

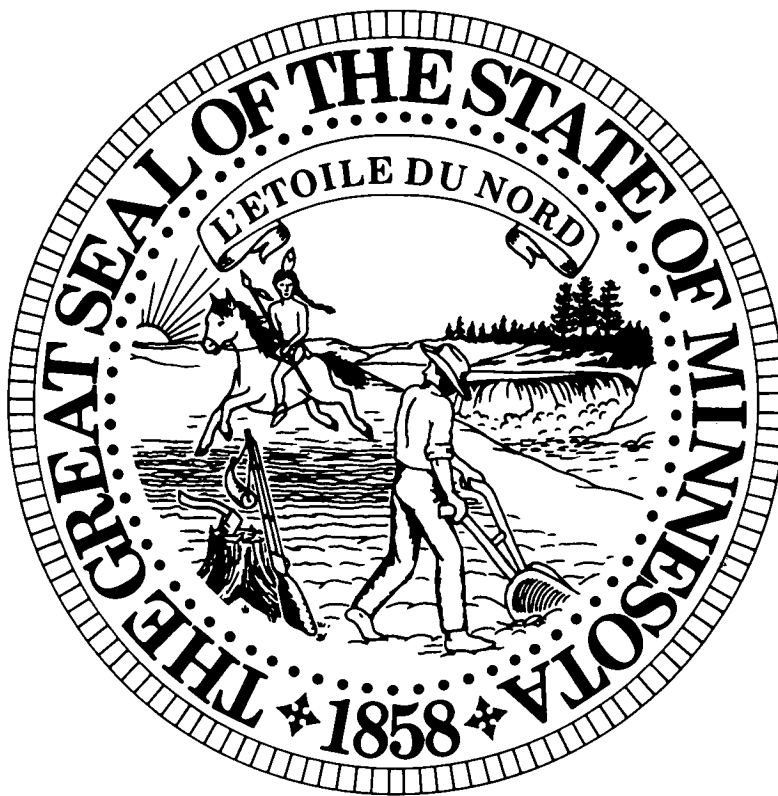
89, May 30.

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State of Minnesota

STATE REGISTER

Department of Administration—Print Communications Division



Published every Monday

30 May 1989

Volume 13, Number 48

Pages 2851-2890

STATE REGISTER

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

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

| Vol. 13 Issue Number | *Submission deadline for Adopted and Proposed Rules** | *Submission deadline for Executive Orders, Contracts, and Official Notices** | Issue Date |
|----------------------------|--|--|----------------|
| 48 | Monday 15 May | Monday 22 May | Tuesday 30 May |
| 49 | Monday 22 May | Tuesday 30 May | Monday 5 June |
| 50 | Tuesday 30 May | Monday 5 June | Monday 12 June |
| 51 | Monday 5 June | Monday 12 June | Monday 17 June |

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *State Register* is published by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$3.50 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

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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 Human Services

Proposed Permanent Rules Relating to Diagnostic Related Group Classification

Notice of Change to Hospital Diagnostic Categories, *Minnesota Rules*, Part 9500.1100

The purpose of this notice is to provide information concerning three changes that affect payments for inpatient hospital services under the Medical Assistance and General Assistance Medical Care Programs. The changes are effective for admissions occurring on or after July 1, 1989 and have been planned to coincide in order to minimize operational disruption to hospitals. Aggregate payments to the industry for inpatient services are not altered by these provisions although individual hospital payment levels may be impacted by the change in diagnostic category relative values and base rates may differ from the past due to a change in a hospital's case mix index. However, the primary result is that payments are more properly aligned to the services provided due to an increase in the number of diagnostic categories and thus, a decrease in the averaging process.

1. Version 6 (fifth revision) of the Health Systems International Diagnostic Category Grouper software replaces version 4. Version 6 is an upgrade that will provide for more precise diagnostic grouping and relative value accuracy.

2. *Minnesota Rules*, Parts 9500.1110, subdivisions 2 and 3 require the commissioner to redetermine the relative values of the diagnostic categories each biennium based on data from the two most recently completed state fiscal years and to publish the revised relative values at least 30 days prior to the start of the biennium. However, a delay will occur because both the House and Senate have passed bills that will alter all relative values due to a change in payment for neonate transfers. All Minnesota and Minnesota local trade area hospitals will receive a copy of the relative values and other pertinent information such as average length of stay as soon as possible. The relative values will also be published in the *State Register* at that time. Although this delay is regrettable, it is felt necessary in the interest of avoiding confusion.

3. *Minnesota Statutes*, § 256.969, subd. 2, provides the commissioner with the authority to reconfigure the diagnostic categories after notice in the *State Register* and a 30 day comment period. Currently, 477 Diagnostic Related Groups (DRGs) are compressed into 39 categories. The proposed reconfiguration listed below results in 65 categories and are primarily based on the recommendations of a consulting group to the industry. However, recommendations concerning two categories are not included because implementation would have been logistically difficult as it required a break down by length of stay. In other cases, the current system was more refined than the recommendations and thus a change would not further the goal of service and payment alignment.

Questions or comments concerning the diagnostic category changes should be directed to:

Paul Olson (612) 296-5620
Jane Nystul (612) 296-5591
Richard Tester (612) 296-5596
Hospital Section
Audit Division
444 Lafayette Road, Fifth Floor
St. Paul, Minnesota 55155-3836

Rules as Proposed

9500.1100 DEFINITIONS.

Subpart 1. to 19. [Unchanged.]

Subp. 20. **Diagnostic categories.** "Diagnostic categories" means the list of diagnosis related groups in the diagnostic classification system established under *Minnesota Statutes*, section 256.969, subdivision 2, according to the diagnosis related groups (DRGs) under medicare with adjustments as follows:

| Diagnostic Categories | DRG Numbers Within the Diagnostic Category |
|--|---|
| A. Diseases and Disorders of the Nervous System | (1-35) |
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| <u>A.3.</u> | (<u>6, 8, 17, 19, 21, 23-26, 30-33</u>) |
| B. Diseases and Disorders of the Eye | (36-48) |
| C. Diseases and Disorders of the Ear, Nose, <u>Mouth</u> , and Throat | (49-74) |
| <u>C.1.</u> | (<u>70, 74</u>) |
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| <u>E.2.</u> | (<u>103-118, 120</u>) |
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| <u>E.4.</u> | (<u>119</u>) |
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| <u>J.2.</u> | (<u>290, 291, 294, 295, 298, 299</u>) |
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| <u>K.2.</u> | (<u>311, 312, 314, 317, 321- 330, 332</u>) |

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

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| | <u>V.2.</u> | <u>(444, 446-451, 455)</u> |
| | <u>V.3.</u> | <u>(439-443)</u> |
| W. | Burns | (456-460) |
| | <u>W.1.</u> | <u>(457-459)</u> |
| | <u>W.2.</u> | <u>(456, 460, 472)</u> |
| X. | Factors Influencing Health Status and Other Contacts with Health Services | - (461-467) |
| Y. | Bronchitis and Asthma (Ages 0-1) | (98) |
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| CC. | Caesarean sections | (370-372-371) |
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| II. | Unrelated Operating room procedure | (468, <u>476, 477)</u> |
| JJ. | Cases which could not be assigned to other diagnostic categories | (469-470) |

| | | |
|-------------------------------|--|-----------------|
| KK. | Extreme Immaturity | (386) |
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| NN. | Full term Neonates or Neonates Died or Transferred | (385, 389, 390) |
| Subp. 21. to 52. [Unchanged.] | | |

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.

Board of Animal Health

Adopted Permanent Rules Relating to the Maintenance, Operation, and Inspection of Kennels and Dealers

The rules proposed and published at *State Register*, Volume 13, Number 31, pages 1847-1851, January 30, 1989 (13 S.R. 1847) are adopted as proposed.

Board of Education

Adopted Permanent Rules Relating to Multicultural and Gender Fair Curriculum

The rule proposed and published at *State Register*, Volume 13, Number 14, pages 800-801, October 3, 1988 (13 S.R. 800) is adopted with the following modifications:

Rules as Adopted

3500.0550 MULTICULTURAL AND GENDER FAIR CURRICULUM.

Subpart 1. **Establishment of a plan.** The school board in each district shall adopt a written plan to assure that the curriculum developed for use in district schools establishes and maintains an inclusive educational program. An inclusive educational program is one that employs a curriculum that is developed and delivered so that students and staff gain an understanding and appreciation of:

A. The cultural diversity of the United States. Special emphasis must be placed on American Indians/Alaskan natives, Asian Americans/Pacific Islanders, Black Americans, and Hispanic Americans. The program must reflect the wide range of contributions by and roles open to Americans of all races and cultures.

Subp. 2. **Specifications for the plan.** The current plan must:

B. determine the extent to which the district curriculum advisory committee established by *Minnesota Statutes*, section 126.666, subdivision 3 2, will be involved in implementing this part;

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

Adopted Rules

Department of Health

Adopted Permanent Rules Relating to Drug and Alcohol Testing Laboratories; Licensing

The rules proposed and published at *State Register*, Volume 13, Number 18, pages 1079-1084, October 31, 1988 (13 S.R. 1079) are adopted as proposed.

Rules as Adopted

DRUG AND ALCOHOL TESTING OF EMPLOYEES

4740.1010 DEFINITIONS.

Subp. 8. **Employer.** "Employer" means a person, independent contractor, or entity located or doing business in this state and having one or more employees, and includes the state of Minnesota and all political or other governmental subdivisions of the state.

Subp. 9. **Initial screening test.** "Initial screening test" means a drug or alcohol test ~~that can detect the~~ the results of which indicate presumptive presence of a drug, drug metabolite, or alcohol in a sample. Techniques for an initial screening test are described in part 4740.1070, subparts 5 and 6.

Subp. 10. **Initial screening test minimum detection level.** "Initial screening test minimum detection level" means the level at which a laboratory is capable of detecting a drug or drug metabolite using a screening test. The values are derived from the NIDA initial cutoff levels in Mandatory Guidelines for Federal Workplace Drug Testing Programs; Final Guidelines; Notice, paragraph 2.4(e)(1), as provided by the Federal Register, Volume 53, Number 69, page 11983, Monday, April 11, 1988.

Subp. 11. **Job applicant.** "Job applicant" means a person, independent contractor, or person working for an independent contractor who applies to become an employee of an employer, and includes a person who has received a job offer that is contingent on the person passing drug or alcohol testing.

Subp. ~~12.~~ **12. Laboratory.** "Laboratory" means a person, corporation, or other entity, including a governmental entity, that examines, analyzes, or tests samples.

Subp. ~~13.~~ **13. NCCLS.** "NCCLS" means the National Committee for Clinical Laboratory Standards, Villanova, Pennsylvania.

Subp. ~~14.~~ **14. NIDA.** "NIDA" means the National Institute ~~for~~ on Drug Abuse, of the Alcohol, Drug Abuse, and Mental Health Administration, United States Health and Human Services Department.

Subp. ~~15.~~ **15. Positive test result.** "Positive test result" means a finding of the presence of drugs, alcohol, or their metabolites in the sample tested by a confirmatory test in levels at or above the threshold detection levels set by the commissioner under part 4740.1080.

Subp. ~~16.~~ **16. Presumptive presence.** "Presumptive presence" means some indication of the presence of a drug, drug metabolite, or alcohol that, in the judgment of the laboratory director or the laboratory director's designee, provides a reasonable basis for conducting a confirmatory test. The presumptive presence of a drug, drug metabolite, or alcohol is not a positive test result.

Subp. ~~17.~~ **17. Sample.** "Sample" means a substance derived from a nonhuman source and collected for the purpose of analysis or a tissue, blood, excretion, or other bodily fluid specimen obtained from a human for the detection of a chemical, etiologic agent, or histologic abnormality.

Subp. ~~18.~~ **18. Threshold detection level.** "Threshold detection level" means ~~that the~~ the level at which the presence of a drug, drug metabolite, or alcohol could be reasonably be expected to be detected in a sample by a confirmatory test performed by a laboratory that meets the standards of parts 4740.1010 to 4740.1090. The threshold detection level is neither meant to indicate impairment nor any relationship between the time of the test and the time of use of a drug or alcohol by the employee or applicant. The threshold detection level simply indicates the level at which a valid conclusion can be drawn that the drug or alcohol is present in the employee's or applicant's sample.

4740.1020 LICENSE REQUIRED FOR LABORATORIES PERFORMING DRUG AND ALCOHOL TESTING FOR EMPLOYERS.

A laboratory that performs drug and alcohol laboratory tests of employees and job applicants for Minnesota employers must possess a valid license to do so. A laboratory must obtain a license according to the procedures in parts 4740.0100 to 4740.0170, as proposed at 13 State Register 1079 and as subsequently adopted. In addition to the information required on an application for a license, a laboratory that performs only initial drug and alcohol screening tests must disclose on its application the name of the licensed laboratory that performs its confirmatory tests.

4740.1050 TERM OF LICENSE.

Laboratories shall be licensed for a term of one year ~~beginning on July 1 and ending June 30~~. Unless a laboratory submits a timely application for license renewal, the license expires without further notice at the end of the term.

4740.1060 FEES.

Subpart 1. **Annual license fee required.** The laboratory must pay an annual license fee and other required costs with the initial application for license and with each renewal application. The amount of the fee and other required costs is determined under subpart 3. ~~It is based upon the number of samples taken from Minnesota employees, that the laboratory tests.~~ A laboratory must pay the fees and costs required under this part before a license is issued.

Subp. 2. **Information required to determine fee.** The laboratory must submit an estimate of the ~~number of annual Minnesota employee samples to be tested for drugs and alcohol~~ laboratory annual receipts during the current accounting year with the application for a license or license renewal. The laboratory must submit to the department quarterly reports of the ~~volume of actual employee drug and alcohol testing samples~~ laboratory annual receipts and the results of proficiency testing results for the past quarter. The statistics from these reports are used to adjust the license fee collected from the laboratory on its next license renewal application to reflect actual ~~sample volume~~ laboratory annual receipts.

Subp. 3. **License fee schedule.** ~~The annual license fees are determined according to the following schedule: fee is made up of an application fee and inspection fee as described in items A and B. The fees are nonrefundable.~~

| | | |
|---|---|---|
| License fee = (a) | | \$1,200 + |
| (b) Total annual alcohol samples taken from Minnesota employees | + | Total annual drug samples X \$3/sample taken from Minnesota employees |

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A sample obtained for both alcohol and drug testing is considered as one alcohol sample and one drug sample for fee purposes. The \$1,200 in part (a) of the schedule is nonrefundable.

A. The application fee is determined as follows:

| <u>Laboratory Annual Receipts</u> | <u>License fee</u> |
|-----------------------------------|--------------------|
| less than \$500,000 | \$ 600 |
| \$500,000 to \$2,000,000 | 1,200 |
| \$2 million to \$10 million | 1,800 |
| more than \$10 million | 2,400; and |

B. The inspection fee is \$1,200 per year per lab.

C. Laboratories located outside Minnesota are assessed actual cost of additional labor, travel, and lodging expenses the department incurs in the laboratory inspection.

4740.1065 ANNUAL INSPECTION.

The commissioner shall conduct periodic inspections of laboratories licensed for drug and alcohol testing of employees. Inspections ~~shall~~ may be unannounced and occur at least annually.

4740.1070 PERFORMANCE METHODS REQUIRED FOR ISSUANCE OF A LICENSE.

Subp. 2. **Test samples.** The usual sample for drug testing is freshly voided urine. A breath, urine, or blood sample may be used for initial screening tests. When the breath test is used as the initial screening test for alcohol, a blood sample shall be obtained for the confirmatory test. The blood sample shall be collected immediately after the breath test. When an initial positive urine test indicates the presence of drugs, a blood ~~test may~~ or urine sample shall be used for the confirmatory test.

The sample volume must be adequate to allow for the initial screening test, a confirmatory test, and a confirmatory retest.

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Adopted Rules

Subp. 10. **Requirements for directors.** The director of the laboratory must be a full-time employee of the laboratory, must possess a doctoral, medical doctor, or a master's degree in a biological or medical science, and must have at least three years' experience in an analytical toxicology laboratory.

4740.1075 INITIAL SCREENING TEST; MINIMUM DETECTION LEVELS.

The minimum levels that need to be detectable by a screening test are as follows:

- A. marijuana metabolites, 100 ng/ml;
- B. cocaine metabolites, 300 ng/ml;
- C. opiate metabolites, 300 ng/ml;
- D. phencyclidine, 25 ng/ml; and
- E. amphetamines, 1,000 ng/ml.

4740.1080 THRESHOLD DETECTION LEVELS.

Threshold detection levels for confirmatory tests of drugs and drug metabolites defined in *Minnesota Statutes*, section 152.02, and rules of the Board of Pharmacy are 1,000 ng/ml, except as listed in items A to K:

- A. marijuana metabolite (delta-9 tetrahydrocannabinol-9-carboxylic acid), 15 ng/ml;
- B. cocaine, ~~150~~ ng/ml;
- ~~C.~~ metabolite (benzoylecgonine), 150 ng/ml;
- ~~D.~~ C. opiates, 300 ng/ml;
 - (1) morphine, 300 ng/ml*; and
 - (2) codeine, 300 ng/ml*;
- ~~E.~~ D. phencyclidine, 25 ng/ml;
- ~~F.~~ E. amphetamines, 500 ng/ml;
- ~~G.~~ F. fentanyl, 5 ng/ml;
- ~~H.~~ G. lysergic acid diethylamide (LSD), 5 ng/ml;
- ~~I.~~ H. 3-4-methylenedioxy amphetamine (MDA), 300 ng/ml;
- ~~J.~~ I. alcohol (urine), .02 gram percent; and
- ~~K.~~ J. alcohol (blood), .02 gram percent.

* 300 ng/ml individually or in combination.

4740.1090 VARIANCE AND WAIVERS.

A laboratory may request that the department grant a variance or waiver from the provisions of parts 4740.1000 to 4740.1080. A request for a variance or waiver must be submitted to the department in writing. A request must contain the following information:

- A. the specific rules for which the variance or waiver is requested;
- B. the reasons for the request;
- C. the alternative measures that will be taken if a variance or waiver is granted; and
- D. the length of time for which the variance or waiver is sought.

The commissioner shall review information submitted with the request for waiver or variance. If the laboratory proposes alternatives equivalent or superior to those prescribed in the rule and shows that strict enforcement of the rule would cause undue hardship, and the variance would not adversely affect public health or safety, the commissioner shall grant the variance, provided however the variance shall not conflict with statutory provisions. The commissioner shall provide the laboratory with a written decision that states the reasons for granting or denying the request for the variance.

Department of Health

Adopted Permanent Rules Relating to Food and Beverage Establishments

The rules proposed and published at *State Register*, Volume 13, Number 13, pages 706-731, September 26, 1988 (13 S.R. 706) are adopted with the following modifications:

Rules as Adopted**REQUIREMENTS FOR FOOD AND BEVERAGE ESTABLISHMENTS****4625.2401 DEFINITIONS.**

Subp. 27. **Person in charge.** "Person in charge" means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then ~~an~~ any employee present is the person in charge.

Subp. 30. **Push cart.** "Push cart" means a nonself-propelled vehicle limited to serving nonpotentially hazardous foods or commissary-wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters and other precooked ready-to-eat link sausages.

4625.2601 ADMINISTRATION.

Subpart 1. **Food samples.** Samples of food may be collected without cost and examined by the commissioner as often as may be necessary for the enforcement of parts 4625.2401 to 4625.7801. ~~The commissioner may condemn and forbid the sale of, or cause to be removed or destroyed, any food that is unwholesome or adulterated; prepared, processed, handled, packaged, transported, or stored in an unwholesome manner; unfit for human consumption; or otherwise prohibited by law.~~

Subp. 2. **Embargo.** The commissioner may embargo and forbid the sale of, or cause to be removed or destroyed, any food that is unwholesome or adulterated; prepared, processed, handled, packaged, transported, or stored in an unwholesome manner; unfit for human consumption; or otherwise prohibited by law. Equipment and utensils, which do not meet the requirements of parts 4625.2401 to 4625.7801, may be embargoed. Equipment and utensils must be released from the embargo upon notification of the commissioner by the person in charge of modification of the equipment or utensils to meet the requirements of parts 4625.2401 to 4625.7801 and after inspection of the utensils and equipment by the commissioner.

Subp. 3. **Condemnation.** The commissioner may condemn and cause to be removed any food, equipment, clothing, or utensils found in a food establishment, the use of which would not comply with parts 4625.2401 to 4625.7801, or which is being used in violation of parts 4625.2401 to 4625.7801 and also may condemn and cause to be removed any equipment, clothing, or utensils which by reasons of dirt, filth, extraneous matter, insects, corrosion, open seams, or chipped or cracked surfaces is unfit for use.

4625.2650 VARIANCES AND WAIVERS.

Subp. 6. **Denial, revocation, or refusal to renew.** The commissioner shall deny, revoke, or refuse to renew a variance or waiver if the commissioner determines that the criteria in ~~subpart~~ subparts 1 and 2 are not met. The commissioner shall notify the applicant in writing of the decision to deny, revoke, or refuse to renew the variance or waiver. The notice must describe the reasons for the denial, revocation, or refusal to renew, and inform the applicant of the right to appeal the decision.

4625.3101 ITINERANT, MOBILE FOOD SERVICES OR PUSHCARTS, AND SPECIAL EVENT FOOD STANDS.

Itinerant, mobile food services or pushcarts, and special event food stands must comply with all provisions of parts 4625.2401 to 4625.7801 which are applicable to their operation. The establishments and units must be operated in an approved manner. If necessary to protect the public health, the commissioner ~~may shall~~ impose additional requirements to protect against health hazards related to the conduct of their operation and ~~may shall~~ prohibit the sale or giveaway of some or all potentially hazardous foods. When no health hazard is likely to result, the commissioner may modify specific requirements for physical facilities.

4625.3301 FOOD PROTECTION.

Subp. 2. **Emergency occurrences.** In the event of a fire, flood, power outage, or other event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the department. Upon receiving notice of this occurrence, the department ~~may must~~ take action that is necessary to protect the public health.

4625.3401 TEMPERATURE MAINTENANCE.

Subpart 1. **Potentially hazardous foods.** The internal temperature of all potentially hazardous foods must be maintained at 40 degrees Fahrenheit (four degrees centigrade) or below, or 150 degrees Fahrenheit (66 degrees centigrade) or above, except during preparation. Potentially hazardous foods requiring refrigeration after preparation must be rapidly cooled to an internal temperature of 40 degrees Fahrenheit (four degrees centigrade) or below within four hours after removal from the heating or hot holding device.

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Adopted Rules

Frozen food must be kept frozen and should be stored at an internal temperature of zero degrees Fahrenheit (minus 18 degrees centigrade) or below.

Subp. 5. **Beef roasts.** Beef roasts must be cooked according to the following requirements:

C. In order to meet public health requirements for the processes in ~~this item~~ items A and B, the following table lists the minimum internal temperature of the beef roast for the minimum time the roast needs to be held at such temperature:

MINIMUM HOLDING TIMES FOR BEEF ROASTS
AT VARIOUS INTERNAL TEMPERATURES

| Minimum internal temperature | Degrees Fahrenheit | Degrees Centigrade | Minimum holding time |
|------------------------------------|-----------------------|-----------------------|----------------------------|
| | 130 | 54.4 | 121 |
| | 131 | 55.0 | 97 |
| | 132 | 55.6 | 77 |
| | 133 | 56.1 | 62 |
| | 134 | 56.7 | 47 |
| | 135 | 57.2 | 37 |
| | 136 | 57.8 | 32 |
| | 137 | 58.4 | 24 |
| | 138 | 58.9 | 19 |
| | 139 | 59.5 | 15 |
| | 140 | 60.0 | 12 |
| | 141 | 60.6 | 10 |
| | 142 | 61.1 | 8 |
| | 143 | 61.7 | 6 |
| | 144 | 62.2 | 5 |

Subp. 7. **Thawing potentially hazardous foods.** Potentially hazardous foods must be thawed in one of the following ways:

B. under potable running water of a temperature of 70 degrees Fahrenheit (21 degrees centigrade) or below, and allowing the water to ~~waste discharge~~ directly to the drain;

4625.3501 PREPARATION, DISPLAY, AND SERVICE.

Subp. 6. **Dispensing utensils.** To avoid unnecessary manual contact with food, suitable dispensing utensils or equipment must be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils must be:

A. stored in the food with the dispensing utensil handle extended out of the food; or

B. stored clean and dry; or

C. stored in a running water ~~dipper well~~; or

D. stored either in a running water dipper well, or stored clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts.

Subp. 8. **Reuse of tableware.** Reuse of soiled tableware and single-service articles by self-service consumers returning to the service area for additional food must be prohibited. Beverage cups and glasses are exempt from this requirement.

Subp. 13. **Packaged food.** Packaged food must not be stored in contact with water or undrained ice. Wrapped sandwiches must not be stored in direct contact with ice. Ice intended for human consumption must not be used for cooling stored food, food containers, or food utensils; ~~except that the ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head.~~

4625.3801 CLEANING, SANITIZATION, AND STORAGE OF EQUIPMENT AND UTENSILS.

Subp. 3. **Oven utensils and equipment.** Utensils and equipment which routinely go into ovens for baking purposes and which are used for no other purpose ~~must are~~ not be required to be given bactericidal treatment; however, such utensils and equipment must be clean.

Subp. 6. **Mechanical cleaning and sanitizing.** Mechanical cleaning and sanitizing must be done in the following manner:

D. Machines (single-tank, stationary-rack, door-type machines, and spray-type glass washers) using chemicals for sanitization may be used, provided that:

(2) a test kit or other device that accurately measures the parts per million concentration of the sanitizing solution must be available and used ~~while the chemical sanitizing machine is in use;~~

~~F~~ E. Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water must be kept clean and water must be maintained at not less than the temperature specified by the National Sanitation Foundation Standard No. 3, under which the machine is evaluated. A pressure gauge must be installed with a valve immediately adjacent to the supply side of the control valve in the final rinse line provided that this requirement must not pertain to a dishwashing machine with a pumped final rinse.

~~G~~ F. All utensil washing machines must be cleaned at least once per day or more frequently if required.

4625.3901 PHYSICAL FACILITIES AND SANITATION.

Subp. 2. **Sewage.** All sewage, including liquid waste, must be disposed of to a public sewage system or to an approved individual sewage disposal system. Nonwater-carried sewage disposal facilities must be prohibited, except as permitted by the commissioner in remote areas or because of special situations.

When there is no public sewage system available, an individual sewage disposal system must be designed, located, constructed, and operated in accordance with Minnesota Pollution Control Agency rules, parts 7080.0010 to 7080.0240.

Itinerant, mobile food units, and special event food facilities may dispose of their liquid waste into receptacles ~~carried on the vehicle~~ for that purpose. This waste ultimately must be discharged into the public sewage system or otherwise disposed of in a manner which will not endanger any source of water supply, pollute any body of surface water, create a nuisance, or otherwise endanger the public health and safety.

Subp. 4. **Janitorial facilities.** Janitorial facilities including a janitorial utility sink or curbed cleaning facility must be provided ~~and. The facilities must not be~~ located in ~~an area other than~~ a food preparation ~~or~~ storage ~~area,~~ or toilet ~~room.~~ If rooms unless adequate separation, or other protection has been provided, ~~the~~ janitorial facility may be located in a packaged goods' storeroom or employee toilet room.

The use of lavatories, utensil washing or equipment washing, or food preparation sinks for ~~this purpose~~ janitorial purposes is prohibited.

Janitorial equipment must be stored in an approved manner in the janitorial facility.

Subp. 6. **Toilet facilities.** Every food establishment, with the exception of itinerant, mobile, and special event food facilities, must be provided with conveniently located and approved toilet facilities for employees. These facilities must be kept clean and in good repair and free from flies, insects, and offensive odors. Toilet fixtures and seats must be of sanitary design and readily cleanable. The doors of all toilet rooms must be self-closing. Easily cleanable receptacles must be provided for waste materials. Toilet rooms used by women must have at least one covered waste receptacle. ~~Separate toilet facilities must be provided for men and women according to~~ The number of toilet facilities must be determined by part 4715.1215 of the State Plumbing Code, and meet the requirements for sanitation fixtures in section 705 of the Uniform Building Code, as amended in part 1305.1900, and the requirements for handicapped accessibility in chapter 1340. Where the use of nonwater-carried sewage disposal facilities have been approved by the commissioner, the facilities must be separate from the establishment and in accordance with the standards of the commissioner.

4625.4201 CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES.

Subp. 4. **Utility lines and pipes.** All utility lines and pipes such as electric, gas, water, sewage, and similar waste lines or services ~~should~~ must be installed in the walls, under floors, or above ceilings to avoid unnecessary exposure to food equipment, walls, floors, or ceilings. Exposed utility service lines or pipes must be installed so they do not obstruct or prevent the easy cleaning of food equipment, floors, walls, and ceiling surfaces.

4625.4701 PREMISES.

Subp. 3. **Living areas.** No operation of a food establishment ~~must~~ shall be conducted in any room used as living or sleeping quarters. Food service operations must be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

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Adopted Rules

4625.4901 ITINERANT FOOD SERVICE ESTABLISHMENTS.

Subpart 1. **General.** An itinerant food service establishment must comply with all provisions of parts 4625.2401 to 4625.4701 that are applicable to their operation and must comply with parts 4625.4901 to 4625.5801. If necessary to protect the public health, the commissioner ~~may~~ shall impose additional requirements to protect against health hazards related to the conduct of their operation and prohibit the sale or giveaway of some or all potentially hazardous foods. When no health hazard is likely to result, the commissioner may grant a variance or modify specific requirements of parts 4625.4901 to 4625.5801.

Subp. 2. **Restricted operations.** This subpart applies to an itinerant food service establishment approved under subpart 1 to operate without complying with the requirements of parts 4625.4901 to 4625.5801.

B. The commissioner may restrict the type of food served or the method of food preparation based on equipment limitations, commissary facilities, or climatic conditions.

4625.5101 EQUIPMENT.

Subp. 6. **Handwashing facilities.** Handwashing facilities must be provided within the establishment. They must consist of:

B. paper towels and a spray bottle containing a germicidal sanitizing solution of one teaspoon of household bleach to a gallon of water; or

4625.5301 FOOD, BEVERAGE, AND UTENSIL HANDLING AND STORAGE.

Subp. 5. **Single service items and condiment dispensing.** Single service utensils and self-service food including condiments such as catsup, mustard, coffee whitener, and sugar must be individually packaged or be dispensed from an ~~enclosed~~ approved dispenser.

4625.5901 MOBILE FOOD SERVICES OR PUSHCARTS.

Subp. 2. **Restricted operations.** This subpart applies whenever a mobile food service or pushcart is approved under subpart 1 to operate without complying with all the requirements of parts 4625.5901 to 4625.6801.

B. The commissioner may restrict the type of food served or the method of food preparation based on equipment limitations ~~or,~~ commissary facilities, or climatic conditions.

4625.6301 FOOD, BEVERAGE, AND UTENSIL HANDLING AND STORAGE.

Subpart 1. **Food source.** All ice and food supplies must come from an approved commercial source. No home prepared food or food stored at home is allowed. Food ~~may~~ must be kept in a licensed commissary, stock truck, or within the unit. Ice must be cubed or crushed and be sealed in a bag at the point of manufacture. The ice must be held in these bags until it is dispensed in a way that protects it from contamination.

Subp. 5. **Single service items and condiment dispensing.** Single service utensils and self-service food, including condiments, like catsup, coffee whitener, or sugar, must be individually packaged or dispensed from an ~~enclosed~~ approved dispenser.

4625.6401 WATER SUPPLY.

Subp. 2. **Holding tanks.** Each mobile food service ~~or pushcart~~ requiring a water system must be equipped with a fresh water holding tank that can be drained and a hot water heater, both of which are sufficiently sized to meet water demand. The holding tank must be corrosion resistant, nontoxic, and free of seams. When in operation, a unit may be directly supplied with water from an external water system. The connecting hose must be capped and otherwise protected when it is disconnected so that it will not be contaminated by waste discharge, road dust, oil, or grease.

4625.6901 SPECIAL EVENT FOOD STAND.

Subpart 1. **General.** Special event food stands must comply with all provisions of parts 4625.2401 to 4625.4701 which are applicable to their operation and must comply with parts 4625.6901 to 4625.7801. If necessary to protect the public health, the commissioner ~~may~~ shall impose additional requirements to protect against health hazards related to the conduct of their operation and ~~may~~ shall prohibit the sale or giveaway of some or all potentially hazardous foods. When no health hazard is likely to result, the commissioner may grant a variance or modify specific requirements of parts 4625.6901 to 4625.7801.

Subp. 2. **Restricted operations.** This subpart applies whenever a special event food stand is approved under subpart 1 to operate without complying with all the requirements of parts 4625.6901 to 4625.7801.

B. The commissioner may restrict the type of food served or the method of food preparation based on equipment limitations, commissary facilities, or climatic conditions.

4625.7101 EQUIPMENT.

Subp. 2. **Refrigeration.** Mechanical refrigeration is required for potentially hazardous foods such as meat, fish, poultry, milk and milk products, and eggs. A metal stem product thermometer with a range from zero degrees Fahrenheit (minus 18 degrees centigrade)

to 220 degrees Fahrenheit (104 degrees centigrade) is required for measuring temperature of this food. Electricity must be provided to refrigeration units 24 hours a day when the special event food stand has been set in place for service. Insulated chests containing dry ice or frozen refrigerant packs may be used for items such as ~~hot dogs~~ wieners and precooked sausages as long as required temperatures are maintained. A thermometer is required for each refrigerator and insulated chest.

4625.7301 FOOD, BEVERAGE, AND UTENSIL HANDLING AND STORAGE.

Subp. 5. **Single service items and condiment dispensing.** Single service utensils and self-service food including condiments such as catsup, mustard, coffee whitener, and sugar must be individually packaged or be dispensed from an ~~enclosed~~ approved dispenser.

Department of Health

Adopted Permanent Rules Relating to General Accreditation Requirements for Laboratories

The rules proposed and published at *State Register*, Volume 13, Number 18, pages 1079-1086, October 31, 1988 (13 S.R. 1079) are adopted with the following modifications:

Rules as Adopted

4740.0110 DEFINITIONS.

Subp. 4a. **Etiologic agent.** "Etiologic agent" means a viable microorganism, or its toxin, which causes or may cause human disease.

Subp. 4b. **Histologic.** "Histologic" means a body tissue.

4740.0120 APPLICATION PROCEDURES.

Subp. 5. **Inspection.** The laboratory must demonstrate compliance with accreditation requirements through an inspection conducted by persons designated by the commissioner. Inspections ~~shall~~ may be unannounced and at a frequency established by the rule specific to the purpose or type of test for which accreditation is sought.

4740.0130 PROVISIONAL ACCREDITATION.

A laboratory that meets accreditation application requirements shall receive written provisional accreditation until an on-site inspection is completed. Upon demonstration, through inspections, of compliance with standards specific to the purpose or type of testing for which accreditation is sought, full accreditation shall be granted in writing showing the date of expiration.

4740.0170 ACCREDITATION; SUSPENSION AND REVOCATION.

The commissioner may, pursuant to *Minnesota Statutes*, chapter 14, suspend, revoke, refuse to renew, condition, or limit the accreditation of a laboratory upon finding that the laboratory has ~~repeatedly~~ violated provisions of parts 4740.0100 to 4740.0160 or has ~~repeatedly~~ failed to meet standards defined under the rule applicable to the specific laboratory test for which the laboratory is accredited.

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Home Ownership Assistance Fund; Down Payment Assistance Program

The rule proposed and published at *State Register*, Volume 13, Number 37, pages 2192-2194, March 13, 1989 (13 S.R. 2192) is adopted with the following modifications:

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

Adopted Rules

Rules as Adopted

4900.1340 HOME OWNERSHIP ASSISTANCE FUND; DOWN PAYMENT ASSISTANCE.

The agency may provide interest-free down payment assistance loans to recipients eligible for home ownership assistance who are determined, on the basis of normal credit procedures, to lack the cash or land equity necessary to pay the required down payment, plus closing costs, expenses, and origination fees on the dwelling to be purchased. The amount of the down payment assistance loan shall equal the maximum amount allowable under the applicable mortgage insurance program, but it shall not exceed the lesser of 50 percent of the down payment or \$1,500. Down payment assistance may be used to pay a portion of the required down payment, closing costs, expenses, and origination fees on the dwelling to be purchased, as may be determined by the agency which are customary within the mortgage industry.

Department of Labor and Industry

Adopted Permanent Rules Relating to Employment Agencies; Fees

The rules proposed and published at *State Register*, Volume 13, Number 26, pages 1522-1524, December 26, 1988 (13 S.R. 1522) are adopted with the following modifications:

Rules as Adopted

5200.0600 FEE INFORMATION ON CONTRACTS.

Subp. 2. **Job listing.** Applicant contracts with job listing services shall contain the following statement: "I understand that a fee shall be due the job listing service at the time of contractual arrangements ~~are entered into and~~. No other fee ~~or portion of fee~~ shall be collected ~~by the job listing service~~ for services rendered, provided that fees for job placement may be charged and the fee arrangement for placement shall be contained in a separate contract."

Executive Orders

Emergency Executive Order 89-2 Providing for Emergency Assistance to Officials of Wilkin, Clay and Polk Counties

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

WHEREAS, the Sheriffs of Wilkin, Clay and Polk Counties in Minnesota have requested assistance in preserving life and property in their counties as a result of the flooding conditions of the Red River; and

WHEREAS, the officials of Wilkin, Clay and Polk Counties and other local officials have exhausted all available resources in their efforts to preserve life and property from destruction caused by the flooding of the Red River; and

WHEREAS, it is necessary for the preservation of life and property in Wilkin, Clay and Polk counties that the State provide assistance to those county and local officials:

NOW, THEREFORE, I hereby order that:

1. The Adjutant General of Minnesota order to active duty on or after April 6, 1989, in the service of the State, such elements and equipment of the military forces of the State as required to provide protection of affected areas with security patrols, traffic control points, and assistance in evacuation activities for such a period of time as necessary to ensure the decline of the Red River in the affected counties.

2. The cost of subsistence, transportation, fuel, repair parts, and pay and allowances of said individuals shall be defrayed from the general fund of the State as provided for in *Minnesota Statutes* 1988, Sections 192.49, subdivision 1; 192.51 and 192.52.

Pursuant to *Minnesota Statutes* 1988, Section 4.035, this Order shall be effective April 6, 1989 and shall remain in effect until such date as elements of the military forces of the State are no longer required.

IN TESTIMONY WHEREOF, I have set my hand this sixth day of April, 1989.



Rudy Perpich
Governor

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.

Department of Jobs & Training**State Job Training Office****Notice of Solicitation of Outside Information or Opinions Regarding Proposed Permanent Rules Relating to the Youth Employment Program Including the Impact of the Rules on Small Businesses**

NOTICE IS HEREBY GIVEN that the Department of Jobs and Training is seeking information or opinions from sources outside the agency in proposing to adopt amendments to *Minnesota Rules*, parts 3300.0100 through 3300.0700, relating to the Youth Employment Program. The proposed amendments to rules will change elements of the definition for support services and add a definition for transitional services.

Permanent rules are being proposed to interpret *Minnesota Statutes*, sections 268.31 through 268.36, which authorize the Youth Employment Program. These rules are being developed as permitted under *Minnesota Statutes*, section 268.33.

Outside opinion is also being solicited concerning how these rules will affect small businesses as defined by *Minnesota Statutes*, section 14.115, subdivision 1.

Interested persons or groups may submit data or comments in writing. Written comments should be addressed to:

Kay Tracy
State Job Training Office
690 American Center Building
150 East Kellogg Blvd.
St. Paul, MN 55101

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.

Official Notices

All comments and information will be accepted until 4:30 p.m. on June 30, 1989. Any written material received by the Department of Jobs and Training will become part of the rulemaking record to be submitted to the Attorney General or Administrative Law Judge in the event the rules are adopted.

Joe Samargia, Commissioner
Department of Jobs & Training

Labor and Industry

Labor Standards Division

Notice of Prevailing Wage Determinations for Highway/Heavy and Commercial Projects

On June 1, 1989 the commissioner will certify prevailing wage rates for commercial and highway/heavy construction projects in the following Minnesota counties: ANOKA, BENTON, BIG STONE, CARVER, CHIPPEWA, CHISAGO, DAKOTA, DOUGLAS, GRANT, HENNEPIN, ISANTI, KANABEC, KANDIYOHI, MCLEOD, MEEKER, MILLE LACS, MORRISON, PINE, POPE, RAMSEY, SCOTT, SHERBURNE, STEARNS, STEVENS, SWIFT, TODD, TRAVERSE, WASHINGTON, WRIGHT.

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

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

Ken Peterson, Commissioner
Department of Labor and Industry

State Law Library

County Law Libraries

Joint Notice of Law Library Filing Fees

Pursuant to *Minnesota Statutes* 140.422, the following law library fees will be effective 7-1-89.

Civil fees include probate matters. Criminal conviction includes felonies, gross misdemeanors, and misdemeanors.

| COUNTY | CIVIL | CONCILIATION | CRIMINAL CONVICTION | PETTY MISDEMEANOR |
|-----------|-------|--------------|------------------------|----------------------|
| Big Stone | 10 | 10 | 5 | 5 |
| Dakota | 7 | 7 | — | — |
| Grant | 10 | 10 | 5 | 5 |
| Pope | 10 | 10 | 5 | 5 |
| Red Lake | 7.50 | 7.50 | 7.50 | 2.50 |
| Roseau | 5 | 5 | 5 | 5 |
| Wright | 5 | 3 | 5 | 5 |

Office of the Ombudsman for Mental Health and Mental Retardation

Notice of Meeting

The Ombudsman for Mental Health and Mental Retardation Advisory Committee will hold a general meeting at 9:00 a.m. on Friday, June 9, 1989. The meeting will be held at the Ombudsman Office, Suite 202, Metro Square Building on 7th and Robert Street, St. Paul.

Teachers Retirement Association

Notice of Regular Meeting

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Wednesday, June 14, 1989, at 1:30 p.m. in Suite 500, Gallery Building, 17 West Exchange Street, St. Paul, MN to consider matters which may properly come before the Board.

Department of Transportation

Amended Order No. 74846 and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under *Minnesota Statutes* § 169.825

WHEREAS, the Commissioner of Transportation has made his Order No. 72156, dated April 8, 1987, which order has been amended by Orders Nos. 73139 and 74653, designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under *Minnesota Statutes* § 169.825, and

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

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 72156 is further amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

COUNTY ROADS

DODGE COUNTY

- C.S.A.H. 31 (First Avenue NE in Dodge Center) from Main Street to T.H. 14.

Dated: 22 May 1989

Leonard W. Levine
Commissioner

Board of Unlicensed Mental Health Providers

Schedule of Meetings for 1989/1990

The Board of Unlicensed Mental Health Service Providers meets the first Friday of each month from 1:00 p.m. to 4:00 p.m.

THE DATES ARE:

| <u>1989</u> | <u>1990</u> |
|-------------|-------------|
| July 7 | January 5 |
| August 4 | February 2 |
| September 1 | March 2 |
| October 6 | April 6 |
| November 3 | May 4 |
| December 1 | June 1 |

Meeting Place:

Colonial Park Office Building
2700 University Avenue West
Suite 225
St. Paul, MN 55114
Conference Room

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.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek **STATE REGISTER Contracts Supplement**, published every Thursday. Call (612) 296-0931 for subscription information. Thank you.

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: Genuine Graco spraying and lubrication repair parts
Contact: Dale Meyer 612-296-3773
Bid due date at 2pm: June 2
Agency: Various
Deliver to: Various
Requisition #: Price Contract—Rebid

Commodity: Informer computer
Contact: Joan Breisler 612-296-9071
Bid due date at 2pm: June 5
Agency: Administration Department: InterTech
Deliver to: St. Paul
Requisition #: 02410 90230

Commodity: Rubbish disposal
Contact: Joyce Dehn 612-297-3830
Bid due date at 2pm: June 5
Agency: Inver Hills Community College
Deliver to: Inver Grove Heights
Requisition #: Price Contract

Commodity: Implement tires—Rebid
Contact: Dale Meyer 612-296-3773
Bid due date at 2pm: June 6
Agency: Correctional Facility
Deliver to: Stillwater
Requisition #: Price Contract

Commodity: Rubbish disposal
Contact: Joyce Dehn 612-297-3830
Bid due date at 2pm: June 6
Agency: Correctional Facility
Deliver to: Oak Park Heights
Requisition #: Price Contract

Commodity: Rubbish disposal
Contact: Joyce Dehn 612-297-3830
Bid due date at 2pm: June 7
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: Price Contract

Commodity: Rubbish disposal
Bid due date at 2pm: June 7
Agency: Transportation Department
Deliver to: Fort Snelling Complex
Requisition #: Price Contract

Commodity: 1988 Van—138" wheelbase
Contact: Brenda Thielen 612-296-9075
Bid due date at 2pm: June 7
Agency: Jobs & Training Department
Deliver to: Minneapolis
Requisition #: 21607 84113

Commodity: Rubbish disposal
Contact: Joyce Dehn 612-297-3830
Bid due date at 2pm: June 6
Agency: Retirement System
Deliver to: St. Paul
Requisition #: Price Contract

Commodity: Copier rental
Contact: Theresa Ryan 612-296-7556
Bid due date at 2pm: June 6
Agency: Jobs & Training Department
Deliver to: Rochester
Requisition #: 21200 20837

Commodity: Memory boards for NCR tower
Contact: Joan Breisler 612-296-9071
Bid due date at 2pm: June 7
Agency: Fiscal Services
Deliver to: St. Paul
Requisition #: 22400 02955

Professional, Technical & Consulting Contracts

Department of Administration: Print Communications Division

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

Commodity: Employee health and benefits newsletter, 5,500 per issue, 3 issues, 11" x 17" folded twice to 5½" x 8½", 2-sided, camera ready, half-tones

Contact: Printing Buyer's Office

Bids are due: June 1

Agency: Employee Relations Department

Deliver to: St. Paul

Requisition #: 7360

Commodity: St. Paul Learning Center class brochure, 25M per quarter (3 quarters) 18¼"x24" 3-accordion fold to 6"x9½", type to set, 2-sided, 2-color

Contact: Printing Buyer's Office

Bids are due: June 2

Agency: Inver Hills Community College

Deliver to: Inver Grove Heights

Requisition #: 7214

Commodity: State University student guide and mini-guide, 15M mini-guide 8½"x11" from 11"x17" sheets; 8M student guide 28pp + cover, 8½"x11", both camera ready, both 2-sided, both 2-color

Contact: Printing Buyer's Office

Bids are due: June 2

Agency: State University

Deliver to: Winona

Requisition #: 7388 & 7389

Professional, Technical & Consulting Contracts

Department of Administration

InterTechnologies Group

Request for Proposals for Consultant for STARS Business Plan, Conceptual Technical Design and a Request for Information

Estimated Amount—\$190,000.00

Due: July 14, 1989 at 4:00 p.m., Room 112 Administration

Contact: Patricia Anderson, (612) 296-3770

Purpose of the STARS function is to provide statewide coordinated planning and cost-effective centralized procurement for quality voice, data, and video telecommunications transmission services. These services will be used by Minnesota State Government, Educational Institutions, County and City Governments, Courts, Libraries, Public Corporations, Legislature, and the Minnesota Lottery.

We are seeking consulting services for three distinct tasks. Task #1 includes the developing and writing of a business plan for the STARS network. Task #2 involves the developing and writing of a STARS network conceptual technical design. And finally, Task #3 entails writing and conducting a vendor request for information (RFI) and evaluating responses.

Qualified consultants who are unaffiliated with telecommunication vendors are encouraged to respond.

Professional, Technical & Consulting Contracts

Department of Health

Notice for Request for Proposals for HIV Antibody Counseling and Testing Services

PURPOSE

The Minnesota Department of Health (MDH) has funds available for at least a 12-month period to provide HIV antibody testing and counseling services throughout the state.

DURATION

The contract period is established for at least 2 months, to begin January 1, 1990. Pending review, contracts may be extended for an additional year or more. The MDH reserves the right to reject all proposals submitted.

ELIGIBILITY CRITERIA

Any public or private not-for-profit agency that can demonstrate administrative, organizational, programmatic, and fiscal capability to deliver proposed services.

A copy of the Request for Proposal is available upon request. Inquiries and requests should be directed to:

Mary K. Sheehan
HIV Counseling and Testing Coordinator
AIDS/STD Prevention Services Section
Minnesota Department of Health
717 Delaware Street, Southeast
Minneapolis, Minnesota 55440
(612) 623-5698

Proposals must be received by 4:30 P.M. Friday, August 11, 1989.

Department of Natural Resources

Bureau of Real Estate Management

Request for a Proposal to Provide Real Estate Auction Services

1.0 Purpose for Proposal

The Department of Natural Resources is soliciting proposals to:

- 1.1 Provide auction services for sales of state-owned leased lakeshore property during a period of approximately 26 months beginning the date that a contract is awarded and ending on August 31, 1991.
- 1.2 Assist designated DNR staff in preparation and distribution of advertising and printed promotional material to effectively market sale properties.
- 1.3 Assist DNR staff in providing the public with information on auction procedures and terms and conditions of sale prior to scheduled sales.

2.0 Considerations

- 2.1 This Request for Proposal (RFP) does not in any way commit the Department of Natural Resources to reimburse recipients of this RFP for any costs involved in the preparation and submission of proposals.
- 2.2 This RFP does not obligate the Department of Natural Resources to accept or contract for any services.
- 2.3 The Department of Natural Resources reserves the right to:
 - a) Request any respondent to clarify their proposal or to supply additional material that is necessary to assist in the contract award.
 - b) Modify or otherwise alter any or all of the requirements of this RFP. If requirements are modified, all respondents will be given an equal opportunity to modify their proposals in specific areas designated by the Department.
 - c) Reject any or all proposals and specifications received and to waive formality in bidding procedures.

3.0 Questions Regarding This RFP

- 3.1 All questions regarding the details or scope of this project must be submitted to:

Professional, Technical & Consulting Contracts

Rod Sando, Administrator
Bureau of Real Estate Management
Department of Natural Resources
500 Lafayette Road, Box 30
St. Paul, MN 55155-4030
(612) 296-4097

4.0 Proposed Project Schedule

| | | |
|-----|---|--------------------|
| 4.1 | RFP Released | May 30, 1989 |
| 4.2 | RFP Submissions | June 15, 1989 |
| 4.3 | Vendor Selection | June 16, 1989 |
| 4.4 | Begin Project Work | June 19, 1989 |
| 4.5 | Copy for Prospectus and Ads, August '89 Sales | June 23, 1989 |
| 4.6 | Place Advertising | June 26, 1989 |
| 4.7 | Deliver Printed Prospectus | June 30, 1989 |
| 4.8 | Public Pre-Auction Seminars | August 14-18, 1989 |
| 4.9 | Public Auction Sales | August 21-25, 1989 |

5.0 Leased Lakeshore Sales Background

5.1 Overview

In the early 1900's the State of Minnesota began a lakeshore cabin site leasing program. This program continued until 1973 when a state law was passed prohibiting any new leases from being issued. Altogether, nearly 2,000 lots were leased under this program.

In 1988, a special act of the legislature made these sites available for sale. Under the 1988 Cabin Site Sale Law, the Commissioner of Natural Resources has been directed to sell all leased cabin sites over a ten-year period. First priority for sale must be given to lots requested for sale by lessees. After 1993, the Commissioner is required to offer all remaining unsold lots, on an incremental basis, by 1998.

5.2 Current Situation

Of the nearly 2,000 lakeshore cabin sites leased over the years, approximately 1,660 currently remain to be sold. These sites are located on 91 lakes in eleven counties. Their value is estimated at approximately \$18 million. Sales scheduled for August, 1989, include 176 lots appraised at over \$2.5 million, on twenty lakes in four counties. Another 300 lots are tentatively scheduled for sale in 1990.

5.3 Method of Sale

By law, these lakeshore lots must be sold at public auction for cash or by contract for deed, for no less than their appraised value. If purchased by someone other than the lessee, full appraised value of lessee-owned improvements must be paid to the lessee in cash, or upon terms agreeable to the lessee, within fifteen days of the sale.

The lots are sold free of any previous taxes and assessments but are taxable following sale. Closing costs will include survey, appraisal, advertising and auction expenses.

6.0 Scope of Work

The contractor must schedule, advertise and conduct public auction sales of leased lakeshore property, subject to applicable state laws and working in conjunction with designated DNR staff. The contractor will be responsible to:

- a) Schedule sales during the months of June, July and August each year of this contract;
- b) Administer all aspects of each auction, including arrangements for auction facilities, bidder registration and conducting actual sales, but excluding closing of sales and collection of payments (which will be handled by DNR staff);
- c) Design and place advertisements, to the greatest extent permitted by DNR budget constraints, including display ads in appropriate newspapers and journals in addition to required legal advertising;
- d) Design, print and distribute a prospectus for each sale, identifying individual sale properties, their locations, and the terms and conditions of sale (Minimum of 8,000 copies per sale);
- e) Conduct public pre-auction seminars at each sale location to familiarize prospective bidders with the auction process and the terms and conditions of sale;

Professional, Technical & Consulting Contracts

f) Coordinate all aspects of sale scheduling, advertising and administration with Bureau of Real Estate Management staff.

7.0 Project Control

- 7.1 The contractor must use an acceptable method of project control throughout the contract period.
- 7.2 The contractor must report project progress to the Lakeshore Sales Supervisor at least bi-weekly during critical sale preparation periods (March through August), and as needed during the rest of the year.
- 7.3 The contractor must meet regularly with designated DNR staff to review preparations for scheduled sales and to establish schedules for additional sales.
- 7.4 The Bureau of Real Estate Management must approve all advertising and printed material prior to publication.
- 7.5 The contractor will be responsible to meet project deadlines with high quality work throughout the project period. Quality and timeliness will be monitored by the Bureau of Real Estate Management throughout the duration of the project.

8.0 Project Staffing

8.1 The contractor's proposed staff must be thoroughly familiar with both the marketing and sales of residential recreational property and the procedures required for sale of state-owned lakeshore.

9.0 Project Fee Schedule

9.1 The project fee will be based on hourly rates for appropriate staff assigned to the project and per-copy rates for printed materials. Contractors will include rate schedules by job classification and type of work in their response to this RFP.

10.0 Payment Schedule

10.1 Payments under this contract will be made upon completion of scheduled sales, based on documented staff hours and the number of prospectus copies printed.

11.0 Proposal Submission Requirements

Three copies of the proposal must be submitted by 4:00 p.m. on Thursday, June 15, 1989. Submit all copies to:

Rod Sando, Administrator
Department of Natural Resources
Bureau of Real Estate Management
500 Lafayette Road, Box 30
St. Paul, MN 55155-4030

12.0 Proposal Evaluation

Proposals will be evaluated primarily on the basis of the criteria listed below, although the Department reserves the right to consider any and all other factors which it may consider to be pertinent.

- 12.1 Responsiveness to all items, requests, and requirements contained in this RFP.
 - 12.2 Ability to satisfactorily complete all phases of the work.
- The DNR will evaluate the professional qualifications of the contractor's staff, through previous work experience references submitted with this RFP, and the financial ability of the contractor to perform the contract.
- 12.3 Technical and personal qualifications and related experience of personnel to be assigned, through resumes submitted with this RFP.
 - 12.4 Appraisal of respondent's ability to meet deadlines in projects of similar complexity.
 - 12.5 Qualifications, capability and experience of the vendor, including general management, project management, financial responsibility, previous related experience and willingness to negotiate.
 - 12.6 Fees quoted.

State Board of Vocational Technical Education

Notice of Request for Proposals for Contractual Services

The State Board of Vocational Technical Education is requesting proposals from any qualified individual or firm interested in assisting the State Board of Vocational Technical Education Agriculture Program Manager in developing state curriculum guides for three adult management programs: Farm Business Management, Lamb and Wool Management, Specialty Crops Management.

The specifications and scope of the development of the state curriculum guides are contained in a formal RFP. To obtain a copy of the RFP, contact:

Lois Schmittinger
State Board of Vocational Technical Education
Capitol Square Building, 3rd floor
550 Cedar Street
St. Paul, Minnesota 55101
(612) 297-4299

The cost of this project shall not exceed \$20,000. The deadline for proposal submission is Monday, June 19, 1989 by 4:00 p.m.

Minnesota Zoological Board

Request for Proposals for an Outdoor Entertainment Amphitheater at the Minnesota Zoological Garden

The Minnesota Zoological Board (the "Zoo Board") is currently soliciting proposals from qualified entities to develop and operate an outdoor amphitheater at the Minnesota Zoological Garden (the "Zoo"). Applicants requesting consideration should be aware that experience in the area of developing and operating a similar facility is required. Applicants must have sufficient resources to ensure that the facility can be developed and made operational in a timely basis.

I. Project Concept.

The project concept is a state-of-the-art, attractive outdoor performing arts facility that will accommodate live entertainment including jazz, country, pop, ethnic, rock and symphonic concerts, musicals, dance, variety shows, and zoological exhibitions. The facility will be designed to blend in with the setting of the Zoo and surrounding area. The performing arts facility will accommodate 15,000 to 20,000 people. The facility will include a covered performance pavilion with seating for 5,000 to 7,000 persons and a grass landscaped bowl to provide seating for an additional 10,000 to 13,000 persons. The facility shall include permanent restrooms, food concessions, and dressing and staging facilities.

The outdoor performing arts facility should act as a centerpiece of family-oriented attractions complimentary with the Zoo Garden. The facility and its operation should offer audiences of all ages the highest quality entertainment throughout the operating season.

It is anticipated that approximately 20 acres of the Zoo grounds will be developed by the successful applicant for the amphitheater facility and related parking facilities. Several sites within the Zoo grounds have been identified as possible locations for these facilities. Applicants requesting consideration shall submit proposed site plans with their responses to this Request for Proposal, which site plans should address parking, traffic flow, and other access related issues.

The land on which the amphitheater facility will be located would most likely be leased to the successful applicant under a mutually acceptable Ground Lease Agreement, with the amphitheater facility itself being owned by the applicant upon its completion. Following completion of construction, the amphitheater facility would likely be operated by the successful applicant pursuant to a mutually acceptable License and/or Concession Agreement whereby the Zoo would receive a percentage of gross income from gate receipts and concessions and annual minimum guarantee payments, with percentages and amounts to be negotiated.

The successful applicant will be required to obtain, at its expense, all permits, licenses, and approvals from federal, state, county, or local governmental authorities necessary for construction and operation of the facility. It is anticipated that an amendment to the Planned Development Agreement which governs the zoning and usage of the Zoo Grounds will have to be obtained from the City of Apple Valley, and that the project will also be submitted to the Metropolitan Council for review and approval.

Applicants requesting consideration must have the capacity to privately finance the construction of the facility without encumbering the project site.

It is also anticipated that the Zoo Board and the successful applicant will work with one another to promote both the Zoo and the events scheduled at the amphitheater facility.

Written proposals responding to each of the items listed in Sections II, III, and IV should be submitted by all applicants.

II. Applicant Qualifications.

A. Firm Background.

1. Identify the firm and indicate its legal status (i.e. corporation, limited or general partnership, etc.) and the state in which it was organized or formed.

Professional, Technical & Consulting Contracts

2. Identify the firm's shareholders, directors, and officers (if a corporation) or partners (if a partnership), and list the percentage of ownership for each of the firm's principals.

3. Identify each person who would be directly responsible for the major aspects of the project, including contractors and consultants.

4. List the number of years experience the firm has had in the development and operation of similar projects.

5. List the names and locations of the firm's other projects of this type, including dates of operation.

6. State the approximate amount of gross receipts the firm has realized from all similar operations for each of the past 5 years.

7. Identify and provide the addresses of the persons or entities, if any, from which the firm leases sites for the operations described in item 5 above.

8. Has the firm ever defaulted under any lease, license or concession agreement relative to any of its similar operations?

If yes, provide additional details.

9. Has the firm, any person or entity with an ownership interest in the firm, or any affiliate of the firm, ever filed for bankruptcy or reorganization?

If yes, provide additional details.

10. List any Minnesota State Agency with which the firm has had any contract or agreement during the past 5 years.

11. List at least 3 bank references.

12. Provide the name and address of the firm's outside accounting firm.

13. Provide the name and address of the firm's outside legal counsel.

14. List all other firms or businesses in which any of the firm's principals have an ownership interest or are actively involved.

15. Describe any pending or threatened civil litigation or criminal actions involving the firm, or its affiliates or its shareholders, directors, officers or partners.

16. Attach a copy of the firm's most recently prepared audited financial statement.

B. Project Concept, Project Team, Organizational Chart.

1. Describe in as much detail as possible the firm's overall project concept.

2. Identify each member of the firm's project team, and provide a brief resume for each such person or entity.

3. Prepare an organizational chart showing the relationship between the members of the project team.

C. Attach Pro Forma Operating Statements for the Project for the first 3 years of operations.

III. The Facility.

A. Attach a Summary Description of the proposed amphitheater facility.

B. Attach a Concept Site Plan, including the firm's proposals relative to parking, traffic flow, etc.

C. Attach proposed Plans and Specifications.

D. Attach a Pro Forma Construction Cost Summary.

E. Provide a summary of the firm's plans for financing construction of the amphitheater facility.

F. Identify any permits, licenses, or approvals of government agencies that will be necessary prior to commencement of construction.

G. Describe in detail the firm's plans with respect to operation of the facility upon completion of construction. Include a list of proposed performers or types of performers and describe how the firm intends to attract such performers to the facility.

IV. Proposed Contract Terms.

A. Ground Lease Agreement.

1. Length of Lease Term.

2. Minimum Annual Rent.

3. Percentage Rent.

4. Minimum Capital Investment.

5. Other Terms.

Professional, Technical & Consulting Contracts

B. License/Concession Agreement.

1. Minimum Annual Payments.
2. Percentage Payments.
3. Other Terms.

V. Proposal Deposit.

A cashier's check drawn on any state or national bank in an amount equal to 1% of the estimated total construction cost of the proposed facility (the "Proposal Deposit") shall be submitted by the successful applicant at the time contract negotiations with the Zoo Board are commenced. This Proposal Deposit shall be held by the Zoo Board or its designee and shall be retained by the Zoo Board as liquidated damages in the event the successful applicant fails to sign a contract or fails to submit required assurances of performance to the Zoo Board. The Proposal Deposit submitted by the successful applicant may be returned at such time as all necessary contracts or agreements have been fully executed and approved, or, at the option of the Zoo Board, may be applied toward the applicant's initial contract payments. No interest shall be paid on any Proposal Deposit.

VI. Criteria.

All proposals received by the deadline set forth below will be evaluated by representatives of the Zoo Board and, to the extent applicable, by representatives of other State Agencies. In some instances, an interview may be part of the evaluation. If negotiations between the Zoo Board and the applicant firm cannot be concluded in accordance with the best interests of the Zoo Board, the Zoo Board reserves the right to terminate negotiations and initiate new negotiations with another qualified firm. The Zoo Board reserves the right to reject all proposals, if such action serves the best interest of the Zoo Board, and to accept other than the bid which would potentially generate the greatest revenue. Evaluation and selection will be completed by July 20, 1989. Results will be sent to all applicants. All proposals and agreements are subject to and shall be interpreted in accordance with the laws of the State of Minnesota.

VII. Selection Subject to Legislative Approval of Project and Removal of Use Restriction.

All potential applicants are hereby advised that the Zoo Board is presently seeking a statutory amendment which would authorize the Zoo Board to develop a portion of the Zoo grounds for private use as an amphitheater facility, and that the Zoo Board will be able to proceed with the project only if the proposed amendment is in fact adopted by the Minnesota State Legislature. Applicants are further advised that certain Quit Claim Deeds pursuant to which the State of Minnesota acquired title to portions of the Zoo grounds from the County of Dakota provided that those portions of the Zoo grounds shall revert to the County in the event the same cease to be used as a State Zoological Garden. The Zoo Board will be able to proceed with the project only if this right of reversion is removed or appropriately limited. In the event the process of selecting an applicant to develop and operate the amphitheater facility is completed prior to the passage of the statutory amendment and/or the removal or limitation of the right of reversion contained in the above-referenced Deeds, such selection shall be made with the understanding that the proposed project will not be built if either the amendment or the removal of the County's right of reversion is not ultimately obtained.

Any conditions imposed by the Minnesota State Legislature with respect to the proposed amphitheater facility shall be included in the various contracts between the Zoo Board and the successful applicant.

VIII. Submission of Proposals.

All proposals must be sent to and received by the Contracting Officer, who is:

Richard Buske
Minnesota Zoological Garden
12101 Johnny Cake Ridge Road
Apple Valley, MN 55124

no later than 4:00 p.m. June 20, 1989. Late proposals will not be accepted. Proposals are to be sealed in mailing envelopes or packages with the applicant's name and address clearly written on the outside. To facilitate proper handling, proposals should be marked with the words "SEALED BID—DO NOT OPEN" prominently displayed on the outside of the envelope. Each copy of the proposal must be signed in ink, by an authorized representative of the applicant firm. Prices and terms of the proposals as stated must be valid for the length of the project. It is recommended that applicants call to confirm that their proposal has been received. This Request for Proposal does not obligate the Zoo Board to complete the project, and the Zoo Board reserves the right to cancel the solicitation if it is not considered to be in the best interests of the Zoo Board.

Non-State Public Contracts

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

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

Dakota County

Request for Proposals for Ash Residue Recycling and Disposal Services

Dakota County is seeking proposals to recycle and/or dispose of ash residue resulting from the processing of municipal solid waste at the Dakota County Resource Recovery Facility. Ash residue recycling and disposal services will be required when the resource recovery facility starts operating in 1992. Proposals are due by noon on June 30, 1989 at the Dakota County Government Center, 1560 Highway 55, Hastings, MN, 55033. A copy of the RFP can be obtained by calling Mr. Louis Breimhurst at (612) 438-4418.

Dated: 17 May 1989

State Grants

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

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

Housing Finance Agency

Notice of Fund Availability and Request for Proposals for Housing Trust Fund Housing Program for Low Income Persons

Introduction

The Minnesota Housing Finance Agency (MHFA) and the Housing Trust Fund Advisory Committee (HTFAC) announce the availability of \$600,000.00 in grant/loan funds to eligible sponsors to assist them in the development of housing for low-income persons. These funds were generated by interest earnings on Real Estate Broker's Trust Accounts. We anticipate that we will be requesting proposals twice a year on a regular schedule provided that funds are available.

Applicant Eligibility

Eligible applicants include individuals, for-profit entities, nonprofit entities, Minnesota cities, joint power boards established by two or more cities and Minnesota Housing and Redevelopment Authorities.

Project Eligibility

The legislation requires that the money from the trust fund account be used "to provide loans or grants for projects for the development, construction, acquisition, preservation, and rehabilitation of low-income rental and limited equity cooperative housing units. At least 75 percent of the units must be rented to or cooperatively owned by persons and families whose income at the time the person or family originally occupied the unit was at or below 30 percent of the median family income for the metropolitan area."

It is the desire of the MHFA and the HTFAC to encourage developers of low-income housing to use these funds in assisting innovative solutions to housing problems which provide housing with strong local support and long-term affordability. Therefore, the rules for the program are only restrictive to the extent of the legislation. We hope that these funds can be used to leverage other funds or provide the final piece of a financing package. They can be used in conjunction with other MHFA, State or Federal programs as appropriate.

Availability of Funds

Applicants may request any size grant/loan up to \$600,000; however, it is the intent of this program to assist in the development of this housing throughout the state where possible.

Procedure

Applicants should request application packets from staff at the MHFA. Any questions concerning the program or the application forms should also be directed to MHFA staff.

Minnesota Housing Finance Agency
Park Square Court Building-Suite 300
400 Sibley Street
St. Paul, MN 55101
Attention: Murray Casserly
(612) 296-9846

This Request for Proposals (RFP) is subject to all applicable federal, state and municipal laws, rules and regulations and may be amended from time to time. MHFA reserves the right to modify or withdraw this RFP at any time and is not able to reimburse any applicant for costs incurred in the preparation or submittal of application.

The Minnesota Human Rights Act states that any person or organization having 20 or more employees in the State of Minnesota and involved in any transaction of \$50,000 or more with a state agency must have an Affirmative Action Plan approved by the State Department of Human Rights. *Therefore, no applications will be accepted unless they include either:*

1. A Certificate of Compliance from the State Department of Human Rights; OR
2. A notarized statement stating that the applying organization has had less than 20 employees in the State of Minnesota in the last 12 months.

Applications are due by 4:00 p.m. on July 24, 1989. Selections should be made by August 25, 1989.

Supreme Court Calendar

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning dates, locations, cases, etc., should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN 55155 612-296-2581.

Cases Scheduled to be heard during June, 1989

Compiled by Dale A. Hansen, (612) 297-4050.

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning the time and location of hearings should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN. 55155 (612) 296-2581.

TUESDAY, MAY 30, 1989 9:00 AM

CX-87-2006 STATE OF MINNESOTA, Respondent (Attorneys: Robert A. Stanich, Special Assistant State Attorney General and Thomas J. Keyes, Beltrami County Attorney) vs. **GEORGE EARL BLASUS, Appellant** (Attorney: Mark F. Anderson, Assistant State Public Defender). Order and Judgment Beltrami County.

Was it an abuse of discretion for the postconviction court to deny Appellant a new trial on the basis of alleged newly discovered evidence which consisted of the opinion of another expert that Appellant was so mentally ill as to be criminally irresponsible and the results of two additional psychological tests which were available but not performed prior to Appellant's trial?

C9-88-1777 METROPOLITAN AIRPORTS POLICE FEDERATION, Respondent (Attorney: Stephen F. Befort of Gordon, Miller & O'Brien) vs. **METROPOLITAN AIRPORTS COMMISSION, Appellant** (Attorneys: Donald W. Selzer, Jr. and Randall J. Pattee of Oppenheimer, Wolff & Donnelly). Order Court of Appeals.

Is a district court's vacation of an arbitration award on jurisdictional grounds coupled with a remand of the underlying grievance for a rehearing on the merits appealable under the Uniform Arbitration Act?

Supreme Court Calendar

Did the district court err in vacating an arbitrator's determination that he lacked jurisdiction to construe a contract provision on the grounds that the provision did not concern a mandatory topic of bargaining?

Did the district court abuse its discretion in ordering that the rehearing of the underlying grievance be conducted before a new arbitrator?

WEDNESDAY, MAY 31, 1989 9:00 AM

C7-88-823 MAGNETIC DATA, INC., Respondent (Attorneys: Dale M. Wagner, Philip A. Pfaffly, and Gregory D. Peterson) vs. **ST. PAUL FIRE AND MARINE INSURANCE COMPANY, petitioner, Appellant** (Attorneys: Beverly J. Babcock and Timothy P. Tobin of Gislason, Dosland, Hunter & Malecki). Opinion Court of Appeals.

Does the erasure of magnetically encoded data constitute damage to tangible property?

Does loss of use constitute "property damage" as defined by the policy regardless of whether or not it is accompanied by damage to tangible property?

Was the erasure of the data contained on the critical disk cartridges an "accidental event" as defined by the policy?

Does the control of property exclusion preclude coverage in this case?

Does the work product exclusion preclude coverage for the loss of use claim?

C6-88-1168 FIRST TRUST COMPANY, INC., (formerly known as FIRST TRUST COMPANY OF ST. PAUL), as Trustee Under an Indenture of Trust dated as of December 1, 1979, Between the City of St. Paul, Minnesota, acting by and through its Housing and Redevelopment Authority and such Trustee, petitioner, Appellant (Attorneys: Timothy Paul Brausen; and Don C. Aldrich of Yaeger & Yaeger) vs. **ROBERT H. LEIBMAN, et al., Defendants, KENNETH E. KEATE, Respondent** (Attorney: Bryan Jamison). Opinion Court of Appeals.

Under *Minnesota Statutes* § 580.30 what amount is a mortgagor required to pay in order to reinstate a mortgage after judgment in a mortgage foreclosure proceeding by action is entered?

Was Appellant's notice under *Minnesota Statutes* § 47.20, subd. 8(3), sufficient for it to commence this proceeding?

THURSDAY, JUNE 1, 1989 9:00 AM

C9-88-2623 STATE OF MINNESOTA, Plaintiff (Attorney: Matthew J. Opat, Assistant Fillmore County Attorney) vs. **ELI A. HERSHBERGER, et al., Defendants** (Attorneys: Philip G. Villaume & Associates; Joseph L. Daly; Howard J. Vogel). Certified Questions Fillmore County.

Does the application of *Minnesota Statutes* § 169.522 [requiring the display of a slow-moving vehicle emblem] to the defendants [members of the Old Order Amish religion] violate the rights of the defendants protected by the free exercise clause of the First Amendment to the Constitution of the United States?

Does the application of *Minnesota Statutes* § 169.522 to the defendants violate the rights of the defendants protected by Article I, section 16 of the Minnesota Constitution?

C2-88-2642 JAMES C. BACKAUS, Respondent (Attorney: Raymond R. Peterson of Sieben, Grose, Von Holtum, McCoy & Carey) vs. **MURPHY MOTOR FREIGHT LINES, Self-Insured, Employer, and SPECIAL COMPENSATION FUND, Relator** (Attorney: Jeffrey Baker, Special Assistant State Attorney General). Order Workers' Compensation Court of Appeals.

Should payments made by an employer to an employee for rental of the employee's equipment used in the performance of his work be considered "wages" in computing the employee's average weekly wage under the Minnesota Workers' Compensation Act?

FRIDAY, JUNE 2, 1989 9:00 AM

C6-88-1011 TIMOTHY D. GABRIELSON, et al., Respondents (Attorney: Leighton, Meany, Cotter & Enger, Ltd.; Of Counsel: John D. Hagen, Jr.) vs. **JAMES L. WARNEMUNDE, d/b/a WARNEMUNDE INSURANCE AGENCY, petitioner, Appellant** (Attorney: James D. Fleming of Gilsdorf & Jacobberger). Opinion Court of Appeals.

Is the existence of a legal duty by an insurance agent to his insured to be determined by the court, or by the trier of fact?

Where no material facts are in dispute, is a trial necessary in order to establish whether an insurance agent has breached a duty to an insured?

Upon the undisputed facts of this case, did an affirmative duty arise on the part of the agent to make periodic inquiries to determine whether his insured had acquired a boat having a motor exceeding 25 horsepower?

In an action against an insurance agent for professional malpractice, does the trial court have discretion to determine whether expert testimony is necessary to establish the standard of care applicable to the profession and whether defendant's conduct violated the standards?

C6-88-876 DEBORAH DURKIN, Respondent (Attorney: Jody Ollyver DeSmidt of Mahoney & Walling) **vs. KATHRYN HINICH, petitioner, Appellant** (Attorney: Barbara J. May of J. Oakes & Associates), **and In Re the Matter of: S.A.H.** Opinion Court of Appeals.

When a petition for custody and a dependency and neglect petition regarding the same child are pending before the court, can the court, in the best interests of the child involved, after a consolidated trial, make permanent a custody determination and dismiss the dependency and neglect petition?

MONDAY, JUNE 5, 1989 9:00 AM

C8-89-131 STEVEN A. ROSS, Relator (Attorney: Jerry J. Lindberg) **vs. NORTHERN STATES POWER COMPANY, Self-Insured, Respondent** (Attorneys: James R. Waldhauser and Penny Helgren of Cousineau, McGuire, Shaughnessy & Anderson). Order Workers' Compensation Court of Appeals.

May family members be paid for specifically prescribed medical services pursuant to *Minnesota Statutes* § 176.135, subd. 1 when the Employee is not permanently, totally disabled?

C1-88-1160 CHESTER HUBRED, et al., petitioners, Appellants (Attorney: McVay & O'Connor) **vs. CONTROL DATA CORPORATION, as a corporation, and as Trustee of the Control Data Health Care Plan, Respondent** (Attorney: Barbara A. Leininger). Opinion Court of Appeals.

When an insured under a health care plan receives injuries while performing duties at his place of business, where he is the majority owner, and is not covered by workers' compensation insurance, do the words "employment for wages and profit" clearly and unambiguously exclude coverage for medical expenses incurred because of injury?

TUESDAY, JUNE 6, 1989 9:00 AM

C5-88-1145 MERLE'S CONSTRUCTION COMPANY, INC., petitioner, Appellant (Attorney: William Christopher Penwell of Grossman, Karlins, Siegel, Brill, Gruenpner & Duffy) **vs. JAMES I. BERG, Respondent** (Attorney: Susan Reiter Miles of Robins, Kaplan, Miller & Ciresi), **CITY OF ST. PAUL by the Housing and Redevelopment Authority of the City of St. Paul, Defendant.** Opinion Court of Appeals.

Does Respondent fall within the exceptions provided by *Minnesota Statutes* § 514.011, subd. 4a and 4b thereby obviating the requirement of pre-lien notice for a valid mechanic's lien?

C4-88-2593 In Re the Matter of: EVERETT SCHMIDT (Attorney for Appellant Schmidt: Rudy, Prevost, Gassert, Yetka, Korman & Belfry) (Attorneys for Respondent State: James A. Alexander, Special Assistant State Attorney General; Beverly Jones Heydinger, Assistant State Attorney General). Order Carlton County.

Does *Minnesota Statutes* § 253B.03, subd. 6a violate Appellant's right to privacy under the Minnesota Constitution?

Does *Minnesota Statutes* § 253B.03, subd. 6a violate Appellant's right to counsel and an adversary hearing, thus violating Appellant's right to due process and equal protection under the Minnesota and United States Constitutions?

WEDNESDAY, JUNE 7, 1989 9:00 AM

C3-88-26 In Re Petition for Disciplinary Action against ROGER T. SAHR, an Attorney at Law of the State of Minnesota (Attorney: Kenneth E. Tilsen). Petition for Disciplinary Action.

Does Respondent's failure to timely file state and federal income tax returns for the last four years and failure to timely pay taxes in excess of \$130,000 warrant suspension from the practice of law?

Is a stay of all suspension in light of the existing mitigating factors, which include a family tragedy, cooperation with the disciplinary board, and good character and remorse, fair and consistent with prior discipline issued by the court in cases of failure to file tax returns?

C4-88-1914 In Re Petition for Disciplinary Action against DOUGLAS A. RUHLAND, an Attorney at Law of the State of Minnesota (Attorney: John H. Martin). Petition for Disciplinary Action.

When, contrary to his agreement with the court and opposing counsel, Respondent transferred disputed trust account funds to his business account, and when he failed to pay the money to the opposing party as ordered by the court, did Respondent violate Rule 8.4(d), *Minnesota Rules of Professional Conduct* (MRPC)?

Supreme Court Calendar

When Respondent deliberately concealed from the court and opposing counsel his transfer of trust account funds, did Respondent violate Rules 8.4(c) and 8.4(d), MRPC?

C5-88-1968 In Re Petition for Disciplinary Action against HARLAN P. KLEIN, at Attorney at Law of the State of Minnesota (Attorney: Harlan P. Klein). Petition for Disciplinary Action.

What discipline is appropriate to impose upon a lawyer who obtains a default judgment through deceit on the court and adverse party, makes false statements under oath in disciplinary proceedings concerning the matter, and fails to evince any appreciation of the wrongfulness of his actions?

Supreme Court Decisions

Decisions Filed 26 May 1989

C5-88-948 State of Minnesota v. James Arthur Raymond, Jr., Appellant. Hennepin County District Court.

The evidence of intent was sufficient to sustain appellant's conviction for murder in the first degree.

Conviction affirmed. Wahl, J.

C6-88-330 Randy Kampsen v. County of Kandiyohi and Steven Strom, et al., etc., petitioners, Appellants. Court of Appeals.

A possessor of personal property, who holds it as security for storage and towing charges has the duty to take appropriate steps reasonably designed to provide the owner of the property with notification of the nature and extent of his claim, that the property is retained as security for payment of the claim, that the owner may timely redeem the property by making payment, and that failure to timely redeem may result in loss of the property by foreclosure sale.

Affirmed and remanded. Kelley, J.

C2-88-1894 State of Minnesota v. Robert Gene Webb, Appellant. St. Louis County.

The state failed to meet its burden to establish the guilt of the accused where the conviction for first degree murder rested on circumstantial evidence which was consistent with a rational hypothesis other than that of guilt.

Reversed. Keith, J.

Orders

C7-81-300 In Re Modification of Canon 3A(7)) of the Minnesota Code of Judicial Conduct. Minnesota Joint Media Committee, Petitioner. Supreme Court.

Petition Denied. Yetka, J.

Concur specially, Keith, J.

Took no part, Popovich, C.J.

C6-89-340 In Re Petition for Disciplinary Action against Michael R. Clasen, an Attorney at Law of the State of Minnesota. Supreme Court.

Temporary suspension. Kelley, J.

C0-87-2385 In Re Petition for Disciplinary Action against James T. Skonnord, an Attorney at Law of the State of Minnesota. Supreme Court.

Indefinite suspension. Kelley, J.

C6-88-2398 In Re Petition for Disciplinary Action against Richard D. Donohoo, an Attorney at Law of the State of Minnesota. Supreme Court.

Publicly reprimanded. Kelley, J.

Announcements

Metropolitan Council Seeks Applicants: Eight Arts Advisory Committee vacancies and 11 Health Planning Board openings are to be filled by the Metro Council by appointment on June 22. Applicants must apply by June 16. Arts Advisory Committee applicants should call Ruthann Isaacson at 291-6494, and Health Planning Board applicants should call Edith Watson at 291-6427 or Malcolm Mitchell at 291-6351.

Minnesota's unemployment rate: Minnesota's unemployment rate, which began the year at 5.1 percent and fell to 4.5 percent in March, rose to 4.7 percent in April. Minnesota's jobless rate for April a year ago was 3.7 percent, a full point below the 1989 measure. The national rate for April was 5.1 percent. Employment in April totaled 2,191,000, down 12,900 (0.6 percent) from March. Compared to April 1988, the total number of jobs declined by 41,500, or 1.9 percent. Employment in Minnesota grew by 3.3 percent, or 63,700 jobs, in 1988. The increase represents the second consecutive year of strong employment gains after a sluggish 1986 and that it compares favorably to employment growth in the nation and region. Job growth in the U.S. was 3.6 percent in 1988 and the gain in the five-state region of the Upper Midwest (Iowa, Minnesota, North Dakota, South Dakota and Wisconsin) was 3.2 percent. The revised data on Minnesota employment for 54 industries from 1980 through 1988 is published in *Employment, Hours and Earnings*, along with a brief analysis of trends. A similar publication also has been compiled for Minneapolis-St. Paul metropolitan area. For additional information, contact the Department of Jobs and Training, Research and Statistics Office, 612/296-6545.

Construction Down in Metro Area: Construction in the Twin Cities Metro Area was down 19 percent in 1988 from the previous year, according to a recent study conducted by the Metropolitan Council. The value of all building permits for the Metro Area in 1988 was \$2.6 billion. This was high enough, however, to make it the third highest year on record. Six of the seven metro counties had declines in 1988 in overall construction, which consists of residential, commercial, industrial and miscellaneous construction. Only Carver County showed an increase, 23.9 percent, thanks to commercial and industrial construction. The value of all building permits for 1988 by county showed Hennepin County with 40.9 percent of the total value, followed by Dakota County with 18.5 percent, Ramsey County, 13.7; Anoka County, 10.8; Washington, 9.2; Carver, 4; and Scott, 2.9. By type of construction, single-family homes accounted for 48.9 percent of all construction, followed by commercial construction at 15.8 percent and miscellaneous at 14.1 percent. "Miscellaneous" includes privately owned churches, hospitals, schools, garages and their remodeling. Multifamily housing accounted for 8.9 percent of all construction, residential additions and remodeling followed at 7 percent, industrial at 4.1 and other housing at 1.2. Commercial construction in 1988 was up in all counties except Hennepin and Scott. This trend was the same in 1987. The top five cities in value of commercial construction building permits in 1988 were Minneapolis, with \$156 million; St. Paul, \$49 million; Plymouth, \$23 million; Eagan, \$17 million; and Fridley, \$13 million. Construction costs have remained rather stable because of relatively low inflation. This is especially true in comparison to the 1970s. Using 1982 dollars as a constant, one dollar bought 86 cents' worth of construction materials in 1988. The two reports containing this information are titled *1988 Construction Activity in the Twin Cities Metropolitan Area and Major Construction Projects, July-December 1988* and *Commercial Construction in the Twin Cities Metropolitan Area 1988*. They are available for \$2.50 each at the Metropolitan Council Data Center, 230 E. Fifth St., St. Paul, MN 55101.

Recycling Equipment Purchase Grants: The Metropolitan Council has established a new grant program to provide funds for recycling and composting projects. The Council has earmarked \$700,000 from its landfill abatement fund over the next two years to help buy recycling and composting machinery and equipment. While only metropolitan counties, cities and townships can actually apply for the grants, businesses, nonprofit organizations and public institutions (such as schools) can join local governments to seek project funds. For example, a county could apply for a grant to buy a newspaper shredder to make animal bedding. Or a private company, in conjunction with a county or community, could apply for funds to buy equipment to shred and screen yard waste for a composting program. The grant limit on individual projects is \$150,000, with a 50 percent cash match required. For more information on the grant program, call Victoria Reinhardt of the Council staff at 291-6536. The Council is currently reviewing its grant programs for 1990-91. Information about new grant programs in the areas of recycling and composting technology, marketing, capital assistance and education will be available by July 1.

Lake Vegetation Control Permits: Permits from the Department of Natural Resources (DNR) are required by those planning to control vegetation or swimmer's itch in lakes, streams or other public waters. Any use of chemicals in public waters requires a permit, as does any removal or control of emergent vegetation. Emergent vegetation is any vegetation which extends above the water surface, such as cattails, bulrushes or wild rice. Lakeshore property owners do not, however, need a permit for cutting or pulling submerged vegetation in a maximum area of 2,500 square feet. The control site cannot extend more than 50 feet along the owner's shoreline or one half the length of the frontage, whichever is less. A 15-foot wide boat channel may be added to the lakeward edge of the control site if necessary for boat access to open water, but must not increase the 50 foot width limitation on shoreline frontage. Such work can be done using hand or power-operated cutters, rakes and similar tools, but cannot be done with draglines, bulldozers, hydraulic jets, suction dredges or other power-operated earth-moving equipment. After cutting and pulling, all vegetation must be removed from the water. Aquatic Nuisance Control Permits are issued through DNR Regional Fisheries offices. Further information can be obtained by calling 1-800-651-9747 (ask for DNR), or 296-6157 in the metro area.

River Stories That Warm Your Heart

A Stretch on the River. 1950 novel about the son of a wealthy family who goes to work on a Mississippi River towboat to avoid being drafted. With power, gusto and humor, author Richard Bissel creates an energetic, rowdy, and delightful account of a typical trip up the river, accurately re-creating a colorful era of towboating on America's major waterway. Stock #17-6, \$8.95 plus tax.

High Water. During the worst flood on the Mississippi River anyone can remember, the mate of a towboat has his hands full on a perilous trip, working with an unhappy crew, an angry captain, and too many barges to push against too much river. A 1954 Richard Bissel novel reveals the drama, humor and charm of working on the river. Stock #17-8, \$8.95 plus tax.

Old Times on the Mississippi River. George Merrick's lively, loving, and humorous reminiscences of his steamboat life from the bottom up, as a pantry boy, apprentice engineer, second clerk, and "cub" pilot. First published in 1909, he describes steamboat operations—from machinery and personnel to the economics of the business—with vivid examples and rich detail. 323 pp. includes appendices and index. Stock #17-45, \$8.95 plus tax.

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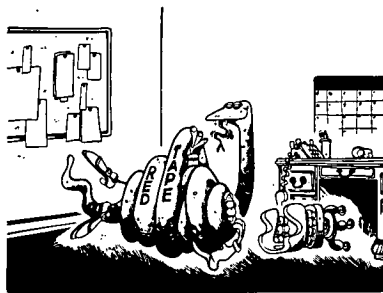
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Minnesota: national leader in education

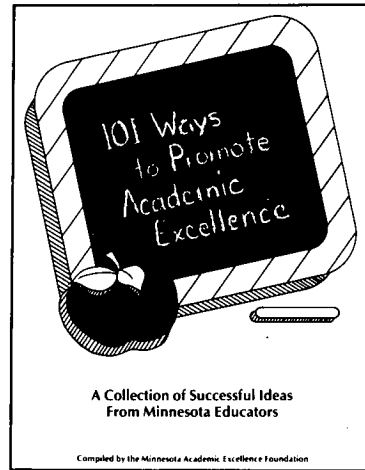
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A collection of nuts-and-bolts methods educators have successfully used to foster academic achievement. These are techniques that directly help students, can be replicated easily, are cost-effective, and that work in meeting public education's great challenge: helping every single child learn. Code #5-1, \$4.50.

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This popular comprehensive directory contains Minnesota school districts, superintendents, principals, addresses, phone numbers, and enrollment. 128 pages, paperbound. Code #1-93, \$7.00.

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Minnesota Manufacturer's Directory 1988-89

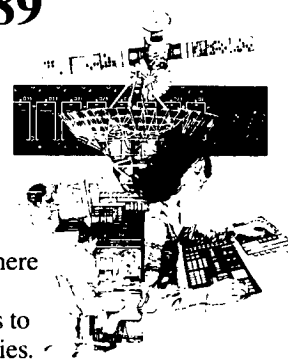


UPDATED: Name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2, \$76.50.

NEW: In the directory this year are two titles (where applicable) Chief Engineer and Data Processing Manager.



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

Voices of the Loon, cassette tape, includes introduction and loon call identification, chorus from a distant lake, tremolo duet, wail duet, border confrontation, wails with morning songbird chorus, tremolos while running, wails during a thunderstorm, and coyotes calling with loons. Code #19-73, \$12.00.

The Loon: Voice of the Wilderness, hardbound with color plates and illustrations, 143 pages. Code #19-54, \$15.95.

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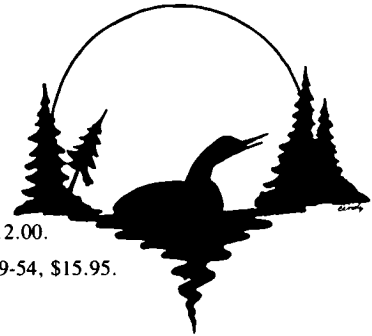
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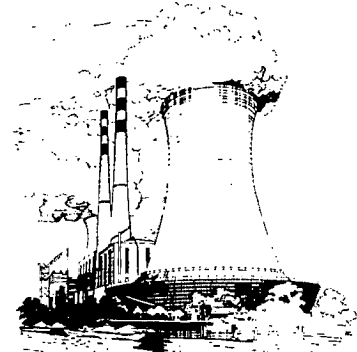
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Laws dealing with water pollution, disposal facilities, solid waste management, the MN Environmental Rights Act, recycling, and more. Code No. 2-21. \$16.00.

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