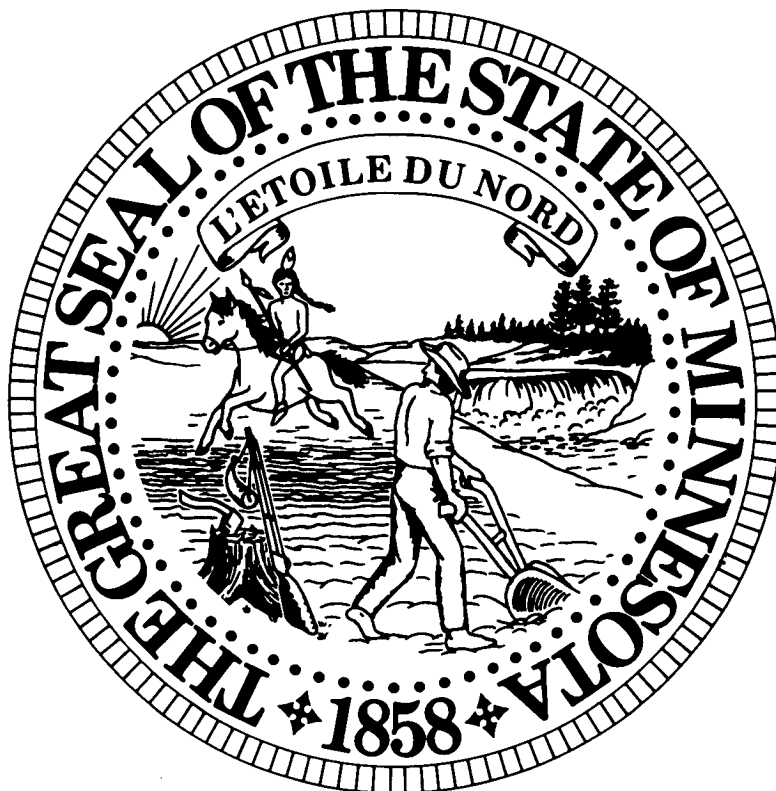


The Minnesota
**State
Register**

Department of Administration—Print Communications Division



Rules edition
Published every Monday
(Tuesday if Monday is a holiday)

Monday 16 December 1991
Volume 16, Number 25
Pages 1469-1520

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 and commissioners' orders, proposed and adopted rules, official and revenue notices, state and non-state contracts, contract awards, grants, a monthly calendar of cases to be heard by the state supreme court, and announcements.

A *Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.

Printing Schedule and Submission Deadlines

Vol. 16 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
25	Monday 2 December	Monday 9 December	Monday 16 December
26	Monday 9 December	Monday 16 December	Monday 23 December
27	Monday 16 December	Friday 20 December	Monday 30 December
28	Friday 20 December	Friday 27 December	Monday 6 January

*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 every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *State Register Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme court; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *State Register* be self-supporting, the following subscription rates have been established: the Monday edition costs \$140.00 per year and includes an index issue published in August (single issues are available at the address listed above for \$3.50 per copy); the combined Monday and Thursday editions cost \$195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for \$60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

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.

Arne H. Carlson, Governor

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Print Communications Division**

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Katherine Artishon, Acting Editor**

Paul Hoffman, Assistant Editor

Debbie George, Circulation Manager

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FOR LEGISLATIVE NEWS

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

SENATE

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

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

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

HOUSE

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

This Week—weekly interim bulletin of the House.

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

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

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

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

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

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

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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 Health

Proposed Permanent Rules Relating to Health Maintenance Organizations

Notice of Intent to Adopt Rules With a Public Hearing

NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING. A HEARING WILL BE HELD ON JANUARY 22, 1992, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 and *Minnesota Rules*, parts 1400.0200 to 1400.1200, on Wednesday, January 22, 1992 commencing at 9:00 a.m. at:

Veteran's Services Building
Fifth Floor, Conference Room D
20 West 12th Street
St. Paul, Minnesota 55155

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record should be mailed to:

Barbara L. Neilson
Administrative Law Judge
Office of Administrative Hearings
Fifth Floor, Flour Exchange Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415
(612) 341-7604

Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during

this period will be available for review at the Office of Administrative Hearings. The Department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. All information must be submitted to the Office of Administrative Hearings no later than 4:30 p.m. on the final day. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the administrative law judge.

The Department anticipates approximately 25 people will attend the hearing and that the hearing will require one day to complete.

If adopted, the proposed rules will generally, and in addition to other things:

- 1) Establish "billed charges" as the basis for calculating flat fee percentage copayments;
- 2) set out specific methods of calculating and reporting copayments for categories of services;
- 3) apply the same rules for establishing copayments on prescription drugs as for other health services;
- 4) establish the methods for providing supplemental benefits directly through a health maintenance organization, without contracting with an insurance company;
- 5) require notice directly to members of a group which will be terminated for nonpayment of premiums; and
- 6) limit certain forms of retroactive termination of group coverage.

A copy of the complete proposed rules is enclosed.

The proposed rules will be published in the *State Register* issue of December 16, 1991 and a free copy of the rules may be obtained from the Department by writing or telephoning:

Lawrence R. Colaizy
Health Care Delivery Systems Division
Minnesota Department of Health
717 South East Delaware Street
P.O. Box 9441
Minneapolis, Minnesota 55440
(612) 623-5670

The general statutory authority of the Department to adopt the proposed rules is contained in *Minnesota Statutes*, section 62D.20. The specific statutory authority of the Department to adopt supplemental benefits is contained in *Minnesota Statutes*, section 62D.05 subdivision 6(b).

The proposed rules may be modified as a result of the rules hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

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

- (a) engaged for pay or other consideration, or authorized by another individual, association, political subdivision, or public higher education system, who spends more than five hours in any month or more than \$250.00, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or
- (b) who spends more than \$250.00, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

The statute provides certain exceptions. Questions should be directed to:

Ethical Practices Board
625 North Robert Street
St. Paul, Minnesota 55101-2520
(612) 296-5616

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NOTICE IS HEREBY GIVEN that a STATEMENT OF NEED AND REASONABLENESS is now available for review at the Department and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence and arguments which the Department anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes*, section 14.11.

It is the position of the Department that these proposed rules are not subject to *Minnesota Statutes*, section 14.115 regarding small business considerations in rulemaking. The basis for this position and the Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subd. 2 for reducing the impact of the proposed rules if they are subject to *Minnesota Statutes*, section 14.115, are addressed in the STATEMENT OF NEED AND REASONABLENESS.

Marlene E. Marschall
Commissioner

Rules as Proposed

4685.0801 COPAYMENTS.

Subpart 1. Copayments on specific services. Copayments on comprehensive health maintenance organization services, as defined in part 4685.0700, are allowed provided the copayment does not exceed 25 percent of the provider's charge for the specific service or good received by the enrollee, except as provided in subparts 2 and 6.

For the purposes of this part, "provider's charge" for a specific service or good means the fees charged by the provider which do not exceed the fees that provider would charge any other person regardless of whether the person is a member of the health maintenance organization. This is typically known as the provider's fee schedule or billed charge for such service or good. The service must be based on a specific diagnosis or procedure code such as the codes defined by the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association for physician charges, or the Diagnosis Related Groups (DRGs) used by the Health Care Financing Administration, or any similar coding system used for billing purposes. For example, an enrollee who receives brief office medical services at a specific clinic may be charged up to 25 percent of that clinic's charge for brief office medical services.

Subp. 2. Flat fee copayments. The health maintenance organization may establish predetermined flat fee copayments for categories of similar services or goods. Flat fee copayments based on categories of similar services or goods must be calculated independently for Medicare plans, individual plans, and group plans. For example, calculations may be made by combining data from all individual plans but data from individual plans may not be combined with data from group plans. The flat fee copayment cannot exceed 25 percent of the average provider's charges for similar services or goods received by enrollees. For example, if the average charge for all prescription drugs received by enrollees is \$20, the health maintenance organization may determine a flat fee copayment of up to \$5 for any prescription drug that is purchased by an enrollee.

A health maintenance organization may request a copayment which exceeds the 25 percent limitation for prescription drug benefits for Medicare related products. The request must be made in writing to the Department of Health and must include sufficient documentation to demonstrate to the department that the requested copayment is reasonable under the general provisions described in this part.

Any copayment for prescription drugs approved by the Department of Health prior to the publication of this part in the State Register for an administrative hearing, even though it exceeds the 25 percent maximum copayment provisions of this part, shall remain approved until the health maintenance organization submits the copayment for reapproval for any reason. At that time the copayment must conform to all of the requirements of this part. Any prescription drug copayment submitted for approval after the date of publication and prior to the effective date of this part may be approved but must be resubmitted for approval within 30 days after the effective date.

The categories of similar services or goods must be determined according to subpart 3. The average provider's charges for a category of similar services or goods must be determined according to subpart 4.

Subp. 3. Categories. For the purposes of this part, a category of similar services or goods is any group of related services for which a single copayment is sought. Examples of categories include the following or any subset of the following:

- A. inpatient hospital care;
- B. inpatient physician care;
- C. outpatient physician care (or typically, "office visit") which may include outpatient laboratory, and radiology;
- D. outpatient surgery which may include provider and facility charges;
- E. emergency services which may include provider and facility charges;
- F. outpatient prescription drugs;
- G. skilled nursing care; and
- H. any other nonphysician service categorized singly according to provider.

For example, there may be one flat fee copayment for a physical therapy service and another flat fee copayment for a speech therapy service. Nonphysician services may include such services as chemical dependency services, chiropractic services, speech therapy services, mental health services, or physical therapy services.

Services or goods used to calculate the copayment for a category of services or goods may not be included in any other category. Services or goods used in this way must be eliminated from any other category in which they would otherwise be included, before the copayment is calculated. For example, if there is a copayment specifically for infertility or hormone therapy drugs, they must be eliminated from the category of outpatient prescription drugs.

Subp. 4. Determination and filing of average charge. To determine the average aggregate charge for a category of similar services, the health maintenance organization must follow the following steps and submit the results to the Department of Health with the request for approval of the copayment:

A. Identify all charges for the service or good for the relevant type of product, Medicare, individual, or group. The health maintenance organization may use all charges or may choose a sample of charges from the total population. Any sample used must be randomly selected and large enough to be statistically reliable. "Statistically reliable" means that any other sample drawn in the same manner would produce essentially the same results.

(1) If the entire health maintenance organization population is used, describe the population including the size of the total population, the range of charges, the mean, the median, the quartiles, and the standard deviation for each category submitted.

(2) If a sample of the population is used, describe the sample including the size of the sample, the range of charges, the mean, the median, the quartiles, and standard deviation for each category submitted.

B. If the health maintenance organization does not use charges that span 12 months, the health maintenance organization must explain how the time period used is sufficient to include seasonal fluctuations in the utilization of services.

C. A statement that the sample is statistically reliable, with an explanation of how the sample is drawn so that it is representative of the larger health maintenance organization population.

D. A narrative description of the services included in the category, including diagnosis or procedure codes if applicable.

E. If costs are adjusted for inflation, the health maintenance organization must base its inflation adjustments on changes in the medical care component of the consumer price index or a similar national or regional index.

F. The average charge will be the median charge.

Subp. 5. Required disclosure. The health maintenance organization must include a notice which describes the copayment charges in its Medicare, individual, and master group contracts and certificates or evidences of coverage. The notice must include the following language or similar language approved by the commissioner: "THE AMOUNT CHARGED AS A COPAYMENT IS BASED ON THE PROVIDER'S CHARGE FOR THAT SERVICE."

If the copayment is a flat fee copayment based upon a category of services, the notice must include a general, narrative description of the types of services which were included in determining the average charge. For example, if the health maintenance organization is imposing a copayment upon office visits, the contract must disclose what types of services, such as laboratory services and radiology services, are included in the office visit copayment.

Subp. 6. Exclusions. Any amount or form of copayment shall be deemed reasonable when imposed on services which, according

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to parts 4685.0400 to 4685.1300, may be excluded completely, provided that the copayment is not greater than the provider's charge for that particular service.

Subp. 7. Out-of-plan services. Copayments may be imposed on out-of-plan emergency care, including inpatient, by providers who do not have arrangements with the health maintenance organization, in the form of a reasonable deductible not to exceed \$150, plus a 25 percent copayment, plus all charges which exceed a specified annual aggregate amount not less than \$90,000.

Subp. 8. Preventive health care services. No copayment may be imposed on preventive health care services as defined in part 4685.0100, subpart 5, item E, including child health supervision, periodic health screening, and prenatal care.

4685.1910 UNIFORM REPORTING.

Beginning April 1, 1989, health maintenance organizations shall submit as part of the annual report a completed NAIC Blank, subject to the amendments in parts 4685.1930, 4685.1940, ~~and~~ 4685.1950, and 4685.1955.

4685.1940 NAIC BLANK FOR HEALTH MAINTENANCE ORGANIZATIONS, REPORT #2: STATEMENT OF REVENUE AND EXPENSES.

Subpart 1. **Separate statements.** The NAIC Blank for health maintenance organizations is amended by requiring the submission of a separate STATEMENT OF REVENUE AND EXPENSES for each of the following:

- A. the health maintenance organization's total operations;
- B. each demonstration project, as described under *Minnesota Statutes*, section 62D.30;
- C. any Medicare risk enrollee contracts authorized by section 1876 of the Social Security Act; ~~and~~
- D. any other Medicare contracts; and
- E. the health maintenance organization's supplemental benefit operations including a separate schedule H.

4685.1955 SUPPLEMENTAL BENEFITS.

Subpart 1. Definitions. The terms used in this part have the meanings given them.

A. "Supplemental benefit" means an addition to the comprehensive health maintenance services required to be offered under a health maintenance contract which provides coverage for nonemergency, self-referred medical services which is either a comprehensive supplemental benefit or a limited supplemental benefit according to items B and C.

B. "Comprehensive supplemental benefit" means supplemental benefits for at least 80 percent of the usual and customary charges for all covered supplemental benefits, except emergency care, required for a qualified plan as provided by *Minnesota Statutes*, section 62E.06, or a qualified Medicare supplement plan as provided by *Minnesota Statutes*, section 62E.07, if it were offered as a separate health insurance policy.

C. "Limited supplemental benefit" means any supplemental benefit which provides coverage at a lower level of benefits than a comprehensive supplemental benefit as described under item B. A limited supplemental benefit may be for a single service or any combination of services.

Subp. 2. General requirements on provisions of coverage.

A. Every contract or evidence of coverage for supplemental benefits must clearly state that supplemental benefits are not used to fulfill comprehensive health maintenance services requirements as defined under part 4685.0700.

B. In any supplemental benefit providing coverage for a medical service, reimbursement for that service must include treatments by all credentialed practitioners providing that service within the lawful scope of their practice, unless the certificate of coverage specifically states the practitioners whose services are not covered. Practitioners described in item C cannot be excluded from coverage. For the purposes of this part, "credentialed practitioners" means any practitioner licensed or registered according to *Minnesota Statutes*, chapter 214.

C. In any supplemental benefit providing reimbursement for any service which is in the lawful scope of practice of a duly licensed osteopath, optometrist, chiropractor, or registered nurse meeting the requirements of *Minnesota Statutes*, section 62A.15, subdivision 3a, the person entitled to benefits is entitled to access to that service on an equal basis, whether the service is performed by a physician, osteopath, optometrist, chiropractor, or registered nurse meeting the requirements of *Minnesota Statutes*, section 62A.15, subdivision 3a, licensed under the laws of Minnesota.

D. A health maintenance organization may not deny supplemental benefit coverage of a service which the enrollee has already received solely on the basis of lack of prior authorization or second opinion, to the extent that the service would otherwise have been covered under the member's supplemental benefits contract by the health maintenance organization had prior authorization or second opinion been obtained.

A health maintenance organization may, however, impose a reasonable assessment on coverage for lack of prior authorization or

second opinion for supplemental benefit services. The assessment cannot exceed 20 percent of the usual and customary charges for the service received.

Subp. 3. Disclosure of comprehensive supplemental benefits. Every contract or evidence of coverage for comprehensive supplemental benefits must include a detailed explanation of the services available, including:

A. coverage is available for all benefits provided by the health maintenance organization's health maintenance services, except emergency services;

B. the level of coverage available under the supplemental benefits, including any limitations on benefits;

C. all applicable copayments, deductibles, or maximum lifetime benefits;

D. the procedure for any required preauthorization, including any applicable assessment for failure to obtain preauthorization;

and

E. the procedure for filing claims under the supplemental benefits, which must comply with Minnesota Statutes, section 72A.201.

Subp. 4. Disclosure of limited supplemental benefits. Every contract or evidence of coverage for limited supplemental benefits must include a detailed explanation of the services available including:

A. A listing of all benefits available through the limited supplemental benefits.

B. A listing of any excluded general grouping of services as listed in Minnesota Statutes, section 62D.02, subdivision 7. Those groupings include preventive health services, outpatient health services, and inpatient hospital and physician services. Emergency care is not permitted as a supplemental benefit.

If less than all of the services in a grouping are covered, specific exclusions within that grouping must be clearly stated.

C. The level of coverage available for each benefit.

D. All applicable copayments, deductibles, or maximum lifetime benefits.

E. The procedure for any required preauthorization, including any applicable assessment for failure to obtain preauthorization.

F. The procedure for filing claims under the limited supplemental benefits, which must comply with Minnesota Statutes, section 72A.201.

Subp. 5. Consumer information. All supplemental benefits evidences of coverage and contracts must contain a clear and complete statement of enrollees' rights as consumers. The statement must be in bold print and captioned "Important Consumer Information For Supplemental Benefits" and must include the provisions given in this subpart for either comprehensive or limited supplemental benefits, as appropriate.

If the supplemental benefit is presented as a separate section of a contract or evidence of coverage for comprehensive health maintenance services, the supplemental benefit section must begin with the consumer information statement described in this subpart.

If the supplemental benefit is presented as an integrated part of the comprehensive health maintenance services contract or evidence of coverage, the consumer information statement must appear directly after the "Enrollee Bill Of Rights" and "Consumer Information" sections at the beginning of the contract or evidence of coverage. When the supplemental benefits are integrated into the contract or evidence of coverage, the differences between the supplemental benefit and the comprehensive health maintenance services must be clearly set out in the contract or evidence of coverage.

The statement of consumer information must be in the language of item A or B, as appropriate, or in substantially similar language (to accommodate changes based on a prior authorization requirement, for example) approved in advance by the commissioner:

A. CONSUMER INFORMATION FOR COMPREHENSIVE SUPPLEMENTAL BENEFITS

(1) COVERED SERVICES: The comprehensive supplemental benefit of (name of health maintenance organization) covers similar services as the comprehensive health maintenance services, but at a different level of coverage. Copayments, deductibles, and maximum lifetime benefit restrictions may apply. Your contract describes the procedures for receiving coverage through the comprehensive supplemental benefit.

(2) PROVIDERS: To receive services through the comprehensive supplemental benefit, you may go to providers of covered services who are not on the provider list supplied by (name of health maintenance organization) and for whom you did not get a referral.

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(3) **REFERRALS:** A referral from (name of health maintenance organization) for services covered by the comprehensive supplemental benefit is not required to receive coverage. However, if a referral is requested from (name of health maintenance organization) you may be eligible for the same services, from the same provider at a lower cost to you, as a benefit under your comprehensive health maintenance services. See section (section number) of the evidence of coverage for specific referral details.

(4) **PRIOR AUTHORIZATION:** You are not required to get prior authorization from (name of health maintenance organization) before using supplemental benefits. However, there may be a reduction in the level of benefits available to you if you do not get prior authorization. See section (section number) of your comprehensive supplemental benefit agreement for specific information about prior authorization.

(5) **EXCLUSIONS:** Coverage of supplemental benefits is limited to those services specified in your evidence of coverage. Section (specify number) lists related services which are excluded from coverage and clarifies any limitations imposed on coverage of the services.

(6) **CONTINUATION:** Your comprehensive health maintenance services contract provides for continuation and conversion rights under certain circumstances. If you continue your coverage as an individual under your group contract, the comprehensive supplemental benefits will also continue. If you convert to an individual plan, supplemental benefits may not be available. Your continuation and conversion rights to supplemental benefits are explained fully in your comprehensive supplemental benefits agreement.

(7) **DISCONTINUATION:** Your comprehensive supplemental benefits are an addition to your comprehensive health maintenance coverage. Changes in your contract may result in the discontinuation of one or more of your supplemental benefits. Please read all amendments to your contract carefully.

B. CONSUMER INFORMATION FOR LIMITED SUPPLEMENTAL BENEFITS

(1) **COVERED SERVICES:** The limited supplemental benefit of (name of health maintenance organization) covers selected services, at varying levels of coverage. It does not provide coverage from nonparticipating providers for all services which are covered under a qualified health insurance plan under Minnesota law. Copayments, deductibles, and maximum lifetime benefit restrictions may apply. Your certificate of coverage lists the services available and describes the procedures for receiving coverage through the limited supplemental benefit.

(2) **PROVIDERS:** To receive benefits through the limited supplemental benefit, you may go to providers of covered services who are not on the provider list supplied by (name of health maintenance organization) and for whom you did not get a referral.

(3) **REFERRALS:** A referral from (name of health maintenance organization) for services covered by the limited supplemental benefit is not required to receive coverage. However, if a referral is requested from (name of health maintenance organization) you may be eligible for the same services, from the same provider at a lower cost to you, as a benefit under your comprehensive health maintenance services. See section (section number) of the evidence of coverage for specific referral details.

(4) **PRIOR AUTHORIZATION:** You are not required to get prior authorization from (name of health maintenance organization) before using supplemental benefits. However, there may be a reduction in the level of benefits available to you if you do not get prior authorization. See section (section number) of your limited supplemental benefit agreement for specific information about prior authorization.

(5) **EXCLUSIONS:** Services are not covered by the limited supplemental benefit unless they are listed in the supplemental benefits provisions. Section (specify number) lists related services which are excluded from coverage and clarifies any limitations imposed on coverage of such services.

(6) **CONTINUATION:** Your comprehensive health maintenance services contract provides for continuation and conversion rights under certain circumstances. If you continue your coverage as an individual under your group contract, the limited supplemental benefits will also continue. If you convert to an individual plan, supplemental benefits may not be available. Your continuation and conversion rights to supplemental benefits are explained fully in your limited supplemental benefits agreement.

(7) **DISCONTINUATION:** Your limited supplemental benefits are an addition to your comprehensive health maintenance coverage. Changes in your contract may result in the discontinuation of one or more of your supplemental benefits. Please read all amendments to your contract carefully.

Subp. 6. Out-of-pocket expenditures. The out-of-pocket expenses associated with supplemental benefits, including any deductibles, copayments, or assessments shall be included in the total out-of-pocket expenses for the entire package of benefits provided. The total out-of-pocket expenses for a plan, including those associated with supplemental benefits, may not exceed the maximum out-of-pocket expenses allowable for a number three qualified insurance plan as provided by *Minnesota Statutes*, section 62E.06.

A plan may designate what portion of the maximum out-of-pocket benefits may be used in relation to supplemental benefits, with the remaining amount applicable only to comprehensive health maintenance services. For example, if the maximum out-of-pocket expenses is \$3,000, the health maintenance organization may designate in its contract that the maximum out-of-pocket expenses for supplemental benefits is \$1,000 and the maximum for comprehensive health maintenance services is \$2,000. Every contract and

evidence of coverage must include a clear statement describing the maximum out-of-pocket expense limitations and, if applicable, how the maximum expenses are allocated between comprehensive health maintenance services and supplemental benefits. The contract must also include a statement explaining that enrollees must keep track of their own out-of-pocket expenses, provided however, that enrollees may contact the health maintenance organization member services department for assistance in determining the amount paid by the enrollee for specific services received.

Subp. 7. Annual reports. A health maintenance organization which offers supplemental benefits shall include in its annual report the following schedules:

A. a schedule analyzing the previous year's estimation of incurred but not reported supplemental benefit claims; and

B. a schedule detailing claim development including historical data.

Subp. 8. Estimation of incurred but not reported claims. A health maintenance organization must estimate incurred but not reported supplemental benefit claim liabilities according to generally accepted actuarial methods.

Appropriate claim expense reserves are required with respect to the estimated expense of settlement of all incurred but not reported supplemental benefit claims. All such reserves for prior years shall be tested for adequacy and reasonableness by reviewing the health maintenance organization's claim runoff schedules in accordance with generally accepted accounting principles and reported annually in the schedule required under subpart 7, item A.

Subp. 9. Accrued supplemental benefit claims. NAIC BLANK FOR HEALTH MAINTENANCE ORGANIZATIONS, REPORT #1-B: Report#1-B: BALANCE SHEET LIABILITIES AND NET WORTH is amended by adding a line for Accrued Supplemental Benefit Claims, and requiring a separate schedule of such claims detailing direct claims adjusted or in the process of adjustment plus incurred but not reported claims.

4685.2200 TERMINATION OF COVERAGE.

Subpart 1. **Definitions.** For the purpose of this part, the following terms have the meanings given them.

A. "Notice date" means the date a written notice of cancellation of coverage is postmarked by the United States Postal Service.

B. "Effective date of notice" means the date that a notice of cancellation of coverage takes effect as stated in the notice.

C. "Cancellation date" means the date coverage ends, as stated in the notice of cancellation.

Subp. 1a. Justification. In addition to those reasons specified in *Minnesota Statutes*, section 62D.12, subdivision 2, a health maintenance organization may, upon 30 days advance notice, cancel or fail to renew the coverage of an enrollee if ~~such~~ the enrollee:

A. knowingly gives false, material information at the time of enrollment relative to ~~his~~ the enrollee's health status, provided ~~such~~ the cancellation or nonrenewal is made within six months of the date of enrollment; or

B. moves out of the geographic service area filed with the commissioner, provided ~~such~~ the cancellation or nonrenewal is made within one year following the date the health maintenance organization was provided written notification of the address change. Written notification of the change of address of an enrollee may be from any reliable source, such as the United States Postal Service or providers. If notification is received from a source other than the enrollee, the health maintenance organization must verify that the enrollee has moved out of the service area before sending notice of termination.

Subp. 2. Notice. In any situation where 30 days notice of cancellation or nonrenewal of the coverage of a specified group plan or of the coverage of any individual therein is required, notice given by a health maintenance organization to an authorized representative of any such group shall be deemed to be notice to all affected enrollees in any such group and satisfy the notice requirement of the act, except as set out in subpart 2a.

The notice requirement of *Minnesota Statutes*, section 62D.12, subdivision 2 2a shall be deemed to be satisfied in the event of voluntary enrollee or ~~voluntary group~~ cancellation or nonrenewal of coverage, including such voluntary cancellation manifested by the nongroup plan enrollee's failure to pay the prescribed prepayment amount.

The notice ~~requirement~~ requirements of *Minnesota Statutes*, section 62D.12, subdivision 2 2a, ~~shall not compel a health maintenance organization to provide health care services beyond a date for which payment therefore may not reasonably be expected to be received~~ are considered satisfied in the event of voluntary group cancellation or nonrenewal of coverage manifested by the group contract holder's notice to the health maintenance organization of the cancellation or nonrenewal.

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Subp. 2a. Notice of cancellation to group enrollees. In situations where the health maintenance organization is canceling coverage for all enrollees of a group plan for nonpayment of the premium for coverage under the group plan, the health maintenance organization is required to give all enrollees in the group plan 30 days notice of termination. The effective date of the notice shall not be less than 30 days after the notice date and shall clearly state the cancellation date which shall be no more than 60 days prior to the effective date of the notice. The notice shall include a statement of the enrollees' rights to convert to an individual policy without underwriting restrictions and shall include either an application for conversion coverage or a telephone number which the enrollees can call for further information about conversion to an individual plan.

The health maintenance organization shall not bill a group enrollee for any amount arising before the cancellation date, whether arising from past due premiums or from health services received by the enrollee.

Subp. 3. Termination of dependents at limiting age. A health maintenance organization may terminate enrollees who are covered dependents in a family health maintenance contract upon the attainment by the dependent enrollee of a limiting age as specified in the contract. Provided, however, that no health maintenance contract may specify a limiting age of less than 18 years of age. ~~Provided further that~~ If any health maintenance contract provides for the termination of coverage based on the attainment of a specified age it shall also provide in substance that attainment of that age shall not terminate coverage while the child is incapable of self-sustaining employment by reason of mental disability or physical handicap, and chiefly dependent upon the enrollee for support and maintenance; ~~provided proof of incapacity and dependency is furnished by~~. The enrollee must provide proof of the child's incapacity and dependency within 31 days of attainment of the age, and subsequently as required by the health maintenance organization, but not more frequently than annually after a two-year period following attainment of the age.

4685.3300 PERIODIC FILINGS.

[For text of subs 1a and 2a, see M.R.]

Subp. 3. Filing of contract. The filing of any contracts or evidences of coverage under *Minnesota Statutes*, section 62D.07 or 62D.08, subdivision 1, shall be accompanied by sufficient evidence on cost of services on which copayments are being imposed to allow the commissioner of health to determine the impact and reasonableness of the copayment provisions.

If a health maintenance organization imposes a copayment which is a flat fee based upon the charges for a category of similar services for Medicare, individual, or group plans according to part 4685.0801, the health maintenance organization must include the information required according to part 4685.0801, subpart 4.

[For text of subs 4a to 11, see M.R.]

REPEALER. Minnesota Rules, part 4685.0800, is repealed.

Department of Human Services

Proposed Permanent Rules Relating to Parental Fees

Notice of Cancellation and Rescheduling of Hearing

NOTICE IS HEREBY GIVEN that the public hearing on the above-entitled matter scheduled for December 19, 1991 at 9:00 a.m. in the State Office Building, Room 5, 100 Constitution Avenue, St. Paul, MN 55155 has been canceled. The public hearing on the above-entitled matter has been rescheduled and will be held on January 21, 1992 in the Department of Human Services Building, Rooms 1-A and 1-B, 444 Lafayette Road, St. Paul, MN 55155 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed amendments may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Bruce Campbell, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7602, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. Any written material or responses must be received at the office no later than 4:30 p.m. on the final day. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. Any written material or responses must be received at the office no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record the

Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, section 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9550.6200 to 9550.6240 establish standards for the assessment and collection of fees from parents of children placed in 24-hour care outside the home, in a facility licensed by the commissioner who: 1) have mental retardation or a related condition; 2) have an emotional disturbance; 3) have a physical disability; or 4) are in a state facility. Parts 9550.6200 to 9550.6240 also specify parental responsibility for cost of services to children whose eligibility for medical assistance was determined without considering the parents' income or assets.

Minnesota Rules, part 9505.0075 establish general requirements for the financial obligation of responsible relatives to contribute partial or complete repayment of medical assistance given to a recipient for whom the person(s) is responsible.

Amendments are being proposed to implement changes made in *Minnesota Statutes*, section 252.27 with regard to parental fees. Proposed amendments will: assure consistency between parts 9505.0075 and 9550.6200 to 9550.6240 by cross-referencing wherever possible; replace the phrase "cost of care" with "cost of services" throughout the rule to be consistent with statute; define the term "severe emotional disturbance" consistent with the definition contained in *Minnesota Statutes*, sections 245.487 to 245.697 (the Minnesota Comprehensive Children's Mental Health Act); revise the definition of "respite care" to reflect the current state of services and to be consistent with other department rules governing respite care; incorporate the parental fee schedule contained in *Minnesota Statutes*, section 252.27, subdivision 2a(b); clarify the conditions under which a variance may be granted based on undue hardship; define the respective roles of the department and local agencies with respect to administration of parental fees; and clarify payment requirements pending determination of a variance request and pending outcome of an appeal.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, sections 252.27 and 256B.14.

Adoption of these rules will not result in additional spending by local public bodies in the excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Laura Plummer, Rules and Bulletins Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297-1217.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Laura Plummer, Rules and Bulletins Division at the above address. A copy of the rule may also be viewed at any of the 87 county welfare agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Laura Plummer, Rules and Bulletins Division at the above address or phone number.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a **STATEMENT OF NEED AND REASONABLENESS** is now available for review at the agency and at the Office of Administrative Hearings. The **STATEMENT OF NEED AND REASONABLENESS** includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the **STATEMENT OF NEED AND REASONABLENESS** may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

In compliance with the requirements of *Minnesota Statutes*, section 16A.128, subdivision 2A, the agency has submitted a copy of this notice and the proposed rules to the chairs of the house appropriations committee and senate finance committee prior to publishing the notice of intent to adopt rules in the *State Register*.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Natalie Haas Steffen
Commissioner

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Proposed Rules

Rules as Proposed

9505.0075 RESPONSIBILITY OF RELATIVES.

Subpart 1. **General requirements; financial obligation of responsible relative.** A responsible relative has an obligation to contribute partial or complete repayment of medical assistance given to a recipient for whom he or she is responsible. The financial obligation of a responsible spouse must be determined under subpart 3 and the financial obligation of a ~~parent~~ parents must be determined ~~under subpart 6 according to parts 9550.6200 to 9550.6240~~ if the responsible spouse or parent provides parents provide the information needed to make the determination. The responsible spouse ~~or parent~~ who refuses to provide information needed to determine the financial obligation under ~~subparts subpart 3 and 6~~ subpart 3 and 6 is obligated to reimburse the local agency for the full amount of medical assistance paid for health services provided to the recipient. Refusal of responsible parents to provide information needed to determine financial obligation shall result in the determination that the parents are able to pay the full cost of services under part 9550.6226, subpart 2. The local agency may reduce the amount to be paid on the financial obligation determined under subpart 3 ~~or 6~~ if payment of the financial obligation will cause the responsible relative spouse undue hardship. Undue hardship to responsible parents is governed by part 9550.6230. In no case shall the financial obligation determined under subpart 3 ~~or 6~~ parts 9550.6220 to 9550.6240 for the responsible spouse or ~~parent~~ parents exceed the amount of medical assistance ~~ultimately~~ ultimately provided the recipient.

[For text of subs 2 and 3, see M.R.]

Subp. 4. [See repealer.]

Subp. 5. **Consideration of parental income.** The income of a ~~parent~~ parents must be considered available in determining a child's eligibility for medical assistance as provided in items A to G. For purposes of this subpart, ~~the status of parent ends when a child marries, or when a court of law terminates parental rights~~ parents shall be responsible for a parental fee determined under part 9550.6220, unless excluded under part 9550.6200, subpart 2.

A. If the child is under age ~~24~~ 18 and lives together with the ~~parent~~ parents, a ~~parent's~~ the parents' income and assets must be considered available in determining the child's eligibility, unless the child is under 18 and living together with the parents and the child's eligibility for medical assistance was determined without consideration of the parents' income and assets as:

- (1) part of a home- and community-based waiver under Minnesota Statutes, sections 256B.49 and 256B.491; or
- (2) a disabled child under Minnesota Statutes, section 256B.055, subdivision 12.

The income of parents whose child's eligibility for medical assistance was determined without consideration of the parents' income and assets must be considered in regard to an obligation under parts 9550.6200 to 9550.6240.

B. If ~~the a~~ a child is under age 18 and not living lives together with ~~either parent~~, the child's eligibility must be based on the ~~child's~~ child's income and assets. ~~The parent's income must be considered only in regard to a financial obligation to contribute under subpart 6~~ the parents and is an eligible recipient of supplemental security income, parental income must not be considered available in determining the child's eligibility. The parents' income must be considered only in regard to a financial obligation to contribute under part 9550.6220.

C. If the child is under age 18 and living with one parent, the child's eligibility must be based on the child's income and assets and the income and assets of the parent living with the child. The parent not living with the child is obligated to ~~contribute~~ provide medical support under ~~subpart 6~~ Minnesota Statutes, section 518.171.

D. If the child is ~~between under 18 and 24 years of age,~~ is not living together with the either parent in order to attend a high school, college, university, a postsecondary technical college, or a private business, trade, vocational, or technical college accredited, licensed, or approved under state laws and rules, and is a dependent of the parent for federal income tax purposes, the child is considered to live together with the parent. ~~The parent's income and assets must be considered available in determining the child's eligibility,~~ the child's eligibility must be based on the child's income and assets. The parents' income must be considered only in regard to a financial obligation to contribute under parts 9550.6200 to 9550.6240.

E. If the child is ~~age between 18 or older and 21 years of age, and is living together with the parents or not living together with the parent~~ parents, and is ~~not claimed as a tax dependent while attending to attend~~ not claimed as a tax dependent while attending a high school, college, university, postsecondary technical college, or a private business, trade, vocational, or technical college accredited, licensed, or approved under state laws and rules, ~~the parent has no financial obligation and is a dependent of the parents for federal income tax purposes,~~ the child is considered to live together with the parents. The parents' income and assets must be considered available in determining the child's eligibility.

F. If ~~a the~~ a child is a ~~recipient of supplemental security income,~~ recipient of supplemental security income, parental income and assets must not be considered even if the child ~~lives age 18 or older, is living together with the parent~~ lives age 18 or older, is living together with the parents and is determined to be disabled under Minnesota Statutes, section 256B.055, subdivision 7, or is not living together with the parents, and is not claimed as a tax dependent while attending a high school, college, university, postsecondary technical college, or a private business, trade, vocational, or technical college accredited, licensed, or approved under state laws and rules, the parents have no financial obligation.

G. If a child is under 18 and living together with the parents and the child's eligibility for medical assistance was determined

without consideration of the parent's income and assets as part of a home and community based waiver under *Minnesota Statutes*, sections 256B.49 and 256B.491, the parent's income must be considered in regard to an obligation under subpart 6, item D.

Subp. 6. **Parental financial obligation.** When the parent has parents have a financial obligation under subpart 5, item B, the parent's parents' financial obligation to reimburse the medical assistance program for the costs of services provided by medical assistance to the child recipient must be determined according to items A to F. A parent who makes child support payments as ordered by the court shall have the amount paid subtracted from any obligation determined under this part parts 9550.6200 to 9550.6240.

A. A parent has no obligation to contribute assets.

B. The payments of a parent who has an obligation to pay must be determined according to parts 9550.6200 to 9550.6240.

C. A parent who has more than one child living apart from him or her is not required to pay more than the amount for one child. In this case, the parent shall pay the lesser of five percent of the parent's income or the amount determined under item B for the child with the highest expenditures for health services eligible for medical assistance payment.

D. In determining parental payments for the cost of health services provided a child under a medical assistance home- and community-based waiver while living together with the parent, the local agency shall subtract the room and board amount established in part 9505.0065, subpart 9, item A, from the parent's obligation.

E. A parent who adopts a child under the subsidized adoption program as in part 9505.0055, subpart 4 shall have no additional financial obligation under parts 9505.0040 to 9505.0150.

F. A parent who refuses to provide information needed to determine the parent's financial obligation is obligated to reimburse the local agency for the full amount of medical assistance paid for health services provided to the child.

Subp. 7. **Change in living arrangement.** Spousal or parental income and assets must be considered available in the month after the month in which the spouses or parent parents and child begin living together. Consideration of spousal or parental income and assets must end in the month after the month in which the spouses or parent parents and child cease stop living together. A change in living arrangement must be reported as required in part 9505.0115, subpart 1.

Subp. 8. **Notice to responsible spouse or parent.** When making an initial determination of eligibility, the local agency shall give written notice to the responsible spouse or parent within 30 days of the date of notice of the person's eligibility. Further, the local agency shall notify the responsible spouse or parent 30 days prior to before the effective date of an increase in the obligation to be paid by the responsible spouse or parent. A decrease in the obligation to be paid by the responsible spouse or parent is effective the month following the month of the change in the cost of care or the responsible parent's or spouse's income or household size. The notice shall state the amount of the obligation to be paid, to whom the payment shall be made, the time a payment is due, penalties for refusing or failing to pay, and the right to appeal.

At the time eligibility is being determined, notice to the responsible parents shall be given according to part 9550.6220, subpart 1. Review and redetermination of parental fees are governed by part 9550.6228. Notice to the responsible parents of an increase or a decrease in the amount of the parental fee must be given according to part 9550.6229.

Subp. 9. **Appeals.** A responsible spouse or parent has the right to appeal the determination of an obligation to pay under *Minnesota Statutes*, section 256.045. The appeal must be made in writing to the local agency within 30 days of the date of the notice required in subpart 8. Appeals by responsible parents are governed by part 9550.6235.

Subp. 10. **Refusal or failure to pay.** If a responsible spouse or parent refuses or fails to pay the obligated amount within 30 days of the date specified in the notice under subpart 8, a cause of action exists against the responsible spouse or parent for the portion of medical assistance granted after the date of the notice to a responsible relative of a payment obligation. The county of financial responsibility shall refer the refusal or failure to pay to the county attorney for action to enforce payment of the obligation.

Unless the responsible spouse's or parent's income and assets are is deemed available to the applicant or recipient, the refusal or failure of a responsible spouse or parent to pay the obligated amount does not affect the recipient's medical assistance eligibility. If the medical assistance payment to the long-term care facility has been reduced by the expected amount of the responsible spouse's or parent's obligation and the relative fails to pay within 60 days, the local agency shall adjust the payment to the long-term care facility so that the facility is paid the facility's per diem rate less the recipient's monthly spend down from the time of the responsible relative's refusal or failure to pay. Refusal or failure of responsible parents to pay the obligated amount is governed by part 9550.6226, subpart 5.

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Proposed Rules

PARENTAL FEES FOR CERTAIN CHILDREN PLACED IN 24-HOUR OUT-OF-HOME CARE OUTSIDE THE HOME OR WHOSE ELIGIBILITY FOR MEDICAL ASSISTANCE WAS DETERMINED WITHOUT CONSIDERATION OF PARENTAL INCOME OR ASSETS

9550.6200 SCOPE.

Subpart 1. **Applicability.** Parts 9550.6200 to 9550.6240 govern the assessment and collection of parental fees by county boards or the Department of Human Services from parents of children in 24-hour ~~out-of-home care~~ outside the home, including respite care, in a facility licensed by the commissioner, who:

- A. have mental retardation or a related condition;
- B. have ~~an~~ a severe emotional handicap disturbance;
- C. have a physical ~~handicap~~ disability; or
- D. are in a state ~~hospital~~ facility.

Parts 9550.6200 to 9550.6240 also specify parental responsibility for ~~medical costs~~ the cost of services of children who are not ~~listed specified~~ in items A to D, but who are in 24-hour out-of-home care living in or out of their parents' home, and whose eligibility for medical assistance was determined without considering the ~~parent's~~ parental resources or income as specified in *Minnesota Statutes*, section 256B.14, subdivision 2.

Subp. 2. **Exclusion.** Children who are under court order and subject to *Minnesota Statutes*, section 260.251, subdivision 1, and who also do not fall under the provisions of *Minnesota Statutes*, section 252.27, are excluded from the scope of parts 9550.6200 to 9550.6240.

Parents of a minor child identified in subpart 1 must contribute monthly to the cost of services unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to Minnesota Statutes, section 259.40, or through title IV-E of the Social Security Act.

9550.6210 DEFINITIONS.

Subpart 1. **Applicability.** As used in parts 9550.6200 to 9550.6240, the following terms have the meanings given them.

Subp. 2. **Child or children.** "Child" or "children" means a person or persons under 18 years of age.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

Subp. 4. **Cost of care services.** "Cost of care services" means the cost for:

A. the per diem rate established by the department or the per diem and negotiated monthly rate adopted by the county board for the 24-hour out-of-home care outside the home, treatment, and training of a child provided in a facility licensed by the Department of Health, Department of Human Services, or approved by the commissioner in accordance with according to the interstate placement compacts of Minnesota Statutes, sections 245.51 to 245.53, 257.40 to 257.48, and 260.51 to 260.57; and

B. services to children whose eligibility for medical assistance was determined without consideration of parental income or assets as specified in part 9550.6200, subpart 1.

Subp. 5. **County board.** "County board" means the county board of commissioners in each county. When a Human Services Board has been established under *Minnesota Statutes*, sections 402.02 to 402.10, it shall be considered to be the county board for purposes of parts 9550.6200 to 9550.6240.

Subp. 6. **County of financial responsibility.** "County of financial responsibility" ~~means the following:~~ has the meaning given it in Minnesota Statutes, section 256G.02, subdivision 4.

~~A. For a child whose cost of care is paid from community social services funds allocated in accordance with title 20 of the Social Security Act, United States Code, title 42, section 1397, as amended through December 31, 1984, and Minnesota Statutes, chapter 256E, it has the meaning given in Minnesota Statutes, section 256E.08, subdivision 7.~~

~~B. For a child whose cost of care is paid from medical assistance funds allocated according to title 19 of the Social Security Act, United States Code, title 42, section 1396, as amended through December 31, 1984, and Minnesota Statutes, chapter 256B, it has the meaning specified in Minnesota Statutes, section 256B.02, subdivision 3.~~

~~C. For a child whose cost of care is paid according to title 4-E of the Social Security Act, United States Code, title 42, sections 670 to 676, as amended through December 31, 1984, it has the meaning specified in Minnesota Statutes, section 256.73, subdivision 4.~~

Subp. 7. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 8. **Emotional handicap or emotional disturbance.** "Emotional handicap" means a psychiatric or emotional disorder that is diagnosed by a licensed psychiatrist, licensed psychologist, or licensed consulting psychologist; and

A. substantially impairs the child's mental health;

B. requires 24 hour out of home treatment or supervision; and

C. is listed in the International Classification of Diseases (ICD-9-CM) Ninth Revision (1980), code range 290.0 to 299.0, or the corresponding code of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III) Third Edition (1980), Axes I, II, or III. These publications are incorporated by reference. They are available through the Minitex interlibrary loan system. They are not subject to frequent change or "emotional disturbance" has the meaning given it in *Minnesota Statutes*, section 245.4871, subdivision 15.

Subp. 9. **Income.** "Income" has the meaning given it by *Minnesota Statutes*, section 290A.03, subdivision 3 means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form as specified in *Minnesota Statutes*, section 252.27, subdivision 2a, paragraph (d), or a verified statement of the adjusted gross income if no tax forms are available.

Subp. 10. **Medical assistance.** "Medical assistance" means the federal, state, and county funded program which provides for the medical health service needs of eligible clients, as specified in *Minnesota Statutes*, chapter 256B, and United States Code, title 49 XIX of the Social Security Act, United States Code, title 42, section 1396, as amended through December 31, 1984.

Subp. 11. **Mental retardation or a related condition.** "Mental retardation or a related condition" means a condition that is diagnosed in accordance with parts has the meaning of "mental retardation" under part 9525.0015 to 9525.0145 [Emergency], subpart 20, items A and B, and the definition meaning of "related condition" given in *Minnesota Statutes*, section 252.27, and requires 24 hour out of home supervision and treatment subdivision 1a.

Subp. 12. **Parent Parents.** "Parent Parents" means a father or mother, biological the natural or adoptive, as specified in *Minnesota Statutes*, section 259.21, subdivision 3 parents.

Subp. 13. **Physical handicap or physical disability.** "Physical handicap" means a physical disorder or impairment diagnosed by a licensed physician which requires 24 hour out of home treatment or supervision or "physical disability" has the meaning given it in part 9570.2200, subpart 7.

Subp. 13a. **Respite care.** "Respite care" means short-term supervision and care provided to a child due to temporary absence or need for relief of the child's parents and involving the out of home care of a child for a minimum of a continuous 24 hour period of time. For purposes of this subpart, "short term" means a cumulative total of less than 2,160 hours in a year. Respite care may include day, overnight, in-home, or out-of-home services, as needed.

Subp. 14. [See repealer.]

Subp. 15. **Severe emotional disturbance.** "Severe emotional disturbance" means an emotional disturbance that has:

A. resulted in the child's admission within the last three years or the child's being at risk of admission to inpatient treatment or residential treatment for an emotional disturbance;

B. required the child to receive inpatient treatment or residential treatment for an emotional disturbance as a Minnesota resident through the interstate compact; or

C. resulted in a determination by a mental health professional that the child has one of the following conditions:

(1) psychosis or clinical depression;

(2) risk of harming self or others as a result of an emotional disturbance;

(3) psychopathological symptoms as a result of being a victim of physical or sexual abuse or of psychic trauma within the past year; or

(4) resulted in the child's having significantly impaired home, school, or community functioning that has lasted at least one year or that, in the written opinion of a mental health professional, presents substantial risk of lasting at least one year.

Subp. 16. **State facility.** "State facility" means any facility owned or operated by the state of Minnesota that is under the programmatic direction or fiscal control of the commissioner. State facility includes regional treatment centers; the state nursing homes; state-operated community-based programs; and other facilities owned or operated by the state and under the commissioner's control.

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Proposed Rules

9550.6220 DETERMINATION OF PARENTAL FEE.

Subpart 1. **Parental responsibility.** The extent to which a ~~parent is~~ parents are responsible for reimbursing the county of financial responsibility or the department for the cost of ~~care~~ services must be determined according to subparts 2 to 13. Parents have no obligation to contribute assets. The parental responsibility and the role of the agency responsible for collection of the parental fee shall be explained in writing to the parents at the time eligibility for services is being determined. The parental fee shall be retroactive to the first date covered services are received, including any services received in months of retroactive eligibility.

Subp. 2. **Determination of household size.** Natural and adoptive parents and their dependents under the age of 21, as specified in Minnesota Statutes, section 290A.03, subdivision 7, including the child receiving services, shall be counted as members of the household when determining the fee, except that a stepparent and his or her natural or adopted children shall not be included.

Subp. 3. **Determination of income.** Income must be determined according to *Minnesota Statutes, section 290A.03, subdivision 3 (Property Tax Refund Act) 252.27, subdivision 2a, paragraph (d).*

Subp. 4. **Percentage schedule.** The department shall provide the county of financial responsibility with a schedule which is revised annually in accordance with items A to D. The schedule must specify the percentage rate that shall be applied to the parent's income to determine the parental fee. The schedule must be designed in the following manner:

A. The household size matrix must indicate a range of one to ten or more persons using incremental increases of one.

B. The income matrix for each household size must begin at 60 percent of state median income derived from the most recent annual State Median Income for Household Size published in the Federal Register by the United States Department of Health and Human Services according to the Code of Federal Regulations, title 45, part 96.85, as amended through December 31, 1984. Parents of households with income between zero and 60 percent of state median income shall be assessed at a rate of zero percent of income and shall pay no fee.

C. Parents of households with incomes at or above 115 percent of state median income, as specified in item B, shall be assessed a fee at a rate of five percent of income.

D. The schedule must provide for eight equal incremental increases in income between 60 percent and 115 percent of State Median Income for Household Size as specified in items B and C. The first percentage increment applied to the income matrix must be one percent with increases of one-half percent thereafter. Pursuant to Minnesota Statutes, section 252.27, subdivision 2a, paragraph (b), the parental fee shall be computed by applying to the adjusted gross income of the parents that exceeds 200 percent of the federal poverty guidelines for the applicable household size the following percentages:

A. on the amount of adjusted gross income over 200 percent of poverty, but not over \$50,000, ten percent;

B. on the amount of adjusted gross income over 200 percent of poverty, and over \$50,000 but not over \$60,000, 12 percent;

C. on the amount of adjusted gross income over 200 percent of poverty, and over \$60,000 but not over \$75,000, 14 percent;
and

D. on all adjusted gross income amounts over 200 percent of poverty, and over \$75,000, 15 percent.

The fee amounts obtained in items A to D are added to equal the annual parental fee. The annual fee is then divided into 12 monthly payments as specified in subpart 6, item E.

Subp. 5. **Annual schedule revision of federal poverty guidelines.** The department shall provide counties with a revised schedule within 30 days after the annual revision of the State Median Income for Household Size is published parental fee shall be revised annually on July 1 to reflect changes in the federal poverty guidelines. The revised guidelines are effective on the first day of July following the publication of changes in the Federal Register.

Subp. 5a. **Parental income deduction.** The parental income deduction amount is determined by using the applicable figure from the annual federal poverty guidelines under subpart 5, and multiplying that amount by two.

Subp. 6. **Determination of monthly parental fee.** The monthly parental fee assessed must be determined according to parts 9550.6200 to 9550.6250 9550.6240 and the following formula:

A. Household size must be determined as specified in subpart 2.

B. Income must be determined as specified in subpart 3.

C. The parental income deduction amount must be determined as specified in subpart 5a.

D. Using the household size and income figures, and parental income deduction in items A and B, and C, refer to the percentage schedule supplied by the department according to in subpart 4 and determine the applicable percent percentages to be applied to the parent's parents' income.

D. E. The monthly parental fee must be determined by multiplying the income from item B by the percentage from item C and dividing the product by 12. according to the following steps:

(1) start with the parents' adjusted gross income from last year's federal Income Tax Form 1040, line 31, or 1040A, line 13, or, if no tax form is available, then a verified statement regarding the previous year's income;

(2) subtract the parental income deduction as determined in subpart 5a;

(3) multiply remaining income by each applicable percentage from the percentage schedule in subpart 4, items A to D;

(4) add the amounts in subitem (3) and add five percent to the percentage if health insurance was available to the parents, as specified in part 9550.6225, but was not taken, to determine the annual parental fee;

(5) divide by 12 to determine the monthly parental fee;

(6) subtract \$200 if the child receiving services lives with the parents; and

(7) subtract the monthly amount of any court-ordered child support payments made by the parent for the child receiving services.

Subp. 7. [See repealer.]

Subp. 8. **Payment in excess of fee.** Parents may voluntarily pay a fee greater than that determined by the formula in subpart 6.

Subp. 9. **Parental responsibility for clothing or personal needs.** Payment of the parental fee specified in subpart 6 does not exempt the ~~parent~~ parents from responsibility for the child's clothing and personal needs not included in the cost of ~~care~~ services, except as specified in *Minnesota Statutes*, section 256B.35, subdivision 1.

Subp. 10. **Discharge.** Except as provided in subpart 10a, the full monthly parental fee must be assessed unless ~~the child is discharged and spends less than a full month in 24 hour out-of-home care~~ services are terminated before the end of a calendar month. In this case, the full fee must be reduced only if the actual cost of ~~care~~ services during that month is less than the regular fee.

Subp. 10a. **Parental fee for respite care.** When a child is ~~placed in 24 hour out-of-home~~ receiving respite care services, the parental fee must be a per diem fee multiplied by the number of days the child is ~~in 24 hour out-of-home~~ receives respite care. The parental fee for respite care shall be used only when respite care is the single service the child is receiving. When the child is receiving additional services governed by parts 9550.6200 to 9550.6240, the parental fee determined under part 9550.6220 shall apply. The per diem fee must be determined in the following manner:

A. Household size must be determined as specified in subpart 2.

B. Income must be determined as specified in subpart 3.

C. Using the household size and income figures in items A and B, the percentage schedule ~~supplied by the department~~ in subpart 4 must be used to determine the applicable percent to be applied to the ~~parent's~~ parents' income.

D. Determine the per diem fee by multiplying the income from item B by the percent from item C and divide the product by 365.

E. Any part of a day spent in ~~24 hour out-of-home~~ respite care must be counted as a full day for purposes of this fee.

F. The parental fee must be determined at the end of a month when respite care is used.

Subp. 11. **Number of fees.** As specified in *Minnesota Statutes*, section 252.27, subdivision 2, parents who have more than one child ~~in 24-hour out-of-home care shall not be required to pay a fee for more than one child. If more than one child is placed out of the home, the parent shall be responsible for a fee~~ receiving services who meet the criteria identified in part 9550.6200, subpart 1, shall not be required to pay more than the amount for the child with the highest ~~cost of care~~ expenditures.

Subp. 12. **Separate households** Parents not living with each other. Parents of a minor child who have established separate households ~~do not live with each other~~ as specified in *Minnesota Statutes*, section ~~290A.03~~ 252.27, subdivision 4 2a, paragraph (g), shall each pay a fee using the formula in ~~part 9550.6220, subpart 2,~~ except for parents whose fee responsibility is satisfied pursuant to subpart 13 6.

Subp. 13. **Child support payments.** ~~Child support payments that are established by the court in accordance with Minnesota Statutes, section 518.17, for a child in 24-hour out-of-home care, must be considered a resource of the child and be applied directly toward the cost of care.~~

A. ~~If the child support payment equals or exceeds the fees required in part 9550.6220, subpart 6, for both the custodial and noncustodial parent, then the child support payment shall satisfy the parental fee responsibility of both.~~

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B. If the child support payment equals or exceeds the fee required of the noncustodial parent, but not that of the custodial parent in either whole or part, then the custodial parent must pay the difference between the amount that remains after the noncustodial parent's fee is deducted and the fee determined in part 9550.6220, subpart 6 for the noncustodial parent. If the child support payment does not exceed the fee required of the noncustodial parent, the custodial parent must pay the full fee as determined in part 9550.6220, subpart 6 and the noncustodial parent must pay the balance between the fee required under part 9550.6220, subpart 6, and the child support payment.

C. If the court decree ordering child support covers more than one child and the decree does not differentiate the amount provided to each child, the county shall use the amount derived by dividing the child support by the number of children covered in the decree as the amount used to determine whether the fee of the custodial or noncustodial parent has been satisfied in whole or in part. A court-ordered child support payment actually paid on behalf of the child receiving services shall reduce the fee of the parent making the payment.

Subp. 14. Fees in excess of cost. If the parental fee exceeds the monthly cost of care for the child, the parent shall be responsible for the lesser amount. The total amount parents must pay between the time the first monthly payment is due under either the initial determination of the fee amount or notice of an increase in the fee amount, and the end of the state's fiscal year in June of each year cannot be higher than the cost of services the child receives during the fiscal year. At the end of each state fiscal year, the department or county board shall review the total amount that the parent paid in fees during the fiscal year and the total cost of services paid by the department or county board, not including payments made to school districts, that the child received during the fiscal year. If the total amount of fees paid by the parents exceeds the total cost of services, the department or county board shall: (1) reimburse the parents the excess amount if their child is no longer receiving services; or (2) apply the excess amount to parental fees due starting July 1 of the next year.

9550.6225 HEALTH INSURANCE PREMIUMS AND BENEFITS.

If at the time of placement the child has health care insurance or other enrollment or subscriber benefits, the benefits must be considered a resource of the child and applied directly to the cost of care.

Payment by the parent of any health care benefit, insurance, subscriber, or enrollment fee shall not nullify parental responsibility for the fee. The parental fee must be assessed in addition to any health care benefit, insurance, subscriber, or enrollment fee, unless the benefit directly reduces the facility's per diem or negotiated rate for medical care that would routinely be provided for the child. If the benefit directly reduces the facility's per diem or negotiated rate for medical care that would routinely be provided for the child, the premiums and fees must be deducted from the parental fee.

If the child is not eligible for medical assistance, the provisions of *Minnesota Statutes*, section 252.27, subdivision 2, clause (b) shall apply.

Payments of any health care, insurance, subscriber, or enrollment premiums by the parents of any child covered under parts 9550.6200 to 9550.6240 must be deducted from the parental fee if the commissioner determines that the benefit directly reduces the facility's per diem or the cost of medical care that would routinely be provided for the child. The amount of the premium payment must be that incremental portion attributable to dependent coverage for the child in out-of-home care. The parental fee determined under part 9550.6220 shall be increased by an additional five percent if the department or local agency determines that insurance coverage is available to the parents, but not obtained for the child receiving services. For purposes of this part, "available" and "insurance" have following meanings.

A. "Available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income.

B. "Insurance" means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.

9550.6226 RESPONSIBILITY OF PARENTS TO COOPERATE.

Subpart 1. Request for information. The department or county board shall send the parents a form requesting information when:

- A. making an initial determination of the amount of the parental fee under part 9550.6220; and
- B. when a review and redetermination of the parental fee is required under part 9550.6228.

Parents shall provide any and all information that is required by the department or county board to determine or review the parental fee.

Subp. 2. Determination of parental fees. Parents shall attach to the form requesting financial information, a copy of their previous year's federal income tax return or a verified statement concerning their income if no federal income tax form is available. Failure or refusal by the parents to provide to the department or county board within 30 calendar days after the date the request is postmarked, the financial information needed to determine parental responsibility for a fee shall result in the determination that the parents are able to pay the full cost of services.

Subp. 3. Review and redetermination of parental fees. When parents are requesting a review or redetermination of the fee under part 9550.6228, a request for information shall be sent to the parents within ten calendar days after the department or county board receives the parents' request for review. Parents shall:

A. notify the department or county board within 30 calendar days of a gain in income or a loss of a household member; and

B. provide to the department or county board all information required under part 9550.6228, subpart 3, to verify the need for redetermination of the fee.

No action shall be taken on a review or redetermination of the parental fee until the required information is received by the department or county board.

Subp. 4. Variance requests. No action shall be taken by the department or county board on a request for a variance until the department or county board receives all information required under part 9550.6230. Failure of the parents to cooperate by completing and returning the form requesting parental information to the department or county board within 30 calendar days after the date the request is postmarked, will result in a final written notice to the parents stating that the request for a variance will be denied unless the parents complete and return this information within ten calendar days after the date this final notice is postmarked.

Subp. 5. Refusal or failure to pay. If the parents refuse or fail to pay the fee as determined under parts 9550.6200 to 9550.6240, the department or county board may institute civil action to enforce payment of the required amount when the action is cost effective.

9550.6228 REVIEW AND REDETERMINATION OF FEES.

Subpart 1. **Review.** Parental fees must be reviewed by the county board or the department according to *Minnesota Statutes, section 252.27, subdivision 2a, paragraph (f), in any of the following situations:*

A. at least once every 12 months in accordance with parts 9550.6220 to 9550.6240;

B. when there is a change in household size as specified in part 9550.6220, subpart 2;

C. when there is a change in the cost of care; or

~~D.~~ when there is a loss of or gain in income from one month to another in excess of ~~45~~ ten percent.

Subp. 2. [See repealer.]

Subp. 3. Procedures for review. In reviewing the parental fees under this part, the department or county board shall use the following procedures:

A. The annual review of parental fees under subpart 1, item A, shall be done according to procedures in part 9550.6220, subpart 14.

B. The review of parental fees under subpart 1, item B, shall be done within ten calendar days after the department or county board receives a copy of the certificate of birth or other supporting documents as verification of the change in household size.

C. The review of parental fees under subpart 1, item C, shall be done within ten calendar days after the department or county board receives completed information that verifies a loss or gain in income in excess of ten percent.

9550.6229 NOTIFICATION OF CHANGE IN FEE.

~~If the fee assessed to a parent with a child in 24-hour out-of-home care is increased as a result of parts 9550.6200 to 9550.6240, the increase must not be effective until a notice of the increase has been sent by the agency or department to the parent at least 30 days in advance of the effective date of the increase.~~

Subpart 1. Increase in fee. Notice of an increase in the parental fee amount shall be mailed by the department or county board to the parents of children currently receiving services, 30 calendar days before the increased fee is effective. An increase in the parental fee is effective in the month in which the decrease in household size or increase in parental income occurs for parents who fail to comply with part 9550.6226, subpart 3.

Subp. 2. Decrease in fee. A decrease in the parental fee is effective in the month that the parents verify a reduction in income or a change in household size.

9550.6230 VARIANCE FOR UNDUE HARDSHIP AND APPEALS.

Subpart 1. **Definition; limitations on variance.** For purposes of this part, "variance" means any modification of the parental fee as determined by *Minnesota Statutes, section 252.27, subdivision 2a*, when it is determined that strict enforcement of the parental

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fee would cause undue hardship. All variances shall be granted for a term not to exceed 12 months, unless otherwise determined by the department or county board. The parents' liability to pay under *Minnesota Statutes*, section 252.27, subdivision 2a, shall be modified only by the provisions in subparts 1a and 2.

Subp. 1a. Variance for undue hardship. A variance of the parental fee determined according to *Minnesota Statutes*, section 252.27, subdivision 2a, and parts 9550.6220 to 9550.6240 may be requested any time and the parental fee varied when the child is placed out of the home for a period exceeding three months and the total of items A, B, C, and D exceed two percent of parental income as defined in part 9550.6210, subpart 10. The parental fee shall be based on income as defined in part 9550.6210, subpart 10, less when expenditures for items A through D are made by the parents and the expenditures are not reimbursable by any public or private source. Each expenditure may be the basis for a variance only one time. The total amount of items A, B, C, and D shall be deducted from income as defined in part 9550.6210, subpart 9.

A. medical expenditures Payments made since the last review of the fee or within the last 12 months for medical expenditures for the child in out-of-home placement which receiving services or that child's immediate family members living with the child when the medical expenditures are not covered by medical assistance or health insurance and are a type which would be allowable as a federal or state tax deduction; under the Internal Revenue Code.

B. Expenditures since the last review of the fee or within the last 12 months for modifications adaptations to the parent's parents' vehicle which are necessary to accommodate the child's medical needs and are a type which would be allowable as a state or federal tax deduction; under the Internal Revenue Code.

C. Expenditures since the last review of the fee or within the last 12 months for minor physical adaptations to the child's home which are necessary to accommodate the child's physical needs and comply with parts 9525.1800 to 9525.1930 [Emergency], or its successor; and are a type that would be allowable as a deductible medical expense under the Internal Revenue Code. A variance for physical adaptations to the child's home will be granted only for that portion of the adaptation that does not increase the value of the property.

D. Unexpected, sudden and, or unusual expenditures by the parent parents since the last review or within the past 12 months that are necessary to meet the basic needs of the family and are not covered by insurance or health care benefits not reimbursed by any type of insurance or civil action and which are a type which would be allowable as a casualty loss deduction under the Internal Revenue Code.

Subp. 2. Variance for tax status. A variance shall be granted, in the form of a deduction from income, as defined in part 9550.6210, subpart 9, if the parent parents can show that, as a result of the parent's parents' peculiar tax status, there is a gross disparity between the amount of income, as defined in part 9550.6210, subpart 9, allocated to the parent parents and the amount of the cash distributions made to the parent parents.

A. The disparity must adversely affect the parent's parents' actual ability to pay.

B. A variance shall not be granted in cases where the tax status was created in whole or in part for the purpose of avoiding liability under parts 9550.6200 to 9550.6240.

C. Income to be deducted under this subpart shall be deducted only if:

(1) the income has never been legally available to the parent parents as a cash distribution; and

(2) the parent has parents have no authority to alter the amount of cash distributed during a given year, or the method whereby the cash is distributed.

D. If the parent's parents' peculiar tax status resulted in a reduced fee under parts 9550.6200 to 9550.6240 in prior years due to losses reported under *Minnesota Statutes*, section 290A.03, the amount of income deducted in any variance shall be adjusted to recoup the prior years' reduced fees.

E. A variance granted under this subpart shall only be made on the recommendation of the department or county board, and approval of the commissioner, except that for children in state hospitals, authority to grant a variance shall lie directly with the commissioner according to subpart 5.

F. A parent Parents who is are granted a variance under this subpart must sign a written agreement in which the parent agrees parents agree to report any change in the circumstances which gave rise to the tax status variance, such as an increased distribution, a sale, transfer, or any other transaction affecting the parent's parents' ability to pay within 30 days of that change.

Subp. 3. Exceptions. The following expenses shall not be considered to constitute undue hardship and shall not reduce the parental fee or income as defined in part 9550.6210, subpart 10, shall not be reduced for 9:

A. new home purchases, other than that portion of the cost of a new home that is directly attributable to the physical needs of the child receiving services and that is a type which would be allowable as a deductible medical expense under the Internal Revenue Code;

B. college education expenses;

C. clothing and personal needs, or medical expenditures covered by medical assistance or health insurance. expenses, other than specialized clothing needed by the child receiving services due to their disability; or

D. any expenditures that are usual and typical.

Subp. 4. **Procedures for requesting a variance.** ~~A parent~~ Parents may request a variance from parts 9550.6200 to 9550.6240. The request must be submitted to the county board or department as specified in subpart 5; include the section of parts 9550.6200 to 9550.6240 with which the parent cannot comply, and state by submitting a written request to the department or county board that states why compliance with the specified section parts 9550.6200 to 9550.6240 would cause undue hardship.

The department or county board shall forward to the parents a request for financial information within ten calendar days after receiving a written request for a variance. Parents must provide the department or county board with the requested financial information, including the previous year's tax forms, and verification of any physical adaptations to the home or vehicle, medical expenditures, casualty losses, or peculiar tax status. The information supplied must be sufficient to verify the existence of undue hardship necessitating a variance. Parents must cooperate by completing and returning all information requested by the department or the county board. If parents fail to cooperate by providing this required information, part 9550.6226, subpart 4, applies.

Subp. 5. **Department and county authority to grant variances.**

A. The commissioner shall delegate to the county board the authority to grant variances according to parts 9550.6200 to 9550.6240 for children in 24-hour out-of-home placement care outside the home, other than a state hospital facility, where only social services funds are expended for the cost of services.

A. When the county board receives a written request for a variance, the county board or its designated social or human service agency shall grant or deny the request and mail the written decision to the parent within 30 days after the request is received. If the county board denies the request for a variance, the parent shall be informed at the time of the denial of the reasons for the denial which address the specific hardships raised by the parent, and of the right to appeal the denial to the department.

B. If the department denies the parent's request for a variance, the parent shall be informed at the time of denial of their right to appeal the department's decision according to Minnesota Statutes, sections 246.55 and 256.045, subdivisions 2 and 3. The department shall grant variances according to parts 9550.6200 to 9550.6240 for parents of children who have mental retardation or a related condition, a severe emotional disturbance, or a physical disability and who are:

(1) residing in state facilities;

(2) residing outside the home where medical assistance funds are expended for the costs of services;

(3) residing outside the home when both medical assistance and social services funds are expended for the cost of services;

and

(4) determined eligible for medical assistance without consideration of parental income or assets.

Subp. 6. **Payment pending determination of variance request.** Those parents requesting a variance from a notice of an increase in the amount of the parental fee shall continue to make monthly payments at the lower amount pending determination of the variance request. Those parents requesting a variance from an initial determination of the parental fee amount shall not be required to make payment pending determination of the variance request. However, these parents may make payments as desired during the determination. If the variance is granted, any payments made pending outcome of the request that result in overpayment, shall be: (1) reimbursed to the parents if the child is no longer receiving services; or (2) applied to the parental fees remaining in the current fiscal year and the remainder of the excess amount applied to the parental fees due starting in the next fiscal year, if the child is still receiving services. If the variance is denied, the parents shall pay to the department or county board:

A. the additional amount due from the effective date of the increase in the parental fee; or

B. the total amount due from the effective date of the original notice of determination of the parental fee as specified in part 9550.6235, subpart 3.

Subp. 7. **Insurance settlements; settlements in civil actions.** Parents who are granted a variance under subpart 1a, item D, shall sign a written agreement in which the parents agree to report to the department or the county board any changes in circumstances that gave rise to the undue hardship variance, such as subsequent payment by the insurer on a medical or casualty claim or receipt of

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settlement in a civil action. Failure by the parents to sign this agreement will result in denial of the variance. The variance shall terminate effective on the date of the parents' receipt of any such settlement.

Subp. 8. Grant or denial of variance. When the department or county board receives a request for a variance, written notice of a grant or denial of the variance shall be mailed to the parents within 30 calendar days after the department or county board receives the financial information required under subpart 4. A grant will necessitate a written agreement between the parents and the department or county board with regard to the specific terms of the variance. The variance will not become effective until the written agreement is signed by the parents. If the department or the county board denies in whole or in part the parents' request for a variance, the denial notice shall set forth in writing the reasons for the denial that address the specific hardship raised by the parents and of the parents' right to appeal under part 9550.6235.

9550.6235 APPEALS.

Subpart 1. Right of appeal. Parents aggrieved by an action under parts 9550.6200 to 9550.6240 have the right to appeal according to Minnesota Statutes, section 256.045.

Subp. 2. Appeal process. Parents may appeal an action under parts 9550.6200 to 9550.6240 by submitting a written request for a hearing to the department within 30 calendar days after the aggrieved action, or within 90 calendar days if an appeals referee finds that the parents have good cause for failing to request a hearing within 30 calendar days. The hearing is governed by Minnesota Statutes, section 256.045.

Subp. 3. Rights pending hearing. If parents appeal on or before the effective date of the increase in the parental fee, the parents shall continue to make payments to the department or the county board in the lower amount while the appeal is pending. Parents appealing an initial determination of a parental fee shall not be required to make monthly payments pending an appeal decision. However, parents may continue to make monthly payments as desired during the appeal process. Any payments made that result in an overpayment shall be: (1) reimbursed to the parents if their child is no longer receiving services; or (2) applied to the parental fees remaining in the current fiscal year and the remainder of the excess amount applied to the parental fees due starting in the next fiscal year.

If the department's or county board's determination is affirmed, the parents shall pay to the department or the county board, within 90 calendar days after the date of the order, the total amount due from the effective date of the original notice of determination of the parental fee. Cost of services provided pending a fair hearing are subject to recovery under Minnesota Statutes, section 252.27, subdivision 3, when, as a result of the fair hearing, the commissioner finds that the amount of the parental fee is proper as originally determined by the department or county board. The commissioner's order is binding on the parents and the department or county board and shall be implemented subject to Minnesota Statutes, section 256.045, subdivision 7. No additional notice is required to enforce the commissioner's order.

9550.6240 COLLECTIONS.

Subpart 1. County responsibility. The county board shall be responsible for the assessment and collection of parental fees for children in 24-hour out-of-home placement facilities care outside the home other than state hospitals facilities, where only social services funds are expended for the cost of services.

Subp. 2. Department responsibility. The department shall be responsible for the assessment and collection of fees for children in state hospitals who have mental retardation or a related condition, a severe emotional disturbance, or a physical disability and who are:

A. residing in state facilities;

B. residing outside the home when medical assistance funds are expended for the cost of services;

C. residing outside the home when both medical assistance and social services funds are expended for the costs of services;

and

D. determined eligible for medical assistance without consideration of parental income or assets.

If the parental fee is for reimbursement for the cost of services to both the local agency and medical assistance, the department shall reimburse the local agency for its expenses first and the remainder shall be reimbursed to the medical assistance account.

REPEALER. Minnesota Rules, parts 9505.0075, subpart 4; 9550.6210, subpart 14; 9550.6220, subpart 7; and 9550.6228, subpart 2, are repealed.

Pollution Control Agency

Proposed Permanent Rules Relating to Aquaculture Facilities

Notice of Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) will hold public hearings in the above-entitled matter according to the following schedule:

Location	Date and Time
Grand Rapids—City Hall 420 N. Pokegama Ave. Grand Rapids, Minnesota	January 29, 1992 Session begins at 2:00 p.m. Session begins at 7:00 p.m.
Minnesota Pollution Control Agency MPCA Board Room—Lower Level 520 Lafayette Road St. Paul, Minnesota	January 31, 1992 Session begins at 9:00 a.m.

Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments.

The matter will be heard before Administrative Law Judge Richard Luis, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415 (612) 349-2542. The rule hearing procedure is governed by *Minnesota Statutes* Sections 14.131 to 14.20 (1990) and by the rules of the Office of Administrative Hearings, *Minnesota Rules* Parts 1400.0200 to 1400.1200 (1991). Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above. One free copy of the proposed rules is available on request by contacting:

Douglas Hall
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-3898
(612) 296-6631

NOTICE IS HEREBY GIVEN that comments on the proposed rules may be submitted to the Administrative Law Judge prior to the hearing, as well as at the hearing or during the post-hearing comment period described below. The MPCA requests that any person submitting written comments to the Administrative Law Judge prior to the hearing, or during the comment period also submit a copy of the written comments to Douglas Hall at the address stated above.

The subject of the hearing will be proposed rules governing requirements for aquaculture facilities, *Minnesota Rules* Part 7050.0216. The proposed rules are authorized by *Minnesota Statutes* Section 116.07, subd. 4 (1990) and *Minnesota Laws 1991*, ch. 309, Sec. 10. Aquaculture has existed in Minnesota in one form or another for many years and it is considered a form of agriculture, commonly referred to as "fish farming." From an environmental standpoint aquaculture has the potential to adversely impact the environment and water quality through deposition of fish waste and excess fish food in waters of the state. The 1991 Legislature mandated the MPCA to formulate administrative rules for aquaculture facilities operating within the state. The proposed rules are designed to comply with the authorizing legislative mandate, *Minnesota Laws 1991*, ch. 309, Sec. 10 and are to be included in *Minnesota Rules* Ch. 7050. The proposed rules are published below.

Any person may present views on the proposed rules at the hearing, and after the hearing, in one or more of the following ways: 1) By submitting written data to the Administrative Law Judge at any time before the close of the hearing. 2) By submitting oral or written data at the hearing. 3) By submitting written comments to the Administrative Law Judge during the comment period following the hearing.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The

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notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

The comment period will not be less than five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. The written material received during the comment period will be available for review at the Office of Administrative Hearings. Any written comments submitted must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the final day of the 5-20 day comment period. Within three business days after the expiration of the comment period, the MPCA and interested persons may respond in writing to any new information received during the comment period; however, no additional evidence may be submitted during this three-day period. Any written responses submitted must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the final day of the 3 day response period. The proposed rule may be modified as a result of the hearing process if the modification does not result in a substantial change in the proposed rules.

NOTICE IS HEREBY GIVEN that a **STATEMENT OF NEED AND REASONABLENESS** is now available for review at the agency and at the Office of Administrative Hearings. This **STATEMENT OF NEED AND REASONABLENESS** includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the **STATEMENT OF NEED AND REASONABLENESS** may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

You are hereby advised, pursuant to *Minnesota Statutes* Section 14.115 (1990), "Small Business Considerations in Rulemaking" that the proposed rules will affect small businesses which hold or require permits for aquaculture facilities. The proposed rules will affect management practices and impose requirements for aquaculture facilities if the facility produces more than 9,090 (approximately 20,000 pounds) harvest weight kilograms of cold water aquatic animals or 45,454 (approximately 100,000 pounds) harvest weight kilograms of warm and cool water aquatic animals per year. A facility that meets these criteria is considered a large production facility and it will be governed by these rules. Small fish farms or hatcheries are generally excluded from the requirement to obtain an MPCA water quality permit. Compliance with criteria and requirements in the proposed rules could mandate additional costs and changes to aquaculture facilities.

You are hereby advised, pursuant to *Minnesota Statutes* Section 14.11, subdivision 2 (1990), "Impact on Agricultural Lands," that the proposed rules will not adversely impact agricultural lands. The proposed rules apply to aquaculture facilities and waste produced by those facilities.

Please be advised that *Minnesota Statutes* Chapter 10A (1991 Supp.) requires each lobbyist to register with the State Ethical Practices Board within five days after a lobbyist commences lobbying. A lobbyist is defined in *Minnesota Statutes* Section 10A.01, subdivision 11 (1991 Supp.) as any individual:

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

Questions concerning the requirements of *Minnesota Statutes* Chapter 10A (1991 Supp.) should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

Charles W. Williams
Commissioner

Rules as Proposed (all new material)

7050.0216 REQUIREMENTS FOR AQUACULTURE FACILITIES.

Subpart 1. **Definitions.** For the purposes of this part, the terms in items A to K have the meanings given them.

A. "Aquaculture therapeutic" means drugs, medications, or disease control chemicals that are approved for concentrated aquatic animal production facility use by the United States Food and Drug Administration or the United States Environmental Protection Agency.

B. "Aquatic animal production" means harvest of unprocessed aquatic animals, including mortalities.

C. "Chemical additive" means an aquaculture therapeutic, growth-inducing compound, hormone, or algal control product that is added to a concentrated aquatic animal production facility.

D. "Cold water aquatic animals" means aquatic animals included in, but not limited to, the Salmonidae family of fish, such as trout and salmon.

E. "Concentrated aquatic animal production facility" means a hatchery, fish farm, or other facility that contains, grows, or holds aquatic animals as described in subitems (1) to (3).

(1) Cold water aquatic animal facilities that produce more than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year or feed more than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding.

(2) Warm and cool water aquatic animal facilities that produce more than 45,454 harvest weight kilograms (approximately 100,000 pounds) of aquatic animals per year.

(3) Case-by-case designation of concentrated aquatic animal production facilities. The commissioner may designate any warm, cool, or cold water aquatic animal production facility as a concentrated aquatic animal facility upon determining that it is a significant contributor of pollution to the waters of the state. In making this designation, the commissioner shall consider the following factors:

- (a) the location and quality of the receiving waters;
- (b) the holding, feeding, and production capacities of the facility;
- (c) the quantity and nature of the pollutants reaching waters of the state; and
- (d) other relevant factors.

A permit application is not required from a concentrated aquatic animal production facility designated under this item until the commissioner has conducted an on-site inspection of the facility and has determined that the facility should and could be regulated under the permit program.

F. "Continuous discharge" means a discharge that occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

G. "Existing beneficial uses" means the uses that have been made or may be reasonably anticipated to be made during the time of the proposed operations of waters of the state for domestic water supply, tourism and recreational industries, transportation, industrial consumption, wellhead protection, wildlife sustenance, wetland protection, fire protection, fire prevention, assimilation of municipal and industrial wastes and other wastes or other uses within this state, and, at the discretion of the agency, any uses in another state or interstate waters flowing through or originating in this state.

H. "Fish food" means materials including, but not limited to, commercial feeds, grains and seeds, plants, forage fish, insects, crustaceans, worms, plant wastes, meat, and dead fish parts, for the purpose of sustaining growth, repair, vital processes, and furnishing energy for aquatic animals present in the facility.

I. "In situ facility" means a concentrated aquatic animal production facility in which aquatic animals are reared in waters of the state. This includes net pens, net cages, floating raceways, barges, and other similarly constructed or fabricated public or private facilities.

J. "On-land facility" means a concentrated aquatic animal production facility not located within waters of the state in which aquatic animals are reared. This includes fish hatcheries, rearing ponds, spawning channels, and other similarly constructed or fabricated public or private facilities.

K. "Warm and cool water aquatic animals" means aquatic animals not included in the Salmonidae family of fish and include, but are not limited to, the Amereuridae, Centrarchidae, Cyprinidae, Percidae, and Ictaluridae families of fish, such as catfish, sunfish, minnows, and walleye.

Subp. 2. **Permit required.** No person may construct, operate, or maintain a concentrated aquatic animal production facility until the agency has issued a National Pollutant Discharge Elimination System and State Disposal System (NPDES/SDS) permit for the facility in accordance with chapter 7001.

Subp. 3. **Treatment technology discharge requirements.** The discharge limitations in items A to D are established based on the best available proven technology, best management practices, and water treatment practices that prevent and minimize degradation of waters of the state considering economic factors, availability, technical feasibility, effectiveness, and environmental impacts.

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Proposed Rules

A. Collection and treatment. All concentrated aquatic animal production facilities shall collect, remove, treat, and properly dispose of unconsumed fish food and fish wastes. Mass discharge shall be determined by monitoring, testing, and reporting in accordance with subpart 6, item A.

B. On-land facilities. Any person discharging from an on-land facility shall comply with the following limitations after allowance for pollutant removal by a treatment works:

Substance or Characteristic	Limiting Concentration or Range
5-day carbonaceous biochemical oxygen demand*	25 milligrams per liter
Fecal coliform group organisms***	200 organisms per 100 milliliters
Total suspended solids*	30 milligrams per liter
Oil	Essentially free of visible oil
Phosphorus**	1 milligram per liter
pH range	6.0 to 9.0
Toxic or corrosive pollutants	Concentrations of toxic or corrosive pollutants must not cause acute toxicity to humans or other animals, or plant life, directly damage real property, or exceed the final acute value unless the effluent satisfies the whole effluent toxicity test as follows: If a whole effluent toxicity test performed on the effluent results in less than 50 percent mortality of the test organisms, the effluent will not be considered acutely toxic unless the commissioner finds that the test species do not represent sensitive organisms in the affected surface water body or the whole effluent test was performed on a sample not representative of the effluent quality. The final acute value and whole effluent toxicity tests are defined in part 7050.0218, subpart 3, items O and FF, respectively.

* The arithmetic mean for concentrations of five-day carbonaceous biochemical oxygen demand for all discharges and of total suspended solids for continuous discharges shall not exceed the stated value in any calendar month. For noncontinuous discharges, the arithmetic mean for concentration of total suspended solids shall not exceed 45 milligrams per liter in any calendar month.

** Where the discharge of effluent is directly to or affects a lake or reservoir, phosphorus removal to one milligram per liter shall be required. In addition, removal of nutrients from all wastes shall be provided to the fullest practicable extent wherever sources of nutrients are considered to be actually or potentially detrimental to preservation or enhancement of the designated water uses. Discharges required to control nutrients by this subpart are subject to the variance provisions of part 7050.0190.

*** Disinfection of wastewater effluents to reduce the levels of fecal coliform organisms to the stated value is required from March 1 through October 31 for Class 2 waters and May 1 through October 31 for Class 7 waters, except that where the effluent is discharged 25 miles or less upstream of a water intake supplying a potable water system, the reduction to the stated value is required throughout the year. The stated value must not be exceeded in any calendar month as determined by the geometric mean of all samples collected in a given calendar month. The application of the fecal coliform group organism standards shall be limited to sewage or other effluents containing admixtures of sewage and shall not apply to industrial wastes except where the presence of sewage, fecal coliform organisms, or viable pathogenic organisms is known or reasonably certain. Analysis of samples for fecal coliform group organisms by either the multiple tube fermentation or the membrane filter technique is acceptable.

C. In situ facilities. A person discharging from an in situ facility shall comply with the following limitations after allowance for pollutant removal by a treatment works:

Substance or Characteristic	Limiting Concentration or Range
5-day carbonaceous biochemical oxygen demand*	25 milligrams per liter
Fecal coliform group organisms***	200 organisms per 100 milliliters
Total suspended solids*	30 milligrams per liter
Oil	Essentially free of visible oil
Phosphorus**	1 milligram per liter
pH range	6.0 to 9.0

Toxic or corrosive pollutants.

Concentrations of toxic or corrosive pollutants must not cause acute toxicity to humans or other animals, or plant life, directly damage real property, or exceed the final acute value unless the effluent satisfies the whole effluent toxicity test as follows: If a whole effluent toxicity test performed on the effluent results in less than 50 percent mortality of the test organisms, the effluent will not be considered acutely toxic unless the commissioner finds that the test species do not represent sensitive organisms in the affected surface water body or the whole effluent test was performed on a sample not representative of the effluent quality. The final acute value and whole effluent toxicity tests are defined in part 7050.0218, subpart 3, items O and FF, respectively.

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D. Recirculating flow. The owner or operator of a recirculating flow in situ or on-land facility may propose to the commissioner alternate concentration limits than those required by item B or C. The proposal shall provide detailed information on the following:

- (1) treatment, collection, removal, and disposal of wastes after wastewater flow leaves aquatic animal rearing units and before the wastewater is returned for reuse to rearing units;
 - (2) the rate of wastewater discharge flow compared to the volume of water in the aquatic animal rearing units;
 - (3) reduction in the mass discharge of pollutants due to the design, operation, and maintenance of the recirculating system;
- and
- (4) reduction in water appropriation due to the design, operation, and maintenance of the recirculating system.

The commissioner may approve alternate concentration limits under this subpart based upon information related to subitems (1) to (4).

Subp. 4. **Additional requirements.** Except as expressly excluded in this part, the construction, operation, and maintenance of a concentrated aquatic animal production facility shall comply with the requirements of parts 7050.0110 to 7050.0220, if applicable.

Subp. 5. **Interim reversible impacts.**

A. Variance. Upon application of the responsible person or persons and in accordance with parts 7000.0700 and 7050.0190, the agency in its discretion may grant a variance from subpart 3 if the agency also finds that:

- (1) the construction, operation, and maintenance of the facility will not impair the existing beneficial uses and the level of water quality necessary to protect the existing beneficial uses;
- (2) the economic or social development of concern will not occur due to the standards in subpart 3;
- (3) allowing lower water quality is necessary to accommodate important economic or social development in the area in which the receiving waters are located;

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Proposed Rules

- (4) the baseline quality of the receiving waters has been established in accordance with item C;
- (5) a closure plan for the facility has been approved in accordance with item E;
- (6) financial assurance for the facility has been established, approved, and maintained in accordance with item F; and
- (7) the applicant has obtained a permit for the facility for which the variance is sought in compliance with subpart 2.

However, no variances may be granted that would result in noncompliance with applicable federal rules, regulations, or standards for water quality.

B. Variance application. In addition to the requirements of part 7000.0700, subpart 2, the written application must contain:

- (1) the baseline quality data of the receiving waters collected under agency-approved protocol in accordance with item C;
- (2) the agency-approved closure plan in accordance with item E; and
- (3) an up-to-date closure cost estimate for the facility prepared under item E and evidence of the financial assurance required

in item F.

C. Baseline quality. Baseline quality shall be established by no less than two consecutive years, or equivalent, of preoperational data on the receiving waters. Testing programs used to establish baseline quality shall be reviewed and approved by the commissioner before the start of testing.

D. Closure. If a variance is granted under item A, the responsible person shall restore the receiving waters to baseline quality when:

- (1) aquatic animal production from the facility ceases;
- (2) any of the control pollutant limits in item G are exceeded;
- (3) the permit for the facility expires, and reissuance of the permit is not applied for or is applied for and denied;
- (4) the permit for the facility is revoked;
- (5) an agency order to cease operation is issued; or
- (6) the required financial assurance under item F for closure, postclosure monitoring, or corrective actions is not maintained with the proper payment or substitute instrument.

E. Closure plan. The applicant shall submit a closure plan for review and approval by the commissioner. The closure plan shall demonstrate financial assurance under item F for closure, postclosure monitoring, and corrective actions for restoration of the receiving waters to baseline quality, and shall demonstrate the technological and environmental feasibility of restoration of the receiving waters to baseline quality. Restoration to baseline quality shall ensure that the most protective water quality parameters are restored. For each of the water quality parameters, the mean postclosure levels shall not be significantly different as determined with the appropriate statistical test from the means of the preoperational baseline quality levels.

F. Financial assurance. The applicant shall submit to the commissioner for review and approval a closure, postclosure monitoring, and corrective action cost estimate, and evidence of financial assurance, prepared in accordance with parts 7035.2685 to 7035.2805.

G. Control pollutant limits. The following control pollutant limits are established to prevent irreversible pollution and to protect the existing beneficial uses, and apply to the receiving waters at all times:

Substance or Characteristic	Limiting Concentration or Range
Total organic carbon	5 milligrams per liter*
Nitrate nitrogen	10 milligrams per liter**
Chlorophyll-a	30 micrograms per liter***
Dissolved oxygen	Not less than 3 milligrams per liter in the bottom half of the hypolimnion and 5 milligrams per liter in the upper half of the hypolimnion****

* Annual mean.

** Instantaneous value. "Instantaneous value" means the concentration in one sample.

*** Monthly mean (May through September).

**** Instantaneous value. If the baseline monitoring shows that the preoperational oxygen concentration for the same time of the year is less than three milligrams per liter for the bottom half of the hypolimnion and five milligrams per liter for the upper half, there shall be no further reduction of the preoperational oxygen concentrations.

Subp. 6. Special conditions.**A. Monitoring, testing, and reporting.**

(1) On-land facilities shall monitor, test, and report the flow rate and the pollutant concentrations of the discharge. The mass of a pollutant discharged shall be determined by multiplying the flow rate by the pollutant concentration.

(2) In situ facilities shall monitor, test, and report dry mass and composition by percentage of all materials added to and removed from the waters in the facility. The mass of a pollutant discharged shall be determined as the difference between:

(a) the dry mass multiplied by the percentage composition of the materials added; and

(b) the dry mass multiplied by the percentage composition of the materials removed.

The materials to be monitored, tested, and reported include, but are not limited to, aquatic animal production, fish food used, waste fish food, filter backwash, sludges, sediments, and other accumulated solids.

(3) The commissioner may require the permittee to monitor receiving waters to determine natural background levels and baseline quality and to determine compliance with state and federal antidegradation and water quality standard requirements. The monitoring shall consider natural seasonal and year-to-year variations in background levels and baseline quality.

B. Collection and disposal of aquatic animal mortalities and blood. The permittee shall transport aquatic animal mortalities for rendering or disposal at a land-based facility. Aquatic animal mortalities shall not be disposed of in waters of the state. The permittee shall prevent blood produced through harvest of aquatic animals from entering waters of the state untreated. The blood generated shall be transported to a land-based rendering or disposal facility approved by the commissioner, or discharged to a publicly owned treatment works in accordance with the applicable publicly owned treatment works NPDES/SDS permit.

C. Record keeping. The permittee shall maintain an operation record book of daily operations and other occurrences that may affect water quality, including, but not limited to, addition of fish food, composition of fish food, aquatic animal transfers and harvests, cleaning, mortalities, major weather events, and power failures. The operation record book shall be available at all times for inspection and copying by the commissioner.

D. Annual report. Each year, the permittee shall submit an annual report to the commissioner. The report shall include:

(1) a general description of the operations conducted for the past calendar year;

(2) a summary of the monitoring data;

(3) the mass of aquatic animals currently at the facility;

(4) aquatic animal production at the facility for the past calendar year;

(5) methods, amounts, and locations of the removal and disposal of waste fish food, filter backwash, sludges, sediments, mortalities, and other accumulated solids generated at the facility; and

(6) proposed changes in operation and/or production for the coming year.

E. Water treatment and chemical additives. The discharge of water treatment and chemical additives shall not be in toxic amounts, cause adverse human health concerns, or violate water quality standards.

Department of Public Safety

Proposed Permanent Rules Relating to Eligibility and Claims Procedures for Reparations

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Crime Victims Reparations Board intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is *Minnesota Statutes*, section 611A.56.

All persons have 30 days, until 4:30 p.m., Wednesday, January 15, 1992, in which to submit comment in support of or in opposition

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Proposed Rules

to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Crime Victims Reparations Board no later than 4:30 p.m. on the final day of the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing must include his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Marie Bibus, Minnesota Crime Victims Reparations Board, Griggs Midway Building, Room N465, 1821 University Avenue, St. Paul, MN 55104. Telephone (612) 649-5993.

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

A free copy of the rules is available upon request from Marie Bibus at the address and telephone number listed above.

The proposed rule amendments will clarify existing rules that govern claims procedures and eligibility for reparations. The majority of the proposed amendments are based on the experiences of the Board in implementing *Minnesota Statutes*, sections 611A.51 to 611A.67. The proposed amendment regarding payment benefitting an offender is required to comply with changes in the federal Victims of Crime Act, 42 USC, section 10602(b)(7).

A **STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Marie Bibus at the address and telephone number listed above.

In preparing these rules, the Board has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses.

Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies. *Minnesota Statutes*, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land. *Minnesota Statutes*, section 16A.128, subdivisions 1a and 2a, do not apply because the rules do not fix fees.

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

Dated: 21 November 1991

Donna Anderson, Executive Director
Crime Victims Reparations Board

Rules as Proposed

7505.0100 DEFINITIONS.

[For text of subpart 1, see M.R.]

Subp. 1a. Adult. "Adult" means a person who is 21 years of age or older.

[For text of subs 2 and 3, see M.R.]

Subp. 5. Witness. "Witness" means a person who was present at the scene of a crime and personally saw or heard the crime.

Subp. 6. Net income. "Net income" means gross income minus federal, state, and social security taxes and any wage deductions for benefits or union dues.

Subp. 7. Family or household members. "Family or household members" means spouses, former spouses, parents, children, grandparents, siblings, persons who are presently residing together, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

7505.0750 BOARD DETERMINATION OF FULL COOPERATION.

Subpart 1. Board finding of full cooperation. The board, in determining whether a victim or claimant has fully cooperated with law enforcement and prosecutorial authorities, shall consider items A and B as necessary for an affirmative finding.

A. The victim or claimant, or, in the case of a minor, the parent or guardian of the victim or claimant, must have made a reasonable effort to comply with any specific and direct requests that law enforcement professionals made a reasonable effort to communicate to them.

B. The victim or claimant, or, in the case of a minor, the parent or guardian of the victim or claimant, must have cooperated from the time the crime was reported, during the entire time the investigation remains active, and through all prosecution proceedings.

Subp. 2. Ability to cooperate. The board may not deny benefits on the basis that the victim or claimant did not fully cooperate unless the board finds that the victim or claimant was able to cooperate at the time the cooperation was requested. In determining whether a victim or claimant was able to cooperate, the board shall consider physical or mental impairments or disabilities that might have affected the victim or claimant's ability to respond to the requests.

7505.3100 LOSS OF SUPPORT.

Subpart 1. Determination of amount. To calculate compensation for the loss of support to a dependent of a deceased victim, the board must take the monthly net income of the victim and divide it by the number of surviving dependents. This amount must be decreased by payments received from collateral sources by the dependent, including social security and AFDC benefits. If the victim's dependents are eligible for social security benefits as a result of the victim's death, then the monthly amount which the board may pay to each dependent must not exceed the monthly rate the dependent is eligible to receive from the Social Security Administration.

Subp. 2. Employed spouse. If the victim's spouse was employed at the time of the crime, the amount of loss of support to be paid to the spouse shall be reduced by a percentage equal to the spouse's income divided by the total income of the victim and the spouse.

Subp. 3. Net income. The board shall determine the net income of the victim using the following:

A. net income of the deceased during the previous 12 months as documented by tax returns, W-2's, employer records, signed contracts or receipts, or other government agency records;

B. the total amount of other government benefits received by the victim, including AFDC payments, food stamps, and housing grants; and

C. if the claimant and the victim were divorced, court-ordered child support and alimony payments in the monthly amount that the victim had been ordered to pay.

7505.3200 LOSS OF INCOME.

Subpart 1. Computation of lost income: employed victim. If the victim was employed at the time of the crime for which the claim is filed, the board shall compute lost income using a certification of lost wages provided by the victim's employer at the time of the crime for which a claim has been filed.

Income to be replaced must be calculated at a rate which equals the victim's net income at the time of the crime for which the claim has been filed. If a certification of lost wages is unavailable, the board shall compute lost income as indicated in subpart 2.

Subp. 2. Computation of lost income: victim self-employed or unemployed. If the victim was self-employed or unemployed at the time of the crime for which the claim has been filed, loss of income must be calculated at a rate which is based upon the victim's average net income in the 12 months before the crime for which the claim was filed as evidenced by tax returns, W-2 forms, check stubs, signed contracts or receipts, or other government agency records.

If the victim has not filed tax returns for the year before the crime, the victim's net income is presumed to be no greater than the maximum yearly income for which no federal or state income tax filing is required.

Subp. 3. Proof of inability to work. If necessary to determine the extent of disability and the length of compensation for lost income, the board shall request that the victim provide a statement from a licensed physician or psychologist indicating that the victim is or was unable to work due to injuries sustained as a result of the crime for which the victim has filed a claim.

The board shall withhold payment for loss of income if a statement has been requested and not received.

7505.3300 PAYMENT BENEFITTING OFFENDER.

Subpart 1. Domestic abuse; clarification. The board shall determine the eligibility of claims for injuries sustained as the result of domestic abuse in the same manner as other claims. No claim resulting from an incident of domestic abuse may be denied based solely upon a finding that a claimant resides or has resided with the alleged offender of the crime for which the claim has been filed.

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Proposed Rules

The board shall not reduce or deny an award when enrichment of the offender is inconsequential or minimal. The board shall not deny payments to service providers based upon a finding that the claimant and offender are maintaining a relationship.

Subp. 2. Claim denial. No claim may be denied because it succeeds previous claims for victimization by the same offender.

7505.3400 SECONDARY VICTIMS.

For the purposes of this chapter, the term "victim" includes, in addition to those meanings specifically provided in Minnesota Statutes, section 611A.52, the following:

A. a parent, spouse, or minor child of a victim who died as the direct result of a crime;

B. a witness to a violent crime who suffered physical or emotional injury;

C. a sibling or adult child of a victim who died as the direct result of a crime, if the sibling or child has suffered emotional injury. Payment for a sibling or adult child is limited to ten counseling sessions; and

D. a person who discovered the body of a victim who died as the direct result of a crime, if the person has suffered emotional injury. Payment for a person who discovered a body is limited to ten counseling sessions.

7505.3500 PARENTS OF CHILD VICTIMS; DOMESTIC CHILD ABUSE OR CHILD SEXUAL ASSAULT.

The board shall authorize payment for up to five counseling sessions for a parent who is a primary caretaker of a victim of domestic child abuse or child sexual assault, if the treatment plan filed under and complying with part 7505.2700 indicates that the sessions directly benefit the victim.

7505.3600 HOUSEHOLD SERVICES.

The board shall not award reparations for household services performed by a family or household member.

Adopted Rules

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

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

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

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

Department of Commerce

Adopted Emergency Amendments to Permanent Rules Relating to Reimbursement of Costs by the Petroleum Tank Release Compensation Board

The rules proposed and published at *State Register*, Volume 16, Number 11, pages 546-547, September 9, 1991 (16 SR 546), are adopted with the following modifications:

Rules as Adopted

2890.0060 REIMBURSEMENT OF COSTS.

Subp. 5. **Documentation of reasonableness; bidding required.** The applicant shall prove the reasonableness of all incurred eligible costs. Effective for any contract entered into or commenced on or after December 1, 1991, whenever feasible the applicant or an agent of the applicant must solicit, privately or publicly, a minimum of two written competitive bids based upon comparable unit costs for all work performed in connection with corrective action for which reimbursement is sought. Where competitive bids are received, unit costs in excess of those in the proposal bid of the lowest responsible bidder shall may be considered prima facie unreasonable by the Petroleum Tank Release Compensation Board.

The applicant must document the reasonableness of any costs included on the reimbursement application by providing one or more of the following:

- A. evidence that the work was performed by a person or persons whose services were solicited through competitive bid procedure; the evidence shall include copies of all bids received or other documentation of all bids received; ~~or~~
- B. evidence that only one party was reasonably available or qualified to perform the necessary work and that the cost is substantially equivalent to that charged by a comparable person or persons in the same geographical area for similar work performed;
- C. evidence that the necessary work was required by an emergency, including the abatement or cleanup of free product, for which there was not sufficient time to solicit competitive bids; or
- D. evidence that the lowest bidder for professional work or other work was not qualified to perform the necessary services.

Any person, firm, corporation, or governmental unit who is a responsible person as defined in Minnesota Statutes, chapter 115C, may apply to the Petroleum Tank Release Compensation Board for an annual exemption to this part by providing documentation of standing contracts that were entered into via a bidding and evaluation process.

Commissioners' Orders

Department of Natural Resources

Commissioner's Order No. 2429

Experimental Regulations for the Taking of Trout in Turnip and Thrush Lakes; Superseding Commissioner's Orders Nos. 2345 and 2397

Pursuant to authority vested in me by *Minn. Stat.* § 97C.001 and other applicable law, I, Rodney W. Sando, Commissioner of Natural Resources, hereby prescribe the following experimental regulations for the taking of trout in Turnip and Thrush Lakes.

Section 1. DESIGNATED LAKES.

The provisions of this order shall apply to the following lakes:

Turnip Lake, T. 64, R. 1 E., S. 24, Cook County.

Thrush Lake, T. 63, R. 1 W., S. 31, Cook County.

Sec. 2. The above-named lakes are closed to winter fishing permanently.

Sec. 3. While on or fishing in the waters of the above-named lakes, no trout less than 18 inches in length, as measured from the tip of the nose to the tip of the tail when fully extended, shall be possessed. All trout less than 18 inches must be returned to the water immediately. The possession limit of trout complying with this length limit is one (1).

Sec. 4. While on or fishing in the waters of the above-named lakes, all trout in possession must be intact and measurable, regardless of the location where the trout were taken.

Sec. 5. While on or fishing in the waters of the above-named lakes, only artificial lures and flies with single hooks may be used.

Sec. 6. The provisions of this order shall not be construed to supersede the provisions of any other order of the commissioner, except insofar as such other orders may be inconsistent with the provisions of this order.

Sec. 7. Commissioner's Orders Nos. 2345 and 2397 are hereby superseded.

Dated at St. Paul, Minnesota, this 3rd day of December, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources

By: Ronald Nargang, Deputy

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Revenue Notices

Effective July 1, 1991, the Department of Revenue has authority to issue revenue notices. A revenue notice is a policy statement made by the department that provides interpretation, details, or supplementary information concerning the application of law or rules. This authority was provided by the Legislature in 1991 Session Laws Chapter 291, article 21, section 6 and will be codified at *Minnesota Statutes* section 270.0604.

Department of Revenue

Revenue Notice #91-20: Sales and Use Tax—Vehicle Accessories—Tax Base—Fabrication of Tangible Personal Property and Installation Charges

Minnesota Statutes § 297A.01, subd. 3 defines taxable “sale” and a taxable “purchase” to include the fabrication of tangible personal property.

Minnesota Statutes § 297A.01, subd. 8, when defining the “sales price” subject to tax, authorizes a deduction for installation labor if the consideration for such charges is separately stated.

Labor to install personal property that permanently modifies the vehicle is considered to be fabrication labor and taxable. Examples of such transactions, where the total charge to the customer for materials and labor is taxable, are as follows:

- installation of air conditioning system;
- installation of sunroof, both pop-up and electric;
- installation of remote car starters;
- installation of power windows and power locks;
- installation of window defrosters and window tinting.

Labor to install personal property that is readily removable or transferable to another vehicle is not considered to be a permanent modification and the labor charges are considered to be exempt installation charges, if the consideration for such charges is separately stated. Examples of such transactions are:

- installation of running boards;
- installation of theft alarms;
- installation of a radio/sound system in a car which did not have either a radio or speakers;
- installation of component parts or an upgrade to an existing sound system;
- installation of speed control.

Dated: 16 December 1991

Department of Revenue

Revenue Notice #91-21: Motor Vehicle Rental Tax

The 1991 legislature imposed a \$7.50 tax on the rental of vans, pickup trucks, and passenger automobiles, *Minnesota Statutes* § 297A.135. The statute provides that the tax is imposed upon rentals of a daily or weekly basis.

The Department has taken the position that when a van, pickup truck, or passenger automobile is rented on an hourly or monthly basis, those rentals are not subject to this tax. A rental will be considered “hourly” when the rental period is based on the number of hours the vehicle is used, and the total hours used are less than 24. A rental will be considered “monthly” if the lease term is longer than 28 days. A rental will be considered “daily or weekly” if the lease term is for a 24 hour period or more, even if the vehicle is returned in less than 24 hours.

Dated: 16 December 1991

Emergency Rules

Proposed Emergency Rules

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

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

Adopted Emergency Rules

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

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

Continued/Extended Emergency Rules

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

Department of Health

Adopted Emergency Rules Relating to Flush Threaded Polyvinyl Chloride (PVC) Casing and Screens Used for Monitoring Wells at Petroleum Storage Tank Sites

The rules proposed and published at *State Register*, Volume 16, Number 12, pages 584-585, September 16, 1991 (16 SR 584), are adopted with the following modifications:

Rules as Adopted

4725.7605 [Emergency] FLUSH THREADED POLYVINYL CHLORIDE (PVC) CASING AND SCREENS USED FOR MONITORING WELLS AT PETROLEUM STORAGE TANK SITES.

Notwithstanding parts 4725.6900 to 4725.7600, a monitoring well may use flush threaded polyvinyl chloride (PVC) casing and screens used for leak detection or groundwater monitoring at an underground or aboveground petroleum storage tank site if the requirements in this part are met.

A. The screen must intersect the surface of the water table at the time of installation. The well must be constructed so the joint between the two deepest casing sections is above the surface of the water.

E. The flush threaded polyvinyl chloride casing must meet at least the standards in schedule ~~80~~ 40 for polyvinyl chloride (PVC) materials of the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania. Schedule ~~80~~ 40 standards are contained in the Annual Book of ASTM Standards, Volume 8, Designation D 1785-88 Standard Specification for Poly (Vinyl Chloride) (PVC) Plastic Pipe, Schedules 40, 80, and 120 Tables I and II, published December 1988. The ASTM standards are incorporated by reference, are not subject to frequent change, and are available through the Minitex interlibrary loan system.

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.

Ethical Practices Board

Request for Advisory Opinion Re: Conflicts of Interest

The Ethical Practices Board solicits comments regarding the following request for an advisory opinion received from Ted A.

Official Notices

Mondale. Written comments should arrive at the Board office, 625 N. Robert St., St. Paul, MN 55101, prior to January 7, 1992, for consideration at the Board's meeting of January 24, 1992.

December 4, 1991—This letter requests that the Ethical Practices Board provide guidance to me regarding whether a position I have recently taken with United HealthCare Corporation will affect certain of my legislative activities in the Minnesota Senate.

Background on United HealthCare Corporation—United HealthCare Corporation ("United") is a Minnesota corporation based in Minnetonka that assists public and private employers, hospitals, and managed care companies throughout the nation to manage their health care programs and costs. United's services include HMO and PPO management, pharmaceutical cost management, managed mental health substance abuse services, utilization management, management of workers compensation costs, managed care programs for the aged, and employee assistance services. The services provided by United are similar to those provided by health service plans, health insurance companies, third party administrators and other managed care companies such as Group Health, Aetna/MedCenters, Employee Benefit Plans and Blue Cross Blue Shield Companies. United is a publicly traded company listed on the New York Stock Exchange. United presently employs approximately 2000 employees in the state of Minnesota.

In Minnesota, United provides full service management services to Medica, the parent company to Physicians Health Plan of Minnesota ("PHP") and Share. PHP and Share are Minnesota nonprofit corporations that are licensed to operate as health maintenance organizations in the state of Minnesota. PHP and Share provide comprehensive health care coverage to individuals, employer groups, Medicaid recipients and Medicare beneficiaries. Some of United's services are also made available to other Minnesota companies.

Description of Position with UHC—In September, I was designated by United to be "Of Counsel" to the company. I report to United's general counsel within the company's legal department. My primary job responsibilities are general legal work related to United's business, policy development and public affairs. I am not expected to make contact with any public official or public body in Minnesota as a representative of United. I have been retained as an independent contractor and will not be either an officer, director or employee of the company. My compensation is fixed and does not include profit sharing or stock options. Neither I nor my spouse now owns or will own any of United's stock.

As part of my retainer arrangement with United, we agreed to a Statement of Ethical Guidelines. These guidelines are enclosed with this letter. The guidelines address my position with United as it may affect my responsibilities and activities as a State Senator.

STATEMENT OF ETHICAL GUIDELINES

In accepting a position as legal counsel to United HealthCare Corporation, we agree that our relationship will at all times be governed by the following ethical guidelines:

1. I will be free at all times to determine whether my position at United creates an actual or potential conflict of interest for me in my legislative activities as a Minnesota State Senator.
2. United will abide by, and my position with United will be unaffected by, any decision I make in matters of ethics and in matters involving my legislative activities and responsibilities.
3. In my position with United, I will not be asked or required to advance United's business interests in the State of Minnesota nor will I be expected to have contact with any public official in the State of Minnesota regarding any matter in which United may have an interest.
4. United will not, through its officers, directors, employees or otherwise, attempt to influence any of my votes in the state legislature or any of my legislative activities.
5. My position at United will not involve any lobbying of public officials at the federal level or in any state (including specifically Minnesota) for adoption or defeat of legislation supported by or opposed by UHC. We mutually recognize, however, that the technical requirement of some federal and state lobbying laws may require that I, like other UHC employees, register as a lobbyist. This registration, however, will not affect United's expectation of my responsibilities.

Request for Opinion—The Minnesota Legislature is a citizen's legislature in which Minnesotans of a variety of walks of life make a commitment to public service. The legislature is structured as a part-time endeavor to insure that the legislature is composed of persons whose career experiences will continually benefit the legislative process. Yet, by its very nature, a legislature composed of persons with other career pursuits enhances the likelihood that potential conflicts of interest will arise. Teachers are asked to pass judgment on education bills, farmers scrutinize agricultural bills, lawyers consider tort reform initiatives and private business owners pass judgment on unemployment and workers compensation measures.

I have reviewed the rules on conflicts of interest that exist in the state's ethical practices laws. Those rules appear to be somewhat ambiguous. In light of the ambiguity, does my position with United create a conflict of interest that would require that I abstain from voting on any health care issues that come before the legislature, including: (1) votes to override the Governor's veto of H.F.2; (2) other bills that address health care access, cost containment and/or health care reform, including bills supported by the Minnesota HMO Council; (3) funding measures for the Department Human Services; (4) bills affecting Medicaid reimbursement; (5) bills regulating or affecting health care providers; (6) bills affecting mandated benefits; (7) AIDS legislation; (8) measures to institute

managed care within the workers compensation system; and (9) utilization review laws. In other words, if I were to vote on any of these matters would my vote be an action that would substantially benefit my financial interests, or those of an associate business more so than others in my business or professional classification? If your conclusion is yes, please provide me with the rationale for your conclusion.

Ethical Practices Board

Request for Advisory Opinion Re: Lobbyist and Principals Disclosure

The Ethical Practices Board solicits comments regarding the following request for an advisory opinion received from Sarah Janeczek on behalf of the Soo Line Railroad Company and the Burlington Northern Railroad. Written comments should arrive at the Board office, 625 N. Robert St., St. Paul, MN 55101, prior to January 7, 1992, for consideration at the Board's meeting of January 24, 1992.

December 3, 1991—Please accept this request for an advisory opinion from the Ethical Practices Board. Changes made in *Minnesota Statutes 10A* by the 1990 Legislature raise several concerns.

These concerns stem from a tour for the Minnesota House of Representatives Transportation Committee members of the intermodal operations of the Soo Line and Burlington Northern Railroads.

Our questions to the Board are as follows:

1. If an industry hosts a general tour of its operations, does the cost of that tour count as a reportable expense and an attempt "to influence legislative action" under *Minn. Stat. 10A.04*, Subd. 6.
2. Does an attempt "to influence legislative action" exist if, during that tour, no specific legislation is discussed?
3. Does the fact that the Legislature requested the tour have any bearing on its status as a reportable expense?
4. Would there be any difference in reportable status if the tour was held during the legislative interim as opposed to a legislative session?
5. Finally, if a tour is a reportable expense, what specific costs incurred by the railroads must be included? Touring a railroad operation is unlike touring any other industry. "The plant" is not under one roof but rather covers many miles of railroad rights of way. The tour also involved the use of both Soo Line and Burlington Northern engines and crews. In addition, various other operational personnel were present to explain Minnesota rail operations. Must all of their time be included as a reportable expense?

Ethical Practices Board

Advisory Opinion #114 Re: Campaign Finance Disclosure

Issued 12-9-91 to Harley M. Ogata, Staff Attorney, Minnesota Education Association—SUMMARY—114. A political fund established by an association that screens and endorses candidates or by any local of that association may make cash contributions to the association's endorsed candidates as well as independent expenditures on behalf of the associations' endorsed candidates provided the independent expenditures comport with the statutes governing independent expenditures set forth in *Minnesota Statutes §§ 10A.01*, subd. 10b, 10A.12, 10A.14, 10A.17, and 10A.20. The full text of the opinion is available upon request from the Ethical Practices Board, 625 North Robert Street, St. Paul, MN 55101-2520; (612) 296-5148.

Ethical Practices Board

Advisory Opinion #115 Re: Campaign Finance Disclosure

Issued 12-9-91 to Erik A. Ahlgren, Esq., Dorsey and Whitney Law Office—SUMMARY—115. Solicitation of contributions to candidates by an association's employee may require registration of a political fund established by the association. If the association is a corporation organized for profit, state laws prohibiting direct or indirect corporate contributions to candidate may apply to the association's activities. The full text of the opinion is available upon request from the Ethical Practices Board, 625 North Robert Street, St. Paul, MN 55101-2520; (612) 296-5148.

Ethical Practices Board

Advisory Opinion #116 Re: Lobbying Disclosure

Issued 12-9-91 to Carol G. Wiessner, Esq., Project Environment Foundation—SUMMARY—116. A lobbyist must report total

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disbursements by the lobbyist, the lobbyist's employer, the lobbyist's principal, and the lobbyist's employee as required by *Minn. Stat.* § 10A.04. The lobbyist must disclose whether the lobbying-purpose portion of the lobbyist's compensation exceeds \$500 in a year, however neither the lobbyist nor the lobbyist principal must disclose the dollar amount of the compensation when filing required reports. The full text of the opinion is available upon request from the Ethical Practices Board, 625 North Robert Street, St. Paul, MN 55101-2520; (612) 296-5148.

Ethical Practices Board

Advisory Opinion #117 Re: Fundraising During Legislative Session

Issued 12-9-91 to Honorable Karen Clark—SUMMARY—117. A candidate for the legislature or for constitutional office is prohibited from soliciting or accepting any contribution from a registered lobbyist or from a political fund or from a political committee other than a political party unit from January 6, 1992, until the legislature adjourns sine die. The full text of the opinion is available upon request from the Ethical Practices Board, 625 North Robert Street, St. Paul, MN 55101-2520; (612) 296-5148.

Department of Public Service

Energy Division

Notice of Intent to Solicit Outside Opinion Regarding Cost-Share Maxi-Audit Grants

NOTICE IS HEREBY GIVEN that the State Department of Public Service is seeking information or opinions from sources outside the agency in preparing proposed amendments to *Minnesota Rules* Chapter 7660 governing the cost-share maxi-audit manual. The adoption of this rule is authorized by *Minnesota Statutes*, section 216C.09.

Interested persons or groups may submit data or views on the subject of concern in writing or orally. Written statements should be addressed to:

Narvel Somdahl, Manager, Energy Technologies
Department of Public Service, Energy Division
150 East Kellogg Boulevard—#790
St. Paul, MN 55101
Telephone 612/297-2117
Fax 612/297-1959

Oral statements will be received during regular business hours by telephone and in person at the above address.

All statements of information and opinions will be accepted until December 31, 1991. Any written material received by the agency shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 6 December 1991

Krista L. Sanda, Commissioner
Department of Public Service

Department of Transportation

State Aid Variance Committee Meeting

NOTICE IS HEREBY GIVEN that the Commissioner of Transportation has appointed a State Aid Variance Committee who will conduct a meeting on Wednesday, January 8, 1992, at 10:00 a.m. in the second floor conference room at the St. Paul Downtown Airport, 644 Bayfield Street, St. Paul, MN 55107.

This notice is given pursuant to *Minnesota Statute* 47k.705.

The purpose of this open meeting is to investigate and determine recommendations for variances from minimum State Aid roadway standards and administrative procedures as governed by *Minnesota Rules* and for State Aid Operations 8820.3400 adopted pursuant to *Minnesota Statutes* 161 and 162.

The agenda will be limited to these questions:

1. Petition of the City of South St. Paul for a variance from minimum standards as they apply to MSAS 129 (Dwane Street) between 10th Avenue North and 12th Avenue North so as to permit a design speed of 25 miles per hour for one horizontal curve; instead of the required minimum of 30 miles per hour.

2. Petition of the Township of Chadashchay, County of Isanti for a variance from minimum park road standards as they apply to a reconstruction project on T282 so as to permit a design speed of 15 and 20 miles per hour for two curves; instead of the required minimum of 40 miles per hour.

3. Petition of the County of Roseau for a variance from minimum standards as they apply to a proposed reconstruction project on CSAH 18 between Trunk Highway 89 and the Roseau River so as to permit a 26 foot wide recovery area at the 154" span arch culvert carrying the Roseau River (Bridge No. 92165); instead of the required minimum of 27 feet.

4. Petition of the County of Cook for a variance from minimum standards as they apply to a proposed reconstruction project on CSAH 7 between Fall River and CSAH 12 so as to permit an inslope of 3:1 instead of the required minimum of 4:1 at selected areas throughout the project.

5. Petition of the County of St. Louis for a variance from minimum standards as they apply to a proposed reconstruction project on CSAH 56 between CSAH 91 (Haines Road) and Trunk Highway 2 so as to permit a design speed of 36 to 39 miles per hour at seven vertical curves instead of the required minimum of 40 miles per hour.

6. Petition of the City of Shorewood for a variance from the requirement that only those projects for which plans are approved by the State Aid Engineer prior to the award of contract are eligible for state-aid construction funds so as to permit the use of state aid funds to finance SAP 216-111-01.

7. The City of Minneapolis for a variance from minimum standards as they apply to a proposed reconstruction project on MSAS 215 (2nd Street North) from Hennepin Avenue to Plymouth Avenue so as to permit a design speed of 28 miles per hour and a posted speed of 25 miles per hour instead of the required minimum of 30 miles per hour.

The cities, township and counties previously listed are requested to follow the following time schedule when appearing before the Variance Committee:

- 10:00 a.m. City of South St. Paul
- 10:20 a.m. Township of Chadashchay
- 10:40 a.m. County of Roseau
- 11:00 a.m. County of Cook
- 11:20 a.m. County of St. Louis
- 11:40 a.m. City of Shorewood
- 12:00 p.m. City of Minneapolis

Dated: 4 December 1991

Edwin H. Cohoon
Deputy Commissioner
Minnesota Department of Transportation

Petition of the City of South St. Paul for a Variance from Minimum State Aid Standards for DESIGN SPEED

NOTICE IS HEREBY GIVEN that the City Council of the City of South St. Paul made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance on a proposed reconstruction project on MSAS 129 (Dwane Street) between 10th Avenue North and 12th Avenue North.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9935 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a design speed of 25 miles per hour for one horizontal curve; instead of the required minimum of 30 miles per hour.

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

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

Dated: 4 December 1991

Edwin H. Cohoon
Deputy Commissioner

Official Notices

Petition of the Township of Chadashchay for a Variance from Minimum State Aid Park Road Standards for DESIGN SPEED

NOTICE IS HEREBY GIVEN that the Township of Chadashchay in Isanti County has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to a proposed reconstruction project on Chadashchay Road T282.

The request is for a variance from park road standards, so as to permit a design speed of 15 to 20 miles per hour for two curves; instead of the required minimum of 40 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155.

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

Dated: 4 December 1991

Edwin H. Cohoon
Deputy Commissioner

Petition of the County of Roseau for a Variance from State Aid Requirements for RECOVERY AREA

NOTICE IS HEREBY GIVEN that the County Board of the County of Roseau has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to a proposed reconstruction project on CSAH 18 between Trunk Highway 89 and the Roseau River.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9910 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a 26 foot wide recovery area at the 154" span arch culvert carrying the Roseau River (Bridge No. 92165); instead of the required minimum of 27 feet.

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

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

Dated: 4 December 1991

Edwin H. Cohoon
Deputy Commissioner

Petition of the County of Cook for a Variance from State Aid Requirements for INSLOPE

NOTICE IS HEREBY GIVEN that the County Board of the County of Cook has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to a proposed reconstruction project on CSAH 7 between Fall River and CSAH 12.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9910 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit an inslope of 3:1 instead of the required minimum of 4:1 at selected areas throughout the project.

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

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

Dated: 4 December 1991

Edwin H. Cohoon
Deputy Commissioner

Petition of the County of St. Louis for a Variance from State Aid Requirements for DESIGN SPEED

NOTICE IS HEREBY GIVEN that the County Board of the County of St. Louis has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to a proposed resurfacing project on CSAH 56 between CSAH 91 (Haines Road) and Trunk Highway 2.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9925 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a design speed of 36 to 39 miles per hour at seven vertical curves instead of the required minimum of 40 miles per hour.

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

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

Dated: 4 December 1991

Edwin H. Cohoon
Deputy Commissioner

Petition of the City of Shorewood for a Variance from Minimum State Aid Standards for USE OF STATE AID FUNDS

NOTICE IS HEREBY GIVEN that the City Council of the City of Shorewood has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to a reconstruction project on MSAS 111 (Old Market Road).

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2800 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, which is the requirement that only those projects for which plans are approved by the State Aid Engineer prior to the award of contract are eligible for state-aid construction funds so as to permit the use of state aid funds to finance SAP 216-111-01.

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

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

Dated: 4 December 1991

Edwin H. Cohoon
Deputy Commissioner

Petition of the City of Minneapolis for a Variance from State Aid Requirements for DESIGN SPEED

NOTICE IS HEREBY GIVEN that the City Council of the City of Minneapolis has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to a proposed reconstruction project on MSAS 215 (2nd Street North) from Hennepin Avenue to Plymouth Avenue.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9935 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a design speed of 28 miles per hour and a posted speed of 25 miles per hour instead of the required minimum of 30 miles per hour.

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

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

Dated: 4 December 1991

Edwin H. Cohoon
Deputy Commissioner

Professional, Technical & Consulting Contracts

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.

Department of Jobs and Training

Division of Rehabilitation Services

Notice of Availability of Funds for Group Design and Facilitation

The Minnesota Department of Jobs and Training-Division of Rehabilitation Services is requesting proposals to provide group design and facilitation, needs assessment, and problem solving and organizational change activities related to the development of agency policies and guidelines.

Interested parties must submit an application describing the proposed services. The proposed services should be designed to:

- Facilitate planning sessions with agency management staff to review and synthesize needs assessment information obtained by the agency.
- Propose a new mission and vision statement for the agency.
- Develop the process for developing agency policy and guidelines, including a post-secondary education loan reduction rule.
- Serve as a facilitator for the above process to develop and refine agency policies and guidelines.
- Develop a process for facilitating agency change, including identifying behavior changes needed within staff to effect change.

It is anticipated that approximately \$25,000 will be available for the project. Services are to begin January 6, 1992 and be completed within six months.

Applications in the form of a request for proposals are available from Allan Lunz, Rehabilitation Specialist, Division of Rehabilitation Services, 390 N. Robert Street, 5th Floor, St. Paul, MN 55101. Phone: (612) 297-1596.

Completed proposals must be received by 4:30 p.m. on December 27, 1991. Completed proposals should be mailed or delivered to Kim Rezek, Acting Director of Vocational Rehabilitation Services, at the above address.

Department of Natural Resources

Request for Proposal for a Cultural Resource Survey and Interpretive Plan

The Department of Natural Resources, Division of Parks and Recreation requests proposals for a cultural resource survey and interpretive plan for prehistoric and historic sites in the Minnesota Valley Trail between Ft. Snelling and LeSueur. Legal authority is cited in M.S. 1984, 16B.17.

The project timeline is February 1, 1992 through September 30, 1992. Funding limit is \$30,000.

A full RFP may be obtained by calling or writing the Department contact:

Judy Thomson
Regional Naturalist
1200 Warner Road
St. Paul, MN 55106
(612) 772-7996

Submission of Proposals are due 3:00 p.m., December 31, 1991.

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.

Commodities contracts with an estimated value of \$15,000 or more are listed under the Materials Management 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.

Materials Management Division—Department of Administration:

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

COMMODITY CODE KEY

A = Sealed Bid	G = \$5,000-\$15,000 Estimated Dollar Value	J = Targeted Vendors Only
B = Write for Price	H = \$15,000-\$50,000 Sealed Bid	K = Local Service Needed
C = Request for Proposal	I = \$50,000 and Over Sealed Bid/Human Rights Compliance Required	L = No Substitute
D = Request for Information		M = Installation Needed
E = \$0-\$1,500 Estimated Dollar Value		N = Pre-Bid Conference
F = \$1,500-\$5,000 Estimated Dollar Value		

Commodity: B F-Hospital training doll—complete care
Contact: Teresa Manzella 612-296-7556
Bid due date at 4:30pm: December 18
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-27075

Commodity: B F-LCD projector
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: December 18
Agency: Bemidji State University
Deliver to: Bemidji
Requisition #: B 26070-14637

Commodity: B F L-Mettler balance
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: December 18
Agency: Rochester Community College
Deliver to: Rochester
Requisition #: B 27148-60838

Commodity: B F-386/25 computers
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: December 18
Agency: Anoka Ramsey Community College
Deliver to: Coon Rapids
Requisition #: B 27152-46897

Commodity: A H L-Grid notebook
Contact: Bernadette Vogel 612-296-3778
Bid due date at 2pm: December 18
Agency: Department of Revenue
Deliver to: St. Paul
Requisition #: B 67520-43376

Commodity: B E-Water monitoring system
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: December 20
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32100-30903

Commodity: B E L-Software-Unistation
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: December 18
Agency: Department of Labor & Industry
Deliver to: St. Paul
Requisition #: B 42151-17210

Commodity: B F-486/33 computer
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: December 18
Agency: Bemidji State University
Deliver to: Bemidji
Requisition #: B 26070-14626

Commodity: B F L-Gateway computer
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: December 18
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23245

State Contracts and Advertised Bids

Commodity: B G-Safari notebook computer

Contact: Bernadette Vogel 612-296-3778

Bid due date at 4:30pm: December 18

Agency: Minneapolis Community College

Deliver to: Minneapolis

Requisition #: B 27151-49038

Commodity: B G-386/25 computers

Contact: Bernadette Vogel 612-296-3778

Bid due date at 4:30pm: December 18

Agency: Lakewood Community College

Deliver to: White Bear Lake

Requisition #: B 27154-47300

Commodity: B E-Monitor/VCR

Contact: Pam Anderson 612-296-1053

Bid due date at 4:30pm: December 18

Agency: Lakewood Community College

Deliver to: White Bear Lake

Requisition #: B 27154-47302

Commodity: B F-Repair parts 43 502 analyzer

Contact: Pam Anderson 612-296-1053

Bid due date at 4:30pm: December 20

Agency: Minnesota Pollution Control Agency

Deliver to: St. Paul

Requisition #: B 32200-30899

Commodity: A H-4 wheel drive

Contact: Brenda Thielen 612-296-9075

Bid due date at 2pm: December 17

Agency: Department of Administration

Deliver to: St. Paul

Requisition #: B 02307-24260

Commodity: B F-Floor cleaning equipment

Contact: Linda Parkos 612-296-3725

Bid due date at 4:30pm: December 19

Agency: Mankato State University

Deliver to: Mankato

Requisition #: B 26071-25032

Commodity: B G-Kreuger equipment

Contact: Jack Bauer 612-296-2621

Bid due date at 4:30pm: December 20

Agency: Minnesota Correctional Facility

Deliver to: Lino Lakes

Requisition #: B 78550-08555

Commodity: B G-Four wheel utility vehicle

Contact: Mary Jo Bruski 612-296-3772

Bid due date at 4:30pm: December 20

Agency: Department of Administration

Deliver to: St. Paul

Requisition #: B 02307-24261

Commodity: B E-Mobile OTC lifting crane

Contact: Mary Jo Bruski 612-296-3772

Bid due date at 4:30pm: December 20

Agency: Minnesota Department of Transportation

Deliver to: St. Cloud

Requisition #: B 79350-01178

Commodity: B G L-Commercial laundry equipment

Contact: Linda Parkos 612-296-3725

Bid due date at 4:30pm: December 19

Agency: Minnesota Correctional Facility

Deliver to: Lino Lakes

Requisition #: B 78550-08415

Commodity: A H-Blades

Contact: Jack Bauer 612-296-2621

Bid due date at 4:30pm: December 18

Agency: Minnesota Department of Transportation

Deliver to: Duluth

Requisition #: B 79100-09271

Commodity: B E-Dual wheel OTC dolly

Contact: Mary Jo Bruski 612-296-3772

Bid due date at 4:30pm: December 20

Agency: Minnesota Department of Transportation

Deliver to: St. Cloud

Requisition #: B 79350-01177

Commodity: B E-Set of forks for forklift

Contact: Mary Jo Bruski 612-296-3772

Bid due date at 4:30pm: December 20

Agency: Minnesota Department of Transportation

Deliver to: St. Cloud

Requisition #: B 79350-01184

Commodity: B F-386/33 computer

Contact: Bernadette Vogel 612-296-3778

Bid due date at 4:30pm: December 19

Agency: Department of Labor & Industry

Deliver to: St. Paul

Requisition #: B 42151-17209

Commodity: B F-Video cameras & miscellaneous

Contact: Pam Anderson 612-296-1053

Bid due date at 4:30pm: December 19

Agency: Inver Hills Community College

Deliver to: Inver Grove Heights

Requisition #: B 27157-48683

Commodity: B F-Precipitation collectors

Contact: Pam Anderson 612-296-1053

Bid due date at 4:30pm: December 23

Agency: Minnesota Department of Transportation

Deliver to: Fort Snelling

Requisition #: B 79000-22496

Commodity: B G L-Floor cleaning equipment

Contact: Linda Parkos 612-296-3725

Bid due date at 4:30pm: December 19

Agency: Mankato State University

Deliver to: Mankato

Requisition #: B 26071-25031

Commodity: B G L-Floor cleaning equipment

Contact: Linda Parkos 612-296-3725

Bid due date at 4:30pm: December 19

Agency: St. Peter Regional Treatment Center

Deliver to: St. Peter

Requisition #: B 55105-09018

Commodity: B E-Tables

Contact: Jack Bauer 612-296-2621

Bid due date at 4:30pm: December 21

Agency: Normandale Community College

Deliver to: Bloomington

Requisition #: B 27156-10855

Commodity: B F-Janitorial supplies

Contact: Pam Anderson 612-296-1053

Bid due date at 4:30pm: December 19

Agency: Mankato State University

Deliver to: Mankato

Requisition #: B 26071-25034

Commodity: B F-Telescope

Contact: Pam Anderson 612-296-1053

Bid due date at 4:30pm: December 23

Agency: Department of Natural Resources—Regional Headquarters

Deliver to: Currie

Requisition #: B 29004-16434

Commodity: B F-Line Protector
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: December 19
Agency: Minnesota Department of Transportation
Deliver to: Fort Snelling
Requisition #: B 79000-22498

Commodity: B F L-Vacuum cleaners
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: December 19
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-25033

Commodity: B E L-Vacuum cleaners
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: December 19
Agency: Minnesota Correctional Facility
Deliver to: Lino Lakes
Requisition #: B 78550-08414

Commodity: B E-Hardwood lumber
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: December 20
Agency: Minnesota Department of Transportation
Deliver to: Maplewood
Requisition #: B 79000-22500

Commodity: B F-Ice machine
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: December 26
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-44319

Commodity: B E-Plastic liners
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: December 20
Agency: Cambridge Regional Human Services Center
Deliver to: Cambridge
Requisition #: B 55201-20228

Commodity: A I-State Patrol uniform fabrics
Contact: Linda Parkos 612-296-3725
Bid due date at 2pm: December 26
Agency: Department of Public Safety/Finance
Deliver to: St. Paul
Requisition #: B 07500-27122

Commodity: A H M-Billboard marketing plan
Contact: Linda Parkos 612-296-3725
Bid due date at 2pm: December 23
Agency: Department of Revenue
Deliver to: St. Paul
Requisition #: B 67310-43382

Commodity: B G-Radio Tower
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: December 20
Agency: Minnesota Department of Transportation
Deliver to: Various places
Requisition #: B 79000-22511

Commodity: B D-Software
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: December 20
Agency: Hibbing Community College
Deliver to: Hibbing
Requisition #: B 27143-43252

Commodity: B F L-Law officer equipment
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: December 20
Agency: Department of Public Safety/Finance
Deliver to: St. Paul
Requisition #: B 07500-27121

Commodity: B F L-French horn
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: December 20
Agency: Normandale Community College
Deliver to: Bloomington
Requisition #: B 27156-10854

Commodity: B F K M-Copiers
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: December 26
Agency: Bemidji State University
Deliver to: Bemidji
Requisition #: B 26070-14648

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.

Printing vendors NOTE: Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.

Commodity: Vehicle accident report folder, dylux requested, camera ready copy, two-sided, head to head, 120,000 folders, shrink-wrap
Contact: Printing Buyer's Office
Bids are due: December 18
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 20250

Commodity: Workers' Compensation Decisions Vol. 46 Binder, set type, quantity 275, 3-ring binder-7½" x 10", see special instructions
Contact: Printing Buyer's Office
Bids are due: December 20
Agency: Department of Administration—PrintComm Bookstore
Deliver to: St. Paul
Requisition #: 20284

Announcements

Minnesota Sentencing Guidelines Commission Meeting: Commission meeting at 4:30 p.m. on December 19, 1991. Location is: Dining Room, Commodore Hotel, 72 N. Western, St. Paul, MN 55102.

PLEASE NOTE THE CHANGE IN LOCATION. The Agenda includes: Call to Order, Approval of November 21, 1991 meeting minutes, 1992 Report to the Legislature and the Citizen's Council Presentation.

Environmental Quality Board (EQB): Comments are due January 8 on the EAWs (environmental worksheets) on the following projects at their listed governing units: **Schmidt Lake Road, I-494 to Vicksburg Lane**, City of Plymouth, Fred G. Moore, P.E., Director of Public Works, 3400 Plymouth Boulevard, Plymouth, MN 55447; (612) 550-5080; **Reconstruction of Dakota County State Aid Highway 26**, Dakota County, Lezlie B. Anderson, Transportation Engineer, 14955 Galaxie Avenue, 3rd Floor, Apple Valley, MN 55124; (612) 891-7100; **ValAdCo Confinement Hog Facility**, Minnesota Pollution Control Agency, William J. Lynott, Resource Development Coordinator, 520 Lafayette Road, St. Paul, MN 55155; (612) 296-7794.

DNR Gift Certificate Perfect Present for Outdoors People: Now in its third season, the Minnesota Department of Natural Resources Gift Certificate has become a proven favorite at holiday gift-giving time. The DNR Gift Certificate allows last-minute shoppers to give hunting and fishing licenses, cross country ski passes, state park vehicle permits, collectible wildlife stamps, and registrations for boats, snowmobiles and all-terrain vehicles to those hard-to-buy-for outdoors people on their holiday shopping lists. DNR Gift Certificates may be obtained and redeemed in person or by mail only at the DNR License Bureau, 500 Lafayette Road, St. Paul, MN 55155-4026. For mail application, contact the DNR License Bureau at (612) 296-4508, or call toll-free in Minnesota 1-800-766-6000. **For more information, contact: Dawn Thell, DNR License Bureau (612) 296-4508.**

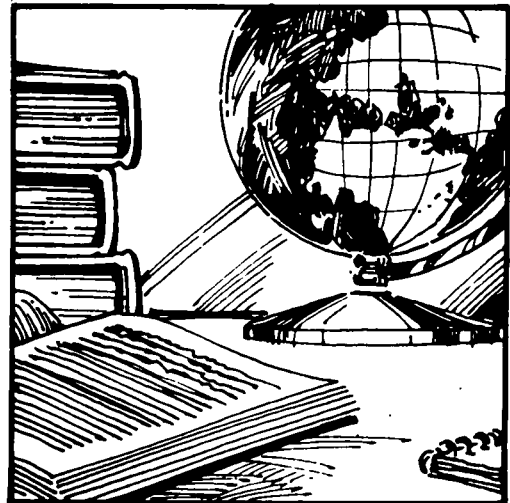
Regional Snowmobile Trail Maps Available From the DNR: The Minnesota Department of Natural Resources (DNR) Trails and Waterways Section recently completed publication of a series of free regional snowmobile maps. Using Little Falls in Morrison County as a center point, the set of four maps cover the northeast, northwest, southeast and southwest portions of the state. Details include all state-operated trails, club and city/couty trails, and state parks and state forests with snowmobile trails within their boundaries. Locations, descriptions and phone numbers for more information are given. Recreational landscapes are identified on each region map. Also covered is information on snowmobile laws, licensing, training and ethics. The four maps detail more than 14,200 miles of snowmobile trails. Copies of the maps are available free from DNR regional headquarters in Bemidji, Grand Rapids, Brainerd, New Ulm and Rochester, or at the DNR Central Office, 500 Lafayette Road in St. Paul. To order these free maps by phone, call the DNR Information Center at 296-6157 in the Twin Cities area, or call toll free in Minnesota 1-800-766-6000. **For more information, contact: Ray Masterson, Trails & Waterways (612) 296-6485.**

Get Smart with these Education Resources

Board of Teaching-Licensure Rules 1990. Minnesota Rules Chapter 8700. Requirements for the issuance and renewal of all licenses, from vo-tech and hearing impaired to librarians and media generalists. Includes the Code of Ethics for Minnesota Teachers, and standards for teachers prepared in other states. Code #3-74. \$14.95 plus tax.

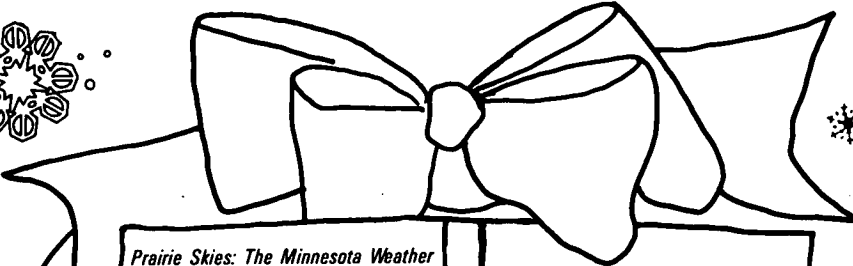
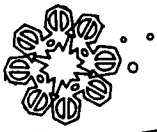
Education Directory 1990-91. All the elementary and secondary schools in the state. Includes Minnesota school districts, superintendents, boards, principals, district addresses, phone numbers and enrollment figures. Code #1-93. \$9.95 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6½% sales tax. On all orders, add \$2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard, American Express and Discover orders accepted over phone and through mail. **Prices are subject to change.** FAX: (612) 296-2265.



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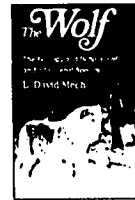


Prairie Skies: The Minnesota Weather Book. Twin Cities' meteorologist **Paul Douglas** wrote this "user friendly" guide to understanding the weather. Cloud identification, tornadoes, forecasting equipment, the state's weather history, and more are depicted with color photos, charts, and diagrams. Includes a popular weather trivia section. Hardcover. 128 pgs. Stock No. 19-4. \$24.95.

FOR THE WEATHER WATCHER!

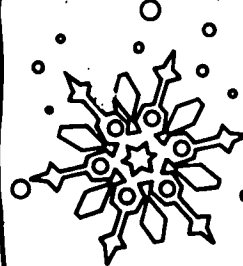
Minnesota Weatherguide Calendar. This customer favorite keeps you in-the-know about weather trends, record highs & lows, sunrise/sunset times and more. Beautiful nature photographs. *Wall type:* Stock No. 15-10. \$8.95. *Weekly engagement type:* Stock No. 15-56. \$9.95.

Cloud Chart. A beautiful, full-colored reference chart on cloud formations that complements *Prairie Skies*. Find out how the clouds can clue you on the weather ahead. Size 15" x 11". Stock No. 19-71. \$5.00.



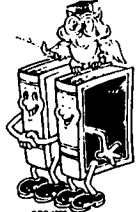
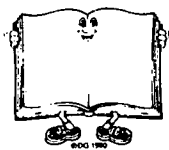
The Wolf. Follow the tracks of an endangered species. Learn about the personality, social order, pack composition and family life of the wolf. Trace its behavior beginning at birth. Uncover the wolf's possible future fate. 384 pgs. Stock No. 9-45. \$12.95.

Mammals of Minnesota. Discover the history of past and present Minnesota mammals. From bats to porcupines, beavers to opossum, this thorough reference is packed with information. 290 pgs. Stock No. 19-35. \$16.95.



Minnesota's Job Seeker's Sourcebook. Excellent resource for job seekers: how to get started, where to find help, local government and private employment agencies, resume services, job banks, recruitment publications, school career centers, and MORE! 189 pgs. Stock No. 19-30. \$14.95.

Twin Cities Reader: the "best urban hiker's guide". Information and easy-to-follow maps on 200+ Metro area and statewide walking sites. Includes helpful tips, walking club information, and health benefits from walking. 364 pgs. Stock No. 9-42. \$14.95.



Wake Up & Smell the Coffee. Favorite breakfast and brunch recipes from the upper midwest's best bed and breakfast inns. From the super-simple to the simply-super, you will find recipes for beverages, muffins, coffeecakes, breads, holiday fare, desserts. Also a travel guide: information for lovers of cozy inns. Paperback. 224 pgs. Stock No. 19-66. \$12.95.

Minnesota Ethnic Cookbook. Explore our rich heritage and then try something different for dinner. This cookbook presents a contemporary picture, set in historic perspective, of the traditional foods of 14 ethnic groups. Paperback. 450 pgs. Stock No. 17-42. \$14.95.

Muffins & Coffee Cakes from Minnesota. Over 70 recipes for tasty morsels to "warm your tummy up" before heading out into the winter cold. 80 pgs. Stock No. 19-36. \$5.95.



Minnesota's Endangered Flora and Fauna.

300 species are covered ranging from mosses and lichens to butterflies and fish. Endangered and threatened species are illustrated. State distribution maps are provided. 473 pgs. Stock No. 9-30. \$17.95.



learn the Minnesota counties. Size 13" x 20" Stock No. 15-35. \$9.95.

Minnesota Puzzle. Kids

Paul Bunyan & Babe the Blue Ox. Introduce young children to a great Minnesota legend. Full color with fun illustrations. 29 pgs. Stock No. 17-28. \$1.25.

Forestry for You & Me: Coloring Book. A great tool to teach children about forest safety, occupations and more! 8 pgs. Stock No. 9-39. \$2.50.



Nature Explorer Activity Book. A fun way for parents to introduce children (ages 8-12) to the wonders of nature. Over 30 fun activities (outdoor/indoor) designed for children to do with adults. 72 pgs. Stock No. 9-49. \$3.95.





Department of Administration

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