the ability of the user or borrower of the offering proceeds or other obligor to generate sufficient cash flow, computed in accordance with generally accepted accounting principles, exclusive of anticipated extraordinary income, to cover interest on the securities proposed to be offered to the public. Notwithstanding the foregoing, a financial forecast will not be accepted as evidence of the satisfaction of cash flow requirements if the user or borrower of the offering proceeds or other obligor has had a material default during the past three years in any required payment under a lease or any payment of principal, interest, dividend, or sinking fund installments on preferred stock or indebtedness for borrowed money.

Subp. 3. [Unchanged.]

Subp. 4. [See Repealer.]

Subp. 5. [Unchanged.]

2875.3530 DEBT SECURITIES.

Subpart 1. **Indenture.** The indenture or other instrument pursuant to which nonconvertible debt securities are proposed to be issued should normally provide for the following:

A. a sinking fund provision or serial maturity schedule whereby all or a reasonable portion of the issue is to be retired in installment prior to maturity (the deferral of sinking fund payments and the amount of the balloon payment at maturity which will be permitted will depend upon the financial condition and other circumstances of the issuer);

B. to D. [Unchanged.]

Subp. 2. [Unchanged.]

Subp. 3. Bonds issued by governmental entities. With respect to bonds or similar interest-bearing securities issued by the United States, any state, any political subdivision of any state, or any corporate or other instrumentality of one or more of those entities other than those which are exempt from registration under Minnesota Statutes, section 80A.15, or are rated in one of the top four rating categories by Fitch Investors Service, Inc., Standard and Poor's Corporation, or Moody's Investor Services, Inc., the protective provisions specified in subpart 1 shall apply to the user or borrower of the offering proceeds, or, if a different entity, the person obligated to make payment of principal and interest on the bonds or securities or obligated to make payments under a lease, sale, loan, or guarantee arrangement sufficient to make principal and interest payments on the bond or securities.

2875.3531 SECURITY INTEREST.

In connection with the offering of bonds or similar interest-bearing securities issued by the United States, any state, any political subdivision of any state, or any corporate or other instrumentality of one or more of those entities, the trustee must be granted, for the benefit of the bondholders or security holders, a mortgage and security interest of first priority in the facility to be constructed, land to be acquired, and other real or personal property to which the offering proceeds will be applied unless:

A. the securities are exempt from registration under Minnesota Statutes, section 80A.15;

B. the securities are rated in one of the top four rating categories by Fitch Investors Service, Inc., Standard and Poor's Corporation, or Moody's Investor Services, Inc.; or

C. all of the following conditions are met:

(1) the cash flow requirements of part 2875.3500, subpart 2, item B, are satisfied;

(2) if funds to make principal and interest payments on the bonds or securities arise from appropriations by the United States, any state, any political subdivision of any state, or any corporate or other instrumentality of one or more of those entities, the funds are not subject to the risk of nonappropriation; and

(3) if funds to make principal and interest payments on the bonds or securities arise under a lease arrangement, the lease is not subject to termination or nonrenewal prior to the maturity of the bonds or securities.

2875.3532 PROHIBITION; NONRECOURSE LOANS.

No part of the offering proceeds resulting from the sale of bonds or similar interest-bearing securities issued by the United States, any state, any political subdivision of any state, or any corporate or other instrumentality of one or more of those entities may be loaned to a person on a nonrecourse basis.

This prohibition does not apply to bonds or similar interest-bearing securities exempt from registration under Minnesota Statutes, section 80A.15 or rated in one of the top four rating categories by Fitch Investors Service, Inc., Standard and Poor's Corporation, or Moody's Investor Services, Inc.

2875.3533 SUITABILITY STANDARD.

Except with respect to bonds or similar interest-bearing securities exempt from registration under Minnesota Statutes, section 80A.15 or those rated in one of the top four rating categories by Fitch Investors Service, Inc., Standard and Poor's Corporation,

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Proposed Rules

or Moody's Investor Services, Inc., purchasers of bonds or similar interest-bearing securities issued by the United States, any state, any political subdivision of any state, or any corporate or other instrumentality of one or more of the foregoing, shall have a minimum annual gross income of \$30,000 and a net worth of \$30,000, or in the alternative, a net worth of \$75,000. Net worth is determined exclusive of home, home furnishings, and automobiles.

A purchaser will be considered to meet the standards in this part if the purchaser has certified within the 24-month period immediately preceding the purchase that the standards are satisfied.

REPEALER. Minnesota Rules, part 2875.3500, subpart 4, is repealed.

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, 443 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
Department of Labor and 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 ~~April 4, 1988~~ June 30, 1988:

Federal Register, Vol. 53, No. 66, dated April 6, 1988; "Occupational Exposure to Ethylene Oxide (1910.1047).

Federal Register, Vol. 53, No. 70, dated April 12, 1988; "Safety Testing or Certification of Certain Workplace Equipment and Materials; Deletion of Specific Testing Laboratory Names; Definition of Nationally Recognized Testing Laboratory; Determination of Eligible Testing Organizations (1910.7)."

Federal Register, Vol. 53, No. 96, dated May 18, 1988; "Grain Handling Facilities; Notice of Approval of Information Collection Requirements by OMB and Corrections to Appendices as published on December 31, 1987 (1910.272).

Part 1926: Construction Safety and Health Regulations as published in Part VII, Volume 44, No. 29 of the *Federal Register* on February 9, 1979, which incorporates changes, additions, deletions and corrections made up to October 17, 1978, and includes General Industry Occupational Safety and Health Standards (29 CFR Part 1910) which have been identified as applicable to construction work; and subsequent changes made prior to ~~April 4, 1988~~ June 20, 1988; *Federal Register*, Vol. 53, No. 116, dated June 16, 1988; "Concrete and Masonry Construction Safety Standards (1926.700-1926.706)."

Summary of Standards: The following summary of the proposed standards is very brief; persons interested in reviewing any of these standards in their entirety may obtain a copy as noted above.

A) "Occupational Exposure to Ethylene Oxide—1910.1047." On April 6, 1988, Federal OSHA amended its existing standard regulating occupational exposure to ethylene oxide, 29 CFR 1910.1047, by adopting an excursion limit for ethylene oxide (EtO) of 5 parts of EtO per million parts of air (5 ppm) averaged over a sampling period of 15 minutes. The existing standard, adopted by Federal OSHA and Minnesota OSHA in 1984, requires employers to limit exposure to one part EtO per million parts of air (1 ppm)

averaged over an eight-hour day. By adopting the excursion limit, Federal OSHA is complying with a decision by the U. S. Court of Appeals for the District of Columbia directing the agency to decide by March 31 whether the short-term limit is both needed and feasible.

Where the excursion limit is exceeded, employers are obligated to reduce exposure through implementation of feasible engineering controls and work practices, supplemented by the use of respirators where necessary. In addition, employers are required to establish and implement a written compliance program to achieve the excursion limit, establish exposure monitoring and training programs for employees subjected to EtO exposure above the excursion limit, identify as regulated areas any locations where airborne concentrations of EtO normally exceed the excursion limit, and affix warning labels on products capable of releasing EtO to the extent that an employee's exposure would foreseeably exceed the excursion limit. Employee rotation is prohibited as a means of compliance with the excursion limit.

The final amendments of the federal standard became effective June 6, 1988; compliance with the excursion limit is required by September 6, 1988; and engineering controls must be implemented by December 6, 1988. When adopted by Minnesota OSHA, all provisions of the revised standard will become effective five days after publication of the adoption notice in the *State Register*, except for implementation of engineering controls. Employers who use EtO have already instituted programs regarding training, compliance plans, respirators, exposure monitoring and work practices, recordkeeping, signs and labels, and regulated areas as required by the 1984 standard. These employers should also be aware of the new excursion limit, which becomes effective at the federal level on September 6, 1988, since it has been well-publicized. The effective date for implementation of engineering controls will remain the same as the federal effective date—December 6, 1988.

By this notice, Minnesota OSHA proposes to adopt the amendments to the Occupational Exposure to Ethylene Oxide Standard as published in the *Federal Register* on April 6, 1988.

B) "Safety Testing or Certification of Certain Workplace Equipment and Materials: Deletion of Specific Testing Laboratory Names; Definition of Nationally Recognized Testing Laboratory; Determination of Eligible Testing Organizations." On April 12, 1988, Federal OSHA announced the deletion of the names of Underwriters Laboratories, Inc. (UL) and Factory Mutual Research Corporation (FMRC) from 23 testing-related standards in the OSHA general industry standards (29 CFR Part 1910). These standards currently require third-party (or independent) testing for safety to assure that equipment and materials are acceptable for workplace use. The safety standards being revised either had explicitly required or had implied that this safety testing be performed only by UL or FMRC. Over the past decade, certain testing laboratories other than UL and FMRC have claimed to have suffered economic losses due to this situation.

As a result of the UL/FMRC name deletion, the 23 safety standards now will provide that certain types of workplace equipment and materials be third-party tested for safety by "nationally recognized testing laboratories." A definition for this term includes the following requirements: (1) capability to examine specific equipment for workplace safety; (2) provision of controls and services necessary for assuring and demonstrating original conformity of equipment to appropriate test standards; (3) independence from manufacturers, suppliers and vendors of products, and from other employers; and (4) procedures for producing creditable findings and reports and for handling complaints and disputes.

Testing laboratories that list or approve equipment under these standards must be recognized as nationally testing laboratories (NRTL) by OSHA. OSHA will evaluate applicant testing and control programs against the NRTL definitional requirements and issue a written "recognition" letter, in accordance with Appendix A to 1910.7.

New section 1910.7, "Definition and Requirements for a Nationally Recognized Testing Laboratory" and new Appendix A to 1910.7 are added to Subpart A of Part 1910. Appropriate amendments are made in the following existing standards:

- 1910.28 "Safety Requirements for Scaffolding" in paragraphs (f)(2), (g)(3), (h)(2) and (i)(1)
- 1910.35 "Means of Egress, Definitions" in paragraph (h)
- 1910.103 "Hydrogen" in paragraph (a)(1)(ii)
- 1910.106 "Flammable and Combustible Liquids" in paragraph (a)(35)
- 1910.107 "Spray Finishing Using Flammable and Combustible Materials" in paragraph (a)(8)
- 1910.108 "Dip Tanks Containing Flammable or Combustible Liquids" in paragraph (a)(3)
- 1910.109 "Explosives and Blasting" in paragraph (d)(2)(iii)(a)

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Proposed Rules

1910.110 "Storage and Handling of Liquefied Petroleum Gases" in paragraphs (a)(14), (b)(2)(iii), (c)(5)(i)(g)(1), and (f)(5)(iv)

1910.111 "Storage and Handling of Anhydrous Ammonia" in paragraphs (b)(1)(ii) and (vi)

1910.155 "Fire Protection, Scope/Application" in paragraphs (c)(3)(i) and (iv)(E)

1910.178 "Powered Industrial Trucks" in paragraph (a)(7)

1910.180 "Crawler Locomotive and Truck Cranes" in paragraph (i)(4)(i)

1910.181 "Derricks" in paragraph (j)(4)(i)

1910.251 "Welding, Cutting, and Brazing; Definitions" in paragraph (b)

1910.265 "Sawmills" in paragraph (d)(2)(iv)(c)

1910.266 "Pulpwood Logging" in paragraph (c)(4)(iii) and (iv)

1910.399 "Electrical; Definitions" in paragraph (a)(1)

C) "Grain Handling Facilities; Notice of Approval of Information Collection Requirements and Corrections." On December 31, 1987, Federal OSHA adopted a final standard on grain handling facilities; Minnesota OSHA adopted the standard on May 30, 1988. The new standard included provisions requiring employee protection at grain handling facilities from fires, grain dust explosions, and other safety hazards. At the time the standard was adopted, the information collection provisions in the standard [paragraphs (d) and (i)] had not been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OMB approved those requirements on February 4, 1988.

This notice adds the OMB control number to 1910.272 to indicate OMB approval and also corrects miscellaneous errors and omissions in the Appendices to the final rule.

By this notice, Minnesota OSHA proposes to adopt the corrections to the Appendices to 1910.272 as published in the *Federal Register* on May 18, 1988. In addition, this notice announces OMB approval of the information collection requirements in paragraphs (d) and (i); those requirements will become effective upon adoption of this notice.

D) "Concrete and Masonry Construction Safety Standards (1926.700-1926.706)." On June 16, 1988, Federal OSHA adopted revisions to the Subpart Q of the Construction Standards (29 CFR Part 1926) for Concrete and Masonry Construction (formerly Concrete, Concrete Forms, and Shoring). The standard removes ambiguities that have existed; closes gaps in coverage; recognizes technological changes; and, where possible, uses language that states the performance to be achieved by the employer without specifying unnecessary details as to how the employer must meet the requirements. Additionally, reference to the American National Standard A10.9-1970 "Safety Requirements for Concrete Construction and Masonry Work" has been removed and the applicable requirements from this standard and the more recent ANSI Standard for Concrete and Masonry Work, ANSI A10.9-1983, have been evaluated and used in developing this final rule. The revised rule is intended to reduce occupational fatalities and injuries in concrete and masonry construction work.

The revised standards set forth requirements to protect construction workers from hazards involving premature removal of formwork, failure to brace masonry walls, and other hazardous situations such as failure to support precast panels, inadvertent operation of equipment, and unguarded reinforcing steel.

In addition, the requirements for concrete testing have been revised allowing employers to use methods other than the one specified in the existing rule. The testing methods listed in Appendix A will provide the employer with the information necessary to determine if the concrete has reached its design strength and, therefore, will reduce the hazards of premature formwork removal.

The requirements for lift-slab operations are not revised as part of this rulemaking. Federal OSHA is reopening the record to receive additional information and evidence since information concerning the use of this construction method was not available to the public rulemaking record at the time this standard was revised. The lift-slab operations requirements will be proposed as a separate rulemaking effort.

By this notice, Minnesota OSHA proposes to adopt the "Concrete and Masonry Construction Safety Standards" as published in the *Federal Register* on June 16, 1988.

Department of Natural Resources

Proposed Permanent Rules Relating to Permit Requirements for Water Aeration Systems

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Natural Resources intends to adopt the above entitled rules

without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes*, Section 14.22-14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, Chapter 184, H.F. No. 909, subd. 5.

All persons have 30 days to submit comments 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. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change. Note that part 6116.0050 references *Minnesota Statutes*, Section, 378.22. Statute cannot be addressed in the rulemaking procedure of *Minnesota Statutes*, Chapter 14.

Any person may make a written request for a public hearing 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 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 department will proceed pursuant to *Minnesota Statutes*, Sections 14.13 to 14.20.

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

Larry R. Shannon, Director
Division of Fish and Wildlife
Department of Natural Resources
500 Lafayette Road, Box 20
St. Paul, MN 55155-4020

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

Pursuant to *Minnesota Statutes* Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of these rules. Anyone wishing to present evidence or argument as to the rules affect on small business may do so. The department position regarding the impact of rules on small business is set forth in the Statement of Need and Reasonableness.

The adoption of these rules will not require the expenditure of money by local public bodies within the meaning of *Minnesota Statutes*, Section 14.11.

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 approval as to form and legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Larry Shannon.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Rules as Proposed (all new material)

6116.0010 DEFINITIONS.

Subpart 1. **Scope.** For purposes of this chapter, the following terms have the meanings given them.

Subp. 2. **Aeration system.** "Aeration system" means a bubbler, water circulation, or similar system used to increase dissolved oxygen or maintain open water. The purpose of the system includes, but is not limited to:

- A. preventing fish winterkill;
- B. keeping areas free of ice to aid navigation, keeping mooring facilities open, or protecting structures in the water from ice damage;
- C. maintaining open water for captive waterfowl;
- D. rehabilitating lake water quality by methods such as destratification and hypolimnetic aeration; and
- E. protecting shoreline from damage due to ice expansion.

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Proposed Rules

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Department of Natural Resources, or a duly authorized representative.

Subp. 4. **Management plan.** A plan approved by the commissioner that specifies actions related to water aeration systems.

Subp. 5. **Protected waters.** "Protected waters" means those waters of the state identified as public waters or wetlands under *Minnesota Statutes*, section 105.37, subdivision 14, or 105.391, subdivision 1.

Subp. 6. **Public access.** "Public access" means any designated public access or any public riparian lands where public access to the protected water is not prohibited.

Subp. 7. **Structure.** "Structure" means any building, footing, foundation, slab, roof, boathouse, deck, wall, or any other object extending over, anchored, or permanently attached to the bed or bank of a protected water.

6116.0020 PERMIT.

Subpart 1. **Required.** All aeration systems installed and operated in protected waters require a permit issued by the commissioner of the Department of Natural Resources, unless the system is used exclusively for and is no larger than the minimum size adequate to keep dams, structures, or mooring areas free of ice. No permit issued pursuant to this part shall be construed to satisfy the need for permits required by other governmental entities.

Subp. 2. **Issuance prohibited.** No aeration permit shall be issued:

A. for the purpose of attracting or delaying the migration of wild waterfowl, except for waterfowl management practices approved by the United States Fish and Wildlife Service or the Minnesota Department of Natural Resources, Division of Fish and Wildlife;

B. for protected waters designated for wildlife management under *Minnesota Statutes*, section 97A.101, subdivision 2, unless the aeration system is included as part of the management plan;

C. for protected waters proposed by the commissioner for designation for wildlife management purposes under *Minnesota Statutes*, section 97A.01, subdivision 2, until the designation process is terminated or completed;

D. for protected waters designated as scientific and natural areas under *Minnesota Statutes*, section 84.033; or

E. for protected waters without a management plan, unless:

(1) the protected waters are designated for use under a fish farm or hatchery license issued by the commissioner; or

(2) the protected waters do not have public access.

Subp. 3. **Winter operation.** An aeration permit shall not be issued for winter operation of a system where the diffusers are placed in a configuration where more than one open water area is created during ordinary winter weather, except that the system may be specifically allowed when the commissioner has first determined that it will provide substantial benefit to the lake resource.

6116.0030 APPLICATION FOR PERMIT.

Subpart 1. **Term.** No permit shall be issued for a period of more than one year.

Subp. 2. **Criteria for granting a permit.** The commissioner shall grant a permit for an aeration system when the commissioner concludes that:

A. operation of a system will result in substantial benefit to the lake resource;

B. the objectives of the system are compatible with natural resources management and public safety goals for the body of water.

Subp. 3. **Form contents.** Applications for permits shall be submitted on forms provided by the commissioner and shall include:

A. the reason the system is needed;

B. a description of the system, including but not limited to location, size, and number of devices to be used;

C. a sketch of the proposed system, indicating the compass direction "north," location on the lake, roads in the vicinity, pertinent fire numbers, noteworthy landmarks, and enough detail so the system can be located for inspection, and emergency access, shall accompany all new applications;

D. the proposed operating schedule; and

E. further information the commissioner needs in order to assess the need for and effectiveness of the proposed aeration system.

Subp. 4. **Public input.** Upon receipt of a new application for installation and operation of an aeration system on protected waters with public access the commissioner shall issue public notice and may conduct a public meeting to assist in deciding whether to

issue, deny, or modify a permit. Reissuance of permits for existing permitted aeration systems does not require a public meeting, however, upon request of 25 or more residents of the state a public meeting will be held.

Subp. 5. **Applicants.** The applicant shall be a governmental entity such as a county, city, town, watershed district, or lake improvement district; or a private person, group, or entity.

Subp. 6. **Financial responsibility.** All permittees, except those permittees operating an aeration system in protected waters without public access, where the permittee owns all land riparian to the protected water, or all of the possessory rights to the land riparian to the protected water, or has leased all access rights to the protected water, and state agencies subject to the State Tort Claims Act or municipalities subject to the Municipal Tort Claims Act, must provide proof that the permittee is financially able to meet any liability that should arise from the presence or operation of the system. This shall be done by:

A. posting a bond for \$500,000; or

B. providing a certificate of insurance for the current period of operation. An insurance policy of \$500,000 combined single limit (minimum) coverage must be in effect while the system is in operation during all times any portion of the lake is ice-covered. An insurance binder is adequate until a certificate is issued, at which time the certificate must be delivered to the appropriate regional fisheries manager.

6116.0040 PERMIT CONDITIONS.

Subpart 1. **Objective.** The commissioner may include conditions the commissioner considers reasonable and necessary for the design, installation, and operation of the system, and provisions for monitoring the system and its effects by the permittee or the commissioner.

Subp. 2. **Workshops.** Permittees shall attend workshops to be held at designated locations throughout the state as determined by the commissioner. New permittees shall attend a workshop before initial start-up of systems.

Subp. 3. **Inspections.** The permittee shall allow the inspection of the aeration system by the commissioner or a designee at all reasonable times. Each aeration system shall be inspected by the permittee often enough to ensure that the requirements of this part and conditions of the permit are met at all times. All deficiencies shall be promptly corrected. The permittee must inspect the aeration system not less than once every seven days.

Subp. 4. **Aeration periods.** The start-up and stopping dates for aerating during periods of ice cover shall be determined by the regional fisheries manager and shall be specified in the permit. Unless specifically permitted, no aeration system shall be operated during the freeze-up period until sufficient ice has formed so that marking requirements can be safely met.

Subp. 5. **Hold harmless.** Permittee agrees to assume the entire responsibility and liability for all damages or injury to all persons and to all property arising out of, resulting from, or in any manner connected with the design, construction, installation, operation, maintenance, supervision, or inspection of the permitted aeration system. Permittee agrees to indemnify, defend, and hold harmless the state of Minnesota, its agents and employees, from all claims, damages, or injury. This indemnity agreement includes, but is not limited to, claims that the permittee was negligent or otherwise liable for allowing, designing, constructing, installing, operating, inspecting, maintaining, supervising, or approving the permitted aeration system, or failing to do so.

Subp. 6. **Revocations.** The commissioner may revoke a permit without prior notice whenever, in the commissioner's opinion, revocation is necessary to protect the interests of the public, to protect human life or natural resources, or for violation of this part or any permit issued hereunder.

6116.0050 MARKING REQUIREMENTS AND PUBLICATION OF NOTICE OF OPERATION.

Permittees shall post signs and publish notice of operation as required by *Minnesota Statutes*, section 378.22.

6116.0060 WAIVER.

The commissioner may waive any provision of parts 6116.0010 to 6116.0040, when there is:

A. an emergency involving either:

(1) an unanticipated winterkill of a desirable fish population; or

(2) ice movement causing property damage; and

B. acceptable alternative means of meeting the provisions of parts 6116.0020 to 6116.0040 have been provided by the applicant.

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Proposed Rules

6116.0070 APPEAL.

The terms, conditions, or denial of any permit issued pursuant to parts 6116.0010 to 6116.0060 may, within 30 days of receipt of written notice, be appealed to the commissioner by filing a written request for review. If written request is not submitted within 30 days, the permit decision becomes final.

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.

Higher Education Coordinating Board

Adopted Permanent Rules Relating to Financial Assistance

The rules proposed and published at *State Register*, Volume 12, Number 40, pages 2169-2176, April 4, 1988 (12 S.R. 2169) are adopted with the following modifications:

Supplemental Findings of Fact, Conclusions and Order Adopting Rule Without Public Hearing

This Findings of Fact, Conclusions and Order supplements the Findings of Fact, Conclusions and Order originally submitted to the Attorney General on May 20, 1988. On June 7, 1988 the Higher Education Coordinating Board withdrew the above-entitled rule from consideration by the Attorney General. The above-entitled rule is hereby changed and resubmitted to the Attorney General with the changes noted below because the rule as proposed lacked a standard for establishing an interest rate for the SELF program, for loans made from sources other than the bonds.

Minnesota Rule 4850.0014—Subp. 3 should read as follows:

Interest rate. For loans made from the bonds, the interest rate on the loan must be fixed by the board at a margin in excess of the "index rate" on the bonds. If the bonds bear interest at more than one rate at any one time, the "index rate" will be the weighted average of the interest rates. The "index rate" may change on Thursday of each week. If the "index rate" increases or decreases, the interest rate on the loan increases or decreases automatically on the same day without notice to the borrower. If the board determines that the margin does not reflect the costs of the SELF program, the board ~~may~~ must increase or decrease the margin ~~within limits of law~~. The board shall advise borrowers of changes in the margin.

~~For loans made from sources other than the bonds, the board shall establish interest rates charged to borrowers that are reasonable, competitive, and within the limits of law. Information about how the interest rate is calculated will be available from the board or the financial aid office at the eligible school.~~

For loans made from sources other than the bonds, the interest rate on the loan will be determined by the board at a margin in excess of the "index rate." The "index rate" will be the average rounded to the nearest quarter of one percent of the bond equivalent yield, for auctions of 13-week Treasury Bills, during the preceding calendar quarter. If the "index rate" increases or decreases, the interest rate on the loan will automatically increase or decrease on the same day without notice to the borrower. At no time will the interest rate on the loan increase or decrease more than two percentage points over any four consecutive calendar quarters. The "margin" will be determined by the board to reflect the costs of the SELF program. If the board determines that the margin does not reflect the costs of the SELF program, the board must increase or decrease the margin. The board shall advise borrowers of changes in the margin.

Based on the comments and evidence in the record before the agency, I find the following:

The above-entitled rule, with the changes noted herein, is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Definitions for Higher Education Programs, Scholarship and

Adopted Rules

Grants-in-Aid, Part-Time Grants, Work-Study Grants, Dislocated Rural Worker Assistance, and Student Educational Loan Fund, with the changes noted above, is adopted this 15th day of June, 1988, pursuant to the authority vested in me by *Minnesota Statutes*, 136A.111; 136A.16; 136A.234, and Laws of Minnesota for 1987, Chapter 386, Article 10, Section 6.

Dated: 15 June 1988

David A. Longanecker
Executive Director

Rules as Adopted

4830.1552 APPLICATION AND DISTRIBUTION OF FUNDS FOR GRANTS.

Subpart 1. **Allocation formula.** The board shall allocate funds to each school according to the following formula:

A. [Unchanged.]

B. Each school's initial allocation is the school's share divided by the sum of school shares, multiplied by the last year's usage percent, multiplied by 90 percent. Usage percent is defined as follows:

(1) If no final report is received by ~~August 10~~ the first working day after August 9, the usage percentage is 80 percent.

4830.1563 DETERMINATION OF STUDENT ELIGIBILITY.

Subpart 1. **Eligibility.** A school shall determine if a student is eligible for a dislocated rural worker assistance grant. To be eligible a student must demonstrate compliance with the requirements in this part.

B. The student must be enrolled in an adult farm management program, or an occupational ~~training~~ education program. The program cannot be a liberal arts program. The program must prepare the student for available employment within a labor market where the student lives or is willing to move.

4850.0011 DEFINITIONS.

Subp. 25. **Loan period.** "Loan period" means the period for which the student receives the loan. The period begins on the first day of class. It must be at least 30 days in length, and must not exceed 12 months. A loan period may be the same as, or a portion of, the academic year. For example, the loan period may be for a single semester, or quarter.

4850.0014 AMOUNT AND TERMS.

Subp. 3. **Interest rate.** For loans made from the bonds, the interest rate on the loan must be fixed by the board at a margin in excess of the "index rate" on the bonds. If the bonds bear interest at more than one rate at any one time, the "index rate" will be the weighted average of the interest rates. The "index rate" may change on Thursday of each week. If the "index rate" increases or decreases, the interest rate on the loan increases or decreases automatically on the same day without notice to the borrower. If the board determines that the margin does not reflect the costs of the SELF program, the board ~~may~~ must increase or decrease the margin ~~within the limits of law~~. The board shall advise borrowers of changes in the margin.

~~For loans made from sources other than the bonds, the board shall establish interest rates charged to borrowers that are reasonable, competitive, and within the limits of law. Information about how the interest rate is calculated will be available from the board or the financial aid office at the eligible school.~~ For loans made from sources other than the bonds, the interest rate on the loan will be determined by the board at a margin in excess of the "index rate." The "index rate" is the average rounded to the nearest quarter of one percent of the bond equivalent yield, for auctions of 13-week treasury bills, during the preceding calendar quarter. If the index rate increases or decreases, the interest rate on the loan automatically increases or decreases on the same day without notice to the borrower. The interest rate on the loan cannot increase or decrease more than two percentage points over any four consecutive calendar quarters. The board shall set the margin to reflect the costs of the SELF program. If the board determines that the margin does not reflect the costs of the SELF program, the board must increase or decrease the margin. The board shall advise borrowers of changes in the margin.

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Adopted Rules

Department of Human Services

Adopted Permanent Rules Relating to Nursing Home Property Reimbursement Rate

The rules proposed and published at *State Register*, Volume 12, Number 32, pages 1649-1651, February 8, 1988 (12 S.R. 1649) are adopted as proposed.

Rural Development Board

Adopted Permanent Rules Relating to Challenge Grants

The rules proposed and published at *State Register*, Volume 12, Number 35, pages 1800-1804, February 29, 1988 (12 S.R. 1800) are adopted as proposed.

Emergency Rules

Proposed Emergency Rules

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

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

Adopted Emergency Rules

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

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

Continued/Extended Emergency Rules

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

Department of Health

Proposed Emergency Rules Relating to Procedures for Exceptions to Moratoriums

Notice of Intent to Adopt an Emergency Rule

Notice is hereby given that the State Department of Health intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in *Laws of Minnesota, 1988*, chapter 689, article 2, section 39. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in *Minnesota Statutes*, sections 14.29 to 14.36.

All persons have until 25 days after publication of this notice or until 4:30 p.m. August 12, 1988 to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to:

Mike Dean
393 N Dunlap
P.O. Box 64900
St. Paul, MN 55164-0900
(612) 643-2156

A free copy of the proposed emergency rule is available by contacting Mike Dean at the above-mentioned address or phone number.

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

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Mike Dean at the above-mentioned address.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with *Minnesota Statutes*, section 14.35.

Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed (all new material)

PROCEDURES FOR EXCEPTIONS TO NURSING HOME BED MORATORIUM

4655.1070 EMERGENCY DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4655.1070 to 4655.1100, the following terms have the meanings given them in this part.

Subp. 2. **Advisory review panel.** "Advisory review panel" means the group of individuals that must form recommendations according to part 4655.1086 and that is appointed by the Interagency Board for Quality Assurance under *Minnesota Statutes*, section 144A.073, subdivision 3, and part 4655.1074.

Subp. 3. **Allowable costs.** "Allowable costs" means costs allowable according to part 9549.0035, subpart 1.

Subp. 4. **Alternative care grant.** "Alternative care grant" has the meaning given in part 9505.2395, subpart 4.

Subp. 5. **Alternative care grant use.** "Alternative care grant use" means the information determined under part 4655.1084, subpart 9.

Subp. 6. **Annual statistical report.** "Annual statistical report" means the report incorporated by reference under part 4655.1072.

Subp. 7. **Appraised value.** "Appraised value" means the value of the nursing home buildings, attached fixtures, and land improvements used for resident care as determined under part 9549.0060.

Subp. 8. **Attached fixture.** "Attached fixture" has the meaning given in part 9549.0020, subpart 6.

Subp. 9. **Attached hospital.** "Attached hospital" means a hospital that is under common ownership and operation with a nursing home and shares with that nursing home the cost of common service areas such as nursing, dietary, housekeeping, laundry, plant operations, or administrative services.

Subp. 10. **Buildings.** "Buildings" has the meaning given in part 9549.0020, subpart 7.

Subp. 11. **Certified boarding care home.** "Certified boarding care home" means a facility licensed under parts 4655.0090 to 4655.9900 and certified to participate in medical assistance under United States Code, title 42, sections 1396 to 1396p as amended through July 18, 1984.

Subp. 12. **Commenced construction.** "Commenced construction" has the meaning given it under *Minnesota Statutes*, section 144A.071, subdivision 3, paragraph (b).

Subp. 13. **Commissioner.** "Commissioner" means the commissioner of the Department of Health or the commissioner's representative.

Subp. 14. **Conversion.** "Conversion" has the meaning given in *Minnesota Statutes*, section 144A.073, subdivision 1, paragraph (a).

Subp. 15. **Cost report.** "Cost report" means the document and supporting material specified by the commissioner of the Department of Human Services and prepared by the nursing home. The cost report includes the statistical, financial, and other relevant information required in part 9549.0041 for rate determination.

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.

Emergency Rules

Subp. 16. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 17. **Environmental conditions.** "Environmental conditions" means the conditions reviewed under part 4655.1084, subpart 10.

Subp. 18. **Estimated operating costs.** "Estimated operating costs" means a facility's estimated operating costs during the first two years after completion of the project.

Subp. 19. **Facility.** "Facility" means the attached hospital, nursing home, or certified boarding care home named on a proposal.

Subp. 20. **Financing costs.** "Financing costs" means the estimated long-term financing costs that, according to part 4655.1078, item H, must be provided with a proposal.

Subp. 21. **Hospital.** "Hospital" means an acute care institution as defined in *Minnesota Statutes*, section 144.696, subdivision 3, and maintained primarily to treat and care for persons with disorders other than tuberculosis or mental diseases.

Subp. 22. **Interagency board for quality assurance or IBQA.** "Interagency Board for Quality Assurance" or "IBQA" means the board established under *Minnesota Statutes*, section 144A.31, subdivision 1.

Subp. 23. **Land improvement.** "Land improvement" has the meaning given in part 9549.0020, subpart 28.

Subp. 24. **Medical assistance.** "Medical assistance" means the program established under title XIX of the Social Security Act and *Minnesota Statutes*, chapter 256B.

Subp. 25. **Medical assistance cost.** "Medical assistance cost" means the biennial amount by which medical assistance payments will change if a proposal is implemented. Medical assistance costs are determined according to part 4655.1084, subpart 2.

Subp. 26. **Nursing home.** "Nursing home" means a facility licensed according to *Minnesota Statutes*, chapter 144A.

Subp. 27. **Operating costs.** "Operating costs" has the meaning given in part 9549.0020, subpart 32.

Subp. 28. **Proposal.** "Proposal" means a detailed written plan for a conversion, renovation, replacement, or upgrading.

Subp. 29. **Proposer.** "Proposer" means the organization or individual authorized by a facility's governing board or management to prepare and submit a proposal to the IBQA.

Subp. 30. **Renovation.** "Renovation" has the meaning given in *Minnesota Statutes*, section 144A.073, subdivision 1, paragraph (b).

Subp. 31. **Replacement.** "Replacement" has the meaning given in *Minnesota Statutes*, section 144A.073, subdivision 1, paragraph (c).

Subp. 32. **Soft costs.** "Soft costs" means costs relating to implementation of the proposal, including:

- A. sales taxes on materials;
- B. contractor's overhead and profit;
- C. architect and engineering fees;
- D. construction period interest;
- E. permits, zoning, and construction financing;
- F. feasibility, economic, and demographic studies;
- G. legal, accounting, and consulting fees relating to creation of the development; and
- H. cost of designing the improvements.

Subp. 33. **Statutory restriction.** "Statutory restriction" means a replacement restriction, conversion restriction, or upgrading restriction as described under *Minnesota Statutes*, section 144A.073, subdivisions 5 to 7.

Subp. 34. **Submission deadline.** "Submission deadline" means the date that is established according to part 4655.1080, subpart 3.

Subp. 35. **Upgrading.** "Upgrading" has the meaning given in *Minnesota Statutes*, section 144A.073, subdivision 1, paragraph (d).

Subp. 36. **Working day.** "Working day" means Monday to Friday, excluding legal holidays recognized by the state of Minnesota.

4655.1072 INCORPORATION BY REFERENCE OF ANNUAL STATISTICAL REPORT.

The "Annual Statistical Report to the Commissioner of Health, 1988; Nursing Home, Boarding Care Home, Supervised Living Report" is incorporated by reference and is available through the Minitex interlibrary loan system. The report is subject to frequent change.

4655.1074 APPOINTMENT OF ADVISORY REVIEW PANEL.

Subpart 1. **Procedures.** The IBQA shall appoint an advisory review panel according to subparts 2 to 5.

Subp. 2. **Membership.** The advisory review panel must consist of two representatives from organizations that represent consumers of nursing home services, two representatives from organizations representing providers of nursing home services, and one who has a background in long-term care and either accounting, engineering, or building construction. The executive director of the IBQA shall chair and convene the advisory review panel.

Subp. 3. **Nominations.** A member of the advisory review panel must be nominated. Anyone can nominate an advisory review panel member.

The IBQA shall publish in the *State Register* a request for nominations to the advisory review panel no later than 30 days after the effective date of parts 4655.1070 to 4655.1100 and at least 30 days before the expiration date of the term of an advisory review panel member. A nomination must be written, must state the name and address of the nominee, and must state the positions indicated under subpart 2 for which the person is being nominated.

Subp. 4. **Appointments.** A nominee shall be appointed by a majority vote of the IBQA.

Subp. 5. **Length of term.** A term on the advisory review panel begins the first working day after the vote of the IBQA appointing a person to the panel. An advisory review panel member representing consumers and one representing providers shall serve two years on the panel. The remaining consumer and provider members shall serve three-year terms. The member with the background in long-term care and either accounting, engineering, or building construction shall serve a three-year term. An advisory review panel member may serve an unlimited number of consecutive terms.

4655.1076 IBQA PUBLICATION OF REQUEST FOR PROPOSALS.

Subpart 1. **When.** The IBQA shall publish in the *State Register* a request for proposals on the first Monday of each state fiscal biennium.

Subp. 2. **Contents of a request for proposals.** The request for proposals must state:

- A. a proposal submission deadline date consistent with part 4655.1080, subpart 3;
- B. the amount of the legislative appropriation available for medical assistance costs or state that proposals will not be requested because no appropriations were made;
- C. other relevant information regarding current state long-term care policy goals; and
- D. that the information under part 4655.1078 must be included in a proposal.

4655.1078 FORMAT AND CONTENTS OF A PROPOSAL.

A proposal must be on a form approved by the commissioner and must:

- A. include the name, telephone number, and address of the proposer or other authorized person who can be contacted by the commissioner or the IBQA with questions regarding the proposal;
- B. include the name and address of the nursing home or boarding care home for which the project is being proposed;
- C. be signed by a qualified representative of the entity submitting the proposal;
- D. state whether the proposal is for renovation, replacement, conversion, or upgrading;
- E. describe the problem the proposal will address;
- F. include schematic drawings and an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation;
- G. include a cost estimate, prepared by a contractor and other participants in the development of the proposal, for the project described by the drawings and outline of specifications required by item F, including costs of buildings, attached fixtures, land improvements, construction site preparation, and related soft costs;
- H. provide current estimated long-term financing costs of the proposal, including amount and sources of money, annual payments scheduled, interest rates, length of term, closing costs and fees, insurance costs, and other information on loans for building, attached fixtures, lands, land improvements, and building site preparation;
- I. state the current cost of real estate taxes and special assessments for the facility and also an estimate of those that would be assessed if the proposal were implemented;
- J. state the current annual care-related and other operating costs and also an estimation of these costs if the proposal were implemented;

Emergency Rules

K. describe the environmental conditions in the facility and any proposed changes in those conditions;

L. for proposals involving replacement of all or part of a facility, provide the property identification number and a general description of the proposed location of a replacement facility;

M. provide an estimate of the costs and benefits of renovation as an alternative to replacement or of replacement as an alternative to renovation; and

N. include the estimated beginning date of construction for renovation and replacements and the proposed timetable for completion of construction.

4655.1080 SUBMISSION OF PROPOSAL.

Subpart 1. **Who may submit a proposal.** A proposal must be submitted by a proposer.

Subp. 2. **Where to submit a proposal.** A proposal must be submitted to the IBQA.

Subp. 3. **Submission deadline.** A proposal must be received by the IBQA no later than 90 days after the date a request for proposals is published in the *State Register*.

4655.1082 INITIAL SCREENING OF PROPOSALS BY IBQA.

The IBQA shall process a proposal according to items A to L.

A. The IBQA shall determine whether a proposal was submitted according to the submission deadline under part 4655.1080, subpart 3.

B. If a proposal was not submitted according to the deadline indicated under part 4655.1080, subpart 3, the IBQA shall return the proposal to the proposer with a written notice that the proposal will not receive further consideration because the proposal was received after the submission deadline.

C. If a proposal is received according to the deadline, the IBQA shall determine whether the proposal meets the definition of conversion, renovation, replacement, or upgrading as those terms are defined under part 4655.1070. A proposal that does not meet any of those definitions must be returned to the proposer without further consideration.

D. If the proposal is for an exception that meets the definition of upgrading, renovation, replacement, or conversion as those terms are defined under part 4655.1070, the IBQA shall determine whether the proposal is substantially complete and consistent with part 4655.1078. A proposal is substantially complete and consistent if it contains the information specified in part 4655.1078, items B, D to K, and M.

E. If an item required for a substantially complete proposal under item D is missing from a proposal that is submitted to the IBQA, the proposal shall be returned to the proposer with a written notice that the proposal will not receive further consideration because of the missing item.

F. If a proposal is substantially complete and consistent according to item D, staff shall, if needed, ask for additional information in writing within ten days after the submission deadline. Additional information shall be requested only if, in the judgment of the IBQA, the additional information is needed to clarify or support previously submitted information.

G. Additional information requested under item F must be submitted within 17 days after the submission deadline.

H. If requested additional information is not received within 14 days after the submission deadline, the proposal shall be returned to the proposer with a notice that the proposal is not approved because the additional information was not submitted according to the deadline.

I. A proposal that is not completed by the submission of additional information requested under item F shall be returned to the proposer with a notice that the proposal will not receive further consideration because the requested additional information submitted was insufficient.

J. If the format and contents of a proposal submitted to the commissioner are substantially complete and consistent with part 4655.1078, the IBQA shall determine whether the proposal satisfies the statutory restrictions.

K. If a proposal fails to satisfy a statutory restriction, the IBQA shall return the proposal to the proposer with a written notice stating that the proposal will not receive further consideration because it does not satisfy a restriction.

L. If a proposal satisfies all restrictions, data regarding the proposal shall be collected according to part 4655.1084. The IBQA shall submit the findings and other information from the review conducted under part 4655.1084 to the advisor review panel to review and form recommendations on the proposal according to part 4655.1086.

4655.1084 DATA COLLECTION.

Subpart 1. **Staff.** The IBQA and the commissioners of agencies represented on the IBQA shall assign staff to collect the data

under subparts 2 to 14. The IBQA shall use the data collected under this part to develop recommendations to the commissioner under part 4655.1094 on a proposal screened under part 4655.1082.

Subp. 2. Medical assistance cost of a proposal. The medical assistance costs of a proposal shall be determined by:

- A. reviewing the accuracy of operating costs provided according to part 4655.1078, item J;
- B. determining the accuracy of the real estate taxes and special assessments provided under part 4655.1078, item I;
- C. determining the increase in allowable appraised value according to part 9549.0060, subpart 4; staff shall assume that the costs provided under part 4655.1078, item G, are equal to the total increase in appraised value;
- D. determining the increase in the allowable annual costs of the elements identified in part 4655.1078, item H, according to part 9549.0060, subparts 5, 6, and 7;
- E. determining an estimate of the total allowable annual costs for the cost categories reviewed in items B to D;
- F. determining an estimate of the number of medical assistance resident days and of the proportion of medical assistance resident days to total resident days using information from the most recent cost report of the facility;
- G. multiplying the proportion of resident days developed in item F by the estimated annual costs developed in item E;
- H. determining the annual medical assistance costs of the proposal by multiplying the amount found in item G by the most recent proportion of medical assistance paid by the state of Minnesota; and
- I. multiplying the amount found in item H by two to yield the biennial medical assistance cost of the proposal.

Subp. 3. Cost information. The current and projected costs of the proposal shall be calculated according to cost per licensed bed, percent change in cost per licensed bed, and total biennial state and medical assistance costs.

Subp. 4. Age-related data. The percentage of individuals in the county of the facility and of counties contiguous to that county who are 65 to 74 years of age, 75 to 84 years of age, and who are 85 or more years of age shall be calculated using either census data or projections of the state demographer based on census data, whichever provides the more recent estimate.

Subp. 5. Facility occupancy. The average occupancy rate of the facility's existing beds shall be obtained from the most recent Annual Statistical Report.

Subp. 6. County-region occupancy. The average percentage occupancy of the existing licensed beds of all the facilities in the county of the facility and of all facilities in counties contiguous to that county according to the most recent Annual Statistical Report, shall be calculated.

Subp. 7. Number of licensed beds. The number of licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 8. Number of occupied licensed beds. The number of occupied licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 9. Alternative care grant use. Alternative care grant use is the dollar amount and percentage of alternative care grant allocations used by the county in which the facility is located in the most recent year for which data is available. Alternative care grant use shall be obtained for each proposal that is acceptable according to part 4655.1082. The amount of alternative care grant per person 65 years of age or older spent in the county in which the facility is located, in counties contiguous to the county of the facility, and in the state shall be calculated.

Subp. 10. Environmental conditions. Information shall be developed that describes the differences between existing environmental conditions and current state licensing standards for new construction and between the proposed changes in environmental conditions and current state licensing standards for new construction.

The development of information under this subpart does not supersede licensing and certification procedures. The environmental conditions and standards are listed in items A to L.

- A. The width of corridors shall be compared with the standards in part 4660.1500, subpart 2.
- B. The width of door frames shall be compared with the standards in part 4660.1460, subpart 2.
- C. Fire exit enclosures shall be compared with the standards in part 4660.0300.
- D. The method and materials of construction of the building shall be compared with the standards for Group D occupancy in the State Building Code. "State Building Code" means those codes and regulations adopted by the commissioner of the Department of Administration according to *Minnesota Statutes*, section 16B.59, and contained in chapter 1300.

Emergency Rules

E. The number of beds per resident room and the floor area per bed shall be compared to standards in parts 4660.1400 and 4660.1430, subpart 3.

F. The amount of artificial light in resident rooms and major activity areas shall be compared to standards in parts 4660.9900 and 4660.9910.

G. The amount of natural light in resident rooms shall be compared with the standard in part 4660.1450.

H. The number of bathing or toileting facilities adjacent to bedrooms shall be compared to the standards in parts 4660.2400, subpart 2, and 4660.2500.

I. Ventilation arrangements shall be compared to the standards in part 4660.8300.

J. Dining room space shall be compared to the standard in part 4660.4830.

K. Day room space shall be compared to the standard in part 4660.4820.

L. Heating and cooling arrangements shall be compared to the standards in part 4660.8200.

Subp. 11. **History of state licensing correction orders federal certification deficiencies.** For each proposal that is acceptable according to part 4655.1082, the accumulated number and content of licensing correction orders and federal certification deficiencies for the two most recently completed federal certification periods before the submission deadline for the proposal shall be collected.

Subp. 12. **History of licensing and certification waivers.** The number and purpose of waivers for the two most recently completed federal certification periods before the submission deadline for a proposal shall be collected.

Subp. 13. **History of complaints.** The number and content of complaints about a facility received during the two most recently completed federal certification periods before the deadline for submission of a proposal shall be collected. If ownership of a facility has changed in the two years before the submission deadline, a history of complaints shall be collected only for the tenure of the current owner.

Subp. 14. **History of sanctions.** The number and content of sanctions relating to licensure and certification that have been levied against a facility during the two most recently completed federal certification periods before the submission deadline for the proposal shall be collected.

4655.1086 FORMATION OF ADVISORY REVIEW PANEL RECOMMENDATIONS TO IBQA.

Subpart 1. **Review of proposals.** A proposal submitted according to the deadline for submission, that satisfies the requirements of part 4655.1082 shall be reviewed, evaluated, and ranked by the advisory review panel.

Subp. 2. **Method of evaluation.** The advisory review panel shall evaluate proposals using the information submitted according to parts 4655.1078 and 4655.1080 and the data collected by staff under part 4655.1084.

Subp. 3. **Ranking of proposals.** The advisory review panel shall rank proposals to indicate which proposals should be approved in order of priority based on the criteria in parts 4655.1084 and 4655.1090, items A to H.

Subp. 4. **Formation of recommendations to the IBQA.** Based on the ranking of proposals, the advisory review panel shall recommend that the IBQA recommend approval or disapproval of a proposal. The advisory review panel shall provide written justifications for its recommendations to the IBQA.

Subp. 5. **Deadline for submission of recommendations.** The advisory review panel must submit its recommendations to the IBQA no later than ten days after receipt of the staff review information.

4655.1088 PUBLIC HEARING.

The IBQA shall hold one public hearing on all proposals submitted in response to a request for proposals. The public hearing shall be held after the submission deadline under part 4655.1080, subpart 3, but before the IBQA submits recommendations to the commissioner. The IBQA shall publish a notice of the public hearing in the *State Register* that states the time, date, place, and subject of the hearing.

4655.1090 EVALUATION, COMPARISON, AND RANKING OF PROPOSALS.

The IBQA shall use the findings of the staff data collection process, the advisory review panel, and the public hearing to evaluate, compare, and rank the proposals according to the long-term care needs they address. An evaluation, comparison, or ranking must be based on the criteria under the following items:

A. Occupancy that is determined according to:

(1) the extent to which the average occupancy rate of the facility supports the need for the proposed project in comparison with the average occupancy rate of all facilities in the county of the facility, of the contiguous counties, and with the statewide occupancy rate;

(2) the extent to which the number and proportion of individuals in the county of the facility and of contiguous counties in the age groups 65 to 74, 75 to 84, and 85 and over support the need for the proposal as determined through comparison with other counties and the state;

(3) the extent to which the current supply of licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties, regions, and the state; and

(4) the extent to which the number of occupied licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties and the state.

B. The extent to which the proposal enhances the availability and use of alternative care services.

C. The extent to which the proposal reduces the number of long-term care resident rooms with more than two beds.

D. The extent to which a proposal is cost effective in terms of its use of state money, medical assistance cost, cost per licensed bed, change in cost per licensed bed, and, for renovation and replacement proposals, in terms of the costs of renovation in lieu of a proposed replacement or of replacement in lieu of a proposed renovation.

E. The proposal's compliance with licensing regulations as specified in parts 4660.0300 and 4655.1000.

F. The extent to which a proposal improves the conditions that affect health, safety, or comfort of the residents of a facility, including environmental conditions described in part 4655.1084, subpart 10.

G. The extent to which the design of a proposal will improve the quality of life of the residents.

H. The extent to which the proposed changes are necessary to meet medical assistance certification and licensing requirements for that facility.

4655.1092 REIMBURSEMENT LIMITS.

Subpart 1. **Cost reimbursement.** The acceptance or determination of costs under parts 4655.1070 to 4655.1100 is not binding for reimbursement. Actual reimbursement of costs is determined according to parts 9549.0010 to 9549.0080.

Subp. 2. **Medical assistance costs.** The sum of the estimated medical assistance costs of all recommended proposals during the first two years of operation must not exceed the amount provided by the legislature as noted in the request for proposals according to part 4655.1076, subpart 2, item B.

4655.1094 IBQA RECOMMENDATIONS TO COMMISSIONER.

The IBQA shall recommend that the commissioner approve or disapprove a proposal. A recommendation under this part must be based on the evaluation, comparison, and ranking completed under part 4655.1090. A written report of the evaluation, comparison, and ranking completed under part 4655.1090, and the recommendations formed under this part must be submitted to the commissioner not more than 21 days after receipt of the recommendations of the advisory review panel.

4655.1096 COMMISSIONER'S APPROVAL OR DISAPPROVAL OF A PROPOSAL.

Subpart 1. **Approval or disapproval of a proposal.** The commissioner shall approve or disapprove a proposal within 30 days after receiving the IBQA recommendations.

Subp. 2. **Notice of approval or disapproval.** No later than ten days after the commissioner's approval or disapproval of a proposal the commissioner shall send a written notice of approval or disapproval to the proposer. The notice must state the reasons for the approval or disapproval.

Subp. 3. **Expiration of commissioner's approval.** The commissioner's approval of a proposal expires 12 months after the date of the commissioner's signature on the notice of approval unless the facility has commenced construction.

4655.1098 DOCUMENTATION.

Subpart 1. **Preliminary plans.** The proposer of a renovation, replacement, or upgrading that is approved by the commissioner shall submit preliminary plans as defined in part 4660.0600 before drawing final plans.

Subp. 2. **Final working drawings.** The proposer of an accepted proposal for renovation or replacement shall submit final architectural, mechanical, and electrical drawings as defined in parts 4660.0700 and 4660.0800 to the Minnesota Department of Health for review and approval before implementation of the project.

Subp. 3. **Changes in approved projects.** Changes in approved projects for renovation, replacement, or upgrading which alter the methods or materials described in the final working drawings must be submitted to the commissioner for review and approval before the changes are made, according to part 4660.0900.

Emergency Rules

Subp. 4. **Change orders.** If the commissioner approves the reported changes in a project, a change order permitting the changes shall be issued. The issuance of a change order does not alter the allowable costs as determined in part 4655.1084, subpart 2.

Subp. 5. **Cost overruns.** The proposer shall immediately report to the commissioner any cost overruns including a description of the reasons for the overrun.

Subp. 6. **Final statement of costs.** On completion of the proposed project, the proposer shall submit to the Department of Human Services, a final statement of costs that includes a sworn statement of actual costs of items for which costs were estimated according to part 4655.1078, item G, and that compares the actual costs to the estimates.

4655.1100 PENALTY FOR COST OVERRUNS.

Any cost overrun that is 110 percent or more greater than the costs estimated in part 4655.1078, item G, shall be penalized. The amount of money over 110 percent of the costs estimated in part 4655.1078, item G, shall be subtracted from the facility's appraisal conducted under parts 9549.0010 to 9549.0080 for a period of five years.

Official Notices

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.

Minnesota State Arts Board

Board Meeting

The annual meeting of the Minnesota State Arts Board will be held at 10:15 a.m. on Thursday, July 21, 1988 at the Days Inn Conference Center, 600 30th Avenue South in Moorhead. The public is invited to attend. Open meeting law guidelines will be in effect.

The Board will elect officers for fiscal year 1989, and make Artists in Education grant awards to Minnesota schools and arts organizations.

Minnesota Agricultural and Economic Development Board

Notice of Public Hearing on Proposed Project and the Issuance of Bonds under *Minnesota Statutes 1986, Chapter 116M and Minnesota Statutes, Chapter 41A*

NOTICE IS HEREBY GIVEN that the Minnesota Agricultural and Economic Development Board (the "Board") or its designated representative, shall meet on August 3, 1988, at 9:30 a.m. o'clock, at 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") and the provision of other financial assistance under *Minnesota Statutes 1986, Chapter 116M*, and *Minnesota Statutes, Chapter 41A*, as amended (the "Act"), to undertake and finance a project on behalf of Wyoming Investments, a Minnesota partnership, and/or Diversified Products, Inc., a Minnesota corporation (the "Applicants"). Such persons as desire to be heard with reference to said issue of Bonds will be heard at this public hearing.

The project to be financed consists of the development, construction and operation of a manufacturing facility consisting of two buildings with a total of approximately 78,000 square feet in the City of Wyoming, Anoka County, Minnesota [general description of the location being at the Southwest corner of Fallbrook Ave. and 260th Street in Wyoming, Minnesota with an address of 25900 Fallbrook Ave. for one building and 5175 260th Street, Wyoming, Minnesota (the "Project")]. The initial owner of the Project will be one of the Applicants and the Project is expected to be operated and managed by one of the Applicants. It is contemplated that the Project will be used for manufacturing of boats and seats.

The estimated amount of the Board's proposed bond issue is an amount not to exceed \$2,200,000. The Bonds shall be limited obligations of the Board, the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, and a mortgage or security interest or other security arrangements to be established by or on behalf of the Applicants. In addition, the Bonds and the Project may be subsequently considered by the Board for financial assistance to be provided by the Economic Development Fund created and established under *Minnesota Statutes 1986, Chapter 116M* or other financial or special assistance from the Board. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of

the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the Applications to the Board for approval of the Project, together with all attachments and exhibits thereto and a copy of the Board's resolution accepting the Applications and accepting the Project is available for public inspection at the offices of the Board at 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

Dated: 1 July 1988

BY ORDER OF THE MEMBERS OF THE
MINNESOTA AGRICULTURAL AND
ECONOMIC DEVELOPMENT BOARD

Dave Mocol, Executive Director,
Minnesota Agricultural and
Economic Development Board

Departments of Human Services, Health and Public Safety

Notice of Intent to Solicit Outside Information or Opinions Regarding Proposed Merit System Rules Governing Compensation Plans

NOTICE IS HEREBY GIVEN that the State Department of Human Services, Health, and Public Safety are seeking information or opinions from sources outside the agencies in preparing to propose amendments to the rules governing the Minnesota Merit System's compensation plans. The amendments to the rules are authorized by *Minnesota Statutes*, sections 256.012, 144.071 and 12.22, subd. 3, which permits the Merit System to establish compensation plans for non-union employees in some local and county welfare, human services, health and emergency management agencies. The amendments would provide for salary adjustments for incumbents and adjustments to the various salary ranges for purposes of continued implementation of comparable worth.

The State Departments of Human Services, Health and Public Safety request information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements of information and comment should be addressed to:

Ralph W. Corey
Minnesota Merit System
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3822

Oral statements will be received during regular business hours over the telephone by Ralph Corey at (612) 296-3996 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the Minnesota Merit System shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 18 July 1988

Ralph W. Corey
Merit System Supervisor

Minnesota Job Skills Partnership

Notice of Cancellation of Meeting

The August 15, 1988 meeting of the Minnesota Job Skills Partnership Board has been canceled.

The Minnesota Job Skills Partnership Board solicits grant proposals from educational and other non-profit organizations for training programs designed for specific businesses. Please contact the Partnership at 612/296-0388 for details regarding grant applications. Please Note: Grantees must provide a Certificate of Compliance from the State Commissioner of Human Rights with the submission of proposals to the MJSP Board.

Official Notices

Following are application deadline dates and Board meeting dates:

**Deadline Dates
for New Grant
Applications**

October 14, 1988
January 13, 1989
April 14, 1989

MJSP Board Meeting Dates

November 21, 1988
February 21, 1989
May 15, 1989

Metropolitan Council

Notice of Review Schedule for the Council's 1989 Work Program and Budget

The Metropolitan Council is developing a 1989 work program and budget for adoption in August. The Council's Management Committee will be reviewing the proposed budget and seeking public comment during July and August.

Following is the schedule for review of the 1989 work program and budget.

July 12	Management Committee recommends public hearing draft and hearing date
July 14	Council adopts public hearing draft and sets public hearing date
July 19	Management Committee review
July 26	Management Committee holds public meeting to receive comments
August 15	Public hearing on 1989 work program and budget
August 16	Management Committee review of public hearing comments and recommendation for adoption
August 25	Hearing record closes
August 25	Council adopts 1989 work program and budget

Please call to confirm meeting dates, times and agendas. A notice of public hearing will be published. If you have any questions regarding the schedule or proposed budget, call the Council's Finance Division and talk to Alan Morris (291-6446) or Tim Fleetham (291-6374).

PLEASE NOTE: The Metropolitan Council's new address is: Mears Park Centre, 230 East Fifth St., St. Paul, Minnesota 55101. The phone numbers remain the same.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, 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 \$15,000 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: Materials Management Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid. Buyer's initials are listed next to each commodity.

Commodity: Rental of Minolta EP-850 copier
Contact: Teresa Ryan 612-296-7556
Bid due date at 2pm: July 18
Agency: Faribault Reg. Treatment Center
Deliver to: Faribault
Requisition #: 55303 13171

Commodity: Lease purchase IBM PS/2 Model 30's monitors & printers
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: July 18
Agency: Community College
Deliver to: Austin
Requisition #: 27139 89014

Commodity: Ergonomic office chairs
Contact: Linda Parkos 612-296-3725
Bid due date at 2pm: July 20
Agency: Revenue
Deliver to: St. Paul
Requisition #: 67110 05194

State Contracts and Advertised Bids

Commodity: Mini van
Contact: Bernie Vogel
Bid due date at 2pm: July 20
Agency: PERA
Deliver to: St. Paul
Requisition #: 63000 81417

Commodity: Influenza virus vaccine
Contact: Donnalee Kutchera 612-296-3776
Bid due date at 2pm: July 20
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Compaq portable PC
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: July 21
Agency: Human Services
Deliver to: St. Paul
Requisition #: 55000 93012

Commodity: Air conditioners; window mounted
Contact: Ed Shank 612-296-3770
Bid due date at 2pm: July 21
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Shelving & installation
Contact: Doug R. Thompson 612-296-3776
Bid due date at 2pm: July 25
Agency: Various
Deliver to: Various
Requisition #: 67410 05126

Commodity: Bus service contract
Contact: Bernie Vogel 612-296-3778
Bid due date at 2pm: July 25
Agency: Southwest State University
Deliver to: Marshall
Requisition #: 25175 09213

Commodity: Commissary items
Contact: Cheryl Ackerman 612-296-3776
Bid due date at 2pm: July 25
Agency: Veterans Home
Deliver to: Minneapolis & Hastings
Requisition #: Price Contract

Commodity: Earth drilling and soil sampling tools and supplies
Contact: Ed Shank 612-296-3770
Bid due date at 2pm: July 25
Agency: Transportation
Deliver to: Various
Requisition #: Price Contract

Commodity: Lavatory
Contact: Brenda Thielen 612-296-9075
Date opens: July 19
Agency: MN Correctional Facility
Deliver to: Stillwater
Requisition #: 78620 00240

Commodity: 4 cylinder mower/water cooled engine—27HP
Contact: Brenda Thielen 612-296-9075
Date opens: July 19
Agency: Moorhead State University
Deliver to: Moorhead
Requisition #: 26072 01615

Commodity: Stacking chairs
Contact: Linda Parkos 612-296-3725
Date opens: July 20
Agency: Department of Revenue
Deliver to: St. Paul
Requisition #: 67 110 05192 01

Commodity: Athletic lockers
Contact: Linda Parkos 612-296-3725
Date opens: July 25
Agency: Community College
Deliver to: Brainerd
Requisition #: 27140 90006

Commodity: Athletic supplies
Contact: Brenda Thielen 612-296-9075
Date opens: July 19
Agency: Rochester Community College
Deliver to: Rochester
Requisition #: 27148 50252

Commodity: Macintosh system
Contact: Mary Jo Bruski 612-296-3772
Date opens: July 25
Agency: Department of Jobs & Training
Deliver to: Minneapolis
Requisition #: 21607 69657

Commodity: Zenith desktop PC
Contact: Mary Jo Bruski 612-296-3772
Date opens: July 25
Agency: State University
Deliver to: Mankato
Requisition #: 26071 18216

Commodity: Capitol complex elevator contract
Contact: Juanita Steffan 612-297-3830
Bid due date at 2pm: July 26
Agency: Plant Management
Deliver to: St. Paul
Requisition #: 0237 91200

Commodity: Genuine Wisconsin engine repair parts
Contact: Dale Meyer 612-296-3773
Bid due date at 2pm: July 26
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Telescopic square tubing & fittings
Contact: Ed Stark 612-296-3770
Bid due date at 2pm: July 26
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: 12-passenger van
Contact: Bernie Vogel 612-296-3778
Bid due date at 2pm: July 27
Agency: DNR
Deliver to: St. Paul
Requisition #: 2900 50488

Commodity: Hydraulic bench fluid power system
Contact: Joseph Gibbs 612-296-3750
Bid due date at 2pm: July 27
Agency: State University
Deliver to: Mankato
Requisition #: 26071 18222

Commodity: Custom console
Contact: Pat Anderson 612-296-3777
Bid due date at 2pm: July 27
Agency: State University
Deliver to: St. Cloud
Requisition #: 26073 20397

Commodity: TV lighting and control
Contact: Pat Anderson 612-296-3777
Bid due date at 2pm: July 27
Agency: State University
Deliver to: St. Cloud
Requisition #: 26073 20399

Contract Awards—Materials Management Division

Item: Computer equipment
Req.#: 22400 02135 01
Awarded to: First Computer Marketing,
Edina, MN
Awarded amount: \$22,138.15
Awarded date: July 7, 1988
Expir/deliv date: October 10, 1988
Shipped to: Trade & Economic
Development

Item: Maintenance contract equipment
only
Req.#: 26070 13698 01
Awarded to: Honeywell Inc., Fargo, ND
Awarded amount: \$15,102.96
Awarded date: July 7, 1988
Expir/deliv date: August 6, 1988
Shipped to: Bemidji State University

Item: Computer Equipment
Req.#: 26175 09203 01
Awarded to: Southwest State Univ.,
Marshall, MN
Awarded amount: \$128,132.68
Awarded date: July 7, 1988
Expir/deliv date:
Shipped to: Southwest State University

Item: Computer Equipment
Req.#: 26175 09201 01
Awarded to: Euerex Systems Inc.,
Fremont, CA
Awarded amount: \$22,126.00
Awarded date: July 7, 1988
Expir/deliv date:
Shipped to: Southwest State University

Item: Breath alcohol analyzers
Req.#: 07300 48296 01
Awarded to: Intoximeters Inc., St. Louis,
MO
Awarded amount: \$35,000.00
Awarded date: July 8, 1988
Expir/deliv date: July 18, 1988
Shipped to: Department of Public Safety

Item: Auto HD truck & van
Req.#: 26070 13516 01
Awarded to: Rathert Chevrolet Inc.,
Duluth, MN
Awarded amount: \$16,994.00
Awarded date: July 8, 1988
Expir/deliv date: November 15, 1988
Shipped to: Bemidji State University

Item: Oxygen generators
Req.#: 29000 50224 01
Awarded to: Xorbox, Tonewanda, NY
Awarded amount: \$78,000.00
Awarded date: July 8, 1988
Expir/deliv date: July 20, 1988
Shipped to: DNR Regional
Headquarters

Item: Photocopy & copy machine
expense
Req.#: 79900 03645 01
Awarded to: Eastman Kodak Co.,
Minneapolis, MN
Awarded amount: \$21,000.00
Awarded date: July 8, 1988
Expir/deliv date: July 9, 1988
Shipped to: MN Department of
Transportation

Item: Repair alteration to building &
Req.#: 02307 91207 01
Awarded to: Wieser Concrete, Maiden
Rock, WI
Awarded amount: \$27,381.50
Awarded date: July 11, 1988
Expir/deliv date: August 15, 1988
Shipped to: Plant Management Grounds

Item: Air purification equipment & parts
Req.#: 26071 18202 01
Awarded to: Specified Mechanical,
Mound, MN
Awarded amount: \$15,413.00
Awarded date: July 11, 1988
Expir/deliv date: July 27, 1988
Shipped to: Mankato State University

Item: Radar vehicular/nautical
Req.#: 07500 49150 01
Awarded to: Traffic Safety Systems,
Richmond, VA
Awarded amount: \$15,000.00
Awarded date: July 12, 1988
Expir/deliv date: August 1, 1988
Shipped to: DPS, Warehouse

Item: Auto's trucks vans for clients only
Req.#: 21607 67386 01
Awarded to: Superior Ford,
Minneapolis, MN
Awarded amount: \$13,539.00
Awarded date: July 12, 1988
Expir/deliv date: October 20, 1988
Shipped to: Various locations

Item: Saw & filing machine
Req.#: 26175 07359 01
Awarded to: STI, Granite Falls, MN
Awarded amount: \$8,650.00
Awarded date: July 12, 1988
Expir/deliv date:
Shipped to: Southwest State University

Item: Riser stage theater
Req.#: 26074 11949 01
Awarded to: Theatrical Service &,
Minneapolis, MN
Awarded amount: \$14,990.00
Awarded date: July 12, 1988
Expir/deliv date:
Shipped to: Winona State University

Item: Copying equipment
Req.#: 29003 02099 01
Awarded to: Cyberstar Corp., Waite
Park
Awarded amount: \$14,022.00
Awarded date: July 12, 1988
Expir/deliv date: July 22, 1988
Shipped to: DNR Regional
Headquarters

Item: Badges & insignia
Req.#: 29000 50217 01
Awarded to: Advon, Inc., Minneapolis,
MN
Awarded amount: \$9,840.00
Awarded date: July 12, 1988
Expir/deliv date: August 31, 1988
Shipped to: DNR Division of

Item: Computer equipment-supplies
Req.#: 34000 05581 01
Awarded to: Digital Equipment Corp.,
Minneapolis, MN
Awarded amount: \$12,090.40
Awarded date: July 12, 1988
Expir/deliv date: August 8, 1988
Shipped to: MN Housing Finance
Agency

Item: Paint varnish thinner solvent
Req.#: 79800 03303 01
Awarded to: Ennis Paint Mfg., Inc.,
Ennis, TX
Awarded amount: \$14,949.00
Awarded date: July 12, 1988
Expir/deliv date: August 15, 1988
Shipped to: MN Department of
Transportation

Item: Paint varnish thinner solvent
Req.#: 79800 03302 01
Awarded to: Flexolite A. Lukens, St.
Louis, MO
Awarded amount: \$5,622.25
Awarded date: July 12, 1988
Expir/deliv date: August 15, 1988
Shipped to: Various locations

Item: Computer equipment
Req.#: 79000 84700 01
Awarded to: Intergraph Corp.,
Brookfield, WI
Awarded amount: \$51,413.00
Awarded date: July 12, 1988
Expir/deliv date: November 1, 1988
Shipped to: MN Department of
Transportation

Item: Compaq Deskpro 386
Req.#: 79000 84878
Awarded to: Georgene Bergstrom Co.,
Minneapolis
Amount: \$7,379.00
Date: July 5
Deliver to: St. Paul
Delivery date: July 25

Item: Compaq Deskpro 386/20
Req.#: 02521 83290
Awarded to: Weldon Electric, Plymouth
Amount: \$8,315.00
Date: July 5
Deliver to: St. Paul
Delivery date: August 8

Item: Computer equipment, supplies
Req.#: 27138 50284
Awarded to: Prestige Office Systems,
Eden Prairie
Amount: \$5,460.00
Date: July 5
Deliver to: St. Paul
Delivery date: July 20

Item: Computer equipment
Req.#: 79000 84875
Awarded to: Progressive Computers,
St. Paul
Amount: \$7,260.00
Date: July 5
Deliver to: St. Paul
Delivery date: July 12

Item: Computer equipment
Req.#: 12500 19413
Awarded to: Sun Micro Systems,
Bloomington
Amount: \$8,900.00
Date: July 1
Deliver to: Minneapolis

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: Unattended vehicle check, 10M sets, 20 per book 500 books, two sided, 4" x 6½", preprinted numbering
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: State Patrol
Deliver to: St. Paul
Requisition #: 8218

Commodity: Self adhesive labels on rolls, 3" x 5", 5M labels, 500 per roll, type to set
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: Public Service—Energy Div.
Deliver to: St. Paul
Requisition #: 0009

Commodity: Big game possession tag, 150M w/preprinted numbering, type to set, size 4 tag
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: DNR—Wildlife
Deliver to: St. Paul
Requisition #: 0030

Commodity: Focus on Financial Aid book, 125M 10 pages per book, camera ready, saddle stitched, 13½" x 11"
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: Higher Education Coordinating Board
Deliver to: St. Paul
Requisition #: 0136

Commodity: Accident report, 150M sets, 2-parts w/carbon interleave, two sizes
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: Public Safety
Deliver to: St. Paul
Requisition #: 8219

Commodity: Energy Division letterhead, 20M 8½" x 11" sheets,
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: Public Service Department
Deliver to: St. Paul
Requisition #: 0010

State Contracts and Advertised Bids

Commodity: Vehicle permit warning, 1,000 sets of 25 pages per set, preprinted numbering, type to set, with matching envelope
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: DNR—Parks & Recreation
Deliver to: St. Paul
Requisition #: 0011

Commodity: MnDOT structure inventory, 29M sets, 2-parts, 11" × 8½" overall, camera ready, one-sided
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 0168

Commodity: Inspection report, 300 pads of 15 pages per pad, 11¼" × 7½" overall, camera ready, one-sided
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 0169

Commodity: Workers' Compensation medical service claim form, 5M sets 3-parts each, 9½" × 11" overall, blue carbonless
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: Labor & Industry
Deliver to: St. Paul
Requisition #: 0087

Commodity: Envelopes, #10, 50M, camera ready
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: Office of Tourism
Deliver to: St. Paul
Requisition #: 8161

Commodity: 50M Public Safety Dept. brochure and three different posters, 1,000 each
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 104-5-6-7

Commodity: 3M catalogs and 5M brochures, camera ready, various sizes
Contact: Printing Buyer's Office
Bids are due: July 19
Agency: State University
Deliver to: Mankato
Requisition #: 7667&8

Commodity: DL poly window envelopes, 150M, 4½" × 7½", camera ready
Contact: Printing Buyer's Office
Bids are due: July 20
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 0099

Commodity: Commencement books, type to set, two-sided, 11" × 8½" various editions totalling 12,100
Contact: Printing Buyer's Office
Bids are due: July 20
Agency: State University
Deliver to: Mankato
Requisition #: 185

Commodity: Godfrey Gopher Color Book, 50M 16pp per book, 8½" × 11¼", camera ready
Contact: Printing Buyer's Office
Bids are due: July 21
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 8223

Commodity: General brochure & "Articulars" newsletter, 150M and 160M sheets, 14" × 8¼" and 8½" × 11", camera ready
Contact: Printing Buyer's Office
Date opens: July 25
Agency: School for the Arts
Deliver to: St. Paul
Requisition #: 0035&6

Commodity: Minnesota State Park Guide, 275M, 21½" × 27" 6-folds, camera ready & negs
Contact: Printing Buyer's Office
Date opens: July 25
Agency: DNR
Deliver to: St. Paul
Requisition #: 0119

Commodity: Continuing education schedules, Fall/Winter/Spring, 98M total, 8½" × 11" 16-page magazines, camera ready
Contact: Printing Buyer's Office
Bids are due: July 21
Agency: Lakewood Community College
Deliver to: White Bear Lake
Requisition #: 0171

Commodity: Voter registration cards, 250M, 100# white offset, 6" × 8" w/stub and two perfs
Contact: Printing Buyer's Office
Bids are due: July 22
Agency: Secretary of State/Elections
Deliver to: St. Paul
Requisition #: 0204

Contract Awards—Printing & Mailing Services

Item: Key Punch Kards
Req. #: 5368
Awarded to: CSI Business Forms, Inc., New Hope
Amount: \$353.00
Date: July 12
Deliver to: St. Paul
Delivery date: 10 days

Item: Application packets
Req. #: 7955
Awarded to: Georgene Bergstrom Co., Minneapolis
Amount: \$2,719.60
Date: July 12
Deliver to: St. Paul
Delivery date: 30 days

Item: Quarterly class bulletin
Req. #: 8007
Awarded to: Shakopee Valley Printing, Shakopee
Amount: \$23,633.00
Date: July 7
Deliver to: Inver Grove Heights
Delivery date: First quarter 8/12/88

State Contracts and Advertised Bids

Item: Order forms continuous
Req.#: 8167
Awarded to: Action Business Forms,
Minneapolis
Amount: \$5,061.60
Date: July 12
Deliver to: St. Paul
Delivery date: 30 days

Item: *Forum*, student newspaper
Req.#: 8182
Awarded to: Sell Publishing Co., Forest
Lake
Amount: \$3,117.00
Date: July 13
Deliver to: Inver Grove Heights
Delivery date: October 1 first issue

Item: Photocopy & copy machine
expense
Req.#: 06000 07060 01
Awarded to: Xerox Corp., Edina, MN
Awarded amount: \$19,700.00
Awarded date: July 13
Expir/deliv date: July 14
Shipped to: Various locations

Item: Photocopy & copy machine
expense
Req.#: 06000 07061 01
Awarded to: Xerox Corp., Edina, MN
Awarded amount: \$17,000.00
Awarded date: July 13
Expir/deliv date: July 14
Shipped to: Various locations

Item: Photocopy & copy machine
expense
Req.#: 06000 07062 01
Awarded to: Xerox Corp., Edina, MN
Awarded amount: \$25,450.00
Awarded date: July 13
Expir/deliv date: July 14
Shipped to: Various locations

Item: Photocopy & copy machine
expense
Req.#: 06000 07063 01
Awarded to: Xerox Corp., Edina, MN
Awarded amount: \$15,000.00
Awarded date: July 13
Expir/deliv date: July 14
Shipped to: Various locations

Item: Photocopy & copy machine
expense
Req.#: 06000 07064 01
Awarded to: Copy Duplicating Product,
Bloomington, MN
Awarded amount: \$5,500.00
Awarded date: July 13
Expir/deliv date: July 14
Shipped to: Various locations

Item: Auto HD truck & van
Req.#: 22200 00463 01
Awarded to: Superior Ford, Mpls., MN
Awarded amount: \$12,588.00
Awarded date: July 13
Expir/deliv date: October 20
Shipped to: Trade & Economic
Development

Item: Auto HD truck & van
Req.#: 32200 17466 01
Awarded to: Superior Ford, Mpls., MN
Awarded amount: \$12,670.00
Awarded date: July 13
Expir/deliv date: October 20
Shipped to: MN Pollution Control
Agency

Item: Auto HD truck & van
Req.#: 75200 20364 01
Awarded to: Rathert Chevrolet Inc.,
Duluth, MN
Awarded amount: \$21,734.00
Awarded date: July 13
Expir/deliv date: September 20
Shipped to: MN Veterans Home

Item: Bus passenger
Req.#: 75200 20366 01
Awarded to: Grande American Bus
Sales, Anoka, MN
Awarded amount: \$34,483.00
Awarded date: July 13
Expir/deliv date: September 20
Shipped to: MN Veterans Home

Department of Finance

Notice of Request for Proposals for Marketing Survey

The Department of Finance is seeking proposals from qualified organizations to conduct a marketing survey for a study on the feasibility of issuing College Savings Bonds.

A Coordination Working Committee (CWC) has been established to complete the work required for a report to the Legislature. The CWC has determined that a market survey is necessary to gather the information that is required in the report. The Department of Finance is seeking a market survey firm to work with the CWC to develop the survey, conduct the survey, and to analyze the results. Surveys should be developed to respond to the following major items of interest:

- A. Determine statewide demand for College Savings Bonds, with a geographic breakdown.
- B. Determine targeted market by income level.
- C. If the Bonds are to be used for a child's education, how the child is related to the purchaser of the bond.

Interested organizations will be required to respond to all of the specifications contained in the Request for Proposal. The contract will be awarded based on the following criteria: total cost, experience/expertise of organization and personnel, and time table to complete the project.

State Contracts and Advertised Bids

The Request for Proposals containing detailed specifications may be requested from the Department of Finance. The deadline for submitted proposals is 4:00 p.m. (CDT) on Friday, August 5, 1988. Please direct proposals and inquiries to:

Department of Finance
Susan E. Crompton
309 State Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
(612) 296-8373

Minnesota Historical Society

Notice of Contract Availability for Cultural Resource Survey and Planning Work

The Minnesota Historical Society is considering completing several of the cultural resource survey and planning projects outlined below, and requests proposals from qualified contractors.

1. National Register nominations for five properties in southwestern Minnesota.
2. National Register nominations for three properties and one district in Winona, Minneapolis, Duluth, and Finlayson.
3. Multiple Property Nomination Form for airport facilities in Minnesota.
4. Multiple Property Nomination Form for grain elevators in Minnesota.
5. Multiple Property Nomination Form for hydroelectric facilities in Minnesota.
6. Inventory data organization and National Register Nomination Form for water-power associated properties at St. Anthony Falls.
7. Multiple Property Nomination Forms for the Red River Trails and for the state's Old Government Roads.
8. Survey and evaluation of geographic features of cultural significance.

Required qualifications:

1. Demonstrated experience in conducting cultural resource planning, identification, evaluation, and/or registration activities in conformance with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation highly preferred.
2. Preparation of a National Register form for a property that has been placed on the Register within the last five years highly preferred.
3. A graduate degree in history, architectural history, art history, historic preservation, or closely related field; or a bachelor's degree in history, architectural history, historic preservation or closely related field plus one of the following:
 - a. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historical organization or agency, museum, or other professional institution, or
 - b. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history or American architectural history.

These services will be provided under contract. More detailed information on each project is available for inspection by appointment at the Ft. Snelling History Center during business hours. To schedule an appointment, call Florence Regan at 612-726-1171.

Proposals must contain the following:

1. Resume
2. Completed National Register form
3. Narrative project proposal, including an implementation schedule. All projects must be completed within the time period 10/1/88-7/31/89; more specific limitations apply to some projects (see information files at Ft. Snelling).
4. Dollar bid, including a line item breakdown of the proposed project budget. Maximum dollar amounts available, where applicable, are stated in information files at Ft. Snelling.

Contractor qualifications, amount of bid, and quality of proposal will be considered in making any awards.

Qualified contractors should send proposals to: Mark Schwartz, Contract Officer, Minnesota Historical Society, 1500 Mississippi Street, St. Paul, MN 55101, no later than the close of the business day (5:00 p.m.) August 11, 1988. Late proposals will not be accepted.

Award of any of these contracts is contingent upon the availability of funds. This solicitation for proposals does not obligate the Society to complete these projects, and the Society reserves the right to cancel solicitation if it is considered to be in the Society's best interests. The Society also reserves the right to reject or accept any or all proposals and to waive any irregularities therein.

Department of Human Services

Notice of Request for Proposal for Food Stamp Outreach Programs for the Homeless in Minnesota

NOTICE IS HEREBY GIVEN that the Assistance Payments Division, Department of Human Services, is seeking proposals for Outreach Programs for the Homeless, which will increase participation in the Food Stamp Program in Minnesota.

The grantees will be responsible for planning and implementing a program which will encourage participation in the Food Stamp program, provide technical assistance to targeted clients, provide training for program workers and prepare educational materials.

Contracts awarded will range from \$5,000 to \$25,000 for a 12 month period beginning in October, 1988. Responses must be received by 4:30 p.m., August 15, 1988.

For a copy of the complete request for proposal or if you desire more information contact:

Cindy Westbrook
Department of Human Services
Assistance Payments Division
Program Supervision Section
444 Lafayette Road
St. Paul, Minnesota 55155-3834

Department of Human Services

Notice of Request for Proposal for High Risk Neonatal Resource Utilization Project

NOTICE IS HEREBY GIVEN that the Children's Services Division, Department of Human Services, is seeking proposals concerning a demonstration project to enhance the coordination of services to families with newborn infants at risk of developmental delay, educational handicap, abuse or neglect or other condition. The model project will include case coordination addressing the following issues:

- parent assistance with specialized needs of child
- grief and bonding
- connecting the family with local community resources, e.g. local social service agency, public health nursing services, special education programs, Association for Retarded Citizens, support groups, etc.
- arranging, and when possible attending, a local resource utilization team to include the parents, foster parents and respite care providers
- follow-up contacts with the family, local resources and resource utilization team coordinator

The estimated amount of the contract will not exceed \$50,000. Responses must be received by August 8, 1988.

Direct inquiries to:

Sara A. McNeely
Department of Human Services
Child Protection Program Advisor
444 Lafayette Rd.
St. Paul, MN 55155-3830
612-297-3842

State Contracts and Advertised Bids

State Board of Investment

Request for Proposal for Master Custodian

The State Board of Investment wishes to retain a contractor for the purposes of providing master custodial services for public employee pension and retirement assets. A master custodian provides a variety of accounting, reporting and performance measurement services. It also acts as a cash manager and operates a securities lending program with the assets under its custody. Services will begin on October 1, 1988.

For a detailed request for proposal contact:

L. Michael Schmitt
Administrative Director
Minnesota State Board of Investment
Room 105—MEA Building
55 Sherburne Avenue
St. Paul, Minnesota 55155

Proposals must be received no later than August 5, 1988.

Department of Natural Resources

Request for Proposals for a Market Assessment Study of a Proposed State Interpretive Center

The Department of Natural Resources is seeking proposals from qualified firms or individuals to perform a market assessment study of an interpretive center proposed for the Lac qui Parle Wildlife Management Area. Results of the assessment will guide DNR personnel in their judgment as to the size of the center and to the mix of interpretive offerings at the center. If the decision is made to build the center, results will be used by a yet-unselected architectural/engineering contractor to design the center.

The study will assess different proposed scopes for the center in relation to important market factors, including population distribution, propensity to visit interpretive centers, recreation travel patterns, and other factors the contractor deems important. In addition, the study will assess comparable facilities and their associated markets.

The goal of the study is:

To determine the likely market size under different proposed plans for the scale of the center and mix of interpretive offerings in the center.

To complete the study the contractor needs to:

1. Evaluate existing information to meet the study goal listed above. Specifically, the contractor needs to review the literature on this topic, previous research, and data collection relevant to the study. A key part of this review is the search for information on comparable facilities and their associated markets. The search for comparable facilities is not restricted to Minnesota.
2. Given different scopes for the proposed interpretive center, which will be supplied by DNR, the contractor must determine the likely market size for the center. Market size is in terms of geographic range, and annual and seasonal visitation.
3. Write a report that details the methodology used to determine likely market sizes and the results of those determinations.
4. Orally present study findings to DNR personnel.

Interested parties may request a detailed request for proposal by writing to:

William H. Becker
Department of Natural Resources
Office of Planning
Box 10
500 Lafayette Road
St. Paul, Minnesota 55155-4010
Or call (612) 296-3093.

Proposals are due in Mr. Becker's office at the Department of Natural Resources at 4 p.m. fourteen days following the publication of this Request in the *State Register*.

The contract for this study should not exceed \$20,000. The study will be completed, with all final deliverables submitted to the Department of Natural Resources, by October 31, 1988.

Department of Natural Resources

Boat and Water Safety Section

Request for Proposals for Television and Radio Public Service Announcement Production

The Department of Natural Resources is seeking proposals for producing three television and three radio public service announcements (PSA) to increase Minnesotans' knowledge about the dangers of thin ice and intoxicated boating. Also, one television and one radio PSA will be produced to inform duck hunters of a new Minnesota law requiring personal flotation devices in duck boats. Copies of the Request for Proposals may be obtained at the Department of Natural Resources, Bureau of Information and Education, 5th Floor DNR Building, 500 Lafayette Road, St. Paul, MN 55155-4046.

Estimated cost of the contract is \$59,000. Final date for submitting proposals is Friday, August 5 by 4:30 p.m.

For more information, contact Timothy M. Smalley, Boat and Water Safety Section, Minnesota Dept. of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4046, (612) 296-3310.

Telecommunications Access for Communication Impaired Persons Board

Notice of Request for Proposals for a Study on the Economic Impact of Implementing the TACIP Program

The Telecommunication Access for Communicatively-Impaired Persons (TACIP) Board is charged with the task of monitoring a statewide program to loan special telecommunications devices to lower-income communicatively-impaired people free of charge. TACIP seeks proposals from individuals or organizations to conduct a study of the economic impact of this program on local retailers and dispensers of this equipment. This Request for Proposals does not obligate the state to complete the project and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

1. Scope of Project/Objective

The study should supply TACIP with expert information concerning the potential economic impact on local vendors of implementing the statewide TACIP program. The purpose of the study is to provide the TACIP Board with the information necessary to develop an equipment distribution program which minimizes the potential economic impact affecting local vendors.

2. Project Tasks

Conducting research and presenting a report advising the Board on the following issues:

A. Current status of the market for special communication devices in Minnesota.

1. Secure sales and profit data from the major and minor special communication device vendors in the state;
2. Estimate the unmet demand for special communication devices in the state.

B. Model of the general economic impact of programs such as TACIP:

1. Survey vendors and officials in other states where similar programs are in effect;
2. Examine the impact of Northwestern Bell's "Low-Cost Lease" program on the special communication device market in Minnesota;
3. Monitor changes in the market during the TACIP pilot project (8/15-10/15);
4. Develop an economic model to predict the impact of TACIP on the market for special communication devices.

C. Estimated impact of TACIP on local dispensers and retailers of communication devices:

1. Apply the model to the current state market in order to predict the short and long term impact of TACIP, providing explicit dollar impacts on both major and minor vendors;
2. Advise the Board on actions needed to eliminate any economic harm caused by implementing TACIP;
3. Present a final report to the Board summarizing data collected and conclusions made.

State Contracts and Advertised Bids

4. Project Costs

The TACIP Board has estimated the cost for professional services and expenses required to conduct this study should be approximately \$6,000-\$8,000.

5. Project Completion Date

The study will be completed on or before Nov. 7, 1988.

6. Proposal Contents

The following will be considered minimum contents of the proposal:

- A. A restatement of the objectives to demonstrate the responder's view of the nature of the project;
- B. Identification and description of the services the responder will provide;
- C. A general work plan with periodic opportunities for TACIP review of progress;
- D. A clear description of project methodology, including the model to be used to isolate economic impacts on vendors, the specific variables to be used in the model, and the data collection techniques;
- E. A listing of project cost estimates;
- F. A complete description of qualifications of company and/or personnel. Training and experience of project personnel will be given greatest weight. Experience and training in the areas of economic modeling, research, and awareness of the telecommunication needs of communicatively-impaired people should be explained. Samples of previous work on similar projects should be included.
- G. Send four copies of the proposal.

7. Selection

Evaluation and selection will be the responsibility of the TACIP Program Administrator and TACIP Chair, subject to final approval by the full TACIP Board. Results will be sent immediately by mail to all responders.

8. Deadline

On or before Aug. 5, 1988, proposals must arrive at:

TACIP Program
790 American Center Building
150 East Kellogg Blvd.
St. Paul, MN 55101
Phone: (612) 296-0412 Voice
(612) 296-9863 TDD

Department of Trade & Economic Development

Office of Tourism

Request for Proposal for Creative and Design Services

The Minnesota Office of Tourism is seeking proposals for creative and design services for the Explore Minnesota regional travel guides. The services will be provided under a contract for a period of one year, with two one-year renewal options that can be exercised by mutual consent of both parties.

The three currently published guides which are 80-84 pages, 48-54 and 128-144 pages in length are produced respectively by the Regional Offices of Tourism in Brainerd, Duluth and Mankato.

Please specify if your proposal is for one, two or all three of the regional guides and if not for all three, which of the specific guides it would cover. A per-page design/creative cost, applicable to all three guides, is required.

Each publication has a print run of about 150,000 copies, many of which are distributed at sports shows and in response to tourism advertising inquiries. For your design consideration, note that print overruns of some editorial sections with new covers may be used to target specific sub-regions within each region covered by the respective publications.

Editorial and advertising content of each publication is in an approximate 40/60 editorial/advertising ratio.

For further information, a listing of key elements of each publication, specific contractor duties and sample copies of the regional guides, contact: Judy Hohmann at 612/297-3879.

Non-State Public Contracts

Proposal Submissions

Those interested should submit a summary of experience, work plan, fee schedule for the services to be provided, a portfolio, and the name, title, address and phone number of the person empowered to negotiate a contract as a result of the proposal to:

Judy Hohmann, Acting Communications Manager
Minnesota Office of Tourism
375 Jackson St., 250 Skyway Level
St. Paul, MN 55101-1810

Deadline for submission: 4:30 p.m., August 8, 1988.

Potential vendors are cautioned that only the above-named individual is empowered to discuss and provide information on this project.

Dated: 7 July 1988

David J. Speer, Commissioner,
Minnesota Department of Trade &
Economic Development

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.

Metropolitan Transit Commission

Request for Proposals for a Comprehensive Communications Audit

Notice is hereby given that the Metropolitan Transit Commission (MTC) will receive proposals at its offices at 560 Sixth Avenue North, Minneapolis, Minnesota, 55411-4398, from firms interested in conducting a comprehensive Communications Audit of the MTC's marketing communications and client service programs and efforts. Proposals are due postmarked no later than July 29, 1988.

The MTC reserves the right to reject any and all proposals.

The successful proposer shall be required to comply with all applicable Equal Employment Opportunity laws and regulations. Disadvantaged business enterprises will be afforded full opportunity to submit proposals and will not be subjected to discrimination on the basis of race, color, sex or national origin in consideration for an award.

The contract will be awarded to the firm judged to be the most advantageous to the MTC.

Prospective proposers may obtain Request for Proposals by contacting Mary Cosgrove, Manager of Communications, at (612) 349-7681.

State Grants

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

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

Department of Education Community and Adult Education

Notice of Pre K Grant Program

During the 1988 legislative session, a grant program was established for Prekindergarten Child Development programs. (The full text of the legislation is included.) The Community and Adult Section of the Minnesota Department of Education will implement this new grant program which will be titled "Pre K Grant Program."

Information describing the request for proposal (R.F.P.) procedures and criteria for R.F.P. review and the selection for funding process will be ready for distribution on September 1, 1988.

Completed RFPs will be due in the Department of Education not later than 4:30 p.m. October 28, 1988. You may receive R.F.P. materials for the Pre K Grant Program by sending a written request to:

Robert O. Gramstad, Manager
Community and Adult Education
991 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
(612) 296-8311

Minnesota Statutes 129B.48 Prekindergarten Child Development Grants.

Subdivision 1. (ESTABLISHMENT.) A grant program is established for prekindergarten child development programs.

Subd. 2. (ELIGIBLE CHILD.) An eligible child is a child who:

- (1) is at least three years old but has not entered kindergarten;
- (2) resides in a family having a pre-tax income, for the 12 months before enrollment in the program, at or below the poverty level as determined by the federal government; and
- (3) has a significant delay in the development of any of the following areas; emotional, cognitive, language, physical-motor, or social.

Subd. 3. (ELIGIBLE PROGRAMS.) A project head start agency, school district, group of districts, and nonprofit organizations are eligible for grants. To be eligible for a grant, all children in the program must meet the requirements of subdivision 2, clause (1), and at least 90 percent must meet the requirements of subdivision 2.

Subd. 4. (CRITERIA AND PROCEDURES.) The state board of education shall establish criteria and procedures to select recipients of grants. Criteria for recipients, other than head start agencies, must include at least the following:

- (1) adequate procedures to assess the developmental delay of children, according to subdivision 2, clause (3);
- (2) conformance to the federal guidelines for project head start agencies, to the extent practicable;
- (3) substantial involvement and education of the parents of the children;
- (4) a plan for coordination with local organizations that serve young children;
- (5) a local advisory board; and
- (6) an evaluation plan.

Subd. 5. (GRANT AWARDS.) The state board may award grants for programs that meet the requirements of this section. Grants must be awarded to applicants located in different parts of the state. The board shall give priority in awarding grants to those applicants located in areas where no service is available within 30 minutes of eligible children's residences. A recipient must not use the grant money to supplant money or services available from other sources.

Minnesota Housing Finance Agency

Notice of Availability of Federal Funds for Permanent Housing for Handicapped and Homeless Persons Program

The Minnesota Housing Finance Agency (MHFA) announces the availability of federal funds to assist in the development of community-based long term housing which will be combined with supportive services, for handicapped persons. Funding is available for the acquisition, or moderate or substantial rehabilitation of existing structures for permanent housing for the handicapped.

Assistance will be in the form of federal matching grants to private non-profit sponsors of housing projects for not more than eight homeless handicapped persons. These federal grant funds must be matched with at least an equal share of state and local funds, half of which must be state funds. The total funding will then be passed on to private, non-profit project sponsors for the development of housing facilities.

A total of \$30 million was made available on February 16, 1988 as authorized under Subtitle C of Title IV of the Stewart B. McKinney Homeless Act (Pub. L. 100-77). The deadline for application for permanent housing was set as March 31, 1988. HUD did not receive a sufficient number of applications by the March 31, 1988 deadline to expand the \$30 million in funds available for the program. Approximately \$25 million remain available for the program.

A final rule was published in the June 24, 1988 *Federal Register*. All Minnesota applications will compete with applications, nationwide, for funding.

All applications must be submitted to MHFA by August 15, 1988. The applications will be reviewed by an inter-agency review committee which will forward approved applications to HUD by August 30, 1988. The award of state matching funds will be determined on a case-by-case basis by the committee. While there is a \$200,000 dollar limit on the amount of federal funds requested, state matching funds may be limited.

Those private non-profit sponsors who may be interested in this program should contact Rhonda Lundquist at (612) 296-9822, Minnesota Housing Finance Agency, 400 Sibley Street, Suite #300, St. Paul, MN 55101, immediately to obtain an application and discuss the feasibility of their proposal.

Supreme Court Decisions

Decisions Filed 15 July 1988

CX-87-403 In Re the Marriage of: Robert J. Sefkow, petitioner, Appellant v. Paula D. Sefkow. Court of Appeals.

The trial court's conclusion that the older child of the parties properly belonged with her father was adequately supported by findings of fact and references to the record. The court of appeals exceeded its scope of review when it reversed the award.

The trial court erred in modifying custody of the younger child because the non-custodial father failed to meet his burden of proof that it was not in the best interests of the child to move out of state with her custodial parent.

Respondent/wife did not demonstrate that her reasonable needs were in excess of her spendable income for the two year period prior to her remarriage. Therefore, maintenance is denied.

Appellant/husband is ordered to pay net child support to respondent/wife, based on the disparity in the parties' incomes, in an amount consistent with the child support guidelines set forth in *Minnesota Statutes* § 518.551, subd. 5.

Respondent is awarded partial attorneys fees on her response to this appeal.

Affirmed in part; reversed in part. Amdahl, C.J.

Took no part, Popovich, J.

C3-87-1425 State of Minnesota v. Ronald E. Hott, Appellant. Court of Appeals.

Criminal defendant who is required to serve jail term as a condition of probation is entitled to a credit against that term of any time spent in jail between arrest and sentencing.

Affirmed as modified. Amdahl, C.J.

Supreme Court Decisions

CX-87-224 Diana Mandell Voss, et al. v. John Duerscherl, father of Terry Allan Duerscherl, deceased, et al., petitioners, Appellants. Court of Appeals.

An action commenced to establish paternity brought against the father and siblings of a putative deceased father by a child's mother and Ramsey County, not acting for or on behalf of the child, does not survive the death of the putative father and the discharge of his personal representative.

Reversed and remanded. Kelley, J.

C9-87-893 State of Minnesota, petitioner, Appellant v. Eugene Paul Glaraton, Jr. Court of Appeals.

Presence of severe aggravating circumstances justified durational departure of greater than double the presumptive sentence established by the Minnesota Sentencing Guidelines; when severe aggravating circumstances are present, only absolute limit on sentence duration is maximum set by legislature in defining offense.

Affirmed as modified. Kelley, J.

C1-87-1553 State of Minnesota v. Kenneth Robinson, Appellant. St. Louis County.

Although a pretrial order of the trial court erroneously denied an accused's motion to suppress an in-custody statement, which had been given by the accused to the police after he had requested, but been denied, his constitutional right to counsel, the denial was harmless beyond any reasonable doubt.

Except for assertion of his right to counsel, an accused knowingly, intentionally, and voluntarily waived other constitutional rights afforded him by the holding on *Miranda v. Arizona*, 384 U.S. 436 (1966).

The trial court did not abuse its discretion in admitting *Spreigl* evidence of other crimes which tended to establish pattern of operation, closeness in time between the *Spreigl* incidents and the current incident, and absence of mistake or accident.

The accused was not entitled to a self-defense jury instruction in the absence of any credible evidence demonstrating that the accused, admittedly an original aggressor, had withdrawn from the confrontation.

Affirmed. Kelley, J.

C6-85-1544 In Re the Matter of the Application for Discipline of Marlon O. Haugen, an Attorney at Law, of the State of Minnesota. Supreme Court.

Suspended. Per Curiam.

Orders

C1-80-50969 In Re Matter of the Application for Reinstatement of Mark Elliot Wersal, an Attorney at Law of the State of Minnesota. Supreme Court.

Reinstated. Amdahl, C.J.

C4-88-1170 In Re Petition for Disciplinary Action against Mark J. Freidson, an Attorney at Law of the State of Minnesota. Supreme Court.

Publicly reprimanded. Amdahl, C.J.

C5-88-1324 In Re Petition for Disciplinary Action against Donald C. Hanson, an Attorney at Law of the State of Minnesota. Supreme Court.

Publicly reprimanded. Amdahl, C.J.

C6-88-148 Charles D. Courtney, deceased Employee, by Ellen Courtney Higdem v. City of Orono, Self-Insured, Relator and City of Orono, Employee Benefit Administration, Relator. Supreme Court.

Petition for rehearing denied. Amdahl, C.J.

C4-87-283, C5-87-339, C6-87-379, C7-87-1184 James Vanderweyst, et al., petitioners, Appellants v. First State Bank of Benson, Patrick J. Walsh, et al., petitioners, Appellants v. State Bank of Pennock and Charles Heimark, Jr., petitioner, Appellant v. Norwest Bank Montevideo, Joseph J. Bandas, et al., petitioners, Appellants, v. Citizens State Bank of Silver Lake, et al., petitioners. Supreme Court.

Petition for rehearing denied. Simonett, J.

Took no part, Popovich, J.

Announcements

Environmental Quality Board (EQB): Environmental Assessment Worksheet (EAW) comments are due on August 10 at the regional governing units named for each of the following projects: Jerome Foods Turkey Feedlot IV, Rice County; Renville County Ditch 35 Improvement, Renville County; and Becker Energy Park Sewer, Minnesota Pollution Control Agency (MPCA). Petitions have been received for environmental impact statements for the Eagle Pond Development, City of Apple Valley and Henson/Goiffon Gravel Pit, City of Hugo. For more information contact *EQB Monitor* editor Gregg Downing, 612-296-8253.

DNR Land Bureau Changes Name: The DNR has changed the name of its former Land Bureau to the Bureau of Real Estate Management. The name change brings no other changes within the bureau, except that regional land specialists will now be known as regional realty specialists. The name change is in line with the bureau's goal of enhancing state revenues from its public lands and better serving the public interest by effectively managing leases, sales, exchanges, acquisitions and other real estate activities. The bureau also administers the records, maps and documents relating to land ownership rights and transactions.

Minnesota's Farmfest Show: Farmfest, Minnesota's largest all-agricultural demonstration show will be held at Lake Crystal, Minnesota August 2 through 4. This year's theme is "Rural-Urban unity." In addition to displays, exhibits and events, Farmfest offers a number of activities scheduled daily at 11 a.m. in the Taste of Agriculture Building. Opening Day on August 2 will feature discussion of the sodbuster and swampbuster provisions of the 1985 farm bill. Day two features a groundwater and ag chemical presentation, and Terry Montgomery of the Greater Minnesota Corporation will complete the three-day schedule with an overview on increased utilization of agricultural commodities. The Farmfest site is located about 10 miles west of Mankato and 2 miles east of Lake Crystal on Minnesota Highway 60. Advance tickets are available through many Lake Crystal businesses and from local FFA chapters. Tickets may also be ordered through Farmfest offices located at: Drawer R, Lake Crystal, Minn. 56055, (507) 726-6863. Prices are \$4 in advance or \$5 at the gate. Three-day passes run for \$7 in advance or \$8 at the gate. Children under 12 are allowed in free and there is no charge for parking.

Sustainable Agriculture Grants: Grants are available for on-farm demonstrations of sustainable agriculture practices and will be awarded to projects which replace external inputs with on-farm resources, conserve or produce energy, show environmental benefits and increase farm profitability. A variety of projects could be funded, including:

- weed control alternatives, such as mechanical and integrated controls;
- crop rotations, green manures, animal manures and other farm produced nutrients to replace industrial fertilizers;
- rotational animal grazing to conserve pastures;
- biological integrated controls of plant pests;
- and many other types of projects.

The purpose of the grant program is to give farmers the opportunity to test sustainable practices and to demonstrate these practices for neighboring farmers. All projects will include public information activities for area farmers. Farmers' applications will have priority, but educational institutions and non-profit organizations may also apply. To request an application form or for further information, contact: Sustainable Agriculture Project, Minnesota Department of Agriculture, 90 West Plato Blvd., St. Paul, MN 55107, (612) 296-7686.

States to Monitor Food Prices: The Minnesota Department of Agriculture will participate in a eight-state effort to monitor food prices and report to Congress any unreasonable increases in food costs during the coming months. Commissioner of Agriculture Jim Nichols said that even with a historic crop failure during 1988, the nation will have adequate commodity reserves at the end of this year. "We do not now and we will not have, a commodity shortage." Nichols said Minnesota state food inspectors will monitor the prices of a large market basket of products every two weeks during the drought. Inspectors will note any price increases and the department will ask companies to explain their actions. Findings will be forwarded to Congress. Participating in the survey are the states of Colorado, Kentucky, Massachusetts, Minnesota, North Carolina, Ohio, South Carolina and Texas.

Pheasants in Minnesota

Pheasants in Minnesota, focusing exclusively on the ringneck pheasant, this DNR booklet tells of this popular game bird's origin, introduction and development in Minnesota. Through many full-color photos the book shows the pheasant in various settings, tells how to maintain wildlife habitat and explains the wise management of the hunt. A great gift for each member of your hunting party, or as a memento to a special Minnesota hunting vacation. Quantity discounts available. Code #9-13, \$5.95.

Woodworking for Wildlife, delightfully written and carefully illustrated with a variety of game bird and mammal box designs. Includes important information on the placement of nests in proper habitat areas and maintenance requirements. Diagrams, 48 pp. Code #9-14, \$3.95.



TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6% sales tax, and \$1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.

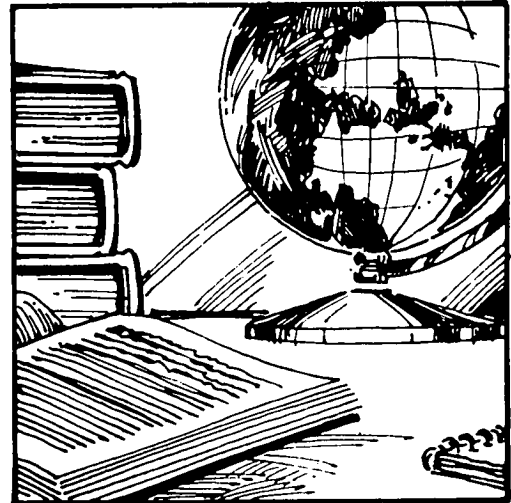
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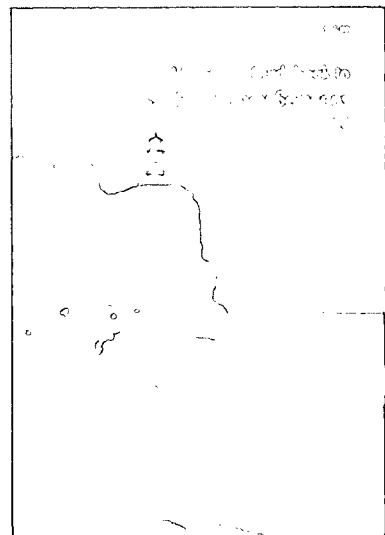
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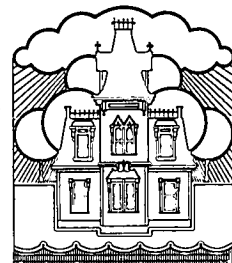
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