

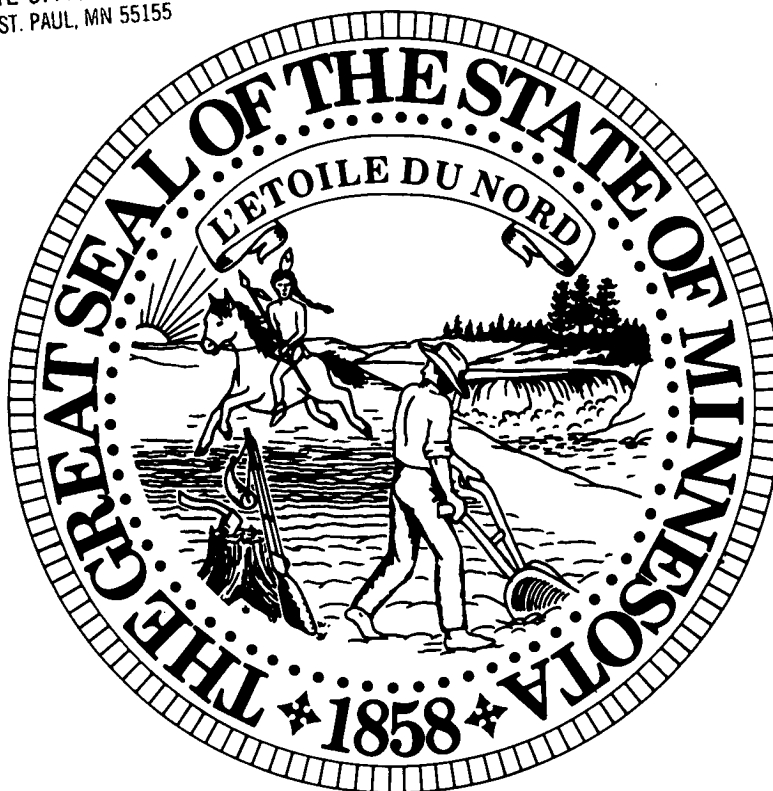
The Minnesota
**State
Register**

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Department of Administration—Print Communications Division

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

Monday 19 October 1992
Volume 17, Number 16
Pages 817-864

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. 17 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
16	Monday 5 October	Monday 12 October	Monday 19 October
17	Monday 12 October	Monday 19 October	Monday 26 October
18	Monday 19 October	Monday 26 October	Monday 2 November
19	Monday 26 October	Monday 2 November	Monday 9 November

*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) 296-0929.

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 \$150.00 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
Dana B. Badgerow, Commissioner
Department of Administration

Kathi Lynch, Director
Print Communications Division
Paul Hoffman, Acting Editor

Debbie George, Circulation Manager
Bonita Karels, Staff Assistant

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.

Attorney General

Proposed Permanent Rules Relating to Rule Review

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Office of the Attorney General intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 14.06 and 1992 *Minnesota Laws*, Chapter 494, section 9.

All persons have 30 days, until 5:00 p.m., November 19, 1992, in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

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

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

Patricia Nolte
Attorney General's Office
Public Finance Division
525 Park Street, #500
St. Paul, Minnesota 55103
Phone: 612-296-9715
Fax: 612-297-2576

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

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

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request by contacting Patricia Nolte at the address given above.

Impact on small businesses. Small businesses which participate in the State administrative rulemaking process may be impacted by these rule amendments which make minimal procedural changes in the rulemaking process and changes some of the sample notice

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

Proposed Rules

forms widely used by state agencies. Small businesses, as all members of the public, are encouraged to participate in this rule amendment proceeding.

The adoption of this rule will neither require expenditures of public monies by local bodies nor have any impact on agriculture land, therefore, *Minnesota Statutes* section 14.11, subdivisions 1 and 2 are inapplicable.

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

Dated: 30 September 1992

Hubert H. Humphrey III
Attorney General

Rules as Proposed

2010.0300 DOCUMENTS NECESSARY FOR REVIEW OF A RULE ADOPTED WITHOUT A PUBLIC HEARING.

To submit a rule adopted without a public hearing to the attorney general for review and approval pursuant to *Minnesota Statutes*, section 14.26, the agency must submit to the attorney general the following documents:

[For text of items A to D, see M.R.]

E. The statement of need and reasonableness complying with part 2010.0700 in support of the proposed rule. The statement of need and reasonableness must be prepared before the date that the notice of intent to adopt a rule without a public hearing is published in the State Register and mailed.

F. Evidence that the agency sent a copy of the statement of need and reasonableness to the legislative commission to review administrative rules when it became available to the public as required by Minnesota Statutes, section 14.23. The evidence must be in the form of a copy of the dated correspondence to the legislative commission to review administrative rules or an affidavit of the mailing. For recommended format of the affidavit, see part 2010.9913.

G. The notice of intent to adopt a rule without a public hearing as mailed. The notice must be signed by a person authorized to adopt the rule or authorized to sign and give notice of the intent to adopt the rule without a public hearing mailed at least 33 days before the end of the comment period and must contain the following:

(1) A statement that the agency intends to adopt a rule without a public hearing pursuant to the authority of [citation to the specific statutory authority for the proposed rule] and is 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.

(2) A citation to the specific statutory authority for the proposed rule.

(3) A statement that the public has 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the proposed rule and that comment is encouraged. The statement must specify the calendar date of the last day of the comment period. In calculating the comment period, the date of publication in the State Register or the date of mailing, whichever is later, is not included. Saturdays, Sundays, and legal holidays are included in the calculation. The last day of the period so calculated is included unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. The State Register is published on Mondays except when the Monday is a legal holiday in which case it is published on a Tuesday.

(4) A statement that each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed.

(5) A statement that 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.

(6) A statement of the manner in which persons may submit comments or requests for a public hearing.

(7) A statement that any person requesting a public hearing should state must include his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

(8) A statement that if a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(9) A statement that the proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

~~(9)~~ (10) A statement that if no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the attorney general for review as to legality and form to the extent form relates to legality; a statement that any person may request notification of the date of submission to the attorney general and a copy of the attorney general decision; and a statement of the manner in which the request must be made.

~~(10)~~ (11) If an entire rule is proposed to be repealed, a statement stating that fact and citing the rule to be repealed.

~~(11)~~ (12) A statement that the proposed rule is attached to the notice; or if the proposed rule is not attached to the notice sent to persons on the agency rulemaking mailing list, a statement describing the nature and effect of the proposed rule and the manner in which a free copy may be requested.

~~(12)~~ (13) A statement that the statement of need and reasonableness is available to the public and the manner in which that document may be requested.

~~(13)~~ (14) If required by *Minnesota Statutes*, section 14.11, subdivision 1, a statement relating to the expenditure of public money by local public bodies.

~~(14)~~ (15) If the agency elects to comply with *Minnesota Statutes*, section 14.115, subdivision 4, by following paragraph (a) of the statute, a statement that the proposed rule will have an impact on small businesses and a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons as provided by *Minnesota Statutes*, section 14.115, subdivision 4, paragraph (a).

~~(15)~~ (16) Any other notices required by law or rule to be included in the notice of intent to adopt a rule without a public hearing.

(17) The signature of the person authorized to adopt the rule or authorized to sign and give notice of the intent to adopt the rule without a public hearing.

For the recommended format of the notice, see part ~~2010.9915~~ 2010.9916.

~~F. The statement of need and reasonableness in support of the proposed rule complying with part 2010.0700.~~

~~G. H. If the proposed rule establishes or adjusts fees, evidence that the agency sent a copy of the notice of intent and the proposed rule to the chairs of the house appropriations committee and senate finance committee before the agency submitted the notice of intent to the State Register as required by Minnesota Statutes, section 16A.128, subdivision 2a. Evidence shall be in the form of the dated correspondence to the chairs or an affidavit of mailing. For the recommended format of the affidavit, see part 2010.9913.~~

~~I. If the agency did not publish an appropriate notice of intent to adopt the rule within 180 days after the effective date of the law requiring the rule to be adopted, a copy of the correspondence to the legislative commission to review administrative rules, other appropriate committees of the legislature, and the governor as required by Minnesota Statutes, section 14.12.~~

~~J. The affidavit of mailing the notice of intent to adopt a rule without a public hearing. The notice must be mailed at least 33 days before the end of the comment period. The affidavit or affidavits must state that:~~

~~(1) the mailing list maintained by the agency pursuant to Minnesota Statutes, sections 14.22 and 14.14, subdivision 1a, is accurate, complete, and current and that; and~~

~~(2) the notice of intent to adopt the rule without a public hearing was mailed to all persons and groups whose names appear on the list.~~

~~If the person who mailed the notice is not the same person who can attest to the accuracy of the mailing list, separate affidavits signed by the appropriate person must be submitted. For the recommended format of the affidavit, see part 2010.9920.~~

~~H. K. A copy or photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register. The publication date must be at least 30 days before the end of the comment period. The notice as published must contain the statements required by part 2010.0300, item E G.~~

~~L. Four L. Three copies of the rule as adopted. Any modification made to the proposed rule must be reflected on the rule as adopted and be approved as to form by the revisor of statutes.~~

~~M. If the agency is a multimember agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a, the certificate~~

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Proposed Rules

of the multimember agency's resolution adopting the rule. The resolution must be adopted at a meeting duly called and attended by a quorum.

The resolution must approve and adopt the rule and authorize a named individual to sign the findings of fact, conclusions, and order adopting the rule and perform the necessary acts to provide that the rule has the force and effect of law. If the multimember agency is so empowered, the resolution may also authorize the named person to modify the rule under stated circumstances or as necessary to obtain the approval of the rule by the attorney general. For the recommended format of the resolution, see part 2010.9925.

~~K.~~ N. The findings of fact, conclusions, and order adopting the rule which must contain the following:

- (1) a statement that proper notice of intent to adopt a rule without a public hearing was given;
- (2) a statement that the statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the *State Register* and was available to the public;
- (3) ~~for rules that establish or adjust fees, a statement that before the notice of intent to adopt rules was submitted to the State Register, a copy of the notice and the proposed rule was sent to the chairs of the house appropriations committee and senate finance committee~~ a statement that all other notice and procedural requirements have been complied with;
- (4) a statement that all persons were given the opportunity to submit comment on the proposed rule for 30 days after the notice of intent to adopt a rule without a public hearing was given;
- (5) a statement of the number of written letters with comments received, the number of persons that requested a public hearing and, the number of persons that requested a public hearing and withdrew their request, and the number of requests for notice of submission to the attorney general;
- (6) if any changes were made between the rule as proposed and the rule as adopted, findings of fact and conclusions supporting the reasons for the changes and explaining why the changes do not constitute substantial changes as provided in the attorney general rules, part 2010.1000, item D;
- (7) ~~if the agency received no requests for a hearing, or received no submissions or comments on the rule required to be submitted to the attorney general by item L, or received no requests for notice of submission of the adopted rule to the attorney general, an applicable statement to that effect; and~~
- (8) a statement that the rule as adopted is needed and reasonable and that the rule is hereby ordered to be adopted; and the date on which the order is signed.

~~The findings of fact, conclusions, and order adopting the rule must be signed by a person authorized to adopt the rule or authorized to sign the findings of fact, conclusions, and order adopting the rule.~~

(8) the signature of the person authorized to adopt the rule or authorized to sign the findings of fact, conclusions, and order adopting the rule and the date on which the order is signed.

For the recommended format of the findings of fact, conclusions, and order, see part 2010.9930.

~~L.~~ O. All written requests, withdrawals of requests for a hearing, submissions, or comments on the rule received by the agency except requests solely for copies of the rule or of the statement of need and reasonableness.

~~M.~~ P. The declaration of the attorney in the attorney general's office who represents the agency. The declaration must state:

- (1) that the attorney has examined the rule and the rulemaking record;
- (2) that the Administrative Procedure Act and this chapter ~~2010~~ have been followed with a listing of any exceptions; and
- (3) for attorney general billing purposes, the four-digit docket client code is _____. For the recommended format, see part 2010.9935.

~~N.~~ Q. ~~The notice of submission of the rule to the attorney general, if applicable. If any persons requested notification of the date of submission of the rule to the attorney general, If any persons requested to be informed that the rule has been submitted to the attorney general, the notice of submission that was sent to those persons as required by Minnesota Statutes, section 14.26.~~ The notice must be given on the same day the rule is submitted to the attorney general. The notice must contain the following:

- (1) the date of submission of the rule to the attorney general;
- (2) if the proposed rule has been modified, the notice must state that fact and must state that a free copy of the rule as modified is available upon request from the agency or that a copy of the rule as modified is enclosed with this notice;
- (3) the attorney general rule review time period of 14 calendar days;
- (4) a statement that comments may be submitted to the attorney general and that any comments submitted must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule and make a reference to the attorney

general standards of review as set forth in part 2010.1000;

(5) the length of the ~~comment~~ period for submitting comments to the attorney general and the calendar date of the last day of the eight calendar day comment period. In calculating the comment period, the date the documents were submitted to the attorney general is not included. Saturdays, Sundays, and legal holidays are included. The last day of the period so calculated is included unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the next day which is not a Saturday, Sunday, or legal holiday;

(6) a statement that upon written request to the attorney general a copy of the attorney general decision will be provided;

(7) the address of the attorney general division where comments and requests must be submitted; and

(8) a statement that any written comments to the attorney general must also be submitted simultaneously to a named person for the agency and the address of that person.

For the recommended format of the statement, see part 2010.9940.

~~Q. R.~~ If the agency sent out the notice of submission of the rule to the attorney general as required by Minnesota Statutes, section 14.26, the affidavit of mailing notice of submission of the rule to the attorney general, if applicable. The affidavit must state that a copy of the notice of submission of the rule to the attorney general was mailed to all persons and associations who requested the notification. For the recommended format of the affidavit, see part 2010.9945.

2010.0400 DOCUMENTS NECESSARY FOR REVIEW OF EMERGENCY RULE.

To submit an emergency rule to the attorney general for review and approval pursuant to *Minnesota Statutes*, section 14.32, the agency must submit to the attorney general the following documents:

[For text of items A to D, see M.R.]

E. The notice of intent to adopt the emergency rule as mailed. The notice must be ~~signed by a person authorized to adopt the rule or authorized to sign and give notice of the intent to adopt the emergency rule~~ mailed at least 28 days before the end of the comment period and must contain the following:

(1) A statement that the agency intends to adopt the emergency rule ~~pursuant to authority of citation to the specific statutory authority to adopt the emergency rule~~ and is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, sections 14.29 to 14.36.

(2) A citation to the specific statutory authority to adopt the emergency rule.

(3) A statement that all persons have 25 days after publication, or a longer period of time as specified in the notice, to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. The statement must include the calendar date of the last day of the comment period. In calculating the comment period, the date of the publication in the State Register or the date of mailing, whichever is later, is not included. Saturdays, Sundays, and legal holidays are included in the calculation. The last day of the period so calculated is included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. The State Register is published on Mondays except when Monday is a legal holiday in which case it is published on a Tuesday.

~~(3)~~ (4) A statement of the manner in which persons may submit written comments to the agency.

~~(4)~~ (5) A statement that the proposed emergency rule is attached to the notice; or, if the proposed rule is not attached to the notice sent to persons on the agency rulemaking mailing list, a statement describing the nature and effect of the proposed rule.

~~(5)~~ (6) A statement that a free copy of the proposed emergency rule is available upon request from the agency and the manner in which the request may be made.

~~(6)~~ (7) A statement that the proposed emergency rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed emergency rule as noticed.

~~(7)~~ (8) A statement that the emergency rule and its supporting documents will be submitted to the attorney general for review as to legality and form to the extent form relates to legality; a statement that any person may request notification of the date of submission to the attorney general; and a statement of the manner in which the request must be made.

~~(8)~~ (9) A statement of the effective period of the proposed emergency rule in accordance with *Minnesota Statutes*, section 14.35.

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

Proposed Rules

~~(9)~~ (10) If required by *Minnesota Statutes*, section 14.11, subdivision 1, a statement relating to the expenditure of public money by local public bodies.

~~(10)~~ (11) Any other notices required by law or rule to be included in the notice of intent to adopt an emergency rule.

(12) The signature of the person authorized to adopt the emergency rule or authorized to sign and give notice of the intent to adopt the emergency rule.

For the recommended format of the notice, see part ~~2010.9950~~ 2010.9951.

F. If the emergency rule establishes or adjusts fees, evidence that the agency sent a copy of the notice of intent and the proposed rule to the chairs of the house appropriations committee and senate finance committee before the agency submitted the notice of intent to the *State Register* as required by *Minnesota Statutes*, section 16A.128, subdivision 2a. Evidence shall be in the form of the dated correspondence to the chairs or an affidavit of mailing. For the recommended format of the affidavit, see the second paragraph in part 2010.9913.

G. The affidavit of mailing the notice of intent to adopt the emergency rule. The notice must be mailed at least 28 days before the end of the comment period. The affidavit or affidavits must state that the mailing list maintained by the agency pursuant to *Minnesota Statutes*, section 14.30 is accurate, complete, and current and that the notice of intent to adopt the emergency rule was mailed to all persons and groups whose names appear on the list. If the person who mailed the notice is not the same person who can attest to the accuracy of the mailing list, separate affidavits signed by the appropriate person must be submitted. For the recommended format of the affidavit, see part 2010.9920.

~~G.~~ H. A copy or photocopy of the notice of intent to adopt the emergency rule as published in the *State Register*. The publication date must be at least 25 days before the end of the comment period. The notice as published must contain the statements required by part ~~2010.0400~~, item E.

~~H.~~ Four I. Three copies of the emergency rule as adopted. Any modifications made to the proposed rule must be reflected on the rule as adopted and be approved as to form by the revisor of statutes.

~~I.~~ J. If the agency is a multimember agency as provided in *Minnesota Statutes*, section 15.0597, subdivision 1a, the certificate of the multimember agency's resolution adopting the emergency rule. The resolution must be adopted at a meeting duly called and attended by a quorum.

The resolution must approve and adopt the rule and authorize a named individual to sign the findings of fact, conclusions, and order adopting the rule and perform the necessary acts to provide that the emergency rule has force and effect of law. If the multimember agency is so empowered, the resolution may also authorize the named person to modify the rule under stated circumstances or as necessary to obtain approval of the rule by the attorney general. For the recommended format of the resolution, see part 2010.9925.

~~J.~~ K. The findings of fact, conclusions, and order adopting the emergency rule which must contain the following:

(1) a statement that proper notice of intent to adopt a rule was given;

(2) a statement that all other notice and procedural requirements have been complied with;

(3) a statement that all persons were given the opportunity to submit written comment for at least 25 days after publication of the notice of intent to adopt the emergency rule;

(4) a statement of the number of written letters with comments received and the number of requests for notice of submission of the adopted emergency rule to the attorney general;

~~(4)~~ (5) if any changes were made between the emergency rule as proposed and the emergency rule as adopted, findings of fact and conclusions supporting the reasons for the changes and explaining why the changes do not constitute substantial changes as provided in attorney general rule part 2010.1000, item D;

(4) if the agency received no submissions or comments on the rule required to be submitted to the attorney general pursuant to item K, or received no requests for notice of submission of the adopted emergency rule to attorney general; an applicable statement to that effect; and

(6) a statement that the authority for use of emergency rule procedures has not expired pursuant to *Minnesota Statutes*, section 14.29;

~~(5)~~ (7) a statement that the emergency rule is hereby ordered to be adopted; and

(8) the signature of the person authorized to adopt the emergency rule or authorized to sign the findings of fact, conclusions, and order adopting the emergency rule and the date on which the order is signed.

~~The findings of fact, conclusion, and order adopting the emergency rule must be signed by a person authorized to adopt the emergency rule or authorized to sign the findings of fact, conclusions, and order adopting the emergency rule.~~ For the recommended format of the findings of fact, conclusions, and order, see part 2010.9955.

~~K. L.~~ All written requests, submissions, and comments on the rule received by the agency except requests solely for copies of the rule.

~~L. M.~~ The declaration of the attorney in the attorney general's office who represents the agency. The declaration must state:

- (1) that the attorney has examined the rule and the rulemaking record;
- (2) that the Administrative Procedure Act and chapter 2010 have been followed with a listing of any exceptions; and
- (3) for attorney general billing purposes, the four-digit docket client code is _____. For the recommended format, see part 2010.9935.

~~M. The notice of submission of the emergency rule to the attorney general, if applicable.~~ N. If any persons requested notification of the date of submission of the emergency rule to be informed that the rule has been submitted to the attorney general, the notice of submission of the emergency rule as required by Minnesota Statutes, section 14.32. The notice must be mailed on the same day the rule is submitted to the attorney general. The notice must contain the following:

- (1) the date of submission of the emergency rule to the attorney general;
- (2) if the proposed emergency rule has been modified, the notice must state that fact and must state that a free copy of the emergency rule as modified is available upon request from the agency or that a copy of the rule as modified is enclosed with this notice;
- (3) the attorney general rule review time period of ten working days;
- (4) a statement that comments may be submitted to the attorney general and that any comments submitted must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule and make a reference to the attorney general standards of review as set forth in part 2010.1000;
- (5) the length of the comment period for submitting comments to the attorney general and the calendar date of the last day of the seven working day comment period. In calculating the comment period, the date the documents were submitted to the attorney general is not included. Saturdays, Sundays, and legal holidays are not included in the calculation. The last day of the comment period so calculated is included;
- (6) a statement that upon written request to the attorney general a copy of the attorney general decision will be provided;
- (7) the address of the attorney general division where comments and requests must be submitted; and
- (8) a statement that any written comments to the attorney general must also be submitted simultaneously to a named person for the agency and the address of that person.

For the recommended format of the statement, see part 2010.9960.

~~N. O.~~ If the agency sent out the notice of submission of the emergency rule to the attorney general as required by Minnesota Statutes, section 14.32, the affidavit of mailing the notice of submission of the emergency rule to the attorney general, ~~if applicable.~~ The affidavit must state that a copy of the notice of submission of the rule to the attorney general was mailed to all persons and associations who requested the notification. For the recommended format of the affidavit, see part 2010.9945.

2010.0500 RULE SUBMISSION AND AGENCY FAILURE TO SUBMIT REQUIRED DOCUMENTS.

Subpart 1. **Rule submission.** A rule is considered submitted to the attorney general when the rule and the record consisting of the required documents are received at the Office of the Attorney General, Public Finance Division located at ~~515 Transportation Building,~~ John Ireland Boulevard 525 Park Street, Suite 500, Saint Paul, Minnesota ~~55155~~ 55103.

Subp. 2. **Failure to submit required documents.** Failure to submit all the required documents makes a submission incomplete. The attorney general must promptly inform the agency of the missing documents. If the missing documents include the required ~~four~~ three copies of the rule as adopted, findings of fact, conclusions and order, declaration of the attorney in the attorney general's office who represents the agency, or the statement of need and reasonableness for a rule adopted without a public hearing, the rule review period will not be initiated. For other missing documents, if the agency submits the missing documents to the attorney general within the attorney general review period, the submission shall be deemed complete and the period of review shall continue to run. If the missing documents are not submitted within the review period, the rule must either be withdrawn from review or rejected by the attorney general.

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

Proposed Rules

2010.0700 STATEMENT OF NEED AND REASONABLENESS.

The statement of need and reasonableness must contain a summary of the evidence and arguments that support both the need for and reasonableness of the proposed agency action of adopting a rule without a public hearing. In justifying the need for and reasonableness of the action, the agency must explain what circumstances have created the need for the rule or its amendment which required administrative action and why the proposed rulemaking action is an appropriate solution for meeting the need. The statement must explain the evidence relied upon and how that evidence rationally relates to the choice of action taken. A general statement of statutory implementation or restating the proposed rule will not suffice. The statement of need and reasonableness must also contain the following:

A. if required by *Minnesota Statutes*, section 14.115, a statement documenting the agency's consideration of methods for reducing the impact of the rule on small businesses and the results pursuant to *Minnesota Statutes*, section 14.115, subdivision 2. If the small business considerations in the rulemaking section are not applicable, the basis for the agency's exemption must be stated in the statement of need and reasonableness;

B. if the agency's notice of intent to adopt the rule does not contain the statement of estimated costs to local public bodies pursuant to *Minnesota Statutes*, section 14.11, subdivision 1, because the reasonable estimate of the total cost to public bodies to implement the rule for the two years following the adoption of the rule is less than \$100,000, a statement that *Minnesota Statutes*, section 14.11, is not applicable and the basis for that statement;

C. if required by *Minnesota Statutes*, section 16A.128, subdivision 1, the approval of the commissioner of finance if the rule sets or adjusts a fee charged; ~~and~~

D. the signature of the person authorized to adopt the rule or authorized to adopt the rule pursuant to the certificate of authorizing resolution and the date the statement was signed; and

~~E.~~ E. any information required by any other law or rule to be included in the statement of need and reasonableness.

2010.1000 STANDARDS OF REVIEW.

A rule must be disapproved by the attorney general if:

A. The rule as submitted is not a statement of general applicability and future effect adopted to implement or make specific the law enforced or administered by the that agency or to govern ~~the agency's~~ its organization or procedures.

[For text of items B to G, see M.R.]

H. The rule is unreasonable by failing to comport with substantive due process because it is not rationally related to the objective sought to be achieved.

I. The rule is vague or ambiguous in violation of the constitutional principles of due process or equal protection.

~~I.~~ J. The rule, by its terms, cannot have the force and effect of law.

~~J.~~ K. The rule is unconstitutional or, ~~in the case of emergency rules, is unreasonable~~ illegal.

2010.1100 WITHDRAWAL OF RULE FROM REVIEW BY ATTORNEY GENERAL.

The agency may withdraw a rule from review by the attorney general. To withdraw a rule after it has been submitted to the attorney general, a written order of withdrawal of the rule from review must be submitted to the attorney general. The written order must state the date of withdrawal and be signed by a person authorized to adopt the rule or sign the findings of fact, conclusions, and order adopting the rule. Upon receipt of the written order of withdrawal, the attorney general shall return the submitted documents to the agency.

2010.1200 DISAPPROVAL.

If a rule is disapproved, the attorney general must state in writing the reasons for disapproval and make recommendations to overcome the deficiencies. The statement of the reasons for disapproval must be sent to the agency, the chief administrative law judge, the legislative commission to review administrative rules, the revisor of statutes, and persons who requested to receive a copy of the decision. Upon disapproval, the review period terminates and the rule must neither be filed in the office of the secretary of state nor published unless the rule is resubmitted and approved upon resubmission. Upon disapproval, the attorney general shall return the submitted documents to the agency.

2010.1300 RESUBMISSION.

Subpart 1. **Resubmission.** To resubmit a rule which was withdrawn or disapproved by the attorney general, the following documents must be submitted:

A. All documents that were previously submitted to the attorney general for review that were returned to the agency upon withdrawal or disapproval.

B. A supplemental findings of fact, conclusions, and order adopting the rule. The order must be signed by a person authorized to adopt the rule or authorized to sign the findings of fact, conclusion, and order adopting the rule. If any modifications were made to the rule since the rule was withdrawn or disapproved, findings of facts and conclusions must be set forth supporting the reasons for the changes and ~~explain~~ explaining why the changes do not constitute substantial changes.

~~B- C.~~ A supplemental certificate of the multimember agency's resolution if:

- (1) the agency is a multimember agency as provided in *Minnesota Statutes*, section 15.0597, subdivision 1a;
- (2) modifications were made to the rule since the rule was withdrawn or disapproved; and

(3) the certificate of the agency's resolution submitted in accordance with part 2010.0300, item ~~J~~ M, or 2010.0400, item ~~J~~ J does not authorize the modification by the person who signed the supplemental findings of fact, conclusions, and order. The supplemental certificate of the agency's resolution must be in accordance with part 2010.0300, item ~~J~~ M or 2010.0400, item ~~J~~ J.

~~C- D.~~ If any modifications were made to the rule as adopted since the rule was withdrawn or disapproved, ~~four~~ three copies of the rule as adopted with the modifications reflected and approved as to form by the revisor of statutes.

~~D- E.~~ A new notice of submission of the rule to the attorney general mailed to any persons who requested notification pursuant to *Minnesota Statutes*, section 14.26 or 14.32. The notice of submission to the attorney general must comply with part 2010.0300, item ~~N~~ Q or 2010.0400, item ~~M~~ N.

~~E- F.~~ The affidavit of mailing for the notice of submission of the rule to the attorney general, if applicable. The affidavit must comply with part 2010.0300, item ~~O~~ R or 2010.0400, item ~~N~~ Q.

~~F- G.~~ Any other documents necessary to demonstrate that the procedural or substantive deficiencies have been remedied.

[For text of subp 2, see M.R.]

2010.1400 APPROVAL OF RULE.

Subpart 1. **Approval.** If the rule is approved, the attorney general shall promptly file two copies of the rule with the secretary of state. The attorney general shall send a copy of the approval memo must be sent and the approved rule to the agency-. The attorney general shall also send a copy of the approval memo to the chief administrative law judge, the legislative commission to review administrative rules, and persons who requested to receive a copy of the decision.

Subp. 2. **Return of record.** Upon approval of a rule, the attorney general shall return to the agency one approved copy of the rule, ~~any extra copies of documents and any petitions, requests, submissions, or comments directed the submitted documents to the agency.~~ The agency is required pursuant to *Minnesota Statutes*, section 14.365, to maintain the official rulemaking record for every rule adopted.

2010.9913 RECOMMENDED AFFIDAVIT OF MAILING THE STATEMENT OF NEED AND REASONABLENESS TO THE LEGISLATIVE COMMISSION TO REVIEW ADMINISTRATIVE RULES AND MAILING THE FEE NOTICE TO COMMITTEE CHAIRS.

NOTE: The following affidavit may be used when the same person mailed both the statement of need and reasonableness to the legislative commission to review administrative rules and the fee notice pursuant to *Minnesota Statutes*, section 16A.128, subdivision 2, paragraph (a). If different persons mailed the two notices, the two paragraphs must be split into separate affidavits signed by the appropriate persons. If the proposed rule does not establish or adjust fees, do not use the second paragraph. For emergency rules, do not use the first paragraph as it is inapplicable.

In the Matter of the Proposed Adoption
of the Rule of the State _____
Governing _____

AFFIDAVIT OF
MAILING THE
STATEMENT OF NEED
AND REASONABLENESS
TO THE LEGISLATIVE
COMMISSION TO REVIEW
ADMINISTRATIVE RULES
AND THE FEE NOTICE
TO COMMITTEE CHAIRS

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

Proposed Rules

STATE OF MINNESOTA)

TO COMMITTEE CHAIRS

)ss.

COUNTY OF [])

_____, being sworn says:

That on the _____ day of _____, 19____, when the Statement of Need and Reasonableness became available to the public, I mailed the Statement of Need and Reasonableness to the Legislative Commission to Review Administrative Rules by depositing in the [United States mail, with postage prepaid] [State of Minnesota Interoffice Mail System], a copy thereof.

NOTE: The following paragraph is applicable only if the rule establishes or adjusts fees.

_____, being sworn says:

That on the _____ day of _____, 19____, before this agency submitted notice to the State Register of intent to adopt a rule that establishes or adjusts fees, I mailed a copy of the notice of intent and the proposed rule to the chairs of the house appropriations committee and senate finance committee by depositing in the [United States mail, with postage prepaid] [State of Minnesota Interoffice Mail System], a copy thereof.

Subscribed and sworn to before me

this _____ day of _____, 19____.

[Name]

[Title]

2010.9916 RECOMMENDED NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING.

STATE OF MINNESOTA

DEPARTMENT OF _____

In the Matter of the Proposed Adoption
of the Rule of the State
Governing _____

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

The [agency name] intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. You have 30 days to submit written comments on the proposed rule and may also request that a hearing be held on the rule.

Agency Contact Person. Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

[Name, agency, address, telephone number, and fax number]

Subject of Rule and Statutory Authority. The proposed rule is about [title or subject of rule]. The statutory authority to adopt this rule is [specific statutory citation]. A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed. [If the proposed rule is not attached to the mailed notice, then this notice must include an informative statement describing the nature and effect of the proposed rule and include the announcement that: A free copy of the rule is available upon request from the agency contact person listed above.]

Comments. You have until _____ p.m., _____ [calendar date of the end of the 30-day comment period; see part 2010.0300, item G, subitem (3), for how to count the days] to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by _____ p.m. on _____. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Modifications. The proposed rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the agency and may not result in a substantial change in the proposed rule as [attached and] printed in the *State Register*. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

 Proposed Rules

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule.

Small Business Considerations. [If applicable and selected, see *Minnesota Statutes*, section 14.115, subdivision 4.]

Expenditure of Public Money by Local Public Bodies. [If applicable, see *Minnesota Statutes*, section 14.11, subdivision 1.]

Impact on Agriculture Lands. [If applicable, see *Minnesota Statutes*, section 14.11, subdivision 2.]

[Other notices required by law or chosen to be inserted in this notice.]

Adoption and Review of Rule. If no hearing is required, after the end of the comment period the agency may adopt the rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to the agency contact person listed above.

[Name]

[Title]

Dated: _____

2010.9920 RECOMMENDED AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING OR AN EMERGENCY RULE AND CERTIFICATE OF MAILING LIST.

NOTE: If the person who can attest to the accuracy of the mailing list is not the same person who mailed the notices of intent, then the two paragraphs in this recommended form must be separated into two affidavits signed by the appropriate persons.

In the Matter of the Proposed Adoption
of the Rule of the State _____
Governing _____

**AFFIDAVIT OF
MAILING THE
NOTICE OF INTENT
TO ADOPT [A
RULE WITHOUT
A PUBLIC HEARING]
[AN EMERGENCY
RULE] AND
CERTIFICATE OF
MAILING LIST**

STATE OF MINNESOTA)
)ss.
COUNTY OF [])

_____, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to *Minnesota Statutes*, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the state _____ rulemaking mailing list is accurate, complete, and current as of this _____ day of _____, 19____.

That on the _____ day of _____, 19____, at least [33 days for rules without a public hearing] [28 days for emergency rules] prior to the end of the comment period, at the City of [_____], County of [_____], State of Minnesota, I mailed the ~~attached~~ Notice of Intent to Adopt [A Rule Without a Public Hearing] [an Emergency Rule] _____ (state what was mailed, for example: (1) Notice of Intent and (2) the proposed rule) by depositing in the [State of Minnesota Central Mail System for United States mailing] [United States mail], a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

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

Proposed Rules

Subscribed and sworn to before me
this _____ day of _____, 19____.

[Name]

[Title]

2010.9930 RECOMMENDED FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING THE RULE WITHOUT PUBLIC HEARING.

STATE OF MINNESOTA

DEPARTMENT OF _____

In the Matter of the Proposed Adoption
of the Rule of the State _____
Governing _____

FINDINGS OF FACT,
CONCLUSIONS, AND
ORDER ADOPTING
RULE WITHOUT
PUBLIC HEARING

FINDINGS

1. Notice of the [Commissioner's] [Board's] [Commission's] intent to adopt the above-entitled rule was published in the *State Register* on _____, 19____ and was sent by United States mail to all persons on the list maintained by the agency pursuant to *Minnesota Statutes*, sections 14.14, subdivision 1a and 14.22 on _____, 19____.

2. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the *State Register* and was available to the public. ~~{For rules that establish or adjust fees after July 1, 1987: Before the notice was submitted to the State Register, a copy of the notice of intent to adopt rules without a public hearing and the proposed rule was sent to the chairs of the house appropriations committee and senate finance committee.}~~

3. All of the notice and procedural requirements in Minnesota Statutes, chapter 14, and other applicable law have been complied with.

4. All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. The 30-day comment period expired on _____.

5. ~~{The agency received _____ letters of comments and submissions on the rule. The agency received _____ requests for notice of submission to the attorney general. The agency received _____ requests for a public hearing [, of which _____ were subsequently withdrawn]. Therefore, the agency did not receive request there are not 25 or more outstanding requests for a public hearing from 25 or more persons which were not withdrawn.}~~ {No requests for a public hearing on the rule were received by the agency.}

~~{If applicable: No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.}~~

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

{If any changes were made between the rule as proposed and the rule as adopted, findings of fact and conclusions supporting the reasons for the changes and explanations explaining why the changes do not constitute substantial changes as provided in the attorney general rules, part 2010.1000, item D must be set forth.}

The above-captioned rule is needed and reasonable.

6. The statement of need and reasonableness together with these findings, establish and justify the rational basis for the need for and reasonableness of the rule [as amended].

CONCLUSIONS

1. The _____ duly acquired and has jurisdiction over this proceeding.

2. The _____ published and served timely and adequate notice of intent to adopt the rule without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. {If the proposed rule was amended} The modifications to the proposed rule are supported by the record and do not result in a substantial change.

5. The rule [as amended] is needed and reasonable.

Proposed Rules

NOW, THEREFORE, IT IS ORDERED that the rule identified as _____ [as modified] is adopted this _____ day of _____, 19_____, pursuant to authority vested in [me] [the Board] [the Commission] by *Minnesota Statutes*, section _____.

[Name] _____

[Title] _____

2010.9940 RECOMMENDED NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO ATTORNEY GENERAL.

STATE OF MINNESOTA

DEPARTMENT OF _____

In the Matter of the Proposed Adoption
of the Rule of the State _____
Governing _____

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with *Minnesota Statutes*, section 14.26:

PLEASE TAKE NOTICE that the above-captioned rule as adopted ~~has been~~ will be submitted to the Office of the Attorney General on the date of this notice, _____, 19_____, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

[(If the proposed rule has been modified:) The proposed rule which was published in the *State Register* and made available to the public on _____, 19_____, has been modified. A free copy of the rule as modified as well as the findings of fact, conclusions, and order explaining the amendments and adopting the rule ~~is~~ are available upon request from _____. (or) A copy of the rule as modified ~~is~~ and the findings of fact, conclusions, and order are enclosed with this notice.]

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rule. Any written comments must be submitted ~~within by 4:30 p.m.~~ _____ (date,) 19_____, (which ~~is~~ is eight calendar days of the date of submission of the rule to the Attorney General). Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The Attorney General standards for review are set forth in *Minnesota Rules*, part 2010.1000. You may receive a copy of the Attorney General decision upon written request to the Attorney General. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
Public Finance Division
~~515 Transportation Building~~
~~John Ireland Boulevard~~

525 Park Street, Suite 500
Saint Paul, Minnesota ~~55155~~ 55103
Telephone Number: (612) 297-2040
Fax Number: (612) 297-2576

Any written comments submitted to the Attorney General must be submitted simultaneously to:

[Name, address, ~~and phone~~ telephone number, and

Fax number (Fax number is optional)

of appropriate person in the agency]

[Name] _____

[Title] _____

Dated: _____

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

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by _____ p.m. on _____. Your written request for a public hearing must include your name, address, and telephone number. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing.

Modifications. The proposed rule may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must not result in a substantial change in the proposed rule as [attached and] printed in the *State Register* and must be supported by data and views submitted to the agency or presented at the hearing. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for [date] will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call [agency contact person] at [telephone number] after [date after the end of the 30-day comment period] to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit written requests for a public hearing on the rule, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.14 to 14.20. The hearing will be held on [date] in the [place] beginning at [time] and will continue until all interested persons have been heard. The hearing will continue, if necessary, at additional times and places as determined during the hearing by the administrative law judge. The administrative law judge assigned to conduct the hearing is [name]. Judge [name] can be reached at the Office of Administrative Hearings, [current address and telephone number].

Hearing Procedure. If a hearing is held, you and all interested or affected persons including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should relate to the proposed rule. You may also mail written material to the administrative law judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day 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. Comments received during this period will be available for review at the Office of Administrative Hearings. You and the agency may respond in writing within five business days after the submission period ends to any new information submitted. All written materials and responses submitted to the administrative law judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. No additional evidence may be submitted during the five-day period. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.0200 to 1400.1200 and *Minnesota Statutes*, sections 14.14 to 14.20. Questions about procedure may be directed to the administrative law judge.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule. It also includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing, if one is held. The statement may also be reviewed and copies obtained at the cost of reproduction from the Office of Administrative Hearings.

Small Business Considerations. [If applicable and selected, see *Minnesota Statutes*, section 14.115, subdivision 4.]

Expenditure of Public Money by Local Public Bodies. [If applicable, see *Minnesota Statutes*, section 14.11, subdivision 1.]

Impact on Agriculture Lands. [If applicable, see *Minnesota Statutes*, section 14.11, subdivision 2.]

[Other notices required by law or chosen to be inserted in this notice.]

Lobbyist Registration. *Minnesota Statutes*, chapter 10A requires each lobbyist to register with the Ethical Practices Board. Questions regarding this requirement may be directed to the Ethical Practices Board at [current address and telephone number of the Ethical Practices Board].

Adoption Procedure if No Hearing. If no hearing is required, after the end of the comment period the agency may adopt the rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you want to be so notified, or wish to receive a copy of the adopted rule, submit your request to [agency contact person] listed above.

Adoption Procedure After the Hearing. If a hearing is held, after the close of the hearing record, the administrative law judge

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Proposed Rules

will issue a report on the proposed rule. You may request to be notified 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 rule for a period of five working days. If you want to be notified about the report, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. You may also request notification of the date on which the rule is adopted and filed with the Secretary of State. The agency's notice of adoption must be mailed on the same day that the rule is filed. If you want to be notified of the adoption, you may so indicate at the hearing or send a request in writing to the agency contact person at any time prior to the filing of the rule with the Secretary of State.

Date: _____

[Name]

[Title]

2010.9951 RECOMMENDED NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE.

STATE OF MINNESOTA DEPARTMENT OF _____

In the Matter of the Proposed Adoption
of Emergency Rule of the State _____
Governing _____

NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE

The [agency name] intends to adopt an emergency rule following the procedures set forth in the Administrative Procedure Act, Minnesota Statutes, sections 14.29 to 14.36. You may submit written comments on the proposed emergency rule within 25 days.

Agency Contact Person. Comments or questions on rule must be submitted to:

[Name, agency, address, telephone number, and fax number]

Subject of Emergency Rule and Statutory Authority. The proposed emergency rule is about [title or subject of rule]. The statutory authority to adopt this emergency rule is [specific statutory citation]. A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed. [If the proposed rule is not attached to the mailed notice, then this notice must include an informative statement describing the nature and effect of the proposed rule.] A free copy of the proposed emergency rule is available upon request from the agency contact person listed above.

Comments. You have until _____ p.m., _____ [calendar date of the end of the 25-day comment period; see part 2010.0400, item E, subitem (3), for how to count the days] to submit written data and views on the proposed emergency rule or any part or subpart of the emergency rule. Your comment must be in writing and received by the agency contact person by the due date.

Modifications. The proposed emergency rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the agency and may not result in a substantial change in the proposed emergency rule as [attached and] printed in the *State Register*. If the proposed emergency rule affects you in any way, you are encouraged to participate in the rulemaking process.

Expenditure of Public Money by Local Public Bodies. [If applicable, see Minnesota Statutes, section 14.11, subdivision 1.]

Impact on Agriculture Lands. [If applicable, see Minnesota Statutes, section 14.11, subdivision 2.]

[Other notices required by law or chosen to be inserted in this notice.]

Adoption and Review of Emergency Rule. After the end of the comment period, the agency may adopt the emergency rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to the agency contact person listed above.

Effective Period for Emergency Rule. The emergency rule will take effect five working days after approval by the attorney general and be effective for _____ days. The emergency rule will be continued in effect for an additional _____ days if the agency gives notice of continuation in accordance with Minnesota Statutes, section 14.35.
filing of the rule with the Secretary of State.

Date: _____

[Name]

[Title]

2010.9955 RECOMMENDED FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING EMERGENCY RULE.

STATE OF MINNESOTA

DEPARTMENT OF _____

In the Matter of the Proposed Adoption
of the Rule of the State _____
Governing _____

**FINDINGS OF FACT,
CONCLUSIONS, AND
ORDER ADOPTING
EMERGENCY RULE**

FINDINGS

1. Notice of the [Commissioner's] [Board's] [Commission's] intent to adopt the above-entitled emergency rule was published in the *State Register* on _____, 19____ and was sent by United States mail to all persons on the list maintained by the agency pursuant to *Minnesota Statutes*, section 14.30 on _____, 19____.

2. All of the notice and procedural requirements in *Minnesota Statutes*, chapter 14, and other applicable law have been complied with.

3. All persons were given the opportunity to submit written comment on the rule for at least 25 days after notice of proposed rulemaking. The 25-day comment period expired on _____.

~~[If applicable: No 4. The agency received _____ letters of comments and submissions or comments on the rule were. The agency received by the agency. No _____ requests for notice of submission to the attorney general were received by the agency].~~

[If any changes were made between the rule as proposed and the rule as adopted, findings of fact and conclusions supporting the reasons for the changes, and explanations explaining why the changes do not constitute substantial changes as provided in the attorney general rules part 2010.1000, item D must be set forth.]

CONCLUSIONS

1. The _____ duly acquired and has jurisdiction over this proceeding.

2. The authority for use of emergency rule procedures has not expired pursuant to *Minnesota Statutes*, section 14.29.

3. The _____ published and served timely and adequate notice of intent to adopt the emergency rules.

4. All relevant legal and procedural requirements of statute and rule have been complied with.

5. [If the proposed rule was amended] The modifications to the proposed rule are supported by the record and do not result in a substantial change.

NOW, THEREFORE, IT IS ORDERED that the rule identified as _____ [as modified] is adopted this _____ day of _____, 19____, pursuant to authority vested in [me] [the Board] [the Commission] by *Minnesota Statutes*, section _____.

[Name] _____

[Title] _____

2010.9960 RECOMMENDED NOTICE OF SUBMISSION OF THE EMERGENCY RULE TO ATTORNEY GENERAL.

STATE OF MINNESOTA

DEPARTMENT OF _____

In the Matter of the Proposed Adoption
of the Rule of the State _____
Governing _____

**NOTICE OF
SUBMISSION OF
EMERGENCY RULE
TO THE ATTORNEY
GENERAL**

Pursuant to your request and in accordance with *Minnesota Statutes*, section 14.32:

PLEASE TAKE NOTICE that the above-captioned emergency rule as adopted ~~has been~~ will be submitted to the Office of the Attorney General on the date of this notice, _____, 19____, for review as to legality and form to the extent form

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

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relates to legality. The proposed emergency rule, the rule as adopted, all the notices, all written comments received and other required documents also have been submitted to the Attorney General.

[(If the proposed emergency rule has been modified:) The proposed emergency rule which was published in the *State Register* and made available to the public on _____, 19____, has been modified. A free copy of the emergency rule as modified as well as the findings of fact, conclusions, and order explaining the amendments and adopting the rule ~~is~~ are available upon request from _____. (or) A copy of the rule as modified is and the findings of fact, conclusions, and order are enclosed with this notice.]

The rule must be approved or disapproved by the Attorney General on the tenth working day following date of receipt of the rule. You may submit written comments to the Attorney General. Any written comments must be submitted within by 4:30 p.m. _____, 19____, seven working days of the date of this notice. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The Attorney General standards for review are set forth in *Minnesota Rules*, part 2010.1000. You may receive a copy of the Attorney General decision upon written request to the attorney general. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
Public Finance Division
515 ~~Transportation Building~~
~~John Ireland Boulevard~~
525 Park Street, Suite 500
Saint Paul, Minnesota ~~55155~~ 55103
Telephone: (612) 297-2040
Fax Number: (612) 297-2576

Any written comments submitted to the Attorney General must be submitted simultaneously to:

[Name, address, ~~and phone~~ telephone number,
and Fax number (Fax number is optional)
of appropriate person in the agency]

[Name]

[Title]

Dated: _____

REPEALER. Minnesota Rules, parts 2010.9915; and 2010.9950, are repealed.

Minnesota Housing Finance Agency

Proposed Permanent Rule Relating to American Indian Housing

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Housing Finance Agency intends to adopt the above rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* section 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 462A.06, subd. 4 and 11.

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period ending November 18, 1992. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Susan K. Noren, Legal Division
Minnesota Housing Finance Agency

400 Sibley St., Suite 300
St. Paul, MN 55101-1998
Telephone: 612/296-9794

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

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

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Susan K. Noren upon request.

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

Dated: October 16, 1992

James J. Solem
Commissioner

Rules as Proposed

4900.0900 SCOPE.

Parts 4900.0900 to 4900.1080, together with the loan agreement and amendments thereto, hereinafter called the "agreement,":

A. govern the housing programs for American Indians of low and moderate income as authorized by ~~Laws of Minnesota 1976, chapter 254 Minnesota Statutes~~, section 462A.07, subdivision 14, hereinafter referred to as the "act," and the disposition of the appropriation made pursuant to section 16 of said act, which;

B. authorize a housing programs are to be developed and administered separately or in combination by program for Indian families living both on and off reservations within the state of Minnesota Chippewa Tribe, which for purposes of parts 4900.0900 to 4900.1080 shall include any corporation established by; and

C. direct the Minnesota Housing Finance Agency to create such a program to be administered by:

(1) the Minnesota Chippewa Tribe, to carry out the housing program provided for herein and by the act, hereinafter collectively the "tribe;"

(2) the Red Lake Band of Chippewa Indians, which for purposes of parts 4900.0900 to 4900.1080 shall include any corporation established by the Red Lake Band of Chippewa Indians to carry out the housing program provided for herein and by the act, hereinafter collectively the "band;" and

(3) the Sioux Communities, which for purposes of parts 4900.0900 to 4900.1080 shall include any corporation established by the Sioux communities to carry out the housing program provided for herein and by the act, hereinafter collectively the "communities."

4900.0920 QUALIFICATIONS FOR HOUSING.

Except as otherwise provided herein and by part 4900.0340, each recipient of a loan pursuant to the act, plan, and parts 4900.0900 to 4900.1080 and each person or family initially occupying a dwelling unit financed pursuant thereto shall be an American Indian as defined by ~~Minnesota Statutes, section 254A.02, subdivision 11~~ United States Code, title 25, section 450b, or an American Indian family as hereinafter defined, and of low and moderate income as defined by part 4900.0010, subpart 23, item A, subitem (1). However, developers of multifamily housing developments need not be American Indians or of low and moderate income, and further provided that the tribe, band, and communities may qualify as eligible borrowers, if the funds advanced are used to construct eligible housing for resale or rental to eligible recipients and the funds advanced are returned to the revolving loan fund under the jurisdiction of the tribe, band, or communities when permanent financing is obtained. An American Indian family for purposes of parts 4900.0900 to 4900.1080 is a family which at the time the loan is granted has at least one ~~resident mortgagor~~ adult who is an American Indian as defined by ~~Minnesota Statutes, section 254A.02, subdivision 11~~ United States Code, title 25, section 450b.

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

Proposed Rules

4900.1030 FINAL DECISION ON LOANS.

Each final decision on applications for loans to eligible borrowers made by the tribe, band, or communities from the moneys appropriated by ~~section 46~~ of the act, or from the revolving loan fund under the jurisdiction of the tribe, band, or communities, shall be made by a representative body of the tribe, band, or communities.

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Urban Indian Housing Loan Program

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Housing Finance Agency intends to adopt the above rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 426A.06, subd. 4 and 11.

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period ending November 18, 1992. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Susan K. Noren, Legal Division
Minnesota Housing Finance Agency
400 Sibley St., Suite 300
St. Paul, MN 55101-1998
Telephone: (612) 296-9794

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

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

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Susan K. Noren upon request.

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

Dated: 16 October 1992

James J. Solem
Commissioner

Rules as Proposed

4900.1540 RECIPIENTS OF LOANS.

Each program must provide for loans for the construction, purchase, or rehabilitation of residential housing. Except as otherwise provided herein and by part 4900.0340, each person or family initially occupying a dwelling unit financed pursuant to the act, program, and parts 4900.1500 to 4900.1586 shall be an American Indian as defined by ~~Minnesota Statutes, section 254A.02, subdivision 11, or 462A.07~~ *United States Code, title 25, section 450b*, or an American Indian family as defined by part 4900.0920, and of low and moderate income, as defined by part 4900.1574. Developers of multifamily housing developments need not be American Indians of low and moderate income. In obtaining assistance under this program, Indian persons and families shall not be discriminated against on the basis of tribal affiliation or tribal enrollment.

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Purchase and Rehabilitation or Refinance and Rehabilitation Mortgage Loans

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Housing Finance Agency intends to adopt the above rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 462A.06, subd. 4 and 11.

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period ending November 18, 1992. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Susan K. Noren, Legal Division
Minnesota Housing Finance Agency
400 Sibley St., Suite 300
St. Paul, MN 55101-1998
Telephone: (612) 296-9794

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

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

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Susan K. Noren upon request.

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

Dated: 16 October 1992

James J. Solem
Commissioner

Rules as Proposed

4900.2005 PURCHASE AND REHABILITATION OR REFINANCE AND REHABILITATION MORTGAGE LOANS.

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

Subp. 2. **Minimum rehabilitation.** Each property financed with a purchase and rehabilitation mortgage loan must require and receive rehabilitation in a dollar amount greater than or equal to ~~15 percent of the purchase price of the property.~~ Each property financed with a refinance and rehabilitation mortgage loan must require and receive rehabilitation in a dollar amount greater than or equal to 15 percent of the value of the property prior to rehabilitation the amounts in items A and B.

A. For properties located within Anoka, Benton, Carver, Chisago, Clay, Dakota, Hennepin, Isanti, Olmsted, Ramsey, Scott, Sherburne, Stearns, Washington, and Wright counties, the minimum rehabilitation requirement is \$5,000.

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

Proposed Rules

B. For properties located within all other counties, the minimum rehabilitation requirement is the lesser of \$5,000 or 15 percent of the value of the property prior to rehabilitation.

[For text of subp 3, see M.R.]

Subp. 4. [See repealer.]

Subp. 5. **Borrower eligibility.** Each borrower shall meet the following requirements:

A. Each borrower shall be a person or family, including nonrelated individual adults, whose adjusted income does not exceed ~~400~~ 115 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development; provided, however, that the maximum adjusted income for targeted neighborhoods may not exceed ~~445~~ 150 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development. Targeted neighborhoods are specific geographic areas specified by local governments or housing and redevelopment authorities as neighborhoods to receive special emphasis in terms of rehabilitation or preservation of the housing stock.

[For text of items B and C, see M.R.]

[For text of subp 6, see M.R.]

REPEALER. Minnesota Rules, part 4900.2005, subpart 4, is repealed.

Department of Human Services

Proposed Permanent Rules Relating to Hearing Services

Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing if Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, section 256B.04, subdivisions 2, 4, 12 and 15.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. **PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON DECEMBER 1, 1992, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES.** To verify whether a hearing will be held, please call the Department of Human Services between November 19, 1992 and November 30, 1992 at (612) 297-4302.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Stephanie Schwartz, Minnesota Department of Human Services, Rules and Bulletins Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 18, 1992.

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

A free copy of this rule is available upon request for your review from Stephanie Schwartz at the Department of Human Services, (612) 297-4302.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

Minnesota Rules, parts 9505.0175, 9505.0221, 9505.0297 and 9505.0365 are part of *Minnesota Rules*, chapter 9505, governing the state's medical assistance program. Proposed new part 9505.0287 establishes that hearing services are eligible for payment under the medical assistance program. This new part is separated from part 9505.0365, which will govern only prosthetic and orthotic

devices eligible for medical assistance payment. Amendments to parts 9505.0175 and 9505.0221 are necessary to update *Minnesota Rules*, chapter 9505. The amendments to parts 9505.0175, 9505.0221 and 9505.0365, and proposed rule part 9505.0287, affect medical assistance providers and recipients, as well as hearing aid services providers.

Amendments will: 1) repeal the requirement that a hearing aid services provider sign a performance agreement; 2) incorporate necessary provisions of the Department of Health's rules regarding permitting and registration requirements of hearing aid dispensers; 3) update definitions; 4) allow audiologists and otolaryngologists to perform audiologic evaluations and sell hearing aids; 5) clarify that a recipient is not eligible to receive a replacement hearing aid through medical assistance within five years after a hearing aid was provided unless prior authorization is obtained from the commissioner; 6) require that medical assistance pay for hearing aids obtained through the Department's competitive bidding process; 7) specify hearing aid services provider payments; 8) set out a 30-day trial period, or the period required by contract between the state and the hearing aid manufacturer, to allow an audiologist or otolaryngologist to determine if the hearing aid meets the recipient's needs; 9) update requirements of hearing aid services providers due to new federal regulations prohibiting criminal acts such as kickbacks, bribes, and rebates; and 10) clarify what hearing services are and are not covered by medical assistance.

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

Adoption of these rules will not result in spending by local public bodies. 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 Stephanie Schwartz at the address and telephone number above.

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

Dated: 9 September 1992

Natalie Haas Steffen
Commissioner

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Rooms 2A and 2B at the Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota on December 1, 1992 at 8:00 a.m. until 12:00 p.m. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between November 19, 1992 and November 30, 1992 at (612) 297-4302.

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 Steve M. Mihalchick, Administrative Law Judge, Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138; telephone (612) 349-2544, 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 materials 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 five business days to respond in writing to any new information submitted during the comment period. During the five-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

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Proposed Rules

may be submitted during the five-day period. Any written materials 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*, sections 14.15 and 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedures may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9505.0175, 9505.0221, 9505.0287 and 9505.0365 are part of *Minnesota Rules*, chapter 9505, governing the state's medical assistance program. Proposed new part 9505.0287 establishes that hearing services are eligible for payment under the medical assistance program. This new part is separated from part 9505.0365, which will now govern only prosthetic and orthotic devices eligible for medical assistance payment. Amendments to parts 9505.0175 and 9505.0221 are necessary to update *Minnesota Rules*, chapter 9505. The amendments to parts 9505.0175, 9505.0221 and 9505.0365, and proposed rule part 9505.0287, affect medical assistance providers and recipients, as well as hearing aid services providers.

Amendments will: 1) repeal the requirement that a hearing aid services provider sign a performance agreement; 2) incorporate necessary provisions of the Department of Health's rules regarding permitting and registration requirements of hearing aid dispensers; 3) update definitions; 4) allow audiologists and otolaryngologists to perform audiologic evaluations and sell hearing aids; 5) clarify that a recipient is not eligible to receive a replacement hearing aid through medical assistance within five years after a hearing aid was provided unless prior authorization is obtained from the commissioner; 6) require that medical assistance pay for hearing aids obtained through the Department's competitive bidding process; 7) specify hearing aid services provider payments; 8) set out a 30-day trial period, or the period required by contract between the state and the hearing aid manufacturer, to allow an audiologist or otolaryngologist to determine if the hearing aid meets the recipient's needs; 9) update requirements of hearing aid services providers due to new federal regulations prohibiting criminal acts such as kickbacks, bribes, and rebates; and 10) clarify what hearing services are and are not covered by medical assistance.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 256B.04, subdivisions 2, 4, 12 and 15. Adoption of these rules will not result in additional spending by local public bodies. 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 Stephanie Schwartz, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, (612) 297-4302.

Copies of the proposed rules are not available and at least one free copy may be obtained by writing to Stephanie Schwartz, Minnesota Department of Human Services, at the address above. This rule is also available for viewing at each of the county welfare or human service 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 Chris Dobbe, Health Care Management Division, Minnesota Department of Human Services, at (612) 297-2388.

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.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 1st Floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, (612) 296-5148.

Dated: 9 September 1992

Natalie Haas Steffen
Commissioner

Rules as Proposed

9505.0175 DEFINITIONS.

[For text of subps 1 to 31, see M.R.]

Subp. 32. **Performance agreement.** "Performance agreement" means a written agreement between the department and a provider that states the provider's contractual obligations for the sale and repair of medical equipment and medical supplies eligible for medical

assistance payment. ~~Examples~~ An example of a performance agreement ~~are~~ is an agreement between the department and a provider of nondurable medical supplies or durable medical equipment as specified in part 9505.0310, subpart 3, items A and B, ~~and a hearing aid performance agreement between the department and a hearing aid dispenser as specified in part 9505.0365, subpart 1, item D.~~

[For text of subps 33 to 50, see M.R.]

9505.0221 PAYMENT LIMITATION; PARTIES AFFILIATED WITH A PROVIDER.

Except as allowed in part 9505.0287, equipment, supplies, or services prescribed or ordered by a physician are not eligible for medical assistance payment if they are provided:

A. by a person or entity that provides direct or indirect payment to the physician for the order or prescription for the equipment, supplies, or services; or

B. upon or as a result of direct referral by the physician to an affiliate of the physician unless the affiliate is the only provider of the equipment, supplies, or services in the local trade area.

For purposes of this part, "affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the referring physician.

9505.0287 HEARING SERVICES.

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

A. "Audiologic evaluation" means an assessment of communication problems caused by hearing loss that is performed by an audiologist or an otolaryngologist.

B. "Audiologist" has the meaning given in part 9505.0390, subpart 1, item A.

C. "Hearing aid" means a monaural hearing aid, a set of binaural hearing aids, or other device worn by the recipient to improve the recipient's access to and use of auditory information.

D. "Hearing aid accessory" means chest harnesses, tone and ear hooks, carrying cases, and other accessories that are not included in the cost of the hearing aid but that are necessary to the recipient's use of the hearing aid.

E. "Hearing aid services provider" means a person who is registered with the commissioner of health as a hearing instrument dispenser or an audiologist or otolaryngologist who has a permit from the commissioner of health as a seller of hearing instruments. A hearing aid services provider who is not an audiologist or an otolaryngologist must not perform an audiologic evaluation.

F. "Hearing services" means the services provided by a hearing aid services provider that are necessary to dispense hearing aids and provide hearing aid accessories and repairs.

G. "Otolaryngologist" means a physician specializing in diseases of the ear and larynx who is board certified by the American Board of Otolaryngology.

Subp. 2. Covered hearing services. To be eligible for medical assistance payment, the hearing services must meet the requirements of items A to E and the other requirements of this part.

A. A physician's examination must determine that the recipient does not have medical or surgical conditions that contraindicate fitting the recipient with a hearing aid.

B. The physician who examines the recipient must refer the recipient for an audiologic evaluation to determine if the recipient has a communication disorder caused by a hearing loss and if a hearing aid is medically necessary for the recipient.

C. The audiologist or otolaryngologist who conducts the audiologic evaluation required under item B must order a specific hearing aid based on the findings of the audiologic evaluation.

D. The hearing aid services provider must provide the hearing aid that is recommended by the audiologist or otolaryngologist.

E. The audiologist or otolaryngologist must determine the effectiveness of the hearing aid within 30 days of providing the aid or within the time period specified in the contract obtained through the competitive bidding process under part 9505.0200, whichever is longer.

Subp. 3. Eligibility for replacement hearing aid. A recipient is not eligible to receive a replacement hearing aid through medical assistance within five years after a hearing aid was provided to the recipient under subpart 2 unless prior authorization is obtained from the commissioner. The criteria for prior authorization of a replacement hearing aid are listed in items A and B:

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A. the recipient's present hearing aid is no longer effective because the recipient has had an increase in hearing loss; or

B. the recipient's hearing aid has been misplaced, stolen, or damaged due to circumstances beyond the recipient's control so that it cannot be repaired. The recipient's degree of physical and mental impairment must be considered in determining whether the circumstances were beyond the recipient's control. If the recipient's hearing aid was misplaced, stolen, or irreparably damaged more than two times in a five-year period, a recipient must not receive a replacement hearing aid.

Subp. 4. Condition for payment; availability of hearing aid through contract purchase. If the department seeks competitive bids under part 9505.0200 for the provision of hearing aids and if at least one of the hearing aids available to a recipient is consistent with the results of the audiologic evaluation, then medical assistance payment for the recipient's hearing aid is limited to a hearing aid available under part 9505.0200.

Subp. 5. Hearing aid services provider payment. A hearing aid services provider must receive one payment for fitting a new hearing aid for a recipient plus providing at least three batteries of the type necessary to operate the hearing aid. A hearing aid services provider must not request payment until after the hearing aid is dispensed. The payment also covers the following hearing services during the hearing aid warranty period:

A. instructing and counseling the recipient on the use and care of the hearing aid;

B. providing the recipient a copy of the manufacturer's warranty applicable to the recipient's hearing aid; and

C. returning the hearing aid to the manufacturer for repair.

Subp. 6. Replacement batteries. Medical assistance payment is available to pay for replacement batteries only in the quantity necessary to operate the hearing aid for a period of not more than 90 days, beginning with the date the hearing aid is provided to the recipient.

Subp. 7. Hearing services to resident of long-term care facility. For a resident of a long-term care facility to be eligible for medical assistance payment, the resident's hearing services must result from a request by the recipient, a referral by a registered nurse or licensed practical nurse who is employed by the long-term care facility, or a referral by the recipient's family, guardian, or attending physician. For purposes of this subpart, "long-term care facility" means a residential facility certified by the Department of Health as a nursing facility or an intermediate care facility for the mentally retarded.

Subp. 8. Other covered hearing services. Medical assistance payment is also available to pay for the hearing services in items A and B:

A. ear molds if the ear molds are not provided by the manufacturer as part of the hearing aid under the contract with the state, or if the earmolds are not customarily provided with the hearing aid; and

B. hearing aid accessories.

Subp. 9. Trial period for audiologist's or otolaryngologist's evaluation of hearing aid.

A. A hearing aid services provider must allow a recipient at least a 30-day trial or the period required by the contract between the state and the hearing aid manufacturer, whichever is longer, to allow an audiologist or otolaryngologist to determine whether the hearing aid meets the recipient's needs. The trial period consists of consecutive days beginning with the date the hearing aid is provided to the recipient. The hearing aid services provider must tell the recipient of the beginning and ending dates of the trial period.

B. If the audiologist or otolaryngologist determines that the hearing aid does not meet the recipient's needs, the audiologist or otolaryngologist must tell the recipient of the availability of further audiologic services as set forth in part 9505.0390, subpart 4, and order any necessary changes during the trial period.

Subp. 10. Hearing services not covered. Medical assistance payment is not available to pay for the following hearing services:

A. a hearing aid that is not medically necessary for the recipient;

B. replacement batteries, other than as specified in subpart 6, provided regardless of the recipient's need;

C. charges for picking up and delivering a hearing aid that are billed on a separate claim for payment;

D. repairs to a hearing aid during the warranty period and other hearing services that the contract between the state and the hearing aid manufacturer specifies must be provided within the contract price;

E. purchase without prior authorization of a hearing aid not covered by a contract obtained through the competitive bidding process under part 9505.0200;

F. hearing services billed on a separate claim for payment when the payment for the service is included in the dispensing fee for the hearing aid;

G. hearing aid drying kits, battery chargers, swim molds, or adapters for telephones, television, or radio;

H. canal hearing aids;

I. routine cleaning, checking, and other maintenance of hearing aids without request or referral from the recipient, the recipient's family, guardian, or attending physician; and

J. hearing aids prescribed or hearing services ordered by a physician if the hearing aids or the hearing services are provided by a person or entity that commits a felony listed in *United States Code*, title 42, section 1320a-7b, subject to the exceptions listed in *Code of Federal Regulations*, title 42, part 1001, section 952.

9505.0365 PROSTHETIC AND ORTHOTIC DEVICES.

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

A. "Ambulatory aid" means a prosthetic or orthotic device that assists a person to move from place to place.

B. ~~"Audiologist" means a person who has a current certificate of clinical competence from the American Speech, Language, and Hearing Association.~~

C. ~~"Hearing aid" means a prosthetic or orthotic device that aids or improves a person's auditory function.~~

D. ~~"Hearing aid dispenser" means a person or entity who specializes in the sale and repair of hearing aids and has signed a performance agreement with the department.~~

E. ~~"Prosthetic or orthotic device" means an artificial device as defined by Medicare to replace a missing or nonfunctional body part, to prevent or correct a physical deformity or malfunction, or to support a deformed or weak body part.~~

F. ~~C. "Physiatrist" means a physician who specializes in physical medicine or physical therapy and who is board certified by the American Board of Physical Medicine and Rehabilitation.~~

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

Subp. 4. [See repealer.]

[For text of subp 5, see M.R.]

Subp. 6. **Excluded prosthetic and orthotic devices.** The prosthetic and orthotic devices in items A to ~~K~~ J are not eligible for medical assistance payment:

[For text of items A to H, see M.R.]

I. a device that is supplied to the recipient by the physician who prescribed the device or by the consultant to the physician in subpart 3 ~~or 4~~; and

J. a device that is supplied to the recipient by a provider who is an affiliate of the physician who prescribes the device for the recipient or of the consultant to the physician as in subpart 3 ~~or 4~~. For purposes of this item, "affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the referring physician; and

~~K. replacement batteries provided on a schedule under contract.~~

REPEALER. Minnesota Rules, part 9505.0365, subpart 4, is repealed.

Department of Revenue

Proposed Permanent Rules Relating to Sales Tax on Waste Disposal and Collection Services

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN THAT the Minnesota Department of Revenue intends to adopt the above entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22 to 14.29 (1990). The statutory authority to adopt the proposed rule is *Minnesota Statutes*, section 270.06 (1990).

All persons have 30 days, through November 18, 1992, in which to submit comment in support of or in opposition to the proposed rule or any subpart of the proposed rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any changes proposed.

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

Proposed Rules

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 (1990).

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

John E. Streiff, Attorney
Appeals, Legal Services, and
Criminal Investigation Division
10 River Park Place
Mail Station 2220
St. Paul, MN 55146-2220
(612) 296-1902, Extension 133

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

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

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from John E. Streiff.

The proposed rule will not result in the expenditure of public money by local public bodies or have a direct and substantial adverse impact on agricultural land or small businesses.

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

John E. Streiff, Attorney
Appeals, Legal Services,
and Criminal Investigation Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220
(612) 296-1902, Extension 133

Dated: 8 October 1992

s/Dorothy A. McClung
Commissioner of Revenue
State of Minnesota

Rules as Proposed (all new material)

8130.2100 WASTE COLLECTION AND DISPOSAL SERVICES.

Subpart 1. **General information.** Public and private mixed municipal solid waste collection and disposal services are subject to sales or use tax pursuant to *Minnesota Statutes*, section 297A.01, subdivision 3, clause (j), item (vii), and as described in *Minnesota Statutes*, section 297A.45.

The total general sales and use tax rate is 6.5 percent. This consists of a six percent rate imposed by *Minnesota Statutes*, section 297A.02, combined with a .5 percent local option sales tax imposed by *Minnesota Statutes*, section 297A.021.

Waste collection and disposal services are taxable whether charged directly to customers by private or public haulers or paid for through government imposed service fees or tax assessments.

Pursuant to *Minnesota Statutes*, section 297A.44, subdivision 1, paragraph (d), the revenues, including interest and penalties, which are derived from the taxes imposed on solid waste collection services are used to fund solid waste reduction and recycling programs.

Subp. 2. **Definitions.** For purposes of this part, the terms as defined in *Minnesota Statutes*, sections 115A.03 and 297A.01, apply.

A. "Collection" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 5.

B. "Disposal" or "dispose" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 9.

- C. "Disposal facility" has the meaning given it in *Minnesota Statutes*, section 115.03, subdivision 10.
- D. "Generator" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 12.
- E. "Mixed municipal solid waste" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 21.
- F. "Political subdivision" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 24.
- G. "Recyclable materials" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 25a.
- H. "Recycling" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 25b.
- I. "Resource recovery" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 27.
- J. "Resource recovery facility" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 28.
- K. "Solid waste" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 31.
- L. "Waste" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 34.
- M. "Waste facility" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 35.

Subp. 3. Taxpayers. The person responsible for collecting and remitting the sales tax is the person who bills the customer for the waste collection services.

A. Commercial haulers who provide waste collection services and bill their customers must collect and remit the sales tax.

B. A governmental entity which provides waste collection services, either with its own vehicles or by contract with a commercial hauler, or which operates a landfill facility, and bills citizens directly for the cost of those services, must collect and remit the sales tax. If a governmental entity does not bill directly for these costs, the governmental entity must pay the sales tax. For example, if a governmental entity bills its citizens for the cost of waste collection or landfill services as a general service fee, without stating what services the fee arises from, the entity will be responsible for paying the sales tax.

If a governmental entity contracts with a commercial hauler for waste collection services and the amount paid by the governmental entity is more than the amount charged to citizens for those services, the governmental entity must pay the sales or use tax on the amount of the difference. Also, all direct and indirect expenses related to providing citizens with the waste disposal services must be accounted for in determining the cost of these services.

C. Landfill and transfer station operators are required to collect and remit the sales tax on all charges for the disposal of mixed municipal solid waste at their facilities, provided that commercial haulers who bill customers for waste disposal services and for the sales tax, or who provide these services pursuant to a contract with a governmental entity which collects and remits the sales tax, are not required to pay the sales tax to landfill operators if the hauler provides the landfill operator with a completed Commercial Hauler's Exemption Certificate.

Subp. 4. Customers required to pay sales tax. All customers, except the federal government, are required to pay the sales tax on garbage collection services. This includes state and local government agencies, nonprofit organizations such as churches and nursing homes which are otherwise exempt from paying sales tax, and direct pay permit holders.

Haulers may not accept exemption certificates from customers in lieu of payment for the sales tax on garbage collection services. Sales to the federal government and its agencies are exempt from sales tax when the agency is billed directly and payment is made directly by the federal agency.

Subp. 5. Determining the amount of sales tax.

A. Surcharges or fees imposed by a city, town, or county pursuant to *Minnesota Statutes*, section 115A.919 or 115A.921, which are separately stated on the customer's bill are not subject to the sales tax. These surcharges and fees are charged to operators of mixed municipal solid waste facilities by a city, town, or county.

B. State landfill abatement fees imposed under *Minnesota Statutes*, sections 115A.923 and 473.843, upon operations of greater Minnesota and metropolitan mixed municipal solid waste landfills are not subject to the sales tax. These are fees used to fund the greater Minnesota and metropolitan area landfill abatement funds.

C. Costs associated with the management and operation of recycling enterprises are exempt from the sales tax according to the guidelines in subitems (1) and (2).

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Proposed Rules

(1) Charges for collecting and managing recyclable materials that have been separated from other refuse by the customer are exempt. When recyclable materials have not been separated from mixed municipal solid waste by the customer, the entire charge for garbage collection services is taxable to the customer. Charges for collection and management include all costs directly related to the service, including administrative expenses, wages, and collection vehicles.

(2) Charges for the collection of waste from a recycling facility which separates recyclable materials from nonrecyclable wastes are not taxable. However, this exemption only applies:

(a) if the volume of the nonrecyclable waste has been reduced by at least 85 percent by the recycling facility;

(b) to waste which is collected and disposed of separately from other solid waste; and

(c) to entities which collect the combined waste primarily for recycling purposes. This limitation prevents customers of commercial haulers from claiming this exemption if the haulers separate recyclables from other solid waste as an incidental or de minimus part of their operations.

D. Resource recovery facilities are not included in the exemption under item C.

Subp. 6. Administrative requirements.

A. All persons in subpart 4 who are required to collect and remit the sales tax must obtain a sales tax permit from the commissioner. If the person already holds a valid sales tax permit, it is not necessary to obtain a new one.

B. The permit holder must remit the collected sales tax to the office of the commissioner according to the reporting requirements of part 8130.7300.

C. Sales tax returns must be reported either on a cash method or accrual method basis using the same method of accounting as used for income tax purposes. A change in accounting methods may be required as described in part 8130.1800.

Subp. 7. **Local sales tax.** City or local general sales or use tax does not apply to waste collection services. A retailer is not required to register for the local sales tax unless the retailer makes other taxable sales, such as sales or leases of trash containers.

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.

Technical Colleges Board

Adopted Permanent Rules Relating to Certain Technical College Teacher Licenses

The rules proposed and published at *State Register*, Volume 17, Number 1, pages 5-6, July 6, 1992 (17 SR 5), are adopted as proposed.

Official Notices

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

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

Minnesota Comprehensive Health Association

Notice of Meeting of the Ad Hoc Work Group on MCHA Premiums

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association (MCHA), Ad Hoc Work Group on MCHA Premiums will be held at 3:00 p.m. on Monday, October 26, 1992 at Prudential Insurance Company of America, 3701 South Wayzata Boulevard, Minneapolis, Minnesota, in the 8th floor small conference room next to the board room.

For additional information please call Lynn Gruber at (612) 593-9609.

Minnesota Comprehensive Health Association

Notice of Meeting of the Enrollee Appeal Committee

NOTICE IS HERBY GIVEN that a meeting of the Minnesota Comprehensive Health Association (MCHA), Enrollee Appeal Committee will be held at 2:00 p.m. on Thursday, October 29, 1992 at Prudential Insurance Company of America, 3701 South Wayzata Boulevard, Minneapolis, Minnesota, in the 8th floor small conference room next to the board room.

Portions of this meeting may be closed to the public.

For additional information please call Lynn Gruber at (612) 593-9609.

Ethical Practices Board

Advisory Opinion #126 re: Public Subsidy Agreement

Issued 10-8-92 to Donna Denkinger—SUMMARY—126. A candidate who submits a Public Subsidy Agreement to the Board after September 1 preceding the general election is not eligible to receive the public subsidy in that election year or to receive or issue official contribution receipts. *Minnesota Statutes* § 10A.322, subds. 1 and 4. The full text of the opinion is available upon request from the Ethical Practices Board, 1st Floor South, Centennial Building, 658 Cedar Street, St. Paul, MN 55155-1603; (612) 296-5148.

Minnesota Housing Finance Agency

Notice of Public Hearing on the Proposed Minnesota Comprehensive Housing Affordability Strategy Annual Plan (Federal Fiscal Year 1993) and the Comprehensive Housing Affordability Strategy Annual Performance Report (Federal Fiscal Year 1992)

The Minnesota Housing Finance Agency (MHFA) announces the availability of the proposed *Minnesota Comprehensive Housing Affordability Strategy (CHAS) Annual Plan (FFY93)* and the *Comprehensive Housing Affordability Strategy Annual Performance Report (FFY92)* for review and public comment between November 2, 1992 and December 2, 1992.

The National Housing Affordability Act of 1990 requires the state and local governments, as a condition of receipt of federal housing assistance, to prepare each year an annual plan and an annual performance report. The purpose of the *CHAS Annual Plan* is to identify statewide housing needs, establish priorities for state investment in affordable housing, and set forth an annual action plan with specific investment goals. The purpose of the *CHAS Annual Performance Report* is to provide the state an opportunity to report on its progress in carrying out its housing strategy.

Beginning November 2, 1992, interested persons may request either a complete copy or relevant sections of the *CHAS Annual Plan* and the *CHAS Annual Performance Report* by calling 612-296-8206 (TDD: 612-297-2361). Copies of the *CHAS Annual Plan* and the

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

Official Notices

CHAS Annual Performance Report also will be available for review at the offices of the MHFA, 400 Sibley Street, Suite 300, St. Paul, Minnesota 55101, any of the Regional Development Commissions, or the following public libraries around the state:

Bemidji Public Library
6th & Beltrami
Bemidji, MN 56601

Marshall-Lyon County Library
301 West Lyon Street
Marshall, MN 56258

Lake Agassiz Regional Library
115 S. 6th St., Box 699
Moorhead, MN 56560

Great River Regional Library
405 St. Germain
St. Cloud, MN 56301

Winona Public Library
151 West 5th St.
Winona, MN 55987

Duluth Public Library
520 West Superior Street
Duluth, MN 55802

Minnesota Valley Regional Library
100 E. Main St.
Mankato, MN 56002

Rochester Public Library
11 First Street SE
Rochester, MN 55901

Pioneerland Public Library System
410 W. 5th St.
Willmar, MN 56201

Nobles County Library
Post Office Box 99
Worthington, MN 56187

Written or oral comments on the proposed *CHAS Annual Plan* and *CHAS Annual Performance Report* will be taken by the Minnesota Housing Finance Agency from November 2, 1992 until December 2, 1992. Interested persons should call 612-296-8206. Written comments may be submitted to the MHFA, 400 Sibley Street, Suite 300, St. Paul, Minnesota, 55101, attn: Denise Rogers.

In addition, the Minnesota Housing Finance Agency will hold four public hearings to solicit comments on the proposed *CHAS Annual Plan* and *CHAS Annual Performance Report*. The public hearings will be held at the times and places listed below.

Thursday, November 12, 1992

10:00 a.m. public hearing
Holiday Inn
220 South Broadway
Rochester, MN 55904

Tuesday, November 17, 1992

10:00 a.m. public hearing
Canterbury Inn Hotel
1244 Canterbury Rd.
Shakopee, MN 55379

Friday, November 13, 1992

10:00 a.m. public hearing
Holiday Inn
2115 South 6th Street
Brainerd, MN 56401

Wednesday, November 18, 1992

10:00 a.m. public hearing
Toni's Restaurant
1411 East College Drive
Marshall, MN 56258

All interested persons will be given an opportunity to express their view. Written comments also may be submitted and will be considered at the hearing. *Persons in need of special accommodations should contact Denise Rogers at 612-296-8206 (TDD: 612-297-2361).*

Department of Human Services

Health Care Management Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Eligibility to Receive Payment as a Provider in the Medical Assistance Program under *Minnesota Rules*, parts 9505.0170 to 9505.0475

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing the eligibility of providers to receive medical assistance payment under *Minnesota Rules*, parts 9505.0170 to 9505.0475, for all parts except those relating to mental health (parts 9505.0260 and 9505.0323), home health agency services (part 9505.0290), personal care services (9505.0335), private duty nursing services (9505.0360), and rehabilitative and therapeutic services (parts 9505.0385, 9505.0386, 9505.0390, 9505.0391, and parts 9505.0410 to 9505.0412).

The adoptions of the rules and amendments are authorized by *Minnesota Statutes*, section 256B.02, subdivision 8, 256B.04, subdivision 2, and 256B.0625, which permit the agency to adopt rules relating to standards for eligibility to receive payment as a provider in the medical assistance program.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Kathleen P. Burek
Rules and Bulletins Division
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

Oral statements will be received during regular business hours over the telephone at 296-0626 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Public Hearing is published in the *State Register*. Any written material received by the State Department of Human Services 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: 9 October 1992

Eleanor E. Weber
Director
Rules and Bulletins Division

Minnesota Environmental Quality Board

Power Plant Siting Program

Notice of Annual Hearing

The Minnesota Environmental Quality Board will hold the annual public hearing on the Power Plant Siting and Transmission Line Routing Program, as required by the Power Plant Siting Act, *Minnesota Statute* 116C.58, and by *Minnesota Rules*, part 4400.4300, at 9:00 a.m., Saturday, November 21, 1992, in Conference Room 301, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota. Parking is available in the ramp east of the building and the building may only be entered on the east side.

The annual hearing is intended to give interested persons an opportunity to be heard regarding any aspect of the Board's activities, duties, or policies relating to the Power Plant Siting Act. Comments are specifically solicited on (1) the appropriateness of the Power Plant Siting Act, *Minnesota Statutes*, 116C.51 to 116C.59, and Rules for High Voltage Lines, Power Plants, *Minnesota Rules* Chapter 4400, in addressing the staged installation of over 50 megawatts of wind generation within the same general area by several utilities or independent power producers and (2) the environmental issues associated with wind power. Copies of the Act and Rules may be obtained from the Board's office at the address listed below.

All persons will have the opportunity to be heard through the presentation of oral or written statements. Written statements marked for the annual hearing record may also be submitted for inclusion in the record by delivery to the Board's office by 4:30 p.m., Friday, December 11, 1992.

Direct all inquiries to:

George Durfee
Power Plant Siting Program
Minnesota Environmental Quality Board
300 Centennial Office Building
St. Paul, MN 55155
Telephone: (612) 296-2878

Department of Labor and Industry

Labor Standards Division

Notice of Prevailing Wage Determinations for Commercial Projects

Effective October 19, 1992 prevailing wage rates are certified for commercial construction projects in: St. Louis County: Natural Resources Research Institute, UMD Waste Management Facility, and Campus Center/UMD. Hennepin County: Integrated Waste Management Facility and Klæber Court/University of Minnesota. Stearns County: Eastman Hall Basement/St. Cloud State University.

Official Notices

Lyon County: Southwest State University/Commons & Residence Halls. Crow Wing County: Crosby City Hall. Ramsey County: Snyder Hall. Agricultural Chemical Storage Building, and Mn/DOT Training Center (Entry Way). Blue Earth County: Centennial Student Union Asbestos Abatement. Lake County: Veterans on the Lake.

Copies of the determined wage rates for Minnesota project(s) may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306, or calling (612) 296-6452. The charges for the cost of copying and mailing are \$1.36 per project.

John B. Lennes, Jr.
Commissioner

Department of Public Safety

Fire Marshal Division

Emergency Management Division

Notice of Solicitation of Outside Information or Opinions Regarding Development of Rules Governing a Statewide Hazardous Materials Incident Response Plan

NOTICE IS HEREBY GIVEN that the State Department of Public Safety is seeking information or opinions from sources outside the Department in preparing to propose the adoption of rules governing a statewide hazardous materials incident response plan. The adoption of the rules is authorized by *Minnesota Statutes*, section 299A.49, subdivision 1, which states: "After consultation with the commissioners of natural resources, agriculture, transportation, and the pollution control agency, the state fire marshal, the emergency response commission, appropriate technical emergency response representatives, and representatives of affected parties, the commissioner [of public safety] shall adopt rules to implement a statewide hazardous materials incident response plan."

The State Department of Public Safety requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views in writing or orally. Written statements should be addressed to:

Bob Dahm
State Fire Marshal Division
450 North Syndicate Street #285
St. Paul, Minnesota 55104

Oral statements will be received during regular business hours over the telephone at (612) 643-3089 and in person at the above address.

All statements of information and opinions will be accepted until further notice is published in the *State Register* that the Department intends to adopt or to withdraw the rules. Any written material received by the State Department of Public Safety will become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rules are adopted.

Dated: 8 October 1992

Thomas H. Frost, Commissioner
Department of Public Safety

Board of Water and Soil Resources

The Board of Water and Soil Resources will meet on Thursday, October 22, 1992 at the Best Western in Rochester. The meeting will convene at 9:00 a.m.

The Board of Water and Soil Resources will hold their November meeting on Wednesday, November 18, 1992, in Room 112 of the State Capitol, St. Paul. The meeting will convene at 9:00 a.m.

The Board of Water and Soil Resources will hold their December meeting on Wednesday, December 16, 1992, in Room 112 of the State Capitol, St. Paul. The meeting will convene at 9:00 a.m.

State Grants

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

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

Pollution Control Agency

Public Facilities Authority

Application Requests Accepted for Placement on the Funding List for the Individual On-site Wastewater Treatment System Grants Program, a Set-aside of the Independent State Grants Program for Construction of Individual On-site Wastewater Treatment Systems

NOTICE IS HEREBY GIVEN that the Minnesota Public Facilities Authority (PFA) is accepting application requests for placement on the funding list for the Individual On-site Wastewater Treatment Systems Grant Program, a set-aside of the Independent State Grants program for construction of individual on-site wastewater treatment systems. This program was created to provide grants to municipalities to assist owners of individual on-site wastewater treatment systems to upgrade or replace their failed individual on-site wastewater treatment systems. (*Minnesota Statutes* Sec. 116.18, subd. 3c (1990)). The Minnesota Pollution Control Agency (MPCA) will perform the necessary review for certification to the PFA for the placement of projects on the funding list.

Once application requests for placement on the funding list are received and ranked, those projects placed on the funding list will be required to submit a complete application before a grant is awarded.

Application requests for placement on the funding list will be accepted for a period of time ending at 4:30 p.m. on Thursday, December 17, 1992. An application workshop for interested applicants will be held Monday, November 2, 1992, from 2:00 to 4:30 p.m., at the Minnesota Pollution Control Agency Offices in St. Paul.

This program is governed by *Minnesota Rules* parts 7077.0700 to 7077.0765, which are available from the MPCA. For an application request packet for placement on the funding list, or additional information please contact:

Victoria Cook
Nonpoint Source Section
Water Quality Division
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155
(612) 296-7248

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 Corrections

Notice of Availability of Funds

The Minnesota Department of Corrections, Sex Offender Services Unit, announces the availability of grant funds for services to adult sex offenders on supervised release within the state of Minnesota. The grant funds can be used to establish sex offender specific services in half-way houses, purchase direct services from existing sex offender programs, and expand existing sex offender specific programming available to adult sex offenders on supervised release.

A total of \$145,000.00 in state funds is available for direct services to adult sex offenders on supervised release including professional training, consultant fees, resource material, psychotherapy groups, and community education for a seven-month period beginning December 1, 1992 through June 30, 1993. These funds are made available through the Minnesota State Legislature.

Professional, Technical & Consulting Contracts

The Request for Proposals contains detailed requirements.

Private, nonprofit organizations and governmental units are eligible to apply. The submission of grant proposals is November 15, 1992. To receive a Request for Proposals, which describes the manner in which to apply, contact: Joan Sutherland, Minnesota Department of Corrections, Sex Offender Services Unit, 300 Bigelow Building, 4509 North Syndicate Street, St. Paul, Minnesota 55104, (612) 642-0264.

Department of Education

Notice of Requests for Proposals for Leadership Training of Youth with Disabilities

Proposals are being solicited to create new or expanded ongoing programs that increase the number of transition age (14-25) youth with disabilities who actively participate in their community and who are in leadership positions. The project is to design and implement training strategies that promote and apply self determination, leadership and active community participation of transition age youth with disabilities. The project is to assist in finding opportunities for youth with disabilities to become active participants in their communities.

This project will be awarded to a single applicant in an amount not to exceed \$30,000. The anticipated time frame for this project is January 4, 1993 to September 30, 1993.

This project will be funded in total by a grant from the U.S. Department of Education, Office of Special Education and Rehabilitative Services to the Minnesota Department of Education, Division of Rehabilitative Services and State Services for the Blind.

Copies of the RFP may be obtained by contacting Cheryl Bates, Transition Systems Change Project, Minnesota Department of Education, 8th Floor, Capital Square Building, 550 Cedar St., St. Paul, MN 55101, (612) 296-5660.

For additional information contact Doug Johnson at (612) 296-5629. Proposals must be received by 4:00 p.m. on December 1, 1992.

Department of Education

Notice of Requests for Proposals for Transition Training of Family Members of Youth with Disabilities

Proposals are being solicited to design and implement innovative ongoing programs that provide information, training and technical assistance to families of youth with disabilities who throughout Minnesota about the transition process. The transition process includes the planning and the provision of services that are available for youth with disabilities as they make the transition from secondary school to employment, post secondary education, community living, recreation/leisure and community participation. The proposal should especially target families who have typically not been involved in the transition process.

This project will be awarded to a single applicant in an amount not to exceed \$30,000. The anticipated time frame for this project is January 4, 1993 to September 30, 1993.

This project will be funded in total by a grant from the U.S. Department of Education, Office of Special Education and Rehabilitative Services to the Minnesota Department of Education, Department of Jobs and Training, Division of Rehabilitation Services and State Services for the Blind.

Copies of the RFP may be obtained by contacting Cheryl Bates, Transition Systems Change Project, Minnesota Department of Education, 8th Floor, Capital Square Building, 550 Cedar St., St. Paul, MN 55101, (612) 296-5660.

For additional information contact Doug Johnson at (612) 296-5629. Proposals must be received by 4:00 p.m. on December 1, 1992.

Department of Human Services

Health Care Administration

Long Term Care Options Project

Notice of Availability of Contract for Research Design Consultant

The Department of Human Services requires the services of a qualified consultant experienced in research and evaluation of managed health care and long term care systems for the elderly Medicare and Medicaid population, to prepare a research design for the Long

Professional, Technical & Consulting Contracts

Term Care Options Project funded by the Robert Wood Johnson Foundation. The project will submit the research design as part of a proposal to the Health Care Financing Administration for demonstration of a managed care system encompassing primary, acute and long term care for the Medicaid and Medicare dual eligibles over age 65.

Consultants' experience and background will consist of expertise in the following areas:

1. Demonstrated experience in quantitative and qualitative evaluation of managed care systems which include acute, primary and long term care services for the elderly.
2. Knowledge of Medicare and Medicaid utilization and claims data sources and availability.
3. Thorough knowledge of research design, control group techniques and models, and statistical analysis methods as applied to utilization of medical and long term care services.
4. Knowledge of Minnesota's long term care and managed care systems.
5. Knowledge of issues and problems encountered in major national demonstrations of managed primary, acute and long term care systems for the elderly, such as PACE and SHMO demonstrations.

Cost Estimate: The fee for consultant services is not to exceed \$500 per day for a total of \$9,000 for the contract period of November 1, 1992 to December 31, 1993. Individuals desiring consideration should submit a résumé of their request for proposals by October 30, 1992. Consultants shall be selected on the basis of experience and knowledge of the project requirements. Qualifications of individuals will be given more weight than those of a firm. Consultants based in the State of Minnesota shall be given first consideration. Additional information on the project may be obtained by contacting:

Pamela Parker
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155-3852
Telephone: (612) 296-2140

Department of Human Services

Health Care Administration

Long Term Care Options Project

The Department of Human Services requires the services of a qualified consultant experienced in development of marketing strategies for enrollment of senior citizens in managed health care plans to prepare a marketing and enrollment plan for the Long Term Care Options Project funded by the Robert Wood Johnson Foundation. The project will submit the plan as part of a proposal to the Health Care Financing Administration for demonstration of a managed care system encompassing primary, acute and long term care services for Medicaid and Medicare dual eligibles over age 65.

Consultant's experience and background will consist of expertise in the following areas:

1. Demonstrated experience in designing marketing, recruitment and enrollment strategies for senior citizen participation in managed health care systems.
2. Knowledge of state and local long term care, primary and acute care delivery systems in Minnesota.
3. Knowledge of issues involved in marketing for various Medicare supplement policies in Minnesota.
4. Demonstrated experience in media campaigns, materials design and development of educational programs for recruitment of managed care plan enrollees in Minnesota.
5. Experienced knowledge of marketing research techniques.

Cost Estimate: The fee for consultant services is not to exceed \$300 per day for a total of \$6,300 for the contract period of November 1, 1992 to December 31, 1993. Individuals desiring consideration should submit a résumé of their experience by October 30, 1992 to the person identified below. This is not a request for proposals. Consultants shall be selected on the basis of experience and knowledge of the project requirements. Qualifications of individuals will be given more weight than those of a firm. Consultants based in the State of Minnesota shall be given first consideration. Additional information on the project may be obtained by contacting:

Pamela Parker
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155-3852
Telephone: (612) 296-2140

Department of Public Safety

Traffic Safety Office

Request for Proposals for Management of Intensive Probation Grant Program

The Department of Public Safety has received a grant from the National Highway Traffic Safety Administration to manage a grant program that will help counties establish intensive probation programs for repeat DWI offenders. The Department is seeking to contract for professional and technical services to manage and administer the program.

Details are contained in a request for proposals which may be obtained by calling or writing:

Kathryn Swanson	
Office of Traffic Safety	395 John Ireland Blvd.
Department of Public Safety	St. Paul, MN 55155
207 Transportation Bldg.	(612) 296-9507

The estimated cost of the contract is \$67,000.00. Final date for submitting proposals is November 6, 1992. Please note: This request for proposals is NOT a request for proposals from counties wishing to establish intensive probation programs; rather, it is a request for proposals to manage and administer that grant program.

Minnesota Office of Waste Management

Notice of Request for Proposals

The Minnesota Office of Waste Management (OWM) is a state agency established by the Minnesota Legislature to provide financial and technical assistance to industry and local governments to encourage the proper management of hazardous and solid waste. In the area of solid waste, the OWM's objective is to minimize land disposal of solid waste through the promotion of waste reduction, recycling, and resource recovery. The OWM's Grants and Market Development Unit provides financial and technical assistance to both public and private organizations that develop and implement projects to accomplish this objective.

This notice is issued by the Director of the OWM (Director) under authority provided in *Minnesota Rules* parts 9210.0600 to 9210.0645. Under this authority, the OWM established the Recycling Market Development Grant and Loan Program, that is made up of three financial assistance programs: 1) County Grant Program, 2) Directed Research and Feasibility Study Grant Program, and 3) Capital Loan Program. Under these programs, the OWM intends to provide grants and loans for recycling market development activities that have broad application in the state, and that have potential for significant expansion of manufacturing capacity for recyclable materials and that increase demand for products made from recycled materials.

The purpose of this notice is to solicit proposals for projects that meet the objectives under the Capital Loan Program.

The Capital Loan Program is intended to provide financial assistance to private businesses to expand manufacturing capacity for recyclable materials. Projects may receive loans for up to 50 percent of eligible capital costs or \$500,000, whichever is less. Eligible loan applicants are private organizations. Eligible projects are projects in Minnesota that create or expand manufacturing capacity to use recyclable materials as a feedstock in a manufacturing process or to refine recyclable materials as a final, value-added processing step prior to manufacturing end-use.

Projects are being solicited through a Request For Proposals (RFP). The OWM will give preference to projects that promote state market development priorities, conserve resources, and use post-consumer materials.

Although projects addressing other materials are eligible for funding, the OWM has identified four categories of recyclable material as priorities for market development efforts in Minnesota this fiscal year. In alphabetical order, these priority materials are: Glass—value added, non-aggregate uses for color mixed or ceramic contaminated cullet; Paper—old newsprint, residential mixed paper, telephone directories; Plastic—post-consumer resins excluding #1 & #2 bottle grade and commercial/industrial film; Problem Materials—value-added uses for wood waste and construction/demolition material.

Copies of the Request for Proposals, including the rules applicable to the program, are available by contacting:

Kevin O'Donnell
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, MN 55108
(612) 649-5785 or 1-800-657-3843 (toll-free in Minnesota)

Proposals meeting the requirements of the RFPs must be received by the OWM at the above address by 5:00 p.m., CST, Thursday, December 31, 1992.

Non-State Public Bids and Contracts

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

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

Minnesota Historical Society

Notice of Request for Bids for General Construction Services for Improvements and Repairs to the Officer's Quarters Piazza at Historic Fort Snelling, St. Paul, MN

The Minnesota Historical Society is seeking bids from qualified firms and individuals to provide general construction services for repairs and restoration of the Officers Quarters piazza at Historic Fort Snelling, St. Paul, MN in accordance with specifications which will be provided by the Society.

The Request for Bids is available by calling or writing Gary W. Goldsmith, Contracting Officer, Minnesota Historical Society, 345 Kellogg Blvd. West, St. Paul, MN 55102. Telephone (612) 297-5863.

Details concerning submission requirements and deadlines are included in the Request for Bids.

Minnesota Historical Society

Notice of Request for Bids for Specialized Construction Work at the North West Company Fur Post, Pine City, MN

The Minnesota Historical Society is seeking bids from qualified firms and individuals to provide demolition and reconstruction of the north bastion and part of the adjacent palisade at the North West Company Fur Post Historic Site, Pine City, MN in accordance with specifications which will be provided by the Society.

The Request for Bids is available by calling or writing Gary W. Goldsmith, Contracting Officer, Minnesota Historical Society, 345 Kellogg Blvd. West, St. Paul, MN 55102. Telephone (612) 297-5863.

Details concerning submission requirements and deadlines are included in the Request for Bids.

Minnesota Workers' Compensation Assigned Risk Plan

Notice of Request for Proposals for Safety Inspection Services

The Minnesota Workers' Compensation Assigned Risk Plan intends to contract with one or more firms to conduct on-site safety inspections of Plan insureds. The contract period will be from December 15, 1992 - December 15, 1994. Interested parties should obtain formal Request for Proposals from:

MWCARP Administrative Office	Minneapolis, MN 55416
4500 Park Glen Road Suite 410	(612) 924-6974

Proposals must be submitted by November 9, 1992.

Minnesota Workers' Compensation Assigned Risk Plan

Notice of Request for Proposals for Actuarial Services

The Minnesota Workers' Compensation Assigned Risk Plan intends to contract with an actuary to perform an audit of its reserves, and to assist in the development of future rates. The contract period will commence on January 1, 1993 and run for a two or three year period. Interested parties should obtain the formal Request for Proposal from:

MWCARP Administrative Office	Minneapolis, MN 55416
4500 Park Glen Road, Suite 410	(612) 924-6972

The deadline for submission of proposals is November 9, 1992.

Non-State Public Bids and Contracts

Minnesota Workers' Compensation Assigned Risk Plan

Notice of Request for Proposals for Accounting Services

The Minnesota Workers' Compensation Assigned Risk Plan intends to contract with an accounting firm to perform a full financial audit of the Plan's business and its servicing carriers and to prepare a full consolidated annual financial statement, including Schedule D. The contract period will commence on January 1, 1993 and run for a two or three year period. Interested parties should obtain the formal Request for Proposal from:

MWCARP Administrative Office
4500 Park Glen Road, Suite 410
Minneapolis, MN 55416
(612) 924-6972

The deadline for submission of proposals is November 9, 1992.

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
B = Write for Price
C = Request for Proposal
D = Request for Information
E = \$0-\$1,500 Estimated Dollar Value
F = \$1,500-\$5,000 Estimated Dollar Value

G = \$5,000-\$15,000 Estimated Dollar Value
H = \$15,000-\$50,000 Sealed Bid
I = \$50,000 and Over Sealed Bid/Human Rights Compliance Required

J = Targeted Vendors Only
K = Local Service Needed
L = No Substitute
M = Installation Needed
N = Pre-Bid Conference
O = Insurance or Bonding Required

Commodity: New or used equipment to upgrade or replace IBM ES/9000 model 720 computer
Contact: Bernadette Vogel 612-296-3778
Bid due date at 2pm: November 2
Agency: Administration/MMD
Deliver to: St. Paul
Requisition #: RFP 02410-32411

Commodity: Printed travel minute newsletter
Contact: Norma Cameron 612-296-2546
Bid due date at 2pm: October 19
Agency: Trade & Economic Development Department
Deliver to: St. Paul
Requisition #: Price Contract

Commodity: B F L—Prosthetic appliance
Contact: Teresa Manzella 612-296-7556
Bid due date at 4:30pm: October 21
Agency: Minnesota Department of Jobs and Training
Deliver to: Various Places
Requisition #: B 21604-88629

Commodity: B G—Biological specimens
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: October 26
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-48863

Commodity: B E—Petroleum asphalt material
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: October 26
Agency: Minnesota Department of Transportation
Deliver to: St. Cloud
Requisition #: B 79350-01244

Commodity: B F—Entrance mats
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: October 21
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-25066

Commodity: B F—Jean jackets
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: October 26
Agency: Minnesota Correctional Facility—Faribault
Deliver to: Faribault
Requisition #: B 78790-30556

Commodity: B G M—Office furniture
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: October 26
Agency: Minnesota Department of Jobs and Training
Deliver to: West St. Paul
Requisition #: B 21200-53218

Commodity: B F—35mm camera
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: October 26
Agency: Minnesota Department of Jobs and Training
Deliver to: Various Places
Requisition #: B 21603-26235

Commodity: A B G L—Isco flow meter
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: October 26
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32100-34530

Commodity: A H—Visually handicapped equipment
Contact: Linda Parkos 612-296-3725
Bid due date at 2pm: October 26
Agency: Minnesota Department of Jobs and Training
Deliver to: Various Places
Requisition #: B 21200-53001-1

Commodity: B F—Exercise equipment—treadmill
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: October 26
Agency: Moorhead State University
Deliver to: Moorhead
Requisition #: B 26072-04006

Commodity: A H K M—Forklift
Contact: Jack Bauer 612-296-2621
Bid due date at 2pm: October 26
Agency: Materials Management Division
Deliver to: Various Places
Requisition #: B 02511-35576

Commodity: A H—Service contract
Trane 700 BAS
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: October 23
Agency: Winona State University
Deliver to: Winona
Requisition #: B 26074-14711

Commodity: B F—Steel door
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: October 21
Agency: Facilities Management Office
Deliver to: Various Places
Requisition #: B 99997-07165-1

Commodity: B F—Piano
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: October 23
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-65898

Commodity: A H—Meat for November
Contact: Linda Parkos 612-296-3725
Bid due date at 2pm: October 23
Agency: Minnesota Correctional Facility
Deliver to: Stillwater
Requisition #: B 78620-00471

Commodity: B F K M—Copier purchase
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 4:30pm: October 26
Agency: Minnesota Department of Jobs and Training
Deliver to: Moose Lake
Requisition #: B 21200-52986

Commodity: B F—Clean and calibrate boiler controls
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 4:30pm: October 26
Agency: Minnesota Veterans Home
Deliver to: Hastings
Requisition #: B 75250-20396

Commodity: B G—Freezer
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: October 21
Agency: Minnesota Correctional Facility
Deliver to: Red Wing
Requisition #: B 78760-03235

Commodity: B F—Slurry mixer
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: October 23
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-67511

Commodity: A I K—Snowmobile rental—Rebid
Contact: Jack Bauer 612-296-2621
Bid due date at 2pm: October 26
Agency: Department of Natural Resources—Division of Trails
Deliver to: Various Places
Requisition #: B 29000-59650-1

Commodity: A I K M—Copier rental
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: October 27
Agency: PERA
Deliver to: St. Paul
Requisition #: B 63000-30414

Commodity: B E K M—Copier rental
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 4:30pm: October 27
Agency: Minnesota Department of Transportation
Deliver to: Various Places
Requisition #: B 79200-04641

State Contracts and Advertised Bids

Commodity: System hardware, software, maintenance, training and migration service
Contact: Don Olson 612-296-3771
Bid due date at 2pm: November 6
Agency: State University System
Deliver to: St. Cloud
Requisition #: RFP

Commodity: B E—Bibliofile intelligent software
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: October 26
Agency: Metropolitan State University
Deliver to: Various Places
Requisition #: B 26176-03703

Commodity: B G—3M water filter housing
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 4:30pm: October 23
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12200-13240

Commodity: B E K M—Copier rental
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 4:30pm: October 27
Agency: Department of Labor & Industry
Deliver to: Various Places
Requisition #: B 42202-18549

Commodity: B G—Relocation public utilities
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: October 27
Agency: Public Utilities Commission
Deliver to: St. Paul
Requisition #: B 02310-36057

Commodity: New or used equipment to upgrade or replace IBM ES/9000 model 720 computer
Contact: Bernadette Vogel 612-296-3778
Bid due date at 2pm: November 12
Agency: Administration/MMD
Deliver to: St. Paul
Requisition #: 02410-32411

Commodity: B F—Refrigeration condensing unit
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 4:30pm: October 26
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-24167

Commodity: A I—Truck with drill rig
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: November 2
Agency: Minnesota Department of Transportation
Deliver to: Fort Snelling
Requisition #: B 79382-02529

Minnesota Manufacturer's Directory 1992



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