

89, March 20

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State of Minnesota

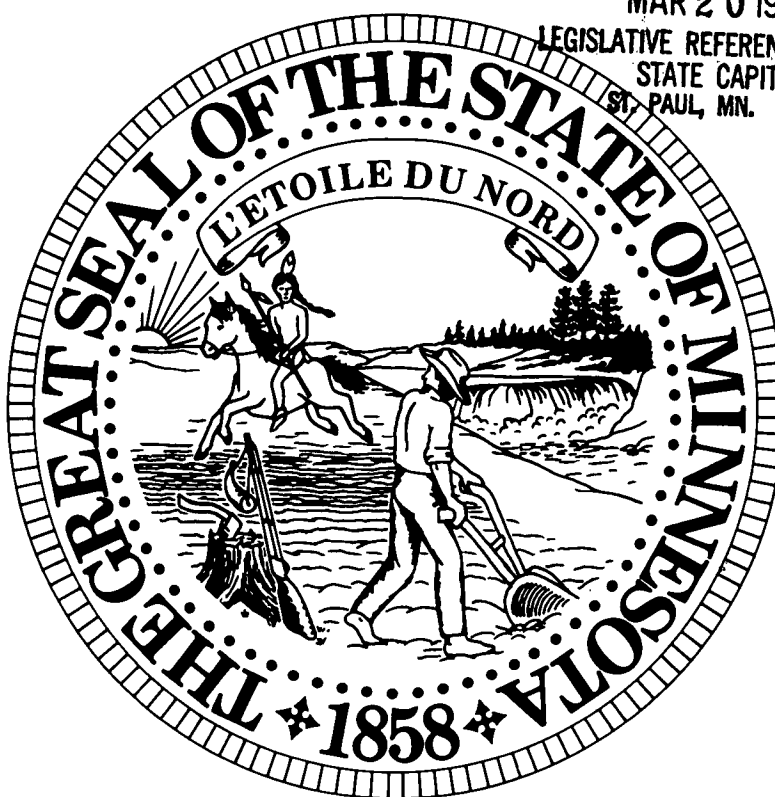
# STATE REGISTER

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# STATE REGISTER

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, official notices to the public, state and non-state public contracts, contract awards, 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

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\*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.

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## 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 Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-652-9747.

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# Proposed Rules

Pursuant to Minn. Stat. §§ 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 Bulk Pesticide Storage

#### 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 these amendments is *Minnesota Statutes*, Section 18B.14, subd. 2.

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 must be applied to all applicable businesses, such as pesticide dealers and distributors and farmers, including those defined as small businesses by *Minnesota Statutes*, section 14.115.

Persons who operate a bulk pesticide storage facility prior to the effective date of the rule will be granted two years in which to be in compliance with the most costly environmental protection safeguards in the rule.

Inspection, maintenance, training, and permit application information have been simplified to aid in compliance.

The permit application contains the minimum information required by MDA to evaluate the proposed bulk pesticide storage site, the proposed environmental protection safeguards, locations of groundwater, surface water, and other information necessary to grant, modify, or deny permits.

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Recordkeeping, inspection, and spill remediation requirements contained in the rule are the minimum necessary to comply with the pesticide use, storage, handling, and disposal requirements of *Minnesota Statutes*, Chapter 18B.

Alternate technologies and less stringent requirements for certain portions of the rule are included to account for differences in business type and size.

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: 21 February 1989

Jim Nichols, Commissioner  
Department of Agriculture

### Rules as Proposed (all new material)

#### 1505.2010 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 1505.2010 to 1505.2150, the words and terms defined in this part have the meanings given them.

Subp. 2. **Appurtenances.** "Appurtenances" means valves, pumps, fittings, pipes, hoses, and metering devices that are connected to a bulk pesticide container or used for transferring liquid bulk pesticide between containers.

Subp. 3. **Bulk pesticide.** "Bulk pesticide" means a pesticide that is held in an individual container with a pesticide content of 56 U.S. gallons or more, or 100 pounds or more net dry weight, including mini-bulk pesticide unless otherwise specified. Only technical grade, formulated grade, and other grades of undiluted bulk pesticide are included in this definition.

Subp. 4. **Bulk pesticide storage facility.** "Bulk pesticide storage facility" means a site at which a bulk pesticide is stored, distributed, or repackaged.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized agent.

Subp. 6. **Containment area.** "Containment area" means a facility, device, or system or a combination of these designed to prevent the escape or movement of a pesticide from the place it is stored or kept under conditions that might otherwise result in contamination of the environment.

Subp. 7. **Custom mix.** "Custom mix" means a mixture of registered pesticide or pesticide-fertilizer mixes prepared by a dealer in response to a specific request of an end user of those products.

Subp. 8. **Disposal.** "Disposal" means the release, deposit, injection, dumping, spilling, leaking, or placing of pesticide into or on land or water so that the pesticide may enter the environment or be emitted into the air or released into any surface water or groundwater. This definition, however, does not include pesticide use allowable under *Minnesota Statutes*, chapter 18B or rules adopted under *Minnesota Statutes*, chapter 18B.

Subp. 9. **Dry pesticide.** "Dry pesticide" means pesticide that is in solid form before application or mixing for application, including formulations such as dusts, wettable powders, dry flowable powders, and granules.

Subp. 10. **Groundwater.** "Groundwater" means the water in the zone of saturation in which all of the pore spaces of the subsurface material are filled with water. The water that supplies springs and wells is groundwater.

Subp. 11. **Inorganic soil.** "Inorganic soil" means a soil that is a silty clay loam or finer with less than six percent organic matter. This definition pertains to the specific type of soil used to construct walls and liners of containment areas.

Subp. 12. **Liquid pesticide.** "Liquid pesticide" means pesticide in liquid form, including solutions, emulsions, suspensions, and slurries.

Subp. 13. **Mini-bulk pesticide.** "Mini-bulk pesticide" means an amount of liquid pesticide greater than 56 U.S. gallons (211 liters) but not greater than 499 U.S. gallons (1,892 liters), or an amount of dry pesticide greater than 100 pounds (45 kilograms) but not greater than 499 pounds (225 kilograms), that is held in a single container designed for ready handling and transport.

Subp. 14. **New bulk pesticide storage facility.** "New bulk pesticide storage facility" means a bulk pesticide storage facility established after July 1, 1989, at a site that was not previously used as a bulk pesticide storage facility. A facility is established, for purposes of this subpart, on the date it is first placed in use.

Subp. 15. **Previously established bulk pesticide storage facility.** "Previously established bulk pesticide storage facility" means a bulk pesticide storage facility established before July 1, 1989. A facility is established, for purposes of this subpart, on the date it is first placed in use.

Subp. 16. **Release.** "Release" means a pesticide release incident as defined in *Minnesota Statutes*, section 18B.01, subdivision 12, including a pesticide released into a secondary containment or loading area.

Subp. 17. **Release response plan.** "Release response plan" means a plan describing procedures employed for the notification of appropriate state agencies, stopping a release, recovering releases, and cleaning up the release area.

Subp. 18. **Repackaging.** "Repackaging" means a registrant's or manufacturer's authorized transferring of a registered pesticide from a bulk pesticide container to another pesticide container 56 U.S. gallons or more in an unaltered state in preparation for sale delivery to another dealer or user.

Subp. 19. **Revised bulk pesticide storage permit application.** "Revised bulk pesticide storage permit application" means an application for a bulk pesticide storage permit filed with the commissioner detailing substantial alterations that are to be made to a facility.

Subp. 20. **Storage container.** "Storage container" means a container used for the fixed storage of bulk pesticide, including a rail car, nurse tank, mini-bulk tank, or other mobile container for more than ten consecutive days. This definition does not include a container used solely for emergency storage of leaking pesticide containers that are less than 56 U.S. gallons or pesticide rinsate holding tanks.

Subp. 21. **Substantially altering.** "Substantially altering" includes, but is not limited to, the modification of a bulk pesticide storage facility through the changing, addition, or removal of bulk pesticide storage containers, appurtenances, load areas, secondary containment, or any modifications that may result in reducing the effectiveness of safeguards. This definition does not include the routine maintenance of bulk pesticide storage containers, load areas, secondary containment, or appurtenances.

Subp. 22. **Surface water.** "Surface water" means water that rests or flows on the surface of the ground.

Subp. 23. **Tank mix.** "Tank mix" means a mixture of registered pesticides prepared according to label directions for site application.

#### **1505.2020 NEW FACILITIES.**

Subpart 1. **Permit required.** No person may construct or operate a new bulk pesticide storage facility without first obtaining a permit under parts 1505.2040 and 1505.2050.

Subp. 2. **Information required before construction.** After being granted a permit by the commissioner, and before beginning construction of the bulk pesticide storage facility, an owner or manager shall submit to the commissioner:

A. the name, address, and telephone number of the persons who will construct, install, or modify the facility; and

B. copies of any permits or letters of authorization required by any local unit of government for the construction, installation, or modification of the facility.

Subp. 3. **Compliance within 90 days.** Within 90 days after being granted a permit by the commissioner, a new bulk pesticide storage facility owner or manager shall comply with parts 1505.2010 to 1505.2150.

Subp. 4. **Time extension.** A time extension of up to 180 days for delays due to construction or equipment or material procurement may be granted by the commissioner if requested in writing by the facility owner or manager. The commissioner shall set forth in writing the reasons for granting or denying a requested time extension within 15 days of the request.

#### **1505.2030 PREVIOUSLY ESTABLISHED FACILITIES.**

A person who operates a bulk pesticide storage facility established before July 1, 1989, must comply with items A to C.

A. The person must, by July 1, 1990, file with the commissioner an application for a bulk pesticide storage permit under parts 1505.2040 and 1505.2050 and comply with parts 1505.2010, 1505.2030, 1505.2060, and 1505.2090 to 1505.2150.

B. The person must, by July 1, 1991, comply with parts 1505.2070 and 1505.2080. A time extension of up to one year may be granted by the commissioner for delays due to construction or equipment or material procurement, if requested in writing by the facility owner or manager. The commissioner shall set forth, in writing, the reasons for granting or denying a requested time extension within 15 days of the request.

C. After being granted a bulk pesticide storage permit by the commissioner, and before beginning any construction or modification of an existing bulk pesticide storage facility, the person must submit to the commissioner:

(1) the name, address, and telephone number of the persons who will construct, install, or modify the facility; and

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## Proposed Rules

(2) copies of any permits or letters of authorization required by any local or state unit of government for the construction, installation, or modification of the facility.

### 1505.2040 BULK PESTICIDE STORAGE PERMIT.

Subpart 1. **Commissioner's review of application.** The commissioner shall review an initial application as submitted under part 1505.2050 within 30 days of receipt and either issue a bulk pesticide storage permit or advise the applicant, in writing, of an unsatisfactory review and detail all changes necessary in order to achieve compliance. Upon receipt of the additional requested compliance information from a person, the commissioner has 15 days in which to issue a bulk pesticide storage permit or advise the applicant, in writing, of an unsatisfactory review and detail all changes necessary in order to achieve compliance.

Subp. 2. **Substantial alterations.** No person may substantially alter any bulk pesticide storage facility without first being granted a revised bulk pesticide storage permit from the commissioner. The person must file a revised bulk pesticide storage permit application detailing the proposed alterations with the commissioner. The commissioner shall review an application for a revised bulk pesticide storage permit within 30 days of receipt and either issue a revised bulk pesticide storage permit or advise the applicant, in writing, of an unsatisfactory review and detail all changes necessary in order to achieve compliance.

Subp. 3. **Denial; revocation; suspension; modification.** An initial or revised bulk pesticide storage permit may be denied, revoked, suspended, or modified, in whole or in part, for one or more of the following reasons:

- A. violation of a term or condition of the permit;
- B. obtaining the permit by misrepresentation or by failure to disclose all relevant facts; or
- C. discovery of unreasonable adverse effects to the environment caused by the activities of the permit holder in the conduct of actions undertaken under the permit.

Subp. 4. **Notice.** If a permit is denied, revoked, or suspended, the commissioner shall send the applicant a written notice of denial, revocation, or suspension. Details that formed the basis of the decision must be included. The owner or manager must be given 30 days from the date of the notice to request an administrative meeting before the commissioner to present justification for an appeal of the decision.

Following the date and time of the administrative meeting, the commissioner has 15 days in which to analyze the facts presented and grant a permit or advise the owner or manager, in writing, of the commissioner's determination to uphold the original decision not to grant a permit.

Subp. 5. **Permit transfer.** A bulk pesticide storage permit may be transferred from one person to another if an application for a permit detailing any changes and including the required fee is filed with the commissioner prior to the transfer.

Subp. 6. **Permit exceptions.** Persons who store bulk pesticides in a storage container of a rated capacity of less than 500 U.S. gallons or who store bulk pesticides in individual storage containers at a site where the total storage amount of bulk pesticide is less than 500 U.S. gallons, are not required to obtain a bulk pesticide storage permit, but are required to comply with all other applicable provisions of this part.

### 1505.2050 APPLICATION AND PERMIT FEE.

Subpart 1. **Information required.** Application for a bulk pesticide storage permit must be on forms provided by the commissioner. The application must contain at least, but is not limited to, the following information:

- A. a differentiation as to whether the bulk pesticide storage facility should be regarded as new or previously established;
- B. the name, address, and telephone number of the person making application;
- C. the name, address, and telephone number of the persons that will own and operate the facility;
- D. the location of the facility, including its legal description;
- E. photographs or a diagram of the current or proposed facility, including all buildings, tanks, fertilizer storage areas, mixing, loading, and rinsate recycling areas, vehicle washing areas, and bulk pesticide storage areas;
- F. a geologic report of the facility property and the surrounding area, including maps, photographs, or diagrams of:
  - (1) the land use (crop land, residential, or business) within one-quarter mile radius of the facility;
  - (2) the distance and direction to surface water, drainage ditches, and storm sewers within one-quarter mile radius of the facility;
  - (3) the distance and direction to any source of a public water supply serving the facility;
  - (4) the year installed, depth, direction, and distance to any well on or within 150 feet of all existing and proposed loading and secondary containment areas; and

(5) the type of soils to the three foot depth beneath the surface fill such as, but not limited to, gravel, rock, or other soils of all existing and proposed loading and secondary containment areas.

G. the number, age or condition, dimension, capacity, and material description of the liquid bulk pesticide storage containers and a list of pesticides to be stored in them, with United States Environmental Protection Agency registration numbers;

H. a certification that to the best of the owner's or manager's knowledge the loading and containment areas will be built in accordance with construction and plumbing plans submitted and will comply with the design, construction, and containment requirements of parts 1505.2070 and 1505.2080;

I. at least one scale drawing of the loading and bulk pesticide containment areas to include a construction material specification or design guide;

J. a plumbing diagram showing the location, type, and specifications of the appurtenances used in storing or transferring bulk pesticides;

K. a copy of the release response plan as described in part 1505.2100; and

L. the person's federal Environmental Protection Agency establishment number, if required.

Subp. 2. **Fee.** The initial application for a bulk pesticide storage permit must be accompanied by the fee required in *Minnesota Statutes*, section 18B.14 for each bulk pesticide storage facility. No fee is required to apply for a revised bulk pesticide storage permit.

#### **1505.2060 GENERAL REQUIREMENTS.**

Subpart 1. **Establishment number.** A facility that repackages or transfers bulk pesticides or custom mixes any quantity of pesticides for application by another person must obtain a pesticide producer establishment number from the United States Environmental Protection Agency.

Subp. 2. **Exception.** A person who tank mixes or custom mixes for application by the person's firm only, is not required to secure a pesticide producer establishment number from the United States Environmental Protection Agency.

##### **Subp. 3. Storage containers and appurtenances.**

A. Storage containers and appurtenances must be constructed, installed, and maintained to prevent the release of liquid bulk pesticide. Storage containers and appurtenances must be structurally sound, resistant to changes in temperature extremes, and constructed of materials that are adequately thick to be structurally sound and that are resistant to corrosion, puncture, or cracking. Materials used in the construction or repair of storage containers and appurtenances may not be of a type that reacts chemically or electrolytically with stored bulk pesticide in a way that may weaken the storage container or appurtenance, create a risk of release, or adulterate the pesticide. Metals used for valves, fittings, and repairs on metal containers must be compatible with the metals used in the construction of the storage container, so that the combination of metals does not cause or increase corrosion that may weaken the storage container or its appurtenances, or create a risk of release. Storage containers and appurtenances must be designed to handle all operating stresses taking into account the foreseeable course of operations. Underground appurtenances are prohibited as part of a system designed and constructed for transferring bulk pesticides unless approved by the commissioner.

B. Storage containers may only be constructed of stainless steel, fiberglass, polyethylene, ferrous metal, cross-linked polyolefin, or other commissioner-approved materials that are suitable for the stored bulk pesticide. Polyvinyl chloride tanks are prohibited.

Ferrous metal tanks must have a protective lining that inhibits corrosion and does not react chemically with the stored pesticide.

Unlined ferrous metal tanks may be used only with proof of compatibility from the pesticide manufacturer.

C. Storage container connections, except safety relief connections, must be equipped with a shutoff valve located on the storage container or at a distance from the storage container dictated by standard engineering practice and in compliance with this part. Wetted parts inside shutoff valves and connections from the storage container to the shutoff valve must be made of stainless steel.

D. Storage containers must be equipped with a liquid level gauging device by which the level of liquid in the storage container can be readily and safely determined. A liquid level gauging device is not required if the level of the liquid in a storage container can be readily and reliably measured by other means. Liquid level gauging devices must be secured, in a safe manner, to protect against breakage or vandalism that may result in release. External sight gauges are permitted only with approval from the commissioner.

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E. Meters and scales used for the sale of bulk pesticide must be compatible with the pesticide being metered or weighed.

F. Pipes and fittings must be adequately supported to prevent sagging and possible breakage because of gravity and other forces that may be encountered in the ordinary course of operations.

G. Valves must be secured and of a locking type to protect against vandalism or accidental valve openings that may result in a release.

H. Storage containers must be equipped with a vent or other device designed to relieve excess pressure, prevent losses by evaporation, and exclude precipitation.

Subp. 4. **Anchoring of storage containers.** Storage containers must be anchored to prevent flotation or instability that might occur as a result of liquid accumulations within a secondary containment area built under part 1505.2080. Anchoring may be accomplished by guy wires, or other commissioner-approved anchors.

Subp. 5. **Security.** Storage containers must be secured against access by unauthorized persons and provide protection against access by wildlife. Appurtenances must be fenced or otherwise secured to provide reasonable protection against vandalism or unauthorized access that may result in a release. Valves on storage containers must be locked or otherwise secured except when persons responsible for facility security are present at the facility. Valves on rail cars, nurse tanks, and other mobile pesticide containers parked overnight at a storage facility must be locked or secured except when persons responsible for facility security are present at the facility.

Subp. 6. **Filling.** Storage containers must not be filled to more than 95 percent of capacity unless the storage container construction or location provides constant temperature control of the container contents.

Repackaging and delivery of bulk pesticides must be attended and supervised at all times by the owner, manager, or an employee of the facility.

Subp. 7. **Protection against damage by moving vehicles.** Storage containers and appurtenances, including pipes, must be protected against reasonably foreseeable risks of damage by trucks and other moving vehicles and objects.

Subp. 8. **Storage of dry bulk pesticide.** Except during loading, stored dry bulk pesticide must be covered by a roof or tarpaulin that will exclude precipitation from the pesticide. Storage containers must be placed on a concrete or other impervious surfaced floor on pallets or on a raised platform to prevent the accumulation of water in or under the pesticide.

Storage facilities must be secured against entry by unauthorized persons or wildlife.

Subp. 9. **Labeling of storage containers.** Every storage container must bear a current pesticide product label as required by the United States Environmental Protection Agency.

For outside storage, the label required under this part must be placed on the storage container so as to be visible from outside of the secondary containment area. The label must be legible at all times. The type size used on the label must be that specified in Code of Federal Regulations, title 40, part 162.

### 1505.2070 LOADING AREAS.

Subpart 1. **Containment for liquid bulk pesticide loading sites.** An area used for the loading of liquid bulk pesticide into fixed storage containers, mobile containers, or pesticide application equipment at a bulk pesticide storage facility must be provided with a means of containment that is elevated above the surrounding area, constructed of reinforced concrete or other commissioner-approved material, and designed and constructed for the intended purpose. The means of containment must not contain a drain and must comply with either item A or B.

A. A curbed loading area without a sediment trap must comply with subitems (1) and (2).

(1) The perimeter of the area must be curbed a minimum of three inches in height to prevent run-off and the curbed surface must form a liquid-tight containment area.

(2) The curbed surface and containment area must contain a minimum of 1,000 U.S. gallons.

B. A sloped surface that contains a sediment trap must comply with subitems (1) to (3).

(1) The perimeter of the area must be curbed three inches in height to prevent runoff and must form a liquid-tight containment area.

(2) The area must be sloped to a sediment trap used only for the temporary collection of spilled or released pesticides. The sediment trap may not be greater than two feet deep or hold more than 150 U.S. gallons.

(3) The area must contain a minimum of 1,000 U.S. gallons.

Subp. 2. **Containment for pesticide-impregnated fertilizer loading sites.** An area used for the loading of pesticide impregnated fertilizer into fixed storage containers, mobile containers, or pesticide application equipment at a bulk pesticide storage facility must be provided with the means of containment in items A to C.

A. The containment area for pesticide-impregnated fertilizer loading must be elevated above the surrounding area, be constructed of reinforced concrete or other commissioner-approved material, and be designed and constructed for the intended purpose. A scale with a liquid-tight containment area is acceptable.

B. The containment area must be of adequate size to fully hold the largest fixed storage container, mobile containers, or commercial pesticide application equipment that will be loaded on the area.

C. The containment area must be protected or managed in a manner that will prevent pesticide-contaminated runoff from leaving the area.

**Subp. 3. Load area exceptions and underground plumbing.**

A. If load areas for fixed storage containers, mobile containers, or pesticide application equipment are physically separated from one another, each separate load area must be of a design, size, and construction to contain a minimum of 500 U.S. gallons.

B. If no bulk pesticide storage container at the storage facility has a rated capacity of more than 500 U.S. gallons, the load area must be of a design, size, and construction to contain a minimum of 500 U.S. gallons.

If no bulk pesticide storage container at the storage facility has a rated capacity of more than 250 U.S. gallons, the load area must be of a design, size, and construction to contain a minimum of 250 U.S. gallons.

C. Any underground plumbing used for transferring rinsates or sediment from a sediment trap to rinsate tanks must be designed, constructed, installed, and maintained to prevent the release of pesticides to the environment and the backflow of pesticide rinsates to the sediment trap.

**1505.2080 SECONDARY CONTAINMENT AREAS.**

Subpart 1. **General requirements.** Liquid bulk pesticide storage containers must be confined to a secondary containment area that is adequate, in the event of a release, to prevent the movement of liquid pesticides to surface or ground water. The loading area as specified in part 1505.2070 must not be located, designed, or constructed in such a way so as to compromise the required secondary containment of subpart 2. The secondary containment provisions also apply to liquid bulk pesticides stored in a location covered by a roof. A secondary containment area must consist of:

- A. a wall and liner as provided under subparts 4 and 5;
- B. a prefabricated secondary containment basin as provided under subpart 6; or
- C. other safeguards approved by the commissioner.

Subp. 2. **Capacity.** The capacity of a secondary containment area for a bulk pesticide storage facility must be at least equal to the sum of all of the following:

A. the greatest volume of liquid bulk pesticide or liquid bulk fertilizer that could be released from the largest storage container within the secondary containment area;

B. 25 percent of the capacity of the largest liquid bulk pesticide or liquid bulk fertilizer storage container located within the secondary containment area for an outdoor storage container, or ten percent of the capacity of the largest liquid bulk pesticide container or liquid bulk fertilizer if stored in a location covered by a roof; and

C. the total volume of released liquid which would be displaced by the portions of all other storage containers within the secondary containment area to the height of the containment wall and all other fixtures and materials located within the secondary containment area (including pesticide or fertilizer diluent, empty pesticide containers, recovered pesticide or fertilizer releases, and liquid pesticide or fertilizer metering equipment).

**Subp. 3. Storage with other commodities or equipment.**

A. Liquid bulk pesticide, liquid bulk fertilizer, pesticide or fertilizer diluent, empty pesticide containers, recovered pesticide or fertilizer releases, or liquid pesticide or fertilizer metering equipment may be stored within the bulk pesticide secondary containment area.

B. The total containment capacity calculated in subpart 2 may not be compromised by storing liquid bulk pesticide or liquid bulk fertilizer, pesticide or fertilizer diluent, pesticide containers, pesticide or fertilizer releases, pesticide or fertilizer metering equipment, or other equipment or products in amounts greater than the amounts which were originally calculated as necessary displacement in subpart 2.

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C. A liquid bulk pesticide storage containment area may be located within the boundary of a liquid bulk fertilizer containment area if:

- (1) the containment areas are separated by a wall described in subpart 4;
- (2) the bulk pesticide is contained in an anchored prefabricated containment unit as described in subpart 6; or
- (3) each bulk pesticide storage container and its appurtenances is effectively protected from corrosion and flotation by liquid bulk fertilizers.

**Subp. 4. Walls.** The walls of a secondary containment area must be made of ferrous metal, inorganic soil, stainless steel, reinforced concrete, or solid reinforced masonry and must be designed to withstand a fully hydrostatic head of any released liquid. Cracks and seams must be sealed as needed to prevent leakage. Walls constructed of inorganic soil must be lined as provided under subpart 5, item D, be protected from erosion, and have a horizontal to vertical slope of at least three to one, unless a steeper slope is consistent with good engineering practice. Walls may not exceed six feet in height above the interior grade.

A. All bulk pesticide tanks must be placed a minimum of one foot from a secondary containment area wall.

B. Tanks over ten feet high stored outdoors must be located at least three feet from the secondary containment area wall.

C. The walls of a secondary containment area may not contain a drain or other similar opening.

D. Masonry walls must be reinforced, capped with concrete, and parged on the interior.

E. The joint between a masonry wall and any floor or subsurface that it is constructed on must be constructed, sealed, and protected in such a way that it prevents any pesticide leakage from leaving the containment area.

### Subp. 5. Lining.

A. The base of a secondary containment area and any inorganic soil walls of a secondary containment area must be lined with reinforced concrete, a synthetic liner, an inorganic soil liner, ferrous metal, or stainless steel designed to limit the permeability of the base and walls. Liners must meet the requirements of this subpart. The base of a secondary containment area may not contain a drain or other similar opening used to release pesticides or precipitation. Dissimilar materials may not be used together for a wall and liner combination unless approved by the commissioner.

B. Concrete liners must be designed according to good engineering practices to withstand any foreseeable loading conditions, including a full hydrostatic head of released liquid. Cracks and seams must be sealed to prevent leakage.

C. Synthetic liners must have a minimum thickness of 30 mils (0.8 millimeters), be chemically compatible with the materials being stored within the secondary containment area, be photo-resistant, and be puncture resistant. Confirmation of chemical compatibility and an estimate of liner life must be retained by the firm for inspection upon request by the Department of Agriculture. The synthetic liner must be protected by a 12-inch (30-centimeter) layer of inorganic soil or half-inch diameter rounded stone above the liner and a six-inch (15-centimeter) layer of inorganic soil below the liner. Soil layers must be free of large rocks, angular stones, sticks, or other materials that may puncture the liner. Synthetic liners must be installed according to the manufacturer's recommendations and, if necessary, under the supervision of a qualified representative of the manufacturer, and all field-constructed seams must be tested, and repaired if necessary, in accordance with the manufacturer's recommendations. Pesticide releases onto the inorganic soil portion of a synthetic liner containment area must be managed by the removal of contaminated soils. Disposition of contaminated soils is subject to approval from the Department of Agriculture. Integrity of the inorganic soil portion of the synthetic liner containment area must be restored under all circumstances.

D. Soil liners must comply with subitems (1) to (5).

(1) A liner may be constructed of inorganic soil treated with bentonite clay if the liner meets the requirements of this subitem. The liner must be designed and constructed according to good engineering practices, extend a minimum of six feet beyond the wall, and achieve a coefficient of permeability not to exceed  $1 \times 10^{-6}$  cm/sec, with a thickness of not less than six inches (15 centimeters). The liner must be covered by an inorganic soil layer not less than six inches (15 centimeters) thick. Liners may not be constructed of frost-susceptible soils, which include silts and silty sand.

(2) Bentonite-treated liners must consist of a uniform mixture of inorganic soil and bentonite. The inorganic soil used in the mixture must have a plasticity index of at least 12. At least 30 percent by weight of the inorganic soil must pass a No. 200 sieve, and less than five percent of the inorganic soil must be retained on a No. 4 sieve. Ninety percent of the bentonite by weight must pass a No. 80 sieve, and the inorganic soil-bentonite mixture must contain at least five percent bentonite by weight.

(3) An inorganic soil may not be used as part of a soil liner if less than 50 percent by weight of the soil passes a No. 200 sieve, or if more than five percent by weight of the inorganic soil is retained on a No. 4 sieve.

(4) Soil liners must be maintained to prevent cracking or other conditions that may compromise the integrity of containment. Pesticide releases into an inorganic soil-bentonite liner containment area must be managed by removal of contaminated soils within

48 hours. Disposition of contaminated soils is subject to approval from the Department of Agriculture. Integrity of the inorganic soil walls and inorganic soil-bentonite liner after a spill must be restored under all circumstances.

(5) An owner or manager shall submit to the commissioner, upon request, certification by a registered engineer practicing in the geotechnical field to verify that the coefficient permeability of the liner does not exceed  $1 \times 10^{-6}$  cm/sec or that the inorganic soil lined containment area will contain released liquid to the height of the containment wall for at least 72 hours.

**Subp. 6. Prefabricated secondary containment basin.** A prefabricated secondary containment basin must be composed of a rigid prefabricated basin having both a base and walls constructed of steel or synthetic materials which are resistant to corrosion, puncture, or cracking. Materials used for the prefabricated basin must be chemically compatible with the products being stored in the bulk pesticide tank. A written confirmation of compatibility from the basin manufacturer must be kept on file at the storage facility or at the nearest local office from which the storage facility is administered. The prefabricated facility must be designed and installed to contain the amounts listed in subpart 2, including the tank load and a full hydrostatic head of any released liquid. Multiple basins connected to provide the capacity required under subpart 2, must be connected in a way that assures an unrestricted transfer of released liquid between basins. A prefabricated containment basin may not be located where fire could damage the containment vessel and compromise the intended containment.

### **1505.2090 RECOVERY, USE, OR DISPOSAL OF PESTICIDE RELEASES.**

**Subpart 1. Loading areas and secondary containment areas.** All pesticide releases occurring in an area confined to loading areas described in part 1505.2070 and secondary containment areas described in part 1505.2080 must be recovered as soon as possible and must either be used, stored, or disposed of. Use and storage must be according to pesticide label instructions. Disposal must be according to local, state, and federal regulations. The Department of Agriculture must be immediately notified of all releases.

#### **Subp. 2. Precipitation accumulations.**

A. Precipitation must not be permitted to accumulate in a secondary containment area or loading area to the point where the accumulation may tend to:

(1) compromise the ability of the secondary containment area or loading areas to contain the amounts indicated in part 1505.2070 or 1505.2080;

(2) increase the corrosion of storage containers or appurtenances; or

(3) impair the stability of storage containers.

B. Precipitation, if contaminated with pesticide residues, must be:

(1) removed and used at labeled rates on sites consistent with labeled end uses for the intended target crop;

(2) removed and stored for later use according to subitem (1);

(3) disposed of according to local, state, and federal regulations; or

(4) used at a rate of no more than five percent of the total tank mix. Records must be kept indicating amounts, crop to which applied, and dates.

C. Uncontaminated precipitation may be released to a vegetated area allowing for even distribution over the entire area or used as water for mixing.

#### **Subp. 3. Use of pesticide rinsate, pesticide containing sludge, or pesticide containing washwater accumulations.**

A. Sludge, rinsates, or washwater generated in a pesticide loading or secondary containment area as a result of loading, washing, rinsing, clean-up, or similar practices must be:

(1) removed and used at labeled rates consistent with labeled end uses for the intended target crop;

(2) removed and stored for later use according to subitem (1); or

(3) disposed of according to local, state, and federal regulations.

B. Sludge must be removed from a sediment trap before the trap is half full.

C. Rinsates and sludges may be used at a rate of no more than five percent of any total tank mix. Washwater not contaminated with pesticides may be used undiluted.

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D. Records indicating the amount removed (pounds or gallons), the location and acreage treated, and crops to which applied must be kept and made available for review during inspections by the commissioner. Records must be retained for a minimum of five years.

### 1505.2100 PREPARATION FOR CONTROL AND RECOVERY OF PESTICIDE RELEASES.

Subpart 1. **Release response plan.** The operator of a bulk pesticide storage facility shall prepare a written release response plan for the storage facility. The operator shall keep the plan current at all times. A copy of the plan must be kept at a prominent location at the storage facility and at the nearest local office from which the storage facility is administered, and must be made available for employee use and for inspection by the department. The operator of the storage facility shall provide a current copy of the plan to the local fire and police departments. The plan must include, but is not limited to:

- A. the identity and telephone numbers of the persons who are to be contacted in the event of a release;
- B. for every bulk pesticide stored at the facility, a complete copy of the storage container label required under part 1505.2060, subpart 9, and *Minnesota Statutes*, section 18B.26;
- C. a complete copy of the material safety data sheet for every bulk pesticide stored at the facility;
- D. the procedures and equipment to be used in controlling and recovering or otherwise responding to a release; and
- E. an identification, by location, of every bulk pesticide storage container located at the facility, and the type of bulk pesticide stored in each storage container.

The plan need not include the specific location of each storage container of mini-bulk pesticide, if the plan includes the general location within the facility at which storage containers of mini-bulk pesticide are held.

Subp. 2. **Equipment and supplies.** Bulk pesticide storage facilities must have on the premises equipment needed to mitigate and recover pesticide releases. The equipment must include and is not limited to pumps, recovery containers, personal protective equipment, absorbent materials, and other materials used to control and recover pesticide releases. A checklist of release response equipment and its location must be posted with the release response plan.

Subp. 3. **Training.** The owner or manager of the storage facility shall conduct release response training for all new and existing employees of the facility annually before the beginning of the pesticide use season. New employees must receive training within 30 days of employment. The owner or manager and employees are responsible for following the firm's release response procedures pursuant to the release response plan to minimize contamination of the environment.

### 1505.2110 INSPECTION AND MAINTENANCE.

Subpart 1. **Records.** The operator of a bulk pesticide storage facility shall inspect and maintain storage containers, appurtenances, loading areas, and secondary containment areas to minimize the risk of a pesticide release. A written record of all inspections and maintenance must be made on the day of the inspection or maintenance and kept at the storage site or at the nearest local office from which the storage site is administered. A record of all pesticide releases onto the loading area or into the secondary containment area including date, time, type of pesticide, volume, cause, actions to contain, and management of the release must be kept for at least five years.

Subp. 2. **Schedule.** A bulk pesticide container and its appurtenances must be inspected for leakage at least weekly during the use season. A secondary containment area must be inspected for condition and leakage of the base, seams, and walls at least monthly while bulk pesticide is in storage. Loading area pads must be inspected for leakage at least monthly during the use season.

Inspection records must contain the name of the person making the inspection, the date of each inspection, conditions noted, and maintenance performed.

Maintenance of the bulk pesticide storage facility must be performed as necessary in order to ensure that the integrity of the bulk pesticide containers, secondary containment areas, and loading areas is maintained.

### 1505.2120 RECORD KEEPING.

The following records must be prepared and kept on file at the bulk pesticide storage facility while bulk pesticides are being stored in a storage container:

- A. the beginning and end amounts in each fixed storage container calculated and recorded at the time of each filling;
- B. the amount of bulk pesticide delivered, sold, and used; and
- C. the names of the persons preparing the information in items A and B and the dates the information was prepared.

The records must be available and must be submitted to the commissioner within 24 hours of a request. Weighing, metering, or direct measurement are acceptable methods for calculating storage amounts.

**1505.2130 UNDERGROUND BULK PESTICIDE STORAGE.**

Subpart 1. **New underground bulk pesticide storage prohibited.** After July 1, 1989, no new underground bulk pesticide storage is allowed. This prohibition does not apply to catch basins, containment areas, or sediment traps, used for the temporary collection of pesticides from transfer and loading areas under part 1505.2070, or to underground storage, dip, or other tanks used to contain pesticides used in the wood preservatives industry.

Subp. 2. **Existing and exempted underground bulk pesticide storage.** Underground bulk pesticide storage tanks in use as of July 1, 1989, or those tanks exempted from subpart 1 must conform with all applicable statutes and rules enforced by the Minnesota Pollution Control Agency, and must perform and provide to the commissioner upon request a leak certification test for each underground bulk pesticide storage tank.

**1505.2140 ABANDONED CONTAINERS.**

Subpart 1. **Abandonment.** Storage containers and other containers used at a storage facility to hold bulk pesticide or pesticide rinsate are considered abandoned containers under this part if they have been out of service for more than six months because of a weakness or leak, or have been out of service for any reason for more than one year.

Subp. 2. **Underground containers.** Abandoned underground tanks in place at previously existing facilities must be thoroughly cleaned and removed from the ground.

Subp. 3. **Aboveground containers.** Abandoned aboveground containers must be thoroughly cleaned. All hatches on the containers must be removed and all valves or connections must be removed.

**1505.2150 EXEMPTIONS.**

Subpart 1. **Mobile containers.** The secondary containment requirements of part 1505.2080 do not apply to rail cars, nurse tanks, other mobile containers, or mini-bulk containers which are located at the bulk pesticide storage facility for less than ten consecutive days incidental to loading bulk pesticide containers.

Subp. 2. **Alternate technology.** The commissioner may exempt any person from a requirement under this part if compliance is not technically feasible, but only if the commissioner finds that the alternative measures provide substantially similar protection to the ground and surface water of the state. A person requesting an exemption shall submit to the commissioner in writing a request for an exemption detailing the alternative measures proposed. The commissioner has 45 days to analyze the facts presented and grant the exemption or advise the person of an unsatisfactory review and detail all changes necessary to achieve compliance.

**EFFECTIVE DATE.** Parts 1505.2010 to 1505.2150 are effective July 1, 1989.

## Department of Agriculture

### Proposed Permanent Rules Relating to Minnesota Grown Labeling Statements

#### 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 these amendments is *Minnesota Statutes*, Section 17.102, subd. 6.

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.

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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.

Use of Minnesota Grown labeling statements is voluntary, and therefore, this rule has no impact on small business as defined by *Minnesota Statutes*, section 14.115 unless they choose to use a labeling statement.

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: 1 March 1989

Jim Nichols, Commissioner  
Department of Agriculture

### Rules as Proposed (all new material)

#### 1556.0100 AUTHORITY.

This chapter governs licensing and use of the "Minnesota grown" logo and labeling statement and are adopted by the commissioner under Minnesota Statutes, section 17.102.

#### 1556.0110 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this section apply to this chapter.

Subp. 2. **Agricultural products.** "Agricultural products" means livestock or livestock products, dairy products, poultry or poultry products, fish, fruit, vegetables, grains, bees, apiary products, and floral and nursery crops.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized representative.

Subp. 4. **Department.** "Department" means the Department of Agriculture.

Subp. 5. **Improper use.** "Improper use" means unauthorized use of the labeling statement or use of the labeling statement in violation of this chapter.

Subp. 6. **Processor.** "Processor" means an individual, partnership, cooperative association, or corporation that processes raw agricultural products and other food ingredients into food products or commercially slaughters or processes animals or poultry.

Subp. 7. **Produced in Minnesota.** "Produced in Minnesota" means dairy animals, poultry, or other livestock that were fed in Minnesota for at least 60 days prior to milking, processing, or slaughtering or fruits, vegetables, grains, or floral and nursery crops that have been grown in Minnesota.

Subp. 8. **Producer.** "Producer" means an individual, partnership, family farm, family farm corporation, authorized farm corporation, or cooperative association engaged in the production for sale of agricultural products.

Subp. 9. **Retailer.** "Retailer" means an individual, partnership, cooperative association, or corporation that purchases an agricultural product from a producer or wholesaler to sell the agricultural product to a consumer rather than to a person who will resell the product in any form.

Subp. 10. **Wholesaler.** "Wholesaler" means an individual, partnership, cooperative association, corporation, business trust, or unincorporated organization that purchases an agricultural product from a producer or another wholesaler to sell or supply the agricultural product to a retailer, industrial buyer, restaurant, or institution, or to sell it on behalf of one wholesaler to another wholesaler.

#### 1556.0120 "MINNESOTA GROWN" AND "2,000 MILES FRESHER" LABELING STATEMENTS.

Subpart 1. **Eligible products.** The products listed in items A and B are eligible to be packaged with "Minnesota grown" and "2,000 miles fresher" labeling statements.

A. A raw agricultural product may be identified with the labeling statements if no less than 80 percent of the agricultural product was produced in Minnesota.

B. A processed agricultural product may be identified with the labeling statements if no less than 80 percent of the featured product component or at least 60 percent of the total product by weight was produced in Minnesota.

Subp. 2. **Use of the "Minnesota grown" and "2,000 miles fresher" labeling statements.** A producer licensed under part 1556.0160 may use the "Minnesota grown" and "2,000 miles fresher" labeling statements on an eligible agricultural product. A processor licensed under part 1556.0160 may use the "Minnesota grown" and "2,000 miles fresher" labeling statements on an eligible agricultural product if it was processed or manufactured in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "Minnesota grown" and "2,000 miles fresher" labeling statements without a license in order to display and advertise products that qualify for use of those statements.

#### **1556.0130 "WILD RICE STATE GRAIN" LABELING STATEMENTS.**

Subpart 1. **Eligible products.** Agricultural products containing wild rice may be identified with the labeling statement if no less than 80 percent of the wild rice contained in the product was produced in Minnesota.

Subp. 2. **Use of the "wild rice state grain" labeling statement.** A producer licensed under part 1556.0160 may use the "wild rice state grain" labeling statement on an eligible agricultural product. A processor licensed under part 1556.0160 may use the "wild rice state grain" labeling statement on an eligible agricultural product if it was processed or manufactured in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "wild rice state grain" labeling statement without a license in order to display and advertise products that qualify for use of the labeling statement.

#### **1556.0140 "CERTIFIED ORGANIC" LABELING STATEMENT.**

Subpart 1. **Eligible products.** The products listed in items A and B are eligible to be packaged with the "certified organic" labeling statement. All products that carry the "certified organic" labeling statement must comply with *Minnesota Statutes*, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012:

A. A raw agricultural product may be identified with the labeling statement if no less than 80 percent of the product was produced in Minnesota on a production unit that has been certified as being organic by an organization designated by the commissioner as a certifying organization. The entire product must comply with *Minnesota Statutes*, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

B. A processed product may be identified with the labeling statement if no less than 80 percent of the featured product component or at least 60 percent of the total product by weight consists of raw agricultural products produced in Minnesota on a production unit that has been certified as being organic by an organization designated by the commissioner as a certifying organization. The entire product must comply with *Minnesota Statutes*, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

Subp. 2. **Application to use the "certified organic" labeling statement.** A producer may apply for a license to use the "certified organic" labeling statement on an eligible agricultural product if the production unit has been certified as being organic by an organization designated by the commissioner as a certifying organization. A processor may apply for a license to use the "certified organic" labeling statement on an eligible agricultural product if it was processed in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "certified organic" labeling statement without a license in order to display and advertise agricultural products that qualify for the use of the labeling statement.

#### **1556.0150 OTHER LAW.**

Compliance with this chapter does not exempt a producer, processor, retailer, or wholesaler from complying with other laws and rules relating to agricultural products and the labeling of agricultural products.

#### **1556.0160 LICENSING; AUTHORIZATION.**

Subpart 1. **Approval required.** Authorization to use labeling statements covered by this chapter is dependent upon approval of an application for their use by the commissioner, with the exception of retailers and wholesalers, who may use the labeling statements without a license in order to display and advertise products that qualify for use of the labeling statements.

Subp. 2. **Application to use labeling statements.** An application to use labeling statements covered by this chapter must be made

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in writing, on a form provided by the department, and must reveal information considered necessary for the enforcement of the Minnesota grown marketing program.

The application form must be accompanied by a fee established in *Minnesota Statutes*, section 17.102. If an applicant is ineligible, the fee must be refunded. A separate application and fee is required for each labeling statement.

Subp. 3. **License to use labeling statements.** An applicant who has an application approved must receive a license valid for one year, beginning January 1. Licensees shall apply for renewal of each license before the expiration date of the current license. The commissioner shall charge a late fee, as established by *Minnesota Statutes*, section 17.102, for renewal of a license that has expired.

### 1556.0170 ENFORCEMENT.

The commissioner may make use of random or regular investigations or inspections to ensure the proper use of labeling statements covered by this chapter. The commissioner may investigate any use of the labeling statements if there is reason to believe improper use of a labeling statement exists. The person, firm, partnership, corporation, or association applying the labeling statement to a commodity must be able to supply documentation to show that the product being labeled meets eligibility requirements of the labeling program.

## Department of Education

### Proposed Permanent Rules Relating to Curriculum, Youth Service-Learning, and Youth Service Activities

#### Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing concerning the proposed rules captioned above will be held at Room 716 Capitol Square Building, St. Paul, on April 25, 1989 commencing at 9:00 a.m., and continuing until all interested persons have had an opportunity to be heard. The rule proposed for adoption would require school districts to provide opportunities for Youth Service and Youth Service-Learning for elementary and secondary school students. A copy of the proposed rule is attached hereto.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make statements. Statements may be made orally and written material may be submitted.

The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Whether or not an appearance is made at the hearing, written material may be submitted to the Administrative Law Judge (ALJ),

Howard L. Kaibel, Jr.  
Administrative Law Judge  
Office of Administrative Hearings  
500 Flour Exchange Building  
310 Fourth Avenue South  
Minneapolis, Minnesota 55415  
612-341-7608

either before the hearing or within five working days after the public hearing ends. Those statements will be recorded in the hearing record. The ALJ may, at the hearing, order that the comment period be kept open for a longer period not to exceed 20 calendar days. Comments received during the comment period shall be available for review at the Office of Administrative Hearings. The agency and interested persons may respond in writing within three business days after that comment period ends to any new information submitted. No additional evidence may be submitted during the three-day period. The rule hearing procedure is governed by *Minnesota Statutes*, §§ 14.14-14.20 (1988) and by *Minnesota Rules* parts 1400.0200 to 1400.1200 (1987). Questions about the rule hearing procedure may be directed to the ALJ.

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. This Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

The agency intends to present a summary of the Statement of Need and Reasonableness at the hearing and will answer questions raised by interested persons. You are therefore urged to review the Statement of Need and Reasonableness before the hearing. Additional copies will be available at the hearing.

The Board's statutory authority to adopt the proposed rules is provided by *Minnesota Statute* § 121.11, Subd. 7 (Supp. 1987).

The agency estimates that for the two years immediately following adoption of this rule the estimated cost of implementing the rule for local public bodies will exceed \$100,000 in either of those first two years. The agency estimates that the cost in each of those years will be \$1,200,000. This estimate is based on potential start-up costs. The agency does not believe that these rules will impact small businesses.

A copy of the proposed rules is attached hereto. Additional copies will be available at the door on the date of the hearing. If you have any questions on the content of the proposed rules, contact Mary Jo Richardson, Minnesota Department of Education, 612-296-1435.

Notice: Any person may request notification of the date on which the ALJ's report will be available, after which date the agency may not take any final action on the rules for a period of five working days.

Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the ALJ (in the case of the hearing examiner's report) or the agency (in the case of the agency's resubmission to the Attorney General). Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

*Minnesota Statutes* ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 N. Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

Ruth E. Randall, Commissioner  
Minnesota Department of Education

## **Rules as Proposed**

### **3500.1090 DEFINITIONS FOR YOUTH SERVICE.**

Subpart 1. Youth service activities. Youth service activities means curricular or co-curricular activities performed by elementary or secondary school students that meet the needs of others in the school or community in such areas as peer tutoring or cross-age tutoring, work with children or seniors, and environmental or other projects.

Subp. 2. Youth service-learning. Youth service-learning means the integration into the curriculum of study and reflection on the experience of youth service activities. Youth service-learning must be designed to enhance the student in such areas as personal growth, career exploration, understanding of community and citizenship, social science skills, and communication skills.

### **3500.1100 ELEMENTARY SCHOOL CURRICULUM.**

Subpart 1. to 3. [Unchanged.]

Subp. 4. Youth service-learning. Youth service-learning must be integrated into the elementary school curriculum.

Subp. 5. Youth service activities. A school district must provide opportunities for students to participate in youth service activities within the school or community.

### **3500.1150 REQUIRED OFFERINGS FOR ELEMENTARY SCHOOLS.**

Subpart 1. to 4. [Unchanged.]

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Subp. 5. **Integration of required curriculum offerings.** Environmental education, youth service-learning, and media and technology skills shall be taught in the context of the other required curriculum offerings. Although particular curriculum offerings in subpart 4 are clustered to indicate emphasis in a balanced elementary school curriculum, any curriculum offering may be taught in combination or cluster with any of the other offerings.

Subp. 6. and 7. [Unchanged.]

### 3500.1600 MIDDLE SCHOOL CURRICULUM.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Youth service-learning.** Youth service-learning must be integrated into the middle school curriculum.

Subp. 4. **Youth service activities.** A school district must provide opportunities for students to participate in youth service activities within the school or community.

### 3500.1900 CURRICULUM FOR JUNIOR SECONDARY SCHOOLS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Youth service-learning.** Youth service-learning must be integrated into the junior secondary school curriculum.

Subp. 4. **Youth service activities.** A school district must provide opportunities for students to participate in youth service activities within the school or community.

### 3500.2000 CURRICULUM FOR THREE-YEAR SENIOR SECONDARY SCHOOLS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Youth service-learning.** Youth service-learning must be integrated into the three-year senior secondary school curriculum.

Subp. 4. **Youth service activities; credit.** A school district must provide opportunities for students to participate in youth service activities within the school or community. The district shall acknowledge student participation in youth service activities through awarding credit. The district shall determine the amount of credit awarded for the activities.

### 3500.2110 REQUIRED CURRICULUM OFFERINGS FOR FOUR-YEAR SENIOR SECONDARY SCHOOLS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Required offerings without minimum hours.** The programs in items A and B must be offered to students. The number of clock hours to be devoted to each is up to the local school board. Satisfactory completion will be based on locally determined learner outcomes which are defined as knowledge, skills, or understandings that an individual student derives from a learning experience.

A. A school district must provide a career education program developed by involving parents or guardians and the community. The program must be designed to assist pupils in making career decisions including course selections.

B. A school district must provide an information technology program to meet individual student needs. Information technology includes such things as student learning about and with one or more of the following: computers, telecommunications, cable television, interactive video, film, low power television, satellite communications, and microwave communications. Information technology may be integrated with course content of other subject areas.

C. Youth service-learning must be integrated into the four-year senior secondary school curriculum.

D. A school district must provide opportunities for students to participate in youth service activities within the school or community. The district shall acknowledge student participation in youth service activities through awarding credit. The district shall determine the amount of credit awarded for the activities.

## Department of Public Service Energy Division

### Proposed Permanent Rules Relating to Thermal Insulation Standards

#### Notice of Intent to Amend Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Public Service proposes to adopt amendments to *Minnesota Rules*, Chapter 7640, without a public hearing. The Commissioner has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in the *Minnesota Statutes*, sections 14.22 to 14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, sections 325F.20, subd. 1 and 325F.21, subd. 1 and 2.

*Minnesota Rules*, Chapter 7640 apply to manufacturers, sellers and installers of residential thermal insulation products sold or installed in Minnesota.

All persons have 30 days in which to submit comment in support of or in opposition to any part of the proposed amendments. Comment is encouraged. Each comment should identify the proposed amendment addressed, the reason for the comment, and any change proposed.

All persons may make a written request for a public hearing on the proposed amendments 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 requests in writing. Any person requesting a public hearing must state his or her name and address and is encouraged to identify the portion of the proposed amendment addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to: Bruce Nelson, Department of Public Service, Energy Division, 900 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101 (612) 297-2313.

Comments or requests for a public hearing must be received by the Department of Public Service, Energy Division by 4:00 p.m., April 20, 1989. The proposed amendments 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 amendments as noticed.

A Copy of the proposed rule amendment is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon to support the proposed amendments has been prepared and is available by requesting a copy from Mr. Nelson at the address listed above.

The implementation of these amendments will not require the expenditure of public money in excess of \$100,000 by local bodies in either of the two years following their adoption, nor do the rules have any impact on agricultural land.

The adoption of these amendments will affect small businesses in Minnesota. The Department has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed by *Minnesota Statutes* Section 14.155, subd. 2, for reducing the impact of the rules on small businesses. Small businesses would benefit from the proposed rule, since the required frequency of testing is reduced, resulting in less stringent compliance, schedules and deadlines in conformance with *Minnesota Statutes* Section 14.155, subd. 2(a) and (b). The proposed rule would have no effect on reporting requirements addressed by *Minnesota Statutes* Section 14.155, subd. 2(a), (b) or (c). The requirements of Chapter 4155 are already performance standards for all insulation types in conformance with *Minnesota Statutes* Section 14.155, subd. 2(d). The Department has determined that small businesses cannot be exempted from any or all requirements of the rules in conformance with *Minnesota Statutes* Section 14.155, subd. 2(e).

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 that 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 rules, must submit a written request for such to Mr. Nelson at the above address.

Dated: 28 February 1989

Tony Perpich, Commissioner  
Department of Public Service

## **Rules as Proposed**

### **7640.0110 APPLICABILITY.**

Subpart 1 to 3. [Unchanged.]

Subp. 4. **Prohibitions.** The prohibitions in this subpart apply to the installation and application of insulation.

A. Industry members may not install insulation in residential structures unless it conforms to the product quality standards and installation standards in this chapter.

B. to D. [Unchanged.]

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

## Proposed Rules

Subp. 5. [Unchanged.]

### 7640.0120 DEFINITIONS.

Subpart 1. **Applicability.** For the purposes of this chapter, the following definitions of terms apply. Technical, scientific, and engineering terms undefined by this part have the meanings given in the ASHRAE Handbook of Fundamentals or in ASTM C 468-80a 168-88a, Standard Definitions of Terms Relating to Thermal Insulation Materials.

Subp. 2. to 9. [Unchanged.]

Subp. 10. [See Repealer.]

Subp. 11. **FTC.** "FTC" means the United States Federal Trade Commission or, Code of Federal Regulations, title 16, part 460, or a standard issued for thermal insulation materials by that commission.

Subp. 12. to 19. [Unchanged.]

Subp. 19a. **Quality assurance program.** "Quality assurance program" means the collective set of plans, activities, and events that are provided to ensure that the product or service will satisfy given needs. A quality assurance program must include the elements of "Generic Guidelines for Quality Systems," American National Standards Institute standard ANSI Z-1.15, 1979.

Subp. 20. [Unchanged.]

Subp. 20a. **Radiant barrier.** "Radiant barrier" means a building construct consisting of a low emittance surface bounded by an open air space.

Subp. 20b. **Reflective insulation.** "Reflective insulation" means a building construct consisting of a low emittance surface bounded by an enclosed air space.

Subp. 21. to 26. [Unchanged.]

### 7640.0130 INSULATION MATERIALS STANDARDS.

Subpart 1. [Unchanged.]

Subp. 2. **General testing requirements.** General testing requirements for regulated thermal insulation materials in this part are as follows:

A. [Unchanged.]

B. All regulated thermal insulation materials must be tested for compliance with the standards in this part by April 2, 1986. Testing procedures are as follows:

(1) to (3) [Unchanged.]

(4) ~~Manufacturers without approved laboratory testing facilities shall contract with an approved laboratory to conduct an annual surprise on-site inspection of the manufacturer's production facilities for the following two purposes:~~

~~(a) to take random samples of insulation from the manufacturer's assembly or process system for testing under this chapter; and~~

~~(b) to evaluate testing techniques and make recommendations for improvement if the insulation fails to meet the assigned testing standards.~~

~~(5)~~ Testing for each type of insulation must be performed in accordance with the methods specified in subparts 3 to 8.

~~(6)~~ (5) Insulation must have flammability characteristics in accordance with the Uniform Building Code, 1985 Edition, sections 1712 and 1713, for its intended uses.

C. All thermal performance tests must be conducted in accordance with this item, unless additional requirements are imposed within the body of a materials standard. Insulation's thermal performance must be stated in R-value.

(1) [Unchanged.]

(2) R-value testing must be performed at the insulation's representative thickness, and be consistent with the requirements of the United States Federal Trade Commission.

~~(3)~~ Unit R per inch must be derived from R-value testing performed to its representative thickness; ~~as specified in subitem (2).~~

(3) For polyurethane, polyisocyanurate, and extruded polystyrene, in accordance with the FTC R-value rule, section 460.5, R-value tests must be done on samples that fully reflect the effect of aging on the product's R-value.

(4) to (6) [Unchanged.]

D. Manufacturers shall have a quality assurance program in place for all regulated thermal insulation products. A quality assurance program must be in place for installers of products whose manufacture is completed at the jobsite.

Manufacturers and other industry members must maintain an in-house quality assurance program in order for products to meet the required standards.

If a manufactured product fails to meet those required standards, the department shall notify the industry member to pursue corrective measures.

**Subp. 3. Cellulose insulation.**

A. Cellulose fiber in loose-fill form must meet the following requirements:

(1) The product must comply with ASTM C 739-84 739-86, Standard Specification for Cellulosic Fiber (wood-base) Loose-Fill Thermal Insulation or the United States Consumer Product Safety Commission Interim Safety Standard for Cellulose Insulation, Code of Federal Regulations, title 16, part 1209 subpart B.

(2) All manufacturers shall contract with an approved laboratory for a follow-up agreement ~~for~~ to accomplish the following two purposes:

(a) ~~The laboratory shall pick up three randomly selected unopened bags of manufacturer's cellulose for testing under this chapter.~~

(b) ~~The laboratory shall conduct a minimum of one in plant inspection every two months. The inspection must be unannounced, and the inspector shall conduct tests in the plant laboratory, on a sample for settled density, smoldering combustion, critical radiant flux, corrosiveness (ph), and starch. The laboratory shall conduct unannounced inspections.~~

(b) The inspections must be:

(i) monthly, if production is 350,000 pounds or more per month; or

(ii) quarterly, if production is less than 350,000 pounds per month.

(c) The inspector shall conduct tests on a sample at the plant laboratory for settled density, smoldering combustion, critical radiant flux, and corrosiveness (ph).

(d) The inspector shall examine the manufacturer's quality assurance program.

(3) [Unchanged.]

B. Cellulose fiber spray-applied must meet the following requirements:

(1) to (4) [Unchanged.]

(5) Critical radiant flux and smoldering combustion must be tested for in accordance with ASTM C 739-86, part 5, or the CPSC Interim Safety Standard for Cellulose Insulation, Code of Federal Regulations, title 16, part 1209 ~~for the ASTM equivalent in C 739-86~~. Values achieved must not exceed those established by the CPSC.

(6) to (8) [Unchanged.]

Subp. 4. [Unchanged.]

**Subp. 5. Foam plastic insulation.**

A. and B. [Unchanged.]

C. Unfaced polyurethane and polyisocyanurate in board form must comply with ASTM C 594-83 591-85, Standard Specification for Unfaced Preformed Rigid Cellular Polyurethane Thermal Insulation.

Exception: Aged R-value must be 6.0 or greater at 70 degrees Fahrenheit.

D. to F. [Unchanged.]

G. Foam plastic insulation that conforms to all requirements of ICBO Evaluation Service Acceptance Criteria for Foam Plastic, October, 1982, meets the Minnesota testing standards in this subpart.

Subp. 6. [Unchanged.]

**Subp. 7. Reflective foil insulation.**

**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

A. The following requirements apply to reflective foil insulation:

~~A.~~ (1) Specimens for tests must consist of pieces of insulation cut to approximately three by six inches, suspended in a vertical position and heated to a temperature of 180 degrees Fahrenheit (plus or minus five degrees Fahrenheit) for at least five hours. At the end of the heating period, the tester shall examine the reflective surfaces to determine whether the adhesive has bled through the surface or whether delamination has occurred.

~~Adhesive used in bonding must be waterproof and show no sign of bleeding when tested in accordance with the test procedure identified in section V, part A, of the ICBO Evaluation Service Acceptance Criteria for Reflective Foil Insulation, June 1987, section V, part A, for adhesive bleeding requirements. Bleeding at cut edges may be disregarded.~~

~~B.~~ Reflective foil insulation must be tested according to ASTM C 976-82 or ASTM C 236-87 to determine the thermal performance in horizontal, upward, and downward directions. The tested thermal performance in the heat flow direction or directions of the intended application must be labeled on the material. The manufacturer shall test once in each direction of intended application; except that, for products labeled with only one heat flow direction, the manufacturer shall test two samples in that direction.

(2) Except for radiant barrier products, thermal performance for single or multiple sheet sections must be determined according to ASTM C 976-82 or ASTM C 236-87. The test panel must consist of a panel using a wooden frame of two-by-six inch boards 16 inches apart and at least 24 inches long, covered with a minimum of 1/2-inch gypsum wallboard or 1/2-inch plywood on each side. For tests in the vertical position, the test panel must be at least seven feet high at a mean temperature of 75 degrees Fahrenheit, with a temperature differential of 30 degrees Fahrenheit. The resultant thermal performance must be based upon the insulation and the associated air spaces.

~~C.~~ (3) Layers of insulation composed of unsupported foil that is exposed must have a minimum thickness of 0.0004 inch. Unsupported foil that is sandwiched in multilayer sheet must have a minimum thickness of 0.00035 inch. Foil bonded to kraft paper must have a minimum thickness of 0.00025 inch.

(4) Adhesive used in bonding must be waterproof and show no sign of bleeding when tested in accordance with the test procedure identified in section V, part A, of the ICBO Evaluation Service Acceptance Criteria for Reflective Foil Insulation, June 1987, section V, part A, for adhesive bleeding requirements. Bleeding at cut edges may be disregarded.

~~D.~~ (5) Foil must be folded in accordance with TAPPI Standard No. 512-OM86, and the folded edge smoothed using a light finger pressure. The finished insulation must not crack when folded to 180 degree bend at a temperature of 70 degrees Fahrenheit (plus or minus two degrees Fahrenheit) and a relative humidity of 50 percent (plus or minus five percent).

~~E.~~ (6) Reflective foil insulation that conforms to all requirements of ICBO Evaluation Service Acceptance Criteria for Reflective Foil Insulation, June 1987 (with the exception that thermal performance shall must be tested with a temperature differential of 30 degrees Fahrenheit between the inside surfaces of the test panel in accordance with item B, C, or D), meets the Minnesota testing standards in this subpart.

B. Reflective insulation systems with more than one sheet must be tested according to ASTM C 976-82 or ASTM C 236-87 to determine the thermal performance in horizontal, upward, and downward directions. The tested thermal performance in the heat-flow direction or directions of the intended application must be labeled on the material. The manufacturer shall test once in each direction of intended application; except that, for products labeled with only one heat-flow direction, the manufacturer shall test two samples in that direction. The tests must be done at a mean temperature of 75 degrees Fahrenheit, with a temperature differential of 30 degrees Fahrenheit.

C. Single sheet reflective insulation systems must be tested with ASTM E 408 or another test method that provides comparable results. This tests the emissivity of the foil (its power to radiate heat). To get the R-value for a specific emissivity level, air space, and direction of heat flow, use the tables in the most recent edition of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Handbook. The R-value shown for 50 degrees Fahrenheit must be used, with a temperature differential of 30 degrees Fahrenheit.

D. Radiant barrier products must meet the requirements of the United States Federal Trade Commission in Code of Federal Regulations, title 16, part 460.5(b) and (c).

If the R-value listed on the Federal Trade Commission fact sheet is not that for a radiant barrier, the Federal Trade Commission fact sheet must also include the following statement: "These R-values are not for a radiant barrier and are likely to differ when the product is installed as a radiant barrier."

Subp. 8. **Other insulation.** Insulation other than insulation specified in subparts 1 to 7, to be sold, marketed, or advertised for use in residential structures in Minnesota must comply with the ~~following~~ requirements: in items A to F.

A. Thermal performance and surface burning characteristics must be determined in accordance with subpart 2<sub>1</sub>.

B. Results of the water absorption test must be reported<sub>2</sub>.

C. If the material is foam in place, a test of the shrinkage using ASTM C 591-85, section 8.5 must be used;

D. If the material contains formaldehyde, a formaldehyde content test is necessary; ~~and~~

E. The initial report as required by part 7640.0150, subpart 2, must include a description of other tests applied to the product.

~~Before insulation is sold, marketed, or advertised for use in residential structures in Minnesota, the manufacturer shall test the insulation with an approved laboratory and submit a certification of compliance with a federal, state, or ASTM standard specification that addresses all of the performance characteristics of the product. When no federal, state, or ASTM standard specification has been developed, the manufacturer shall present test data from an approved laboratory that shows the insulation and its intended uses are safe and effective and does not pose a threat to human health.~~

F. The manufacturer shall provide a statement that the insulation and its intended uses are safe and effective and do not pose a threat to human health. The manufacturer shall disclose any known or reasonably suspected attributes of the product that will adversely affect its safety or effectiveness.

#### **7640.0140 REQUIREMENTS FOR INSULATION FOR SPECIAL APPLICATIONS.**

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Pipe insulation, duct wrap insulation, and water heater blanket insulation.** Pipe insulation, duct wrap insulation, and water heater blanket insulation must meet the standards of part 4155.0130, including the flammability requirements for insulation in part 4155.0130, subpart 2, item B, clause (6). Water heater blanket products must meet the flammability requirements of flame spread 50 and smoke developed 100, when tested in accordance with ASTM standard E84-84, Revision A, Surface Burning Characteristics of Building Materials.

Pipe insulation does not have to be listed with an R-value. If the R-value is not identified on the label, it does not need to be tested. If the R-value is identified, it must be supported by test results as identified in part 7640.0130, subpart 2, item C.

#### **7640.0150 REPORTING REQUIREMENTS.**

Subpart 1. **Applicability.** This subpart identifies all industry members to whom subparts 2 and 3 apply.

A. and B. [Unchanged.]

C. An industry member that intends to sell an insulation product manufactured by another industry member under its own trade or brand name, desires to be listed as the manufacturer, and does not alter physical properties of the insulation product, shall file an initial report. The filing insulation member can comply with subpart 2, item B E, by certifying that the product is the same as when it was previously filed.

D. Insulation products identified in part 7640.0130, subparts 3 to 8 that are composed of the identical material, for example the same chemical make-up, composition, or physical properties, but that have different dimensional characteristics, such as width, length, thickness, or density, need not undergo additional testing by the same manufacturer once the initial similar product meets the necessary requirements.

Subp. 2. [Unchanged.]

Subp. 3. **Annual filing requirement.**

A. [Unchanged.]

B. For each product, the report must include:

(1) and (2) [Unchanged.]

(3) certification that the product has not undergone significant changes since the initial report was filed; ~~and~~

(4) identification of and changes in information that may have changed from the initial or previous annual report, including product brand names, product literature, Federal Trade Commission fact sheet, product usage, or discontinuation of manufacture; and

(5) a list of three, or as many as available if less than three, Minnesota purchasers or customers of the product. The department shall maintain this information with the strictest confidence.

C. [Unchanged.]

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

## Proposed Rules

### 7640.0160 APPLICATION AND INSTALLATION STANDARDS.

Subpart 1. [Unchanged.]

Subp. 2. **Application and inspection.** Industry members installing insulation shall follow manufacturer's written application instructions.

In attic areas where insulation is to be installed, the installer shall comply with part 7640.0110, subpart 5.

Installation of cellulosic and mineral fiber in loose-fill form must comply with ASTM standard C-1015, including part 7.7.2.

Installation of reflective insulation must comply with ASTM standard C 727-72 (reapproved 1978).

Subp. 3. [Unchanged.]

### 7640.0170 LABELING PRODUCT INFORMATION.

Subpart 1. **Generally.** Insulation used or offered for sale in Minnesota must be labeled according to meet the requirements of the United States Federal Trade Commission requirements in Code of Federal Regulations, title 16, part 460.

Subp. 2. **False and misleading statements.** Any false, misleading, or unsubstantiated statements in a sales presentation, or on any label, product literature, or product intended for the purchaser, as identified in Minnesota Statutes, sections 325F.22, 325F.67, and 325F.69, subdivision 1, are subject to the state's remedies provided in Minnesota Statutes, sections 325F.24 and 325F.70.

Subp. 3. **Labeling for insulation products with follow-up programs.** All cellulose insulation products must also comply with the United States Consumer Product Safety Commission requirements in Code of Federal Regulations, title 16, part 1209 Insulation products with a follow-up program must carry the label of the laboratory indicating that a follow-up program is being conducted.

### 7640.0180 INCORPORATIONS BY REFERENCE AND CITATIONS.

Subpart 1. [Unchanged.]

Subp. 2. **ASTM.** The following ASTM standards are incorporated by reference:

A. ASTM C ~~168-80a~~ 168-88a, Standard Definitions of Terms Relating to Thermal Insulation Materials.

B. ASTM C 177-85, Standard Test Method for Steady State Heat Flux Measurements and Thermal Transmission Properties by Means of the Guarded Hot Plate Apparatus.

C. ASTM C 236-87, Standard Test Method for Steady State Thermal Performance of Building Assemblies by Means of a Guarded Hot Box.

D. ASTM C 516-80 (reapproved 85 1985), Standard Specification for Vermiculite Loose-Fill Thermal Insulation.

E. ASTM C 518-85, Standard Test Method for Steady State Heat Flux Measurements and Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus.

F [Unchanged.]

G. ASTM C 553-70 (reapproved ~~77~~ 1977), Standard Specification for Mineral Fiber Blanket and Felt Insulation (Industrial Type).

H. to J. [Unchanged.]

K. ASTM C 727-72 (reapproved 1978), Standard Recommended Practice for Use of Reflective Insulation in Building Constructions.

L. ASTM C 739-86, Standard Specification for Cellulosic Fiber (wood-base) Loose-Fill Thermal Insulation.

~~L.~~ M. ASTM C 764-84, Standard Specification for Mineral Fiber Loose-Fill Thermal Insulation.

~~M.~~ N. ASTM C 951-85, Standard Specification for Urea-Formaldehyde-Based, Foam in Place Insulation.

~~N.~~ O. ASTM C 976-82, Standard Test Method for Thermal Performance of Building Assemblies by Means of a Calibrated Hot Box.

~~O.~~ P. ASTM C 1014-84, Standard Specification for Spray-Applied Mineral Fiber Thermal or Acoustical Insulation.

~~P.~~ Q. ASTM E 84-84 Revision A, Surface Burning Characteristics of Building Materials.

~~Q.~~ ASTM E 605-~~77~~ reapproved 1982, Thickness and Density of Sprayed Fire Resistive Material Applied to Structural Members.

R. ASTM C 1015, Standard Practice for Installation of Cellulosic and Mineral Fiber Loose-Fill Thermal Insulation.

S. ASTM C 1029-85, Standard Specification for Spray-Applied Rigid Cellular Polyurethane Thermal Insulation.

T. ASTM E 408-71 (reapproved 1985), Standard Test Methods for Total Normal Emittance of Surfaces Using Inspection Meter Techniques.

U. ASTM E 605-77 (reapproved 1982), Thickness and Density of Sprayed Fire-Resistive Material Applied to Structural Members.

Subp. 2a. Standards. The following American National Standards Institute standard is incorporated by reference:

ANSI Standard Z-1.15-1979: Generic Guidelines for Quality Systems.

Subp. 3. **Other incorporation and citations.** The following non ASTM standards are also incorporated by reference:

A. to H. [Unchanged.]

I. ICBO Evaluation Service Acceptance Criteria for Foam Plastic, October, 1982.

J. TAPPI Standard No. 512-OM86 by the Technical Association of the Pulp and Paper Industry.

Subp. 4. [Unchanged.]

**REPEALER.** Minnesota Rules, part 7640.0110, subpart 10, is repealed.

## State Board of Vocational Technical Education

### Proposed Permanent Rules Relating to Emerging Health Occupations

#### Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Board of Vocational Technical Education intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, Section 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes* 136C.04, Subdivision 9.

All persons have 30 days until 4:30 p.m., Tuesday, April 18, 1989, 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 comment, and any change proposed.

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

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

Glenda Moyers, Supervisor  
Minnesota Technical Institute System  
100 Capitol Square Building  
550 Cedar Street  
St. Paul, MN 55101  
Telephone: (612) 296-5707

Georgia Pomroy, License Revision Specialist  
Minnesota Technical Institute System  
100 Capitol Square Building  
550 Cedar Street  
St. Paul, MN 55101  
Telephone: (612) 296-0680

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

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

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Glenda Moyers or Georgia Pomroy at the above address and phone, upon request.

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

## Proposed Rules

If 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 wish to receive a copy of the adopted rule must submit the written request to either:

Glenda Moyers  
Minnesota Technical Institute System  
100 Capitol Square Building  
550 Cedar Street  
St. Paul, MN 55101  
(612) 296-5707

Georgia Pomroy  
Minnesota Technical Institute System  
100 Capitol Square Building  
550 Cedar Street  
St. Paul, MN 55101  
(612) 296-0680

Helen Henrie, Deputy Director  
Minnesota Technical Institute System

### Rules as Proposed (all new material)

#### 3709.0230 CHIROPRACTIC ASSISTANT.

Subpart 1. **May teach.** A teacher who has a chiropractic assistant license may teach in the chiropractic assistant program and may also teach courses in:

- A. body mechanics in the workplace; and
- B. therapeutic massage.

Subp. 2. **Other requirements.** The applicant must meet the requirements in part 3709.0100.

Subp. 3. **Educational and occupational experience requirement.** The applicant must have the educational and occupational experience described in item A, B, or C. The education must be from an accredited postsecondary institution.

A. Licensed chiropractor and 4,000 hours of verified occupational experience in a chiropractic office or chiropractic hospital. This experience must include office procedures, insurance coverage, physical agents application, X-ray, and examinations.

B. Diploma from a two-year chiropractic technician or chiropractic assistant program and 6,000 hours of verified occupational experience as a technician or assistant in a chiropractic office or chiropractic hospital. The experience must include office procedures, insurance coverage, physical agents application, and assisting the chiropractor with X-ray and examinations.

C. Diploma from a one-year chiropractic technician or chiropractic assistant program or American Chiropractic Registered Radiologist technician program and 7,000 hours of verified occupational experience as a technician or assistant in a chiropractic office or chiropractic hospital. The experience must include office procedures, insurance coverage, physical agents application, and assisting the chiropractor with X-ray and examinations.

Subp. 4. **Occupational recency substitution.** Teaching experience at an accredited postsecondary institution, or at an industrial or military setting may be substituted for 1,500 of the 2,000 hours required in part 3709.0100, subpart 1, item A, if the teaching is done during the five-year period. The teaching must be in chiropractic assisting, chiropractic technician, or chiropractic medicine. Two hours of teaching equal one hour of occupational experience.

#### 3709.0240 EKG/CARDIAC TECHNICIAN.

Subpart 1. **May teach.** A teacher who has an EKG/cardiac technician license may teach in the EKG/cardiac technician program and may also teach cardiopulmonary resuscitation.

Subp. 2. **Other requirements.** The applicant must meet the requirements in part 3709.0100.

Subp. 3. **Occupational experience requirement.** The applicant must have current cardiopulmonary resuscitation instructor certification and 8,000 hours of verified occupational experience in one of the following:

- A. registered nurse in critical care using 12 lead cardiograms, exercise stress testing of clients, care of clients with pacemakers, and interpreting basic and advanced cardiac rhythms; or
- B. supervisory EKG/cardiac technician.

Subp. 4. **Substitution for occupational experience.** An applicant may substitute the education described under item A, B, C, or D for up to 4,000 hours of occupational experience required in subpart 3. The education must be from an accredited postsecondary institution.

- A. A bachelor's or higher degree in medicine, nursing, or cardiac technology may be substituted for 4,000 hours.
- B. An associate degree in nursing, perfusionist, echo cardiac sonographer, EKG/cardiac technician, cardiac technology, biomedical

equipment, cardiopulmonary, medical laboratory, medical technology, medical imaging, or radiography, or a bachelor's degree in biomedical science or medical technology may be substituted for 2,000 hours.

C. A diploma in nursing, perfusionist, EKG/cardiac technology, or cardiac technician may be substituted. A one-year program equals 1,050 hours. A two- or three-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit in cardiac care, cardiac conditions, or cardiac equipment use and maintenance may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Occupational recency substitution.** Teaching experience at an accredited postsecondary institution, or at an industrial or military setting, or public safety agency may be substituted for 1,500 of the 2,000 hours required in part 3709.0100, subpart 1, item A, if the teaching is done during the five-year period. The teaching must be in cardiac technology. Two hours of teaching equal one hour of occupational experience.

### **3709.0250 PHYSICAL THERAPIST ASSISTANT.**

Subpart 1. **May teach.** A teacher who has a physical therapist assistant instructor license may teach in the physical therapist assistant program and may also teach courses in anatomy and physiology, medical terminology, exercise physiology, kinesiology, neuroanatomy and neurophysiology, and physical disability/rehabilitation.

Subp. 2. **Other requirements.** The applicant must meet the requirements in part 3709.0100.

Subp. 3. **Occupational and educational experience requirement.** The applicant must have the following experiences:

A. a bachelor's or higher degree in physical therapy from an American Physical Therapy Association accredited institution;

B. physical therapist registration in the state of Minnesota; and

C. 4,000 hours of verified occupational experience as a registered physical therapist in at least two of the following: acute care setting, outpatient physical therapy, long-term care, or rehabilitation setting.

Subp. 4. **Occupational recency substitution.** Teaching experience at an American Physical Therapy Association accredited institution may be substituted for 1,500 of the 2,000 hours required in part 3709.0100, subpart 1, item A, if the teaching is done during the five-year period. The teaching must be in physical therapy or physical therapy assistant. Two hours of teaching equal one hour of occupational experience.

### **3709.0260 PUBLIC SAFETY COMMUNICATION (911).**

Subpart 1. **May teach.** A teacher who has a public safety communication (911) license may teach in the public safety communication (911) program and may also teach emergency communications.

Subp. 2. **Other requirements.** The applicant must meet the requirements in part 3709.0100.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of verified occupational experience as an operator dispatcher or supervisor in a public safety communications center with a minimum of 6,000 of the 8,000 hours doing the job of an operator dispatcher. Operator dispatcher includes level III operator dispatcher or communication training operator (CTO). Supervisor includes lead dispatcher, head dispatcher, communications manager, assistant supervisor, or shift supervisor.

Subp. 4. **Substitution for occupational experience.** An applicant may substitute the education described under item A, B, C, or D for up to 4,000 hours of occupational experience required under subpart 3. The education must be from an accredited postsecondary institution.

A. A bachelor's or higher degree in law enforcement, criminal justice, or corrections may be substituted for 4,000 hours.

B. An associate degree in law enforcement or public safety communications, or a bachelor's degree or higher in public administration may be substituted for 2,000 hours.

C. A diploma in law enforcement or public safety communication may be substituted. A one-year program equals 1,050 hours. A two- or three-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit in the use of public safety emergency telecommunications equipment may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

**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. 5. **Occupational recency substitution.** Teaching experience at an accredited postsecondary institution, or at an industrial or military setting, or public safety agency may be substituted for 1,500 of the 2,000 hours required in part 3709.0100, subpart 1, item A, if the teaching is done during the five-year period. The teaching must be in public safety communication. Two hours of teaching equal one hour of occupational experience.

### 3709.0270 RADIOLOGIC TECHNOLOGY.

Subpart 1. **May teach.** A teacher who has a radiologic technology license may teach in the radiologic technology program.

Subp. 2. **Other requirements.** The applicant must meet the requirements in part 3709.0100.

Subp. 3. **Occupational and educational experience requirement.** The applicant must:

- A. have a two-year certificate, associate degree or above in radiologic technology;
- B. be credentialed in radiography by the American Registry of Radiologic Technologists; and
- C. have 6,000 hours of verified occupational experience as a certified radiographer in a medical setting.

Subp. 4. **Occupational recency substitution.** Teaching experience at a postsecondary institution in an accredited program of radiographic technology may be substituted for 1,500 of the 2,000 hours required in part 3709.0100, subpart 1, item A, if the teaching is done during the five-year period. The teaching must be in radiologic technology. Two hours of teaching equal one hour of occupational experience.

## 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.

## Public Utilities Commission

### Adopted Permanent Rules Governing the Determination of Significant Investment for Conservation Improvement Programs

The rule proposed and published at *State Register*, Volume 13, Number 15, pages 930-932, October 10, 1988 (13 S.R. 930) is adopted with the following modifications:

#### Rules as Adopted

#### 7840.1150 APPROVAL, DISAPPROVAL, OR MODIFICATION.

Subpart 1. **Determination of significant investment.** The commission shall determine whether a proposed program or modified program will result in significant investments in and expenditures for energy conservation improvements. In making this determination, the commission shall consider the following information, which must be included in a public utility's filing:

A. impact of the program or modified program on:

- (1) short-term peak, including peak hours and peak day;
- (2) long-term peak; and
- (3) average energy consumption, including annual average energy consumption;

B. total cost to the utility of ~~the energy saved by the a~~ program or modified program, resulting in energy savings, compared to the cost to the utility to produce or purchase an equivalent amount of new supply of energy;

## **Public Utilities Commission**

### **Adopted Permanent Rules Relating to Telephone Assistance Plan**

The rules proposed and published at *State Register*, Volume 13, Number 20, pages 1185-1190, November 14, 1988 (13 S.R. 1185) are adopted with the following modifications:

#### **Rules as Adopted**

##### **7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS.**

Subp. 2. **Reporting requirements.** A telephone company shall file at its option either quarterly or monthly reports with the commission and the Department of Public Service for review. A telephone company with 100 or fewer subscribers may file an annual report under subpart 4 rather than filing quarterly or monthly reports. Quarterly reports are due no later than 30 days after the end of each quarter of a calendar year. Monthly reports are due no later than 30 days after the end of each calendar month. The reports must be made on a form prescribed by the commission.

Subp. 4. **Annual report.** No later than 30 days after the end of a calendar year, a telephone company shall file a year-end report with the commission and the Department of Public Service. A telephone company with 100 or fewer subscribers that files only an annual report must include the information required by subpart 3 in its annual report. Depending on the reporting option chosen under subpart 2, a cumulative year-end monthly or quarterly report provided under subpart 3 may serve as the annual report. This report must be a financial report and accounting for the telephone company's experience under the telephone assistance plan. The report must also be adequate to satisfy the reporting requirements of the federal matching plan.

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## **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.

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## **Interagency Board for Quality Assurance**

### **Notice of Public Hearing**

Pursuant to *Minnesota Statutes*, section 144A.073 the Interagency Board for Quality Assurance has scheduled a public hearing. The hearing will be held April 6, 1989, 1:00 p.m. to 5:00 p.m. in Room D, 5th Floor, Veteran Services Building, 20 West 12th Street, St. Paul, for the purpose of discussing applications for exceptions to the moratorium on nursing home beds.

## **Labor and Industry**

### **Division of Labor Standards**

#### **Notice of Correction to Prevailing Wage Rates**

The prevailing wage rate certified February 1, 1989 for labor classification 236—Tractor Over D2, TD6 in Hubbard county for Highway and Heavy construction projects has been corrected.

Copies of the correct certification may be obtained by contacting the Minnesota Documents Division, 117 University Avenue, St. Paul, Minnesota 55155 or the Minnesota Department of Labor and Industry, Labor Standards Division, 443 Lafayette Road, St. Paul, Minnesota 55155.

Ken Peterson Commissioner  
Department of Labor and Industry

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## Department of Trade and Economic Development

### Division of Community Development

#### Final Statement on Distribution of 1989 Small Cities Community Development Block Grant Funds

Federal fiscal year 1989 Community Development Block Grant funds made available to the State for distribution to nonentitlement areas will be distributed in accordance with administrative rules adopted in Chapter 4300. These rules are the same as those under which fiscal year 1988 funds were administered. The text of said rules is as follows:

#### CHAPTER 4300 COMMUNITY BLOCK GRANTS

##### 4300.0100. Definitions

Subp. 1. **Scope.** As used in this chapter, the following terms have the meanings given them:

Subp. 2. **Application Year.** "Application year" means the federal fiscal year beginning October 1st and ending September 31st.

Subp. 3. **Community Development Need.** "Community development need" means a demonstrated deficiency in housing stock, public facilities, economic opportunities, or other services which are necessary for developing or maintaining viable communities.

Subp. 4. **Competitive Grant.** "Competitive grant" means a grant application that is evaluated and ranked in comparison to other applications in the same grant category and includes housing, public facilities and comprehensive applications.

Subp. 5. **Comprehensive Program.** "Comprehensive program" means a combination of at least two interrelated projects which are designed to address community development needs which by their nature require a coordination of housing, public facilities, or economic development activities. A comprehensive program must be designed to benefit a defined geographic area, otherwise known as a program area.

Subp. 6. **Economic Development Project.** "Economic development project" means one or more activities designed to create new employment, maintain existing employment, increase the local tax base, or otherwise increase economic activity in a community.

Subp. 7. **Eligible Activities.** "Eligible activities" means those activities so designated in *United States Code*, title 42, section 5305 (1981) and as described in *Code of Federal Regulations*, title 24, sections 570.200-570.207 (1981).

Subp. 8. **General Purpose Local Government.** "General purpose local government" means townships as described in *Minnesota Statutes*, chapter 365; cities as described in *Minnesota Statutes*, chapters 410 and 412; and counties.

Subp. 9. **Grant.** "Grant" means an agreement between the state and an eligible recipient through which the state provides funds to carry out specified programs, services, or activities.

Subp. 10. **Grant Closeout.** "Grant closeout" means the process by which the office determines that all applicable administrative actions and all required work have been completed by the grant recipient and the department.

Subp. 11. **Grant Year.** "Grant year" means any period of time during which the United States Department of Housing and Urban Development makes funds from any federal fiscal year available to the state for distribution to local governments under *United States Code*, title 42, sections 5301-5316 (1981), and includes the period of time during which the office solicits applications and makes grant awards.

Subp. 12. **Infrastructure.** "Infrastructure" means the basic physical systems, structures, and facilities, such as roads, bridges, water, and sewer, which are necessary to support a community.

Subp. 13. **Low- and Moderate-income.** "Low- and moderate-income" means income which does not exceed 80 percent of the median income for the area, with adjustments for smaller and larger families.

Subp. 14. **Metropolitan City.** "Metropolitan city" means a city over 50,000 population or a central city of a standard metropolitan statistical area that receives entitlement grants under *United States Code*, title 42, section 5306 (1981) directly from the United States Department of Housing and Urban Development.

Subp. 15. **Nonentitlement Area.** "Nonentitlement area" means an area that is not a metropolitan city or part of an urban county.

Subp. 16. **Office.** "Office" means the office or division in the Department of Energy and Economic Development to which the program, is assigned.

Subp. 17. **Per Capita Assessed Valuation.** "Per capita assessed valuation" means the adjusted assessed valuation divided by population.

Subp. 18. **Population.** "Population" means the number of persons who are residents in a county, city, or township as established by the last federal census, by a census taken pursuant to *Minnesota Statutes* § 275.53, subd. 2, by a population estimate made by the Metropolitan Council, or by the population estimate of the state demographer made under *Minnesota Statutes* § 4.12, subd. 7, clause (10), whichever is most recent as to the stated date of count or estimate, up to and including the most recent July 1.

Subp. 19. **Poverty Persons.** "Poverty persons" means individuals or families whose incomes are below the poverty level as determined by the most current data available from the United States Department of Commerce, taking into account variations in cost of living for the area affected.

Subp. 20. **Program.** "Program" means the community development block grant program for nonentitlement areas.

Subp. 21. **Program Area.** "Program area" means a defined geographic area within which an applicant has determined that, based on community plans or other studies, there exists a need for community development activities. A program area may be a neighborhood in a community or an entire community.

Subp. 22. **Program Income.** "Program income" means gross income earned by the grant recipient from grant-supported activities, excluding interest earned on advances.

Subp. 23. **Project.** "Project" means one or more activities designed to meet a specific community development need.

Subp. 24. **Regional or Community Development Plans.** "Regional or community development plans" means written documents, resolutions, or statements which describe goals, policies, or strategies for the physical, social, or economic development of a neighborhood, community, or substate area. Regional or community development plans include comprehensive plans and elements of comprehensive plans, including land use plans, which have been approved by the governing boards of townships, counties, or cities, and also include regional development plans adopted under *Minnesota Statutes* § 462.281, where applicable.

Subp. 25. **Slums and Blight.** "Slums and blight" means areas or neighborhoods which are characterized by conditions used to describe deteriorated areas in *Minnesota Statutes* § 462.421 or which are characterized by the conditions used to describe redevelopment districts in *Minnesota Statutes* § 273.73, subd. 10.

Subp. 26. **Single-purpose Project.** "Single-purpose project" means one or more activities designed to meet a specific housing or public facilities community development need.

Subp. 27. **Urban County.** "Urban county" means a county which is located in a metropolitan area and is entitled to receive grants under *United States Code*, title 42, section 5306 (1981), directly from the United States Department of Housing and Urban Development.

**Statutory Authority:** MS s 116K.04; 116K.06; 116K.07

**History:** 8 SR 1263

#### **4300.0200. Purpose**

This chapter gives procedures for evaluating applications for grants and awarding them to eligible applicants by the Department of Energy and Economic Development under *United States Code*, title 42, sections 5301-5136 (1981), and regulations adopted in *Code of Federal Regulations*, title 24, part 570.

**Statutory Authority:** MS s 116K.04; 116K.06; 116K.07

**History:** 8 SR 1263.

#### **4300.0300. Objective of the Program**

The primary objective of this program is to develop viable urban communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for persons of low- and moderate-income. Activities funded under this program shall not benefit moderate-income persons to the exclusion of low-income persons. All funded activities must be designed to:

A. Benefit low- and moderate-income persons;

B. Prevent or eliminate slums and blight; or

C. Alleviate urgent community development needs caused by existing conditions which pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet those needs.

#### **4300.0400. Application of Federal Law**

If it is determined that any provisions of parts 4300.0100 to 4300.3200 are inconsistent with federal law, federal law controls to the extent necessary to eliminate the conflict.

**Statutory Authority:** MS s 116K.06; 116K.07

## GRANT APPLICATION, EVALUATION, AND DETERMINATION

### **4300.1100. Types of Competitive Grants Available**

Subp. 1. **Single-purpose Grants.** The office shall approve single-purpose grants for funding from a single grant year for single-purpose projects. The office shall place single-purpose grant applications in one of the following categories for purposes of evaluation:

A. Housing projects which include one or more activities designed to increase the supply or quality of dwellings suited to the occupancy of individuals and families; or

B. Public facilities projects which include one or more activities designed to acquire, construct, reconstruct, or install buildings or infrastructure which serve a neighborhood area or community.

Subp. 2. **Comprehensive Grants.** The office shall approve comprehensive grants for two or more projects which constitute a comprehensive program as described in part 4300.0100.

**Statutory Authority:** MS s 116J.401; 116J.403; 116J.873

**History:** 11 SR 2416

### **4300.1101. Economic Development Grants, Noncompetitive**

The office shall approve grants for economic development projects for funding throughout a single application year, or until the funds reserved have been exhausted.

**Statutory Authority:** MS s 116K.04; 116K.06; 116K.07

**History:** 8 SR 1263

### **4300.1200. Application Process and Requirements**

Subp. 1. **Grant Application Manual.** The office shall prepare a manual for distribution to eligible applicants no later than 120 days before the application closing date for competitive applications. The manual must instruct applicants in the preparation of applications and describe the method by which the office will evaluate and rank applications.

Subp. 2. **Eligibility Requirements.** Any unit of general purpose local government, including cities, counties, and townships located in a nonentitlement area or electing exclusion from an urban county under *United States Code*, title 42, section 5302 (1981), may apply for a grant. An eligible applicant may apply on behalf of other eligible applicants. Applications submitted on behalf of other applicants must be approved by the governing body of all local governments party to the application. An eligible applicant may apply for only one competitive grant per grant year and no eligible applicant shall be included in more than one competitive application. An eligible applicant may apply for one economic development grant in addition to a competitive grant each application year.

Subp. 3. **Disqualification of Applicants.** Applications from otherwise eligible applicants shall be disqualified where for previously awarded grants under these rules or awarded by the Department of Housing and Urban Development under *United States Code*, title 42, section 5306 (1981), it is determined by the office that any of the following conditions exist:

A. There are outstanding audit findings on previous community development grants and the grantee has not objected on a reasonable basis to the findings or demonstrated a willingness to resolve the findings;

B. Previously approved projects have passed scheduled dates for grant closeout and the grantee's ability to complete the project in an expeditious manner is in question; or

C. The applicant has not made scheduled progress on previously approved projects and the grantee's ability to complete the project in an expeditious manner is in question.

Subp. 4. **Contents of Application.** The contents of the application must be consistent with the informational requirements of this chapter and must be on a form prescribed by the office. The application must be accompanied by:

A. An assurance, signed by the chief elected official, that the applicant will comply with all applicable state and federal requirements;

B. An assurance signed by the chief elected official certifying that at least one public hearing was held at least ten days but not more than 60 days before submitting the application; and

C. A copy of the resolution passed by the governing body approving the application and authorizing execution of the grant agreement if funds are made available.

The office may request additional information from the applicant if it is necessary to clarify and evaluate the application.

Subp. 5. **Time Limit for Submitting Applications.** Competitive applications must be received in the office or postmarked by the closing date. The office shall give notice of the period during which applications will be accepted. The notice must be published in the *State Register* at least 120 days before the closing date. Economic development project applications may be submitted at any time during the grant year.

Subp. 6. **Regional Review.** The applicant must submit a complete copy of the application to the Regional Development Commission, where such a commission exists, or the Metropolitan Council, where it has jurisdiction, for review and comment in accordance with *Minnesota Statutes* § 462.391, subd. 3, or *Minnesota Statutes* § 473.171, respectively.

**Statutory Authority:** MS s 116J.401; 116J.403; 116J.873

**History:** 11 SR 2416

**4300.1300. Evaluation of Applications**

All applications shall be evaluated by the office. A fixed amount of points shall be established as the maximum score attainable by any application. Points shall be made available within each class of rating criteria in accordance with the percentages and fractions indicated in 4300.1400 to 4300.1900. Economic development project applications must meet threshold criteria in order to be evaluated.

**Statutory Authority:** MS s 116K.04; 116k.04; 116K.06; 116K.07

**History:** 8 SR 1263

**4300.1400. Comparison of all Competitive Applications, General Competition**

Subp. 1. **Points Available.** Thirty percent of the total available points shall be awarded by the office based on a general competition involving a comparison of all applications.

Subp. 2. **Evaluation of Community Need.** Two-thirds of the points in the general competition shall be awarded based on evaluation of community need, which shall include:

- A. The number of poverty persons in the area under the applicant's jurisdiction;
- B. The percentage of persons resident in the area under the applicant's jurisdiction who are poverty persons; and
- C. The per capita assessed valuation of the area under the jurisdiction of the applicant, such that points are awarded in inverse relationship to applicant's per capita assessed valuation.

Subp. 3. **Evaluation of Other Factors.** One-third of the points in the general competition shall be awarded based on evaluation of:

- A. The extent to which the proposed activities are compatible with regional or community development plans; and
- B. Adequacy of the applicant's management and financial plan.

**Statutory Authority:** MS s 116K.04; 116K.06; 116K.07

**History:** 8 SR 1263

**4300.1500. Comparison of Competitive Applications Within Categories**

After completing the general competition described in 4300.1400, the office shall place each application in the appropriate grant category in accordance with part 4300.1100. The categories are housing projects, public facilities projects, economic development projects, and comprehensive programs. Seventy percent of the total points available for each application shall be awarded based on a comparison of the applications within each of the categories, as further described in parts 4300.1600 to 4300.1900.

**Statutory Authority:** MS s 116K.04; 116K.06; 116K.07

**History:** 8 SR 1263

**4300.1600. Evaluation of Housing Projects**

Subp. 1. **Project Need.** Three-sevenths of the points available in the housing category competition shall be awarded by the office based on evaluation of the need for improvements or additions to the housing stock serving low- and moderate-income persons as evidenced by:

- A. Housing units which are occupied by low- and moderate-income persons and are either substandard or pose a threat to the health or safety of the occupants;
- B. An inadequate supply of affordable housing for low- or moderate-income persons; or
- C. Other documented conditions which give evidence of the need for improvements or additions to the housing stock serving low- and moderate-income persons.

Subp. 2. **Project Impact.** Three-sevenths of the points available in the housing category competition shall be awarded by the office based on evaluation of the extent to which the proposed activities will eliminate or reduce the need for improvements or additions to the housing stock serving low- or moderate-income persons.

Subp. 3. **Project Cost-effectiveness.** One-seventh of the points available in the housing category competition shall be awarded by the office based on:

- A. Evaluation of the extent to which the proposed activities will make cost effective and efficient use of grant funds including

coordination with, and use of, funds from other public and private sources; and

B. Evidence that the cost of the proposed activities per benefitting household is reasonable.

**Statutory Authority:** MS s 116K.06; 116K.07

### **4300.1700. Evaluation of Public Facilities Projects**

Subp. 1. **Project Need.** Three-sevenths of the points available in the public facilities category competition shall be awarded by the office based on evaluation of the extent to which the proposed activities are necessary to improve provision of public services to low- and moderate-income persons or to eliminate an urgent threat to public health or safety.

Subp. 2. **Project Impact.** Three-sevenths of the points available in the public facilities category competition shall be awarded by the office based on evaluation of the extent to which the proposed activities will reduce or eliminate the need identified under Subp. 1, and, in the case of activities designed to improve the provision of public services to low- and moderate-income persons, an evaluation of the extent to which the proposed activities directly benefit low- and moderate-income persons.

Subp. 3. **Project Cost-effectiveness.** One-seventh of the points available in the public facilities category competition shall be awarded by the office based on evaluation of the extent to which the proposed activities will make cost effective and efficient use of grant funds, including consideration of:

A. The extent to which the requested grant funds are necessary to finance all or a portion of the costs;

B. Evidence that the cost of the proposed activities per benefitting household or person is reasonable; and

C. The extent to which the project benefits existing, rather than future, population, except in cases where the proposed activities are necessary due to expected development or growth which is beyond the applicant's control.

**Statutory Authority:** MS s 116K.06; 116K.07

### **4300.1900. Evaluation of Comprehensive Program Projects**

Subp. 1. **Program Need.** Three-sevenths of the points available in the comprehensive program category competition shall be awarded by the office based on evaluation of need for the proposed comprehensive program, including consideration of:

A. The number of low- and moderate-income persons in the program area;

B. The percentage of residents in the program area which are of low- or moderate-income; and

C. The need for the proposed comprehensive program as evidenced by at least two of the following: the need for improvements or additions to the housing stock serving low- and moderate-income persons, the need for new or improved public facilities in the program area, or employment problems in the program area.

Subp. 2. **Program Impact.** Three-sevenths of the points available in the comprehensive program category competition shall be awarded by the office based on evaluation of the extent to which the proposed comprehensive program will eliminate or reduce the need identified under Subp. 1, and the extent to which the proposed program will improve the long-term physical or economic condition of the program area and its residents.

Subp. 3. **Program Cost-effectiveness.** One-seventh of the points available in the comprehensive program category competition shall be based on evaluation of the extent to which the proposed comprehensive program will make cost effective and efficient use of grant funds, including consideration of coordination with, and use of, funds from other public and private sources.

**Statutory Authority:** MS s 116K.06; 116K.07

### **4300.1901. Evaluation of Economic Development Projects**

Subp. 1. **In General.** Evaluation of economic development applications consists of eligibility threshold screening and project review. Applications must meet the eligibility thresholds in order to be referred for project review. Applications that fail to meet eligibility thresholds may be revised and resubmitted.

Subp. 2. **Federal and State Eligibility Thresholds.** Applicants shall provide a description of the ways that activities address one of the federal objectives described in Part 4300.0300. Each activity proposed for funding must be eligible under current federal regulations.

Applicants shall describe how they will meet two of the three following thresholds based on state economic development objectives:

A. Creation or retention of permanent private sector jobs;

B. Stimulation or leverage of private investment; or

C. Increase in local tax base.

Subp. 3. **Project Review.** Applications that meet eligibility thresholds will be awarded points by the office based on evaluation

of the two rating categories: project design and financial feasibility. Applications must attain at least two-thirds of the total available points for economic development to be recommended for funding. Applications must score at least half of the points available in each of the two rating categories.

Two-thirds of the available points will be awarded based on an evaluation of project quality including an assessment of need, impact, and the capacity of the applicant to complete the project in a timely manner. Consideration of need for an economic development project must be based on deficiencies in employment opportunities and circumstances contributing to economic vulnerability and distress. Consideration of impact must be based on the extent to which the project reduces or eliminates the need. Consideration of capacity must be based on demonstration of administrative capability, realistic implementation schedules, and the ability to conform to state and federal requirements.

One-third of the available points will be awarded based on an evaluation of the effective use of program funds to induce economic development. Consideration of financial feasibility must include investment analysis, commitment of other funds, and other factors relating to the type of program assistance requested.

Subp. 4. **Funding Recommendations.** Applications that attain at least two-thirds of the available points will be recommended to the commissioner for funding. Applications not recommended for funding may be revised and resubmitted.

**Statutory Authority:** MS s 116K.04; 116K.06; 116K.07

**History:** 8 SR 1263

#### **4300.2000. Determination of Grant Awards**

Subp. 1. **Funds Available for Grants.** The amount of funds available for grants shall be equal to the total allocation of federal funds made available to the State under *United States Code*, title 42, section 5306 (1981), after subtracting an amount for costs available to the office for administration of the program, as allowed by that law. The office is not liable for any grants under this chapter until funds are received from the United States Department of Housing and Urban Development.

Subp. 2. **Division of Funds.** Of the funds available for grants in each grant year, 30 percent shall be reserved by the office to fund single purpose grants, 15 percent shall be reserved for economic development grants, and 55 percent shall be reserved by the office to fund comprehensive grants. However the office may modify the proportions of funds available for single purpose and comprehensive grants if, after review of all applications, it determines that there is a shortage of fundable applications in either category.

At least 30 percent of the funds made available for single purpose grants shall be awarded for applications in each of the two categories: housing and public facilities. However, no application with a rating below the median score for its category shall be funded by the office solely for the purpose of meeting this requirement.

Subp. 3. **Funding List.** Within each grant category, a list of applications shall be prepared in rank order of the scores received after evaluation pursuant to Parts 4300.1300 to 4300.1900. Based on these lists, and subject to the availability of funds within each category, applications with the highest rank shall be recommended to the commissioner for funding. In the case of a tie between any two applications within any category, the application with the higher score in the general competition shall receive the higher ranking on the list.

Subp. 4. **Approval by Commissioner.** The list of applications recommended for funding, including recommended grant awards, shall be submitted by the office to the commissioner for approval. A decision by the commissioner not to approve any application recommended for funding must be made in writing to the applicant, giving reasons for disapproval.

Subp. 5. **Reduction in Amount Requested.** The office may recommend an application for funding in an amount less than requested if, in the opinion of the office, the amount requested is more than is necessary to meet the applicant's need. If the amount of the grant is reduced, the reasons for the reduction shall be given to the applicant.

Subp. 6. **Grant Ceilings.** No competitive single-purpose grant may be approved for an amount over \$600,000. No comprehensive grant may be approved for an amount over \$1,400,000. No economic development grant may be approved for over \$500,000.

**Statutory Authority:** MS s 116J.401; 116J.403; 116J.873

**History:** 11 SR 2416

### **CONTRACTS AND RECORDS**

#### **4300.3100. Grant Agreements**

Subp. 1. **Grant Contract Required.** A grant contract shall be offered to each applicant whose application is approved for funding. The contract must be signed by a person authorized to commit the applicant to legally binding agreements and to execute the contract.

Subp. 2. **Contents of Grant Contract.** The grant contract must include:

A. A work program which indicates completion dates for major parts of the project and a projected budget supporting the work program;

## Official Notices

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B. Assurances that the grant recipient will comply with all applicable state and federal laws, including at least the federal laws or regulations for which the state is made responsible for enforcement in *Code of Federal Regulations*, title 24, sections 570.495 and 570.496.

Subp. 3. **Use of Program Income.** Program income from sources such as reimbursements to and interest from a grant recipient's loan program, proceeds from disposition of real property, and proceeds from special assessments must be used for eligible activities. The office shall reduce future grant payments by the amount of any unobligated program income that an applicant has and shall take whatever additional action is necessary to recover any remaining amounts owed.

Subp. 4. **Grant Account Required.** Grant recipients must establish and maintain separate accounts for grant funds. In accordance with *Code of Federal Regulations*, title 24, section 570.494, clause 4, interest earned by grant recipients on grant funds before disbursement is not program income, and it must be returned to the United States Treasury.

Subp. 5. **Restrictions on Use of Funds.** No grant funds shall be used to finance activities not included in the grant agreement. If it is determined that an improper use of funds has occurred, the office will take whatever action is necessary to recover improperly spent funds.

Subp. 6. **Suspension of Payments.** The office shall suspend payments of funds to grant recipients which are not in compliance with applicable state and federal laws, rules, and regulations. Grant recipients must return funds which are improperly expended.

Subp. 7. **Amendments to the Agreement.** Amendments to the grant agreement must be in writing.

**Statutory Authority:** MS s 116J.401; 116J.403; 116J.873

**History:** 11 SR 2416

### **4300.3200. Recordkeeping and Monitoring**

Subp. 1. **Financial Records.** Grant recipients shall maintain financial records which identify the source and application of funds for grant-supported activities. These records must contain information about grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, income, and other information required by the office under the responsibilities it assumes under *Code of Federal Regulations*, title 24, section 570.497, clause b. Financial records, supporting documents, statistical records, and all other reports pertinent to a grant must be retained by the grant recipient for three years from the date of submitting the final financial report. No such records or documents may be disposed of while audits, claims, or litigations involving the records are in progress.

Subp. 2. **Audits.** Grant recipients must arrange for and pay for an acceptable independent audit prepared in compliance with OMB Circular A-128, which was published in the *Federal Register*, volume 50, number 188, page 39083, on September 27, 1985, and the Single Audit Act of 1984, *Public Law* Number 98-502, codified as 31 U.S.C. sections 7501-7507. Costs incurred pursuant to this requirement are eligible under this program.

Subp. 3. **Financial Status Reports.** Grant recipients shall file financial status reports at the close of each reporting period as designated by the office and shall file a final financial report before grant closeout. Financial status reports must be on forms prescribed by the office. The office may not require these reports more often than quarterly.

Subp. 4. **Performance Report.** Grant recipients shall also file performance reports at the close of each reporting period as designated by the office and shall file a final performance report before grant closeout. Performance reports shall be on forms prescribed by the office. The office may not require these reports more often than quarterly.

Subp. 5. **Access to Records.** Representative of the office, either the State Auditor or Legislative Auditor as is appropriate, and federal auditors shall have access to all books, records, accounts, files, and other papers, things, or property belonging to grant recipients which are related to the administration of grants and necessary for audits and monitoring compliance with Parts 4300.0100 to 4300.3200.

**Statutory Authority:** MS s 116J.401; 116J.403; 116J.873

**History:** 11 SR 2416

**Repealer.** *Minnesota Rules*, part 4300.1100, subpart 3 is repealed.

### **Proposed Distribution of Funds**

The exact amount of Federal FY 1989 CDBG funds for use by the Small Cities Development Program is \$18,308,000. To paraphrase and summarize the administrative rules for this program, 15 percent, will be reserved for economic development grants; 30 percent, will be reserved for single-purpose housing or public facilities grants; and 55 percent, will be reserved for comprehensive grants. Two percent plus \$100,000 of the available funds will be used by DTED for administration of the grant program.

### **Proposed Use of Funds for Activities That Will Benefit Persons of Low- and Moderate-Income**

The purpose of the Small Cities Development Program is to develop viable urban communities by providing decent housing and

a suitable living environment and by expanding economic opportunities, principally for persons of low and moderate income. Activities funded under this program shall not benefit moderate income persons to the exclusion of low-income persons. All funded activities must be designed to:

- a) Benefit low- and moderate-income persons;
- b) Prevent or eliminate slums and blight; or
- c) Alleviate urgent community development needs caused by existing conditions which pose a serious and immediate threat to the health or welfare of the community, where other financial resources are not available to meet those needs.

Under the Housing and Community Development Act of 1974, as amended, at least 60 percent of the funds must be used for activities that benefit low and moderate income persons. The Department of Trade and Economic Development, Community Development Division, estimates that up to 80 percent of the funds will be used to benefit persons of low and moderate income.

### **Recaptured and Reallocated Funds**

If FY '83 through FY '89 grant funds are returned to the Minnesota Department of Trade and Economic Development, Community Development Division, following audit resolution or project closeout, reuse of the funds will be conducted using one of two methods.

1. Fifteen percent could be used for funding economic development projects any time during the year following the recapture of funds. Eighty-five percent of the funds will be reserved for emergency, urgent need projects; or
2. All recaptured funds could be reserved for funding emergency, urgent need projects.

With either option, a balance of recaptured FY '83 through FY '88 funds will be carried forward only until the point at which competitive grant awards are made. Any balance of recaptured or reallocated funds that exists at the time grants are awarded for the annual competitive grant cycle will be used to finance new competitive or economic development projects. Further, fifteen percent of the recaptured funds will be used for economic development projects. Eighty-five percent of the recaptured funds will be used to finance competitive projects.

Following is the criteria under which emergency urgent-need projects could be funded:

- a. Applications for emergency urgent need could be submitted at any time during the year.
- b. The problem poses a serious and immediate threat to the health or welfare of the community.
- c. The problem is of recent origin or has recently become urgent. To qualify for emergency, urgent-need funds, recent is defined to mean that a problem has to become urgent no earlier than 60 days before the last competitive application deadline.
- d. The applicant can document inability to finance the project on its own and other resources to sufficiently finance the project are not available.
- e. The project would have to score well enough in the rating system to have received a grant, had an application been submitted during the last competitive cycle.

The recaptured and reallocated fund distribution methodology identified above is the same methodology which appeared in the previous Final Statement.

### **Distribution of Program Income**

Any program income which is derived from the use of federal CDBG funds is retained by the recipient communities for the same activity. Thus, the state will not have the use of program income for distribution in FY '89.

### **Description of the Use of Funds in the 1988 Small Cities Community Development Block Grant Program**

For the 1988 grant program, \$17,127,420 in federal fiscal year 1988 funds was available for grants to eligible applicants for the Small Cities Development Program. In addition, there was \$2,327,490 in unspent fiscal year 1987 federal funds available as well as \$124,170 in reverted funds all of which was available for grants. Under the administrative rules for the SCDP, economic development applications are accepted on a year-round basis and competitive single-purpose and comprehensive applications had an application deadline of January 28, 1988. The rules for the program establish the availability of 15 percent of the funds for economic development, 30 percent of the funds for single-purpose projects, and 55 percent of the funds for comprehensive programs. The rules also provide for the alteration of these percentages when a shortage of fundable applications occur in any specific category.

Upon completion of the competitive review and ranking process, 28 awards were made on May 10, 1988. The Department of Trade and Economic Development concludes that funds were awarded in accordance with the State's administrative rules for the program.

A formal Performance/Evaluation Report (PER) which provides a detailed description of the use of funds is available in this office for public inspection. A copy of the PER is also available at the HUD Minneapolis/St. Paul office.

## Official Notices

### Assessment of the Relationship of 1988 Funds to State and Federal Objectives

As in previous years, for the 1988 grant program, the Minnesota Department of Trade and Economic Development, Community Development Division, adopted the national objectives for the Community Development Block Grant program. Under these objectives, all funded activities must be designed to:

a) Benefit low- and moderate-income persons;

b) Prevent or eliminate slums or blight; or

c) Alleviate urgent community development needs caused by existing conditions, which pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet those needs.

Based on the FY '88 award plus the unspent balance of FY '87 federal funds and reverted funds (or \$20,030,660), at least 60% (or \$12,018,396) must be awarded for activities designed to benefit persons of low- and moderate-income. To date, with an unobligated FY '88 balance of just under \$420,000, DTED has already approved more than \$15 million for activities designed to benefit low- and moderate-income persons. Thus, even with a balance, DTED has already awarded well over 70 percent of our total FY '88 grant award for activities which benefit low- and moderate-income persons. The remainder of the funds currently awarded for grants has been awarded for activities designed to prevent or eliminate slums and blight and to alleviate urgent community development needs.

The funds budgeted for planning and administration include both the funds retained by the Minnesota Department of Trade and Economic Development for administration of the program and funds awarded to units of general local government for planning and administration of their grants. No more than 20 percent of the block grant can be used for planning and administration.

To date, for the 1988 grant program, the Minnesota Department of Trade and Economic Development, Community Development Division, and the 1988 grant recipients budgeted slightly less than \$1.0 million for planning and administration. These funds amount to just under five percent of the block grant, well below the 20.0 percent limit.

In addition to meeting one of the federal objectives listed above, economic development set aside grants must meet at least two of the following state objectives:

a) Creation or retention of permanent private sector jobs, with a minimum threshold of one job created or retained for each \$20,000 of grant funds;

b) Leverage of private investment, with a minimum threshold of one dollar private funds for each grant dollar requested; and

c) Increase the local tax base, with a minimum threshold of an estimated 50 percent increase in the value of the parcel involved.

All economic development set aside grants awarded to date have met the state job creation/retention objective and the private investment objective. In addition, 93% of those jobs will be held by, and/or available to low and moderate income persons.

Based upon analysis of the 1988 Small Cities Development Program, The Minnesota Department of Trade and Economic Development, Community Development Division, concludes that the 1988 grant program fully meets state and national objectives for award of funds.

## Department of Transportation

### **Petition of the City of Blaine for a Variance from State Aid Rules for Determining USE OF MUNICIPAL STATE AID FUNDS**

NOTICE IS HEREBY GIVEN that the City Council of the City of Blaine has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to determination of cost eligibility for a construction project on Trunk Highway 10 within the limits of said municipality.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.1500 and 8820.2800 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162 so as to permit the use of Municipal State Aid construction monies to pay \$78,525.13 as the City of Blaine's share of construction costs. The funds will come out of the City of Blaine's Municipal State Aid construction account.

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

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

Dated: 3 March 1989

Leonard W. Levine  
Commissioner

## **Department of Transportation**

### **Petition of the City of Blaine for a Variance from State Aid Rules for Determining USE OF MUNICIPAL STATE AID FUNDS**

NOTICE IS HEREBY GIVEN that the City Council of the City of Blaine has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to determination of cost eligibility for a construction project on Trunk Highway 242 within the limits of said municipality.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.1500 and 8820.2800 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162 so as to permit the use of Municipal State Aid construction monies to pay \$18,015.81 as the City of Blaine's share of construction costs and \$42,664.54 as the City of Blaine's share of preliminary engineering costs. The funds will come out of the City of Blaine's Municipal State Aid construction account.

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

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

Dated: 13 March 1989

Leonard W. Levine  
Commissioner

## **Department of Transportation**

### **Petition of the County of Chisago for a Variance from State Aid Standards for DESIGN SPEED**

NOTICE IS HEREBY GIVEN that the County Board of the County of Chisago has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to a proposed resurfacing project on C.S.A.H. 16 from Trunk Highway 95 to County Road 71A.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9914 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162 so as to permit a design speed of 39 miles per hour on a crest vertical curve at engineer's station 44 + 50 (4,450' north of T.H. 94) instead of the required design speed of 40 miles per hour.

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

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

Dated: 13 March 1989

Leonard W. Levine  
Commissioner

## **Department of Transportation**

### **Petition of the County of Le Sueur for a Variance from State Aid Standards for BRIDGE WIDTH**

NOTICE IS HEREBY GIVEN that the County Board of the County of Le Sueur has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from minimum requirements as they apply to a proposed construction project on C.S.A.H. 3, 2 miles north of Kilkenny.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a bridge with a width of 23'9" (curb to curb) to remain in place instead of replacing or widening the bridge to a width of 32' (curb to curb) as required.

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

## Official Notices

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

Dated: 13 March 1989

Leonard W. Levine  
Commissioner

## Department of Transportation

### **Petition of the City of Mankato for a Variance from State Aid Rules for Determining ELIGIBILITY FOR MUNICIPAL STATE AID TURNBACK FUNDS**

NOTICE IS HEREBY GIVEN that the City Council of the City of Mankato has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from requirements as they apply to a proposed reconstruction project on M.S.A.S. 120 (Riverfront Drive, formerly T.H. 60) from T.H. 169 to Stoltzman Road.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2900 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit plan approval beyond the time frame established by rule thereby qualifying the proposed construction project for financing with Municipal State Aid Turnback Funds.

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

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

Dated: 13 March 1989

Leonard W. Levine  
Commissioner

## Department of Transportation

### **Petition of the County of McLeod for a Variance from State Aid Standards for CLEAR ZONE**

NOTICE IS HEREBY GIVEN that the County Board of the County of McLeod has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from minimum requirements as they apply to a construction project on C.S.A.H. 16 (Main Street) from Lane Avenue to C.S.A.H. 2 (Grove Avenue) in the City of Silver Lake.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit fixed objects within the two foot clear zone (face of to curb to fixed object) instead of maintaining the clear zone free of any fixed object as required.

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

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

Dated: 13 March 1989

Leonard W. Levine  
Commissioner

## Department of Transportation

### **Petition of the City of Fairmont for a Variance from State Aid Standards for DESIGN SPEED and STREET WIDTH**

NOTICE IS HEREBY GIVEN that the City Council of the City of Fairmont has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from minimum requirements as they apply to a proposed reconstruction project on M.S.A.S. 111 (Blue Earth Avenue) from Main Street to Prairie Avenue.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a design speed of 23 miles per hour at a horizontal curve at the intersection of Main and Blue Earth Avenues, instead of the required design speed of 30 miles per hour, and a street width of 56 feet with parking permitted on one side of the street instead of the required street width of 62 feet with parking permitted on one side of the street.

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

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

Dated: 13 March 1989

Leonard W. Levine  
Commissioner

## **Department of Transportation**

### **Petition of the County of Renville for a Variance from State Aid Standards for DESIGN SPEED**

NOTICE IS HEREBY GIVEN that the County Board of the County of Renville has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from minimum requirements as they apply to a proposed reconstruction project on C.S.A.H. 23 and C.S.A.H. 24 located between C.S.A.H. 8 and C.S.A.H. 11, northeast of Buffalo Lake.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9910 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit design speeds of 30 to 39 miles per hour at vertical and horizontal curves between engineers station 220 + 73 and 341 + 00 instead of the required design speed of 40 miles per hour.

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

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

Dated: 13 March 1989

Leonard W. Levine  
Commissioner

#### **NOTE TO READERS:**

All contract awards regularly published in the *STATE REGISTER* Monday edition will appear in the future in the midweek *STATE REGISTER CONTRACTS SUPPLEMENT*. A new awards section, "Awards of Professional, Technical, and Consulting Contracts," will appear monthly in the midweek edition of the *STATE REGISTER CONTRACTS SUPPLEMENT*, beginning Thursday 16 March. All current subscribers will receive a copy of the *S.R. CONTRACTS SUPPLEMENT* free for a few weeks. Subscription information will appear in that publication. Call (612) 296-4273 for more information. To subscribe, call (612) 296-0931.

# 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.

**Commodity:** Trailer 10-12 cap. flatbed

**Contact:**

**Bid due date at 2pm:** March 24

**Agency:** Natural Resources

**Deliver to:** St. Paul

**Requisition #:** 29000 51808

**Commodity:** Modular office furniture and install

**Contact:** Linda Parkos (612) 296-3725

**Bid due date at 2pm:** March 27

**Agency:** Pera

**Deliver to:** St. Paul

**Requisition #:** 63000 91310

**Commodity:** Sponges, Scouring Pads & Walk-Off Mats

**Contact:** Bernie Vogel (612) 296-2546

**Bid due date at 2pm:** March 27

**Agency:** Various

**Deliver to:** Various

**Requisition #:** Price Contract

**Commodity:** New or used electric forklift

**Contact:** Mary Jo Bruski (612) 296-3772

**Bid due date at 2pm:** March 28

**Agency:** Transportation

**Deliver to:** Duluth, MN

**Requisition #:** 79382 01598

**Commodity:** Weather Receiving & Display System

**Contact:** Joe Gibbs (612) 296-3750

**Bid due date at 2pm:** March 27

**Agency:** State University

**Deliver to:** Mankato

**Requisition #:** 26071 18508

## Department of Administration

### Request for Proposal

The Department of Administration is soliciting for respondents to provide professional recruiting services for the purposes of hiring applicants for shortage and/or specialized EDP or Telecommunications positions with the department for which traditional means of recruiting have not yielded adequate numbers of qualified applicants. Current need is for Systems Programmers with large scale, mainframe IBM/MVS experience.

THIS REQUEST FOR PROPOSAL 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.

#### I. SCOPE OF RFP

The purpose of the RFP is to solicit and select multiple respondents to recruit qualified candidates for shortage and/or specialized EDP or Telecommunications positions within the Department of Administration, InterTechnologies Group as needed for current and future vacancies until December 31, 1989, with an option to extend up to six months upon mutual agreement of the parties.

#### II. OBJECTIVES

It is the overall goal of this project to have an on-going source of qualified applicants for shortage and/or specialized EDP or Telecommunications candidates so that vacant positions may be permanently filled to ensure that critical work can be completed in a timely and efficient manner.

#### III. TASKS

A. Obtain information from Department of Administration Personnel Office regarding needed shortage and or specialized EDP or Telecommunications to be filled and mandatory and desirable qualifications necessary.

B. Recruit interested candidates and refer them to the Department of Administration Personnel Office for determination of qualifications and eligibility for appointment to permanent position.

C. Act as intermediary for the purposes of arranging interviews.

#### IV. DEPARTMENT CONTACTS

PROSPECTIVE RESPONDERS WHO HAVE ANY QUESTIONS REGARDING THIS REQUEST FOR PROPOSAL MAY CALL OR WRITE:

JAMES M. YATES, PERSONNEL REPRESENTATIVE  
DEPARTMENT OF ADMINISTRATION  
114 ADMINISTRATION BUILDING  
50 SHERBURNE AVENUE  
ST. PAUL, MN 55155  
612-296-9024

#### V. SUBMISSION OF PROPOSALS

All proposals must be sent to and received by:

JAMES M. YATES  
DEPARTMENT OF ADMINISTRATION  
114 ADMINISTRATION BUILDING  
50 SHERBURNE AVENUE  
ST. PAUL, MINNESOTA 55155

NOT LATER THAN 4:30 P.M., APRIL 7, 1989.

Late proposals will not be accepted. Three copies of each proposal must be submitted with each response. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. Each copy of the proposal must be signed by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project.

#### VI. COSTS

The department has estimated that the cost of this project should not exceed \$100,000.00 for professional services and expenses of interviewed and/or selected applicant(s).

Payment will be based on a percentage of first year salary of candidate(s) hired for permanent employment with the state. Proposals must describe fee or percentage.

#### VII. COMPLETION DATE

The department estimates that this should be completed by December 31, 1989, however, it may be extended up to six months by mutual agreement of the parties.

#### VIII. CONTENTS

The following will be considered the minimum contents of the proposal:

A. A restatement of the objectives to show or demonstrate the responder's view of the nature of the request.

B. Outline the responder's background and experience in recruiting and placing personnel in organizations with large scale, mainframe IBM/MVS installations. Personnel who will be assigned to the contract must be identified and detail describing their training and work experience.

C. Each responder will provide a detailed cost plan which must include a description of how billing will be performed and how costs are derived.

D. Each responder will provide a detailed work plan which will identify the major tasks to be accomplished and a plan/methodology of how applicants will be recruited.

E. Each responder will identify the level of the department's participation in the project as well as any other services to be provided by the department.

#### IX. EVALUATION

All responses received by the deadline will be evaluated by representatives of the Department of Administration. In some cases, an interview will be part of the evaluation process. Factors upon which proposals will be judged include, but are not limited to, the following:

## State Contracts and Advertised Bids

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- A. Expressed understanding of objectives.
  - B. Work plan/methodology.
  - C. Cost detail and billing.
  - D. Qualifications of both personnel and firm. Experience of assigned personnel will be given greater weight than that of the firm.
  - E. Timeliness. Time period in which respondent can recruit and refer candidates for consideration. Demonstrated experience in providing qualified candidates quickly or having a pool of qualified candidates already identified will be given greater weight.
- Evaluation and selection will be completed by April 21, 1989. Results will be sent immediately by mail to all responders.

## Department of Administration

### Print Communications Division

#### Request for Proposal to Evaluate, Recommend and Install New Telephone System

The Print Communications Division, part of the Department of Administration, is seeking proposals from qualified consultants and manufacturers of telephone equipment to evaluate, recommend and install a new telephone system for 1) Minnesota's Bookstore and 2) its printing services unit.

The scope of this project will include:

- An evaluation of the existing telephone systems used in the bookstore and in printing services.
- Consultation with Minnesota's Bookstore and printing staff regarding the design of a new system.
- Recommendations/proposals regarding function and cost of new systems.
- Installation of the new systems and training for staff.

Respondents to this request for proposal will be expected to evaluate the present and projected need, the present systems and propose an alternative as specified above. Proposals will be evaluated by Print Communications staff. The successful bidder will then proceed with system installation.

The selected bidder is expected to begin work immediately after the contract has been signed and processed. The contract will be for a maximum of 12 months. Three copies of submitted proposals must be received by the Print Communications Division by 4:30 p.m. Monday, May 1. Proposals should be sent to:

Print Communications Division  
117 University Avenue  
St. Paul, Minnesota 55155

The Print Communications Division reserves the right to refuse any and all proposals that do not meet the requirements of this proposal.

To discuss this project, contact Melinda Svoboda at (612) 297-2550 or Mary Mikes at (612) 297-3979.

## Correctional Facility—Oak Park Heights

### Request for Proposals for Providing Education Services

Notice is hereby given that the Minnesota Correctional Facility—Oak Park Heights, is requesting proposals for the professional delivery of education services to the inmates at MCF—Oak Park Heights for the period of July 1, 1989 through June 30, 1991. The estimated cost will not exceed \$626,000 for the two year contract period. Additional information can be obtained from and the proposals must be submitted by 4:30 p.m., April 14, 1989, to: Erik Skon, Resident Program Manager. Please contact Mr. Skon at (612) 779-1491, if interested.

## Department of Education

### Requests for Proposals for Family Participation in Planning for Services for Young Children with Handicaps or Those Children at Risk for Such Handicaps

INTRODUCTION AND OVERVIEW: The Minnesota Legislature (*Minnesota Statutes* 120.17) established local interagency early

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## State Contracts and Advertised Bids

intervention committees for children with handicaps under age five and their families in order to develop a comprehensive, coordinated, multidisciplinary early intervention system. Members are to include parents of young children who are handicapped under age five. In 1987, seventy per cent of the interagency early intervention committees had parent representation. However, only one parent served as chairperson.

In addition, parents of infants and toddlers who are handicapped or at risk for such handicapping conditions need to become knowledgeable and informed about appropriate early intervention systems.

To ensure meaningful family involvement in planning, developing and implementing comprehensive services, the Minnesota Department of Education in cooperation with the Departments of Health and Human Services through the Interagency Planning Project for Young Children with Handicaps announces a request for proposals for innovative strategies designed to train parents in the following areas:

—to acquire knowledge, skills and confidence in order to identify and carry out planning, development and implementation of comprehensive services for their young children.

—to be advocates for system change.

Applications must demonstrate

\*the involvement of groups and individuals who will provide input regarding specific issues affecting minority children with handicaps and their families, and

\*outreach to single parent families

\*linkages to local IEICs in their attempts to reach families

In 1988, four grants were awarded from among 22 applicants to one school district and three advocacy organizations (PACER, ARC of MN, and Legal Advocacy for Persons with Developmental Disabilities-LADD)

\*to provide training in selected regions of MN,

\*involve minority families,

\*reach families of Neonatal Intensive Care Unit (NICU) graduates and

\*recruit parents for local early intervention committees.

A description of each grant is included in the application packet.

Approximately \$90,000 is available for grants. NO SINGLE GRANT SHALL EXCEED \$35,000. Applications must be received in the office of the Interagency Planning Project for Young Children with Handicaps, Rm 826 Capitol Square Bldg., 550 Cedar St., St. Paul, MN 55101 no later than 4:30 p.m. on Thursday, June 1, 1989.

All applications that are funded will be for a period of one year with a starting date of October 1, 1989 to be completed by September 30, 1990. The Minnesota Department of Education reserves the right not to award any grants.

Application packets are available from:

Christi Hansen  
Interagency Planning Project for Young Children  
with Handicaps  
809 Capitol Square Bldg.  
550 Cedar St.  
St. Paul, MN 55101  
(612) 297-1512

If you need assistance, please call your regional early childhood coordinator or Jan Rubenstein at the Interagency Planning Project for Young Children with Handicaps: (612) 296-7032.

## Department of Human Services

### Office of Child Support Enforcement

### Request for Proposals for Data Processing Facilities Management and Technical Support Services

The Department of Human Services—Office of Child Support Enforcement is soliciting proposals from qualified data processing organizations to provide facilities management services for the Office of Child Support Enforcement. We seek proposals from qualified

## State Contracts and Advertised Bids

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firms to perform specified management, operation, and application development/maintenance services through a facilities management agreement.

A copy of the detailed Request for Proposal can be obtained weekdays 8:00 a.m.-4:30 p.m. by contacting:

Maxine Pederson, Administrative Secretary  
Department of Human Services  
Office of Child Support Enforcement  
444 Lafayette Road—4th Floor  
St. Paul, Minnesota 55155-3846  
(612) 297-1113

## Minnesota Pollution Control Agency

### Division of Air Quality

### Request for Proposal for Acid Deposition Related Research Projects

The Minnesota Pollution Control Agency (Agency) is seeking proposals from qualified firms and individuals to conduct research related to acid precipitation and its impacts on aquatic and terrestrial resources. The Agency has been involved in acid precipitation research since 1980 and respondents should take into account the Agency work conducted in prior years as well as current studies. Proposals should enhance the Acid Precipitation Program's research activities and conform to the Program's overall goals and objectives of assessing the sensitivity of Minnesota resources to acid deposition.

The proposal should address the following:

1. Introduction to the proposed research;
2. Goals and objectives of the project;
3. Methods and equipment;
4. Anticipated results;
5. Schedule of events (time frame);
6. Budget;
7. Reporting to the Agency.

In addition to the above information, a vitae for each principal investigator should accompany the proposal. Previous research related to acid precipitation should be highlighted.

For research proposals in excess of \$50,000, the respondent must meet the requirements of *Minnesota Statutes* § 363.073 (1988), regarding affirmative action. An affirmative action certificate of compliance or evidence the respondent has not had more than 20 full-time employees in the state at any time during the previous 12 months should accompany the proposal. Respondents may receive assistance in obtaining a certificate of compliance by contacting the Contract Compliance Unit, Minnesota Department of Human Rights, at (612) 296-5663 (500 Bremer Tower, 7th Place and Minnesota Street, St. Paul, Minnesota 55101).

Interested parties may request a detailed Request for Proposal by calling or writing to:

Cliff Twaroski  
Minnesota Pollution Control Agency  
Division of Air Quality  
520 Lafayette Road North  
St. Paul, MN 55155  
(612) 296-7800

Proposals for acid precipitation related research are due in Mr. Twaroski's office no later than 4:30 p.m. sixty (60) days following the date of publication of this request in the *State Register*.

The actual dollars allotted for acid rain research will depend upon the extent of funding from the Legislature. The Acid Precipitation Program has committed a minimum of \$150,000 per year to fund its research projects for the 1990/91 Biennium beginning July 1, 1989. Depending upon the specific contracts awarded, the Agency may extend the contract beyond the 1990/91 biennium by negotiating up to two (2) one (1) year extensions to the contract at a reasonable time (60 days) prior to the expiration of the contract for the 1990/91 Biennium.

Gerald L. Willet  
Commissioner

## **Department of Trade and Economic Development**

### **Community Development Division**

#### **Notice of Request for Proposals for an Assessment of Rural Development Programs**

The Minnesota Department of Trade and Economic Development/Community Development Division is requesting proposals from firms interested in working with DTED/Community Development Division to assess a selected group of government rural development programs including education, training, economic development, human services, natural resources, and infrastructure. The objective of this project is to provide information necessary for the Rural Development Board to prepare recommendations for rural development policies and priorities as part of a *Rural Investment Guide*.

The analysis must assess state rural development programs in terms of unmet needs and gaps in services, overlap in program goals and objectives, potential conflict between program objectives, and adequacy of programs to meet projected demands. The consultant will be required to design criteria to measure each of the components in the assessment. The analysis will be based in large part on information compiled by the Rural Development Board's staff.

Proposals are being accepted from qualified firms with experience in program evaluation. More than one award could be made under this solicitation if it is determined that it would yield better and/or more economical final results.

The detailed Request for Proposal may be obtained from, and inquiries should be directed to:

Mark Lofthus  
Department of Trade and Economic Development  
Community Development Division  
900 American Center Building  
150 East Kellogg Boulevard  
St. Paul, MN 55101  
(612) 296-9090

The deadline for the submission of completed proposals will be 4:30 p.m., Friday, April 21.

David J. Speer, Commissioner  
Department of Trade and Economic  
Development

## **Department of Transportation**

### **Technical Services Division**

#### **Notice of Availability of Contract for Writing of MnDOT Geotechnical and Pavement Manual**

The Minnesota Department of Transportation (MnDOT) requires the services of a qualified consultant to rewrite the Department's Geotechnical and Pavement Manual. The work program would include the following:

1. Discussions with Department Steering Committee on manual purpose, format and scheduling (Chapters and sub-divisions already established).
2. Discussions with Department chapter specialists on needs and content.
3. Review of currently published Department geotechnical and pavement information.
4. Review of currently published federal soils and pavement publications, i.e., FHWA, AASHTO, etc.
5. Incorporate all collected information into preparation of chapter drafts and submit to the Department for review.
6. Revise drafts as necessary and submit final manual to Department for approval.

Estimated cost for the project—\$150,000.00 to \$170,000.00.

More detailed information on this subject is available by contacting G. R. Cochran, Pavement Engineer, at (612) 296-7134 or R. A. Adolfson, Geotechnical Engineer at (612) 296-3110.

## State Contracts and Advertised Bids

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Firms desiring consideration should submit their brochure and/or experience resume, such as Federal Forms 254 and 255 before April 4, 1989. This is not a request for proposal. Please send your response to:

Mr. James F. Weingartz  
Consultant Agreements Engineer  
Room 720S  
Transportation Building  
St. Paul, Minnesota 55155  
(612) 296-3051

## Department of Transportation

### Consultant Services for Advertising Campaign

Notice is hereby given that a Request for Proposal is available from the Minnesota Department of Transportation, which seeks the services of a qualified consultant to assist in the continued development of the successful "Heartland Express" advertising campaign currently being used in Minnesota by local transit operators outside the Twin Cities Metropolitan Area. This marketing project seeks to develop key marketing plans and promotional materials that will continue this successful advertising campaign launched in late 1987 as well as the positive impact the campaign has had on increasing public use of these services. Additionally the marketing plans and promotional materials developed will be used by the consultant in a presentation to system representatives so as to advance their working level of marketing expertise.

The Department of Transportation estimates that the project will cost \$20,000. Funding will be provided through Section 8 of the Urban Mass Transportation Act. The submission date for completed proposals is April 19, 1989. This Request for Proposal 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.

A copy of the Request for Proposal may be received by contacting Robert M. Works, Office of Transit, 815 Transportation Building, St. Paul, Minnesota 55155, telephone (612) 296-2533.

## Non-State Public Contracts

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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 Council

### Request for Proposal for Arbitrage Rebate Reporting Consultant

Notice is hereby given that the Metropolitan Council is requesting proposals to perform arbitrage rebate reporting and consulting in the area of arbitrage rebates. The contract will commence on July 1, 1989 and be complete on June 30, 1990. All proposals must be received no later than 2:00 p.m. on April 6, 1989. (Attention: Diane Archer, Finance)

Copies of the Request for Proposal may be obtained from the Metropolitan Council, Mears Park Centre, 230 East 5th Street, St. Paul, Minnesota 55101. Inquiries should be directed to Diane Archer, (612) 291-6612.

# State Grants

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

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

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## Department of Agriculture

### Notice of Availability of Loan Funds for Sustainable Agriculture

Applications for loans are now being accepted from farmers interested in adopting sustainable agriculture practices. Applications will be accepted continuously, and loans issued quarterly. To receive a loan application, or further information contact:

Mr. Dave Ball  
Sustainable Agriculture Loan Program  
Minnesota Department of Agriculture  
90 West Plato Blvd.  
St. Paul, MN 55107  
(612) 296-3820

Nominations for individuals to serve on the loan review panel are being accepted. The review panel shall consist of two lenders with agricultural experience, two Minnesota farmers using sustainable agriculture methods, a farm management specialist and a representative from a post secondary education institution. The panel will meet approximately four times each year to review, rank and recommend loan applications for financing.

## Department of Health

### Grant Funds Available for Programs For: Special Supplemental Food Program for Women, Infants and Children (WIC); Family Planning; Maternal and Child Health (MCH) Special Projects in four categories including: 1) Pre-Block, 2) Competitive, 3) Formula, and 4) Sudden Infant Death Syndrome (SIDS); Tobacco-Use Prevention; Indian Health; Migrant Health; Refugee Health; and Emergency Medical Services (EMS) Special Projects

The Minnesota Department of Health will have special funds available for the 1990-91 biennium in the following grant programs: Special Supplemental Food Program for Women, Infants and Children (WIC); Family Planning; Maternal and Child Health (in four categories): 1) Pre-Block, 2) Competitive, 3) Formula, and 4) Sudden Infant Death Syndrome (SIDS); Tobacco-Use Prevention; Indian Health; Migrant Health; Refugee Health; and Emergency Medical Services (EMS) Special Projects.

#### Description of Available Grants—Purpose, Scope, and Eligibility

##### **Special Supplemental Food Program for Women, Infants and Children (WIC)**

The WIC Program is a State and federally-funded grant program administered through the Minnesota Department of Health; grants are made available to qualified local agencies to deliver program services. WIC provides nutrition education services and vouchers for the purchase of specified nutritious food supplements to pregnant, postpartum, and nursing women, and to infants and children up to five years of age who are judged by health professionals to be at nutritional risk and who have family incomes at or below 185 percent of poverty income guidelines prescribed by the United States Department of Health and Human Services. The WIC Program serves as an adjunct to good health care during critical times of growth and development, in order to prevent the occurrence of health problems and to improve the health status of these persons. All current WIC agreements will terminate on September 30, 1989.

The types of local agencies which may apply for the WIC Grant are listed as follows in order of their priority for application approval:

- First priority is given to a community health service agency.
- Second priority is given to a public or private nonprofit health service agency.
- Third priority is given to a public human service agency.
- Fourth priority is given to a private nonprofit human service agency.

## State Grants

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An agency will be classified as either a health service agency or a human service agency, based on the type of services it primarily provides during its current fiscal year. The priority system applies to agencies that are applying for the first time, that have applied before, and that have previously administered the WIC program.

Only one application will be approved for each geographic area or special population. If two or more competing applicants have the same priority, a subpriority will be assigned as follows:

—First subpriority will be given to an agency whose employees can provide ongoing routine pediatric and obstetric care, and administrative services.

—Second subpriority will be given to an agency that must enter into a written agreement with another agency for either ongoing, routine pediatric and obstetric care, or administrative services.

—Third subpriority will be given to an agency that must enter into a written agreement with private physicians to provide ongoing, routine pediatric and obstetric care for women, infants, or children, or for participants not eligible for health services at the agency.

—Fourth subpriority will be given to an agency that must enter into a written agreement with private physicians to provide ongoing, routine pediatric and obstetric care for all participants.

—Fifth subpriority will be given to an agency that must provide ongoing, routine pediatric and obstetric care through referral to a health care provider.

The performance record, if any, of each competing agency will be taken into consideration. If all of the competing agencies have a poor performance record, the grant will be awarded to the agency with the least poor performance record. If only one of the competing agencies does not have a poor performance record, the grant will be awarded to that agency. If two or more competing agencies do not have a poor performance record, the grant will be awarded to the agency with the highest priority, or subpriority if appropriate, as described above. Factors which will be taken into consideration in judging a performance record include whether the agency has failed to:

—Maintain a participation level within two percent of the authorized participation level.

—Maintain or increase the rate of participation by pregnant women.

—Respond to the written findings of the Financial Review or Management Evaluation within thirty days.

—Take corrective action in the areas identified by the Financial Review or Management Evaluation within six months from the date of the approval of the corrective action plan.

—Submit a nutrition education plan or required revisions to the plan within the established time frame.

If additional information or revisions are needed to the application after it is submitted, a request will be made within 15 days of receipt. A complete, correct application must be received within 15 days of the date of the request, if two or more agencies have applied to serve the same geographic area or special population; if only one agency has applied, a complete, correct application must be received within 30 days of the date of the request. Applications which are not complete and correct at the specified deadlines will not be considered.

### Family Planning Special Projects

Family Planning is voluntary planning and action by individuals to attain or prevent pregnancy. Family Planning Special Projects (FPSP) grants will be made available on a competitive basis to local government agencies and non-profit corporations to continue, expand, or develop pre-pregnancy family planning services in accordance with the Family Planning Act (*Minnesota Statutes* 145.925) and the Family Planning Rule (*Minnesota Rules* Parts 4700.1900-4700.2550). Subject to Legislative approval, the amount of funding available for the two-year period 1990-91 is \$2,210,000, maintaining the 1989 appropriation level.

For the two-year program period 1990-91, award priority will be given to agencies whose applications meet the Criteria for Award of Family Planning Special Project grants found in the Family Planning Rule (4700.2300) and propose all family planning components in counties with no other in-county, publicly-subsidized family planning services (4700.2300, subp. 2).

Applications will be reviewed and scored, and award recommendations made according to the Criteria for Award in 4700.2300. If award recommendations exceed the FPSP funds available, in accordance with 4700.2400, applications will be funded in rank order according to scores earned from highest to lowest until all available funds are allocated. The lowest ranked applications will thus receive no funding. Note that this is a change from the previous cycle in which all eligible applications received funding, but at a prorated level.

To assist interested parties in developing applications, workshops on the FPSP grants application process will be conducted. Further information will be provided directly to agencies submitting a Notice of Intent.

In accordance with 4700.2550, 1990 and 1991 annual awards to 1989 recipients of FPSP funds shall not exceed \$30,000, or the final 1989 award, whichever is greater.

Annual awards to new applicants shall not exceed \$30,000.

**Maternal and Child Health (MCH) Special Projects**

Several categories of Maternal and Child Health Special Project (MCHSP) grants may be available:

**1. Pre-Block MCH Special Projects**

Funds may be available through this category for continuation of projects established prior to federal enactment of the Maternal and Child Health Services Block Grant. (Maternity and Infant Care, Children and Youth, Family Planning, Dental Health, Infant Intensive Care, and Sudden Infant Death Syndrome). The 1989 Session of the Minnesota Legislature is however considering a bill to merge this separate funding category into the Formula MCH Special Projects category except for continuation of statewide Sudden Infant Death Syndrome (SIDS) services which is discussed separately in this Notice of Availability. As Legislative action proceeds the six existing projects will be directly notified of funding arrangements and applicable procedures.

**2. Formula MCH Special Projects**

Eligible applicants are Community Health Boards as defined in *Minnesota Statutes* Section 145A.02, subdivision 5, except where a Pre-Block MCH Special Project located within the Community Health Board service area receives an allocation of funds which is greater than the amount which the area would be allocated under the formula.

If a Community Health Board does not submit an application for funding, the allocation for that area will be reallocated to other Community Health Board service areas for which approvable applications have been received. Other local public and private providers may not apply directly to the Department for funding through this category.

Each Community Health Board is required by Statute to establish a process for its service area by which proposals may be solicited and considered from all qualified programs that have interest in financial participation in the MCH Special Project, including those of non-profit and other public agencies and Indian reservations.

State law targets Formula MCH Special Project funds to serve high-risk and low-income (<200% of poverty) persons and currently establishes three program priorities: Improved Pregnancy Outcome Program, Family Planning Program, and Handicapped/Chronically Ill Children's Program.

The 1989 Legislative Session is considering a bill to add Childhood Injury Reduction Program as a fourth priority. Information in this regard will be directly disseminated to eligible Community Health Boards as Legislative action proceeds.

If the Pre-Block Special Projects are merged into the Formula MCH Special Projects category, as is being considered by the 1989 Legislative Session, there may be special considerations for those Community Health Boards in which the Pre-Block Projects are located.

The only instance in which funds may be used for programs that do not meet Legislative program priorities is when the Community Health Board can demonstrate that existing programs fully address the needs of the highest risk target populations in the priority programs.

The total level of funding available for the Formula MCH Special Projects for the two-year period, Calendar Years 1990-91, is yet to be determined by Legislative action. Each eligible Community Health Board will be directly notified of the maximum funding available for its service area as soon as Legislative action permits the calculations to be made.

**3. Competitive MCH Special Projects**

Funds may be available for a competitive grants program for Community Health Board service areas ineligible to participate in the Formula MCH Special Projects grant program, i.e., the service areas of Minneapolis and St. Paul. Eligible agencies include 1988-89 MCH Special Project grantees and any other governmental or other non-profit agencies that propose to provide services targeted to the high risk and low income (<200% of poverty) persons in the program priority areas identified above for Formula MCH Special Projects. The 1989 Session of the Legislature is however considering a bill to merge this separate funding category into the Formula MCH Special Projects category. Eligible agencies that submit Notices of Intent will be directly notified of funding arrangements and application procedures.

**4. Sudden Infant Death Syndrome (SIDS) MCH Special Project**

Funds may be available through this category for a single statewide project for the provision of technical support and direct service activities including:

- Promote accurate identification of SIDS cases through autopsy.
- Provide training and technical support to community professionals who work with the families of SIDS victims, including police, emergency responders, clergy, funeral directors, physicians, nurses, day care providers, and mental health professionals.
- Promote regional parent support groups for SIDS families.
- Provide SIDS education to the general public.

## State Grants

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Eligible agencies include the 1988-89 SIDS Project, funded by a Pre-Block MCH Special Project grant and any other governmental or nonprofit agencies.

Eligible agencies that submit Notices of Intent will be directly notified of funding arrangements and application procedures.

### **Tobacco-Use Prevention**

Smoking continues to be the largest preventable cause of death and disability in the United States and in Minnesota. The purpose of the Tobacco-Use Prevention Special Project Grants is to promote the reduction of smoking and smokeless tobacco use in Minnesota. Long-term change in an addictive behavior such as smoking is difficult to achieve; therefore, grant proposals with interim goals which aim at short-term changes in smoking-related knowledge, beliefs, attitudes, and behaviors are encouraged. Proposals must demonstrate a philosophy consistent with The Minnesota Plan for Nonsmoking and Health, and with recommendations contained in the executive summaries of the Minnesota Nonsmoking Initiative biennial reports to the Minnesota Legislature in 1987 and 1989. A limited number of projects will be funded on a competitive basis. The funds are earmarked for projects having either 1) community-wide, or 2) statewide scope. Only local boards of health are eligible to apply for grants for community-wide projects, and these projects will coordinate with the MDH mass media program and will focus efforts on one or both of these targets: 1) adolescent and young women. Nonprofit agencies and organizations, as well as local boards of health, are eligible to apply for grants for statewide projects. Statewide projects may also focus effort on worksites. Projects selected will be funded for up to a two-year period. Complete application materials will be available July 31, 1989 and will be sent to all agencies which have submitted a letter of intent by that date.

### **Indian Health**

The purpose of this program is to provide assistance to community health boards to establish, operate, or subsidize clinic facilities and services to furnish health services for American Indians who reside off reservation. Eligible applicants are local boards of health.

### **Migrant Health**

The purpose of this program is to fund the establishment, operation, or subsidizing of clinic facilities and services, including mobile clinics, to furnish health services for migrant agricultural workers and their families in areas of the state in which significant numbers of migrant workers are located. A "Migrant Agricultural Worker" means any individual whose principal employment is in agriculture on a seasonal basis who has been so employed within the last 24 months, and who established a temporary residence for the purposes of such employment. Eligible applicants include cities, counties, groups of cities or counties, or non-profit corporations. First consideration will be given to organizations that can provide services on a statewide basis.

### **Refugee Health**

The purpose of this program is to assist local health agencies in providing health assessments and follow-up activities to refugees for problems of public health concern. The target population is refugees as defined in Section 101 (a)(42) of the Immigration and Nationality Act. Any such persons receiving this alien classification, regardless of national origin, are eligible for services under this program. Exceptions are Cubans and Haitians, who are legally classified as "entrants", and certain other refugees (mainly Soviet Jewish refugees) whose medical care and other resettlement needs are to be privately provided through a special matching grant program. Eligible applicants are community health service agencies, which are experienced in providing or facilitating health assessments and follow-up care to refugees and are located in a county which has become home to more than 100 refugees whose primary resettlement was to Minnesota in FFY 88. Not more than one grant will be issued for each eligible county. Funds will be awarded on a formula basis based on the number of refugees resettled in FFY 88 in the county. Each grant is not expected to exceed \$20,000 annually.

### **Emergency Medical Services (EMS) Special Project Grants**

The purpose of this program is the ultimate reduction of death and disability due to medical emergencies. Approximately \$170,000 is expected to be available for the biennium, subject to Legislative approval. Community Health Services (CHS) agencies, organizations, institutions and individuals are eligible to apply. While projects which have statewide impact are sought, that impact need not be immediate nor comprehensive; demonstration projects of a local nature which have potential applicability in other settings will be considered. The Department expects to fund several projects during an 18 month period of the biennium.

### **Procedures and Information for Applying for Grants**

#### **Step 1: Applicants Must Provide Notice of Intent to Apply for Funds**

Any organization interested in applying for funds should submit a Notice of Intent to:

Commissioner of Health  
Minnesota Department of Health  
717 Delaware Street S.E.

P.O. Box 9441  
Minneapolis, MN 55440  
ATTN: Grants Mgmt, Room 388

The Notice of Intent must be received by the Department of Health no later than 4:30 p.m., Friday, April 21, 1989. A copy of the Notice of Intent must also be sent to the grant manager identified in the last section of this notice. Those organizations applying for more than one grant may submit one Notice of Intent as long as a copy is sent to each respective grant manager. In addition, non-Community Health Service Agencies must submit a copy of the Notice of Intent to the CHS Board of Health in their geographical service area.

The Notice of Intent must include the following information:

Name of Applicant Organization

Type of Organization (e.g., "Community Health Board", "Non-Profit Hospital")

Name, Address, and Telephone Number of a Contact Person

Name of Grant Program(s)

Proposed Geographic Area and/or Special Population of Project (for WIC only)

(**Note:** If interested parties intend to submit a proposal that the Department of Health judges is of statewide significance, the Department will provide one copy of the written Notice of Intent to each CHS board of health in the state. Any CHS board of health may subsequently request one copy of the completed application form from the applicant for review and comment.)

### **Step 2: The Department will Provide Application Materials**

An organization expressing an intent to apply will be provided with pertinent application materials, information on the review and award process, and the names and telephone numbers of Minnesota Department of Health consultants available to provide technical assistance concerning preparation of the grant application. WIC application materials will be mailed out upon receipt of a Notice of Intent. Tobacco-Use Prevention and EMS Special Project grant application materials will be mailed to organizations expressing an intent to apply no later than July 31, 1989. All other application materials will be mailed out to organizations no later than May 4, 1989.

### **Step 3: Applicants Must Submit Completed Applications According to the Following Schedule**

The original plus two additional copies of each completed application must be received by the Minnesota Department of Health office listed in the application materials you receive in Step 2: above, no later than 4:30 p.m. on the dates identified below. The completed application must also be submitted to appropriate Regional Development Commissions (RDCs) and CHS Community Health Boards in the applicant's proposed geographic service area no later than the deadline of receipt of the application at the Minnesota Department of Health.

WIC applications and EMS Special Projects Applications not received by the deadline will not be considered. Other applications not received by the deadline will be reviewed and considered for funding only after all other applications are reviewed and funded (in accordance with available funds).

Grant application receipt deadlines are no later than 4:30 p.m. on the following dates:

WIC	— June 1, 1989
Family Planning Special Project	— July 31, 1989
Maternal and Child Health Special Projects:	
—Pre-Block MCH Special Project	— July 31, 1989
—Competitive MCH Special Projects	— August 31, 1989
—Formula MCH Special Projects	— September 29, 1989
—Sudden Infant Death Syndrome (SIDS) MCH Special Project	— July 31, 1989
Tobacco-Use Prevention	— September 29, 1989
Indian Health	— October 31, 1989 application to be included as a part of the CHS Plan
Migrant Health	— July 31, 1989
Refugee Health	— July 31, 1989
Emergency Medical Services	— September 29, 1989

### **Step 4: The Department will Award Funds According to the Following Schedule**

Applications will be reviewed as submitted except that, at its discretion, the Department may request further clarification. Grants will be awarded in accordance with priority areas and criteria identified in the application materials. Applicant organizations will be notified in writing of the grant award decisions and contracts will be completed to begin according to the following schedule:

## State Grants

	<u>Award Decision</u>	<u>Contract</u>
WIC	Within 30 days of receipt of completed application, but no sooner than June 30.	October 1, 1989
Family Planning Special Project	September 29, 1989	January 1, 1990
Maternal and Child Health Special Projects:		
—Pre-Block MCH Special Projects	September 29, 1989	January 1, 1990
—Competitive MCH Special Projects	October 31, 1989	January 1, 1990
—Formula MCH Special Projects	November 30, 1989	Not Applicable
—Sudden Infant Death Syndrome (SIDS) MCH Special Project	September 29, 1989	January 1, 1990
Tobacco-Use Prevention	October 31, 1989	January 1, 1990
Indian Health	December 31, 1989	January 1, 1990
Migrant Health	September 29, 1989	January 1, 1990
Refugee Health	Within 30 days of receipt of completed application.	October 1, 1989
Emergency Medical Services Special Projects	October 31, 1989	January 1, 1990

### Duration of Funding

EMS Special Projects grants funds will be awarded for the period of January 1, 1990, through June 30, 1991. WIC and Refugee Health Grants fund will be awarded for the period of October 1, 1989, through September 30, 1991. For all other grants listed in this notice, funds will be awarded for the period of January 1, 1990, through December 31, 1991. Funding for the full award period of all grants will be dependent upon federal and state appropriations.

### Minnesota Department of Health Grant Managers

The following staff at the Minnesota Department of Health are available for further information regarding the special grants. As indicated above, send a copy of the Notice of Intent to the grant manager of each special grant for which you intend to apply.

#### Special Supplemental Food Program for Women, Infants and Children (WIC):

Pati Maier  
WIC Section  
Minnesota Department of Health  
717 Delaware Street S.E.  
P.O. Box 9441  
Minneapolis, MN 55440  
612/623-5115

#### Family Planning Special Projects

Erica L. Fishman, MSW  
Family Planning/Reproductive Health Unit  
Minnesota Department of Health  
717 Delaware Street S.E.  
P.O. Box 9441  
Minneapolis, MN 55440  
612/623-5267

#### Maternal and Child Health Special Projects

Ronald G. Campbell, M.D.  
Section of Maternal and Child Health Technical Services  
Minnesota Department of Health  
717 Delaware Street S.E.  
P.O. Box 9441  
Minneapolis, MN 55440  
612/623-5539

#### Indian Health

Lorene Wedeking  
Public Health Nursing Section  
Minnesota Department of Health  
717 Delaware Street S.E.  
P.O. Box 9441  
Minneapolis, MN 55440  
612/623-5235

#### Migrant Health

Lorene Wedeking  
Public Health Nursing Section  
Minnesota Department of Health  
717 Delaware Street S.E.  
P.O. Box 9441  
Minneapolis, MN 55440  
612/623-5235

#### Refugee Health

Diane C. Peterson  
Refugee Health Unit  
Minnesota Department of Health  
717 Delaware Street S.E.  
P.O. Box 9441  
Minneapolis, MN 55440  
612/623-5569

Emergency Medical Services Special Projects

Don Hedman  
Emergency Medical Services Section  
Minnesota Department of Health  
393 N. Dunlap Street  
P.O. Box 64900  
St. Paul, MN 55146-0900  
612/643-2165

Tobacco-Use Prevention

Arlene Thornton  
Section for Nonsmoking and Health  
Minnesota Department of Health  
717 Delaware Street S.E.  
P.O. Box 9441  
Minneapolis, MN 55440  
612/623-5630

## **Department of Jobs and Training**

### **Economic Opportunity Office**

#### **Grant Funds Available for Innovative Housing Projects**

The Minnesota Department of Jobs and Training, Economic Opportunity Office (DJT-EOO) is announcing the availability of \$100,000 for innovative housing projects. DJT-EOO is requesting proposals from Community Action Agencies, Indian Reservation Business Committees, local units of government, and private and public non-profit organizations for projects which will initiate or provide innovative housing projects.

The purpose of the project funds would be for:

1. Initiation or expansion of comprehensive services to homeless individuals which provide long-term low-income affordable housing options;
2. Promotion of private sector involvement and other assistance which would increase the availability of low-income affordable housing; and
3. Low-income affordable housing projects development and planning costs.

Ineligible activities for these funds would include: housing studies or housing needs assessments; construction, renovation, or rehabilitation costs of buildings; or purchase of buildings or land.

DJT-EOO anticipates project proposals to fall within an average of \$20,000 to \$30,000 a piece.

Interested parties may request further information and application guidelines by calling:

Mark Kaszynski  
Minnesota Department of Jobs and Training  
Economic Opportunity Office  
670 American Center Building  
150 East Kellogg Blvd.  
St. Paul, MN 55110  
(612) 297-2590  
or application guidelines only: (612) 296-4658.

Proposals are due to Mr. Kaszynski no later than 4:00 p.m. on Friday, April 28, 1989.

Proposals will be funded for one year with expected start up dates of mid-May 1989.

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

### **Request for Proposals for Grant Funding for Legal Services and Alternative Dispute Resolution Programs for Low Income People**

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

To request information on the grant application process, please contact:

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

**Application Deadline: April 14, 1989**

Dated: 15 February 1989

# Supreme Court Decisions

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## Decisions Filed 17 March 1989

**C8-88-636 State of Minnesota v. Jocephus Lomax, Appellant. Court of Appeals.**

Presence of aggravating circumstance justified trial court in imposing sentence of 120 months for burglary in the first degree, two times the presumptive sentence duration, but additional departure with respect to consecutive service in connection with sentence for assault with a dangerous weapon violated the rule of *State v. Evans*, 311 N.W.2d 481 (Minn. 1981).

Remanded for resentencing. Popovich, C.J.

**C2-87-1433 Beth Becker Runia, et al. v. Marguth Agency, Inc. et al., petitioners, Appellants. Court of Appeals.**

The trial court's finding that defendant's negligent misrepresentation of full coverage was a proximate cause of plaintiff's damages is not clearly erroneous.

Defendants in a second lawsuit are not bound by the judgment in the first lawsuit to which they were neither privy nor a party. A new trial on damages is ordered.

Affirmed in part; reversed in part; remanded for a new trial on the issues of damages. Wahl, J.

Concurring specially, Simonett, J.

Took no part, Keith, J.

**C0-88-145 Glen Paul Court Neighborhood Association, et al., intervenors, petitioners, Appellants v. Celia N. Paster, d/b/a Paster Enterprises v. City of Shoreview. Court of Appeals.**

The amendment to the proposed comprehensive zoning ordinance, rezoning the 2.77 acre site in question after the properly noticed public hearing, required mailed notice pursuant to *Minnesota Statutes* § 462.357, subd. 3 (1988).

The city's failure to send individual mailed notice to affected property owners in the belief such notice was not required was not a bona fide attempt to comply with the statute.

The amendment rezoning the 2.77 acre site, adopted without individual mailed notice to affected property owners and without a hearing, is invalid and a nullity.

The city's defense of this lawsuit was not in bad faith; the award of attorney fees was in error.

Reversed in part; affirmed in part. Wahl, J.

Took no part, Keith, J.

**C7-88-921 Robert Ronald Holmes, petitioner, Appellant v. State of Minnesota. Court of Appeals.**

Defendant's conduct was not significantly more serious than that typically involved in commission of second-degree intentional murder, to which defendant pleaded guilty, nor was there any other adequate reason offered by trial court to justify double durational departure from presumptive sentence.

Affirmed as modified. Wahl, J.

**C7-88-1745 William Thorson, et al., v. Rice County District One Hospital, Petitioner, Hanscom Ambulance Company. Rice County.**

A medical malpractice suit defendant is estopped from prevailing on a motion to dismiss with prejudice after expiration of the time for furnishing the information required by *Minnesota Statutes* § 145.682, subd. 4 (1988), when, by conduct inconsistent with assertion of the statutory right, its attorneys have misled opposing counsel into incurring investigation expenses to develop facts relative to the merits of the injured party's claim.

Petition for writ of prohibition quashed. Kelley, J.

Took no part, Keith, J.

**CX-88-766 State of Minnesota, Appellant, v. Curtis Lowell Grover. Washington County.**

*Minnesota Statutes* § 626.556, subd. 6 (1986), subjecting certain professionals to a misdemeanor liability if they fail to report child abuse, as interpreted, is not unconstitutionally vague or overbroad.

Reversed and remanded. Coyne, J.

Took no part, Keith, J.

**C7-88-1227 Stanford Lee Parker, petitioner, Appellant v. State of Minnesota. Hennepin County.**

District court properly denied petition for postconviction relief based on claim of witness' recantation of his trial testimony.

Affirmed. Coyne, J.

Took no part, Keith, J.

# Announcements

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**Campground Hosts:** The Minnesota Department of Natural Resources (DNR), Division of Forestry, is again recruiting volunteers to work as "campground hosts" at selected state forest campgrounds this summer. Campground hosts are unpaid volunteers who are given a primitive campground campsite free of charge, in exchange for assisting other campers and visitors. Foresters say the ideal campground host is a mature, experienced camper who loves the outdoors, has a genuine interest in protecting natural resources and is willing to assist other campers. Officials said they would like to employ hosts who can stay all summer, but will consider those who are willing to stay a minimum of four weeks. Persons interested in further information and an application form, should contact John Hellquist, Forest Recreation Specialist, Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4044.

**Wildlife Food Packets Available:** The Four Season Wildlife Food Packets issued annually by the Department of Natural Resources (DNR) will be available March 20, in time for spring planting. Plants in the packet include food and habitat for wildlife and are suitable for planting throughout Minnesota. Each packet containing 500 plants, includes red splendor, crabapple, wild plum, ginnala maple, juneberry, red osier dogwood, chokecherry, cotoneaster and buffaloberry. Price of the packet is \$135 plus tax. For more information, contact the Minnesota Department of Natural Resources, P.O. Box 95 "Tree Sales", Willow River, MN 55795, or call (218) 372-3183 or (612) 297-2973 ext. 13.

**1989 Fishing Licenses Required March 1:** March 1 is the beginning of the new fishing season, and the Department of Natural Resources (DNR) reminds anglers that 1989 Minnesota fishing licenses are required on that date. Licenses and trout and salmon stamps are available at all county auditor offices, as well as the DNR License Bureau, 500 Lafayette Road, St. Paul, MN.

**Environmental Quality Board:** Last fall the Minnesota Environmental Quality Board held sessions of the 1988 Environmental Congress in Alexandria, Bemidji, Duluth, Mankato, and Saint Paul to hear what Minnesota's citizens thought about environmental protection programs in general and about plans to protect Minnesota's ground water in particular. A fifty page report on those meetings will be available from the EQB on March 20. The report includes: What issues Minnesotans consider the most important; Ideas from Minnesotans on how to pay for environmental programs; and Public comments on the proposed plans to protect Minnesota's ground water. If you attended any of the sessions of the Congress, you will be receiving a copy of the report shortly. Others can request a copy of the report by calling or writing the EQB. Minnesota Environmental Quality Board, 300 Centennial Building, 658 Cedar Street, St. Paul, MN 55155, (612) 296-8253.

**Environmental Quality Board:** The EQB Task Force on Genetically Engineered Organisms has completed its work and a report on its findings and recommendations is now available from the EQB. The report includes a brief description of genetic engineering and the environmental issues involved in this new technology, a summary of federal government regulations that apply to genetic engineering, what other states and countries are doing to regulate releases of genetically engineered organisms into the environment, what Minnesota's existing laws and regulations cover, and recommendations for additional state activities. To receive a free copy of the report, call or write the EQB. Minnesota Environmental Quality Board, 300 Centennial Building, 658 Cedar Street, St. Paul, MN 55155 (612) 296-8253.

**Arts Board Deadlines Approaching:** Individual artists and arts presenters should request applications now for Arts Board grant deadlines in April 1989. The deadlines are: **April 7, 1989** for Series Presenters Grants, and **April 21, 1989** for Career Opportunity Grants. Series Presenters grants support groups which sponsor five or more arts events during an annual season in a community; Career Opportunity grants help individual artists achieve specific artistic goals. Interested persons should call the Minnesota State Arts Board at (612) 297-2603 for information and application forms.



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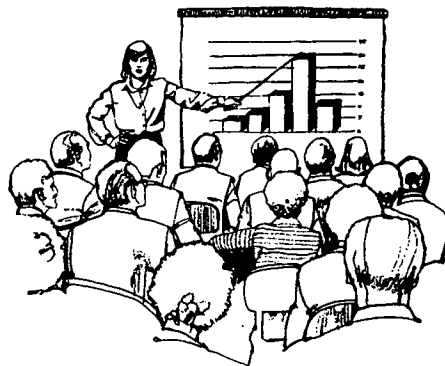
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