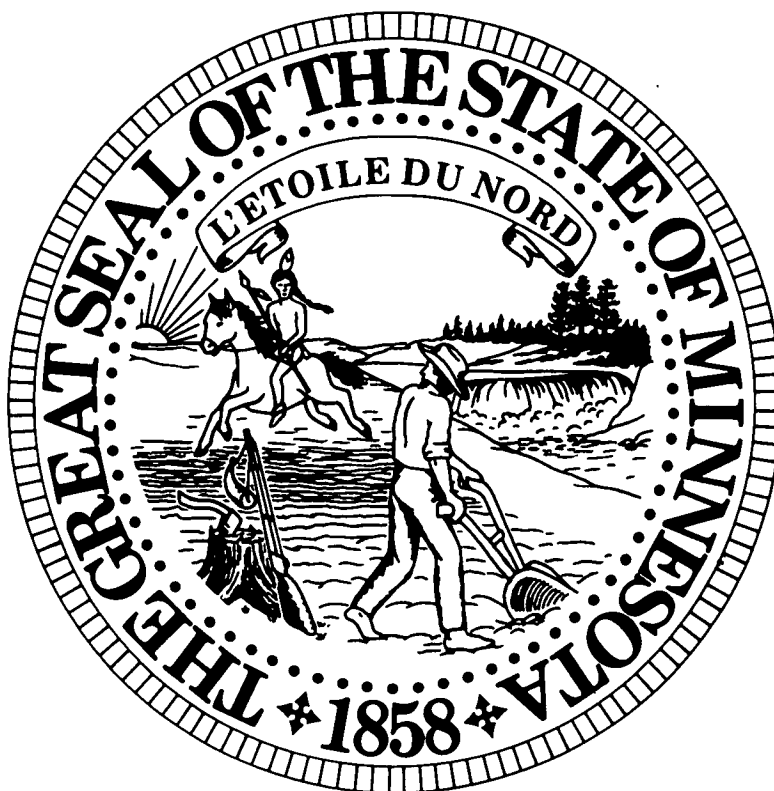


The Minnesota
**State
Register**

Department of Administration—Print Communications Division



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

Monday 26 October 1992
Volume 17, Number 17
Pages 865-940

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
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
20	Monday 2 November	Monday 9 November	Monday, 16 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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The issue of environmental protection is of continuing interest to both Minnesota business and the general public. Stay abreast of changes in state government regulations with these publications.

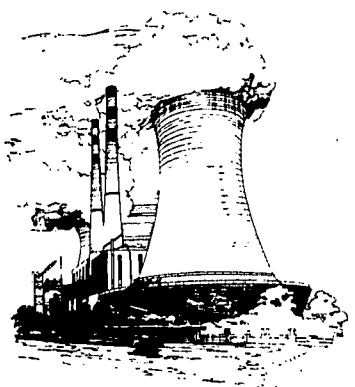
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Proposed Rules

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

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

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

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

Department of Agriculture

Proposed Permanent Rules Relating to Certified Seed Potatoes

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Agriculture intends to amend the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22-14.28. The statutory authority to amend this rule is *Minnesota Statutes*, section 21.118.

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

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

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906. The comment period ends on November 25, 1992. All comments must be received by the department by 4:30 on that day.

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

A copy of the proposed amendments are attached to this notice.

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

The department has determined that certified seed potato growers are small businesses. The proposed amendments will be a benefit to certified seed potato producers and will place no additional economic restraints or demands on producers.

If no hearing is required, upon adoption of the final amendments, the amendments and the required supporting documents will be submitted for 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 amendments must submit a written request to Ms. Milligan.

Dated: 24 September 1992

State of Minnesota
Elton Redalen, Commissioner
Department of Agriculture

Rules as Proposed

1555.6950 MINNESOTA CERTIFIED SEED POTATO GRADES AND TOLERANCES.

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

Subp. 2. **Minnesota blue tag certified seed potato grade.** To be graded as Minnesota blue tag certified seed potatoes, the potatoes must meet the following requirements: in items A to C.

A. Condition. The potatoes must be, at the time of final inspection, of one variety, unwashed, fairly well-shaped, free from bacterial ring rot, powdery scab, late blight, freezing, black heart, and soft rot or wet breakdown, and free from injury by surface or pitted scab, and from damage caused by soil or other foreign matter, second growth, ~~growth cracks~~, air cracks, cuts, shriveling, sprouts, pitted scab, surface scab, russet scab, dry rot, other diseases, insects or worms, mechanical or other means, flattened or depressed areas with underlying flesh discoloration, and from serious damage caused by hollow heart, wire worm, growth cracks, or internal discoloration other than hollow heart. ~~Sunburn is not a factor and silver scurf are not factors.~~

B. Size. For round or intermediate shaped varieties, the maximum size shall be not more than 12 ounces (340.2 grams) and, unless otherwise specified, the minimum size shall be not less than ~~1-7/8~~ 1-1/2 inches (~~47.6~~ 38.1 millimeters) in diameter. For long varieties, the maximum size shall be not more than 14 ounces (396.9 grams) and, unless otherwise specified, the minimum size shall be not less than ~~1-3/4~~ 1-1/2 inches (~~44.5~~ 38.1 millimeters) in diameter. For all varieties, size "B," the minimum diameter shall be not less than 1-1/2 inches (38.1 millimeters) and the maximum size shall be not more than 2-1/4 inches (57.1 millimeters) in diameter.

C. Lot tolerances. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, are provided:

(1) For defects:

[For text of units (a) to (d), see M.R.]

(e) 20 percent for potatoes damaged by sprouts; ~~and~~

(f) ten percent for potatoes seriously damaged by wireworm; and

(g) six percent for potatoes which fail to meet the remaining requirements of the grade, provided that included in that amount not more than the following percentages are allowed for the following defects:

[For text of subunits i to vi, see M.R.]

~~(g)~~ (h) the following do not affect seed quality and must not be scored against the grade:

[For text of subunits i to iv, see M.R.]

v. sunburn; ~~and~~
vi. skin checks; ~~and~~
vii. silver scurf.

[For text of subitem (2), see M.R.]

Subp. 3. **Minnesota yellow tag certified seed potato grade.** To be graded as Minnesota yellow tag certified seed potatoes, the potatoes must meet the requirements of blue tag with the exceptions in items A ~~and B~~ to C.

A. Condition. Potatoes must be free from serious damage by soil or other foreign matter and russet scab.

B. Lot tolerances:

[For text of subitems (1) and (2), see M.R.]

~~B. C.~~ Size. For all varieties, unless otherwise specified, the maximum size must be not more than 14 ounces (396.9 grams).

Subp. 4. **Minnesota white tag certified seed potato grade.** Minnesota white tag certified seed potato grade consists of ~~Primary Foundation certified, Foundation certified, or Generation certified~~ seed potatoes that ~~meet blue tag requirements, but~~ are graded according to agreement between the seller and the purchaser as to size and defects, except that not more than one-half percent of soft rot, frozen, or wet breakdown and two percent dry rot is allowed.

The use of the white tag certified seed potato grade must be restricted to intrastate shipments.

[For text of subps 5 and 6, see M.R.]

Subp. 7. **Definitions.** For the purpose of ~~this part 1555.6950~~, the following terms in items A to J have the meanings given them unless the context clearly indicates otherwise:

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

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

I. "Damage" means any defect or combination of defects which materially affects the appearance of the individual potato or which cannot be removed without a loss of more than five percent of the total weight of the potato including the peel covering the defective area. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

[For text of subitems (1) and (2), see M.R.]

(3) air cracks ~~which are deep, or shallow air cracks which materially affect the appearance of the individual~~ when removal causes a loss of more than five percent of the total weight of the potato;

[For text of subitems (4) to (7), see M.R.]

J. "Serious damage" means any defect or combination of defects which seriously affects the appearance of the individual potato or which cannot be removed without a loss of more than ten percent of the total weight of the potato including the peel covering the defective area. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as serious damage:

[For text of subitems (1) to (5), see M.R.]

(6) surface or pitted scab, individually or in combination, which covers an area of more than twenty-five percent of the surface of the potato in the aggregate, or causes a loss of more than ten percent of the total weight of the potato including peel covering defective area;

(7) wireworm and air cracks when removal causes a loss of more than ten percent of the total weight of the potato.

Department of Commerce

Proposed Permanent Rules Relating to Actuarial Opinion and Memorandum

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department of Commerce intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes*, sections 45.023, and 61A.25 subd. 2a.

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

Any person may make a written request for a public hearing on the rules within the 30-day comment period. 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 rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the department will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted on or before November 25, 1992 to:

Donna M. Watz
Staff Attorney
Minnesota Department of Commerce
133 East Seventh Street
St. Paul, Minnesota 55101
(612) 297-1118

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

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

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Donna M. Watz, Staff Attorney, at the above referenced address.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form related to legality. Any person may request notification of

the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Donna M. Watz, Staff Attorney at the above-reference address.

Dated: 12 October 1992

Bert J. McKasy
Commissioner of Commerce

Rules as Proposed (all new material)

REGULATION OF ACTUARIAL OPINION AND MEMORANDUM

2711.0020 PURPOSE.

The purpose of this chapter is to prescribe:

- A. guidelines and standards for statements of actuarial opinion which are to be submitted in accordance with *Minnesota Statutes*, section 61A.25, subdivisions 2a and 2b, and for memoranda in support of these opinions;
- B. guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from *Minnesota Statutes*, section 61A.25, subdivision 2b; and
- C. rules applicable to the appointment of an appointed actuary.

2711.0030 APPLICATION AND SCOPE.

Subpart 1. **Generally.** This chapter applies to all life insurance companies and fraternal benefit societies doing business in this state and to all life insurance companies and fraternal benefit societies which are authorized to reinsure life insurance, annuities, or accident and health insurance business in this state. This chapter applies to all annual statements filed with the office of the commissioner after the effective date of this chapter. Except with respect to companies which are exempted pursuant to part 2711.0060, a statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with part 2711.0080, and a supporting memorandum in accordance with part 2711.0090, shall be required each year. A company so exempted must file a statement of actuarial opinion pursuant to part 2711.0070.

Subp. 2. **Opinions from exempt companies.** Notwithstanding 1, the commissioner shall require a company otherwise exempt pursuant to this chapter to submit a statement of actuarial opinion and to prepare a supporting memorandum in accordance with parts 2711.0080 and 2711.0090 if, after a financial analysis of the company the commissioner determines whether the insurer's asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity, or diversity to assure the company's ability to meet its outstanding obligations as they mature, an asset adequacy analysis is necessary with respect to the company.

2711.0040 DEFINITIONS.

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

Subp. 2. **Actuarial Standards Board.** "Actuarial Standards Board" is the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

Subp. 3. **Annual statement.** "Annual statement" means that statement required by *Minnesota Statutes*, section 60A.13, to be filed by the company with the office of the commissioner annually.

Subp. 4. **Appointed actuary.** "Appointed actuary" means an individual who is appointed or retained in accordance with part 2711.0050, subpart 3, to provide the actuarial opinion and supporting memorandum as required by *Minnesota Statutes*, section 61A.25, subdivisions 2a and 2b.

Subp. 5. **Asset adequacy analysis.** "Asset adequacy analysis" means an analysis that meets the standards and other requirements in part 2711.0050, subpart 4. It may take many forms, including, but not limited to, cash flow testing, sensitivity testing, or applications of risk theory.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subp. 7. **Company.** "Company" means a life insurance company, fraternal benefit society, or reinsurer subject to this chapter.

Subp. 8. **NAIC.** "NAIC" means the National Association of Insurance Commissioners.

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Subp. 9. **Noninvestment grade bonds.** "Noninvestment grade bonds" are those designated as class 3, 4, 5, or 6 by the NAIC Securities Valuation Office.

Subp. 10. **Qualified actuary.** "Qualified actuary" means an individual who meets the requirements in part 2711.0050, subpart 2.

2711.0050 GENERAL REQUIREMENTS.

Subpart 1. **Submission of statement of actuarial opinion.**

A. There is to be included on or attached to page 1 of the annual statement for each year the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with part 2711.0080. A company exempted pursuant to part 2711.0060 from submitting a statement of actuarial opinion in accordance with part 2711.0080 shall include on or attach to page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with part 2711.0070.

B. If in the previous year a company provided a statement of actuarial opinion in accordance with part 2711.0070, and in the current year fails the exemption criteria of part 2711.0060, subpart 3, item A, B, or E, to again provide an actuarial opinion in accordance with part 2711.0070, the statement of actuarial opinion in accordance with part 2711.0080 shall not be required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with part 2711.0070 with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with part 2711.0080.

C. In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the commissioner may accept the statement of actuarial opinion filed by the company with the insurance supervisory regulator of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

Subp. 2. **Qualified actuary.** A "qualified actuary" is an individual who:

- A. is a member in good standing of the American Academy of Actuaries;
- B. is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing these statements;
- C. is familiar with the valuation requirements applicable to life and health insurance companies;
- D. has not been found by the commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:
 - (1) violated any provision of, or any obligation imposed by, the state insurance law or other law in the course of the actuary's dealings as a qualified actuary;
 - (2) been found guilty of fraudulent or dishonest practices;
 - (3) demonstrated incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;
 - (4) submitted to the commissioner during the past five years, pursuant to this chapter, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this chapter including standards set by the Actuarial Standards Board; or
 - (5) resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards of the American Academy of Actuaries; and
- E. has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under item D.

Subp. 3. **Appointed actuary.** An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by this chapter, either directly by or by the authority of the board of directors through an executive officer of the company. The company shall give the commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm), and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in the notice that the person meets the requirements in subpart 2. Once the notice is furnished, no further notice is required with respect to this person, if the company gives the commissioner timely written notice if the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements in subpart 2. If a person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice must so state and give the reasons for replacement.

Subp. 4. **Standards for asset adequacy analysis.** The asset analysis required by this chapter must:

A. conform to the standards of practice as promulgated from time to time by the Actuarial Standards Board and to any additional standards under this chapter, which standards are to form the basis of the statement of actuarial opinion in accordance with part 2711.0080; and

B. be based on methods of analysis considered appropriate for these purposes by the Actuarial Standards Board.

Subp. 5. Liabilities to be covered.

A. Under authority of *Minnesota Statutes*, section 61A.25, subdivisions 2a and 2b, the statement of actuarial opinion applies to all in-force business on the statement date regardless of when or where issued, for example, reserves of exhibits 8, 9, and 10, and claim liabilities in exhibit 11, part 1, and equivalent items in the separate account statement or statements.

B. If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods in *Minnesota Statutes*, section 61A.25, subdivisions 4, 4a, 7, 8, and 9, the company shall establish this additional reserve.

C. For years ending before December 31, 1994, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following:

- (1) December 31, 1992, the additional reserve divided by three; and
- (2) December 31, 1993, two times the additional reserve divided by three.

D. Additional reserves established under item B or C and considered not necessary in subsequent years may be released. Amounts released must be disclosed in the actuarial opinion for the applicable year. The release of these reserves is not considered an adoption of a lower standard of valuation.

2711.0060 REQUIRED OPINIONS.

Subpart 1. General. In accordance with *Minnesota Statutes*, section 61A.25, subdivisions 2a and 2b, every company doing business in this state shall annually submit the opinion of an appointed actuary as provided for by this chapter. The type of opinion submitted is determined by this part and must be in accordance with this chapter.

Subp. 2. Company categories. For purposes of this chapter, companies shall be classified according to items A to D based on the admitted assets as of the end of the calendar year for which the actuarial opinion is applicable.

- A. Category A consists of those companies whose admitted assets do not exceed \$20,000,000.
- B. Category B consists of those companies whose admitted assets exceed \$20,000,000 but do not exceed \$100,000,000.
- C. Category C consists of those companies whose admitted assets exceed \$100,000,000 but do not exceed \$500,000,000.
- D. Category D consists of those companies whose admitted assets exceed \$500,000,000.

Subp. 3. Exemption eligibility tests.

A. A category A company that for any year meets all of the criteria in subitems (1) to (4) is eligible for exemption from submission of a statement of actuarial opinion in accordance with part 2711.0080 for the year in which these criteria are met. The ratios in subitems (1) to (3) must be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

- (1) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to 0.10.
- (2) The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than 0.30.
- (3) The ratio of the statement value of the noninvestment grade bonds to the sum of capital and surplus is less than 0.50.

(4) The examiner team for the NAIC has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable; or the company has resolved such first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC life and health actuarial task force and the NAIC staff and support office.

B. A category B company that for any year meets all of the criteria in subitems (1) to (4) is eligible for exemption from submission of a statement of actuarial opinion in accordance with part 2711.0080 for the year in which the criteria are met. The ratios in subitems (1) to (3) must be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

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- (1) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to 0.07.
- (2) The ratio of the sum of reserves and liabilities for annuities and deposits to the total admitted assets is less than 0.40.
- (3) The ratio of the statement value of the noninvestment grade bonds to the sum of capital and surplus is less than 0.50.

(4) The examiner team for the NAIC has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable; or the company has resolved such first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC life and health actuarial task force and the NAIC staff and support office.

C. A category A or B company that meets all of the criteria in item A or B, whichever is applicable, is exempted from submission of a statement of actuarial opinion in accordance with part 2711.0080 unless the commissioner specifically indicates to the company that the exemption is not to be taken.

D. A category A or B company that for any year is not exempted under item C shall be required to submit a statement of actuarial opinion in accordance with part 2711.0080 for the year for which it is not exempt.

E. A category C company that, after submitting an opinion in accordance with part 2711.0080, meets all of the criteria in subitems (1) to (4) shall not be required, unless required in accordance with item F, to submit a statement of actuarial opinion in accordance with part 2711.0080 more frequently than every third year. A category C company which fails to meet all of the criteria in subitems (1) to (4) for any year shall submit a statement of actuarial opinion in accordance with part 2711.0080 for that year. The ratios in subitems (1) to (3) must be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

- (1) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to 0.05.

- (2) The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than 0.50.

- (3) The ratio of the statement value of the noninvestment grade bonds to the sum of the capital and surplus is less than 0.50.

(4) The examiner team for the NAIC has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable; or the company has resolved such first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC life and health actuarial task force and the NAIC staff and support office.

F. A company which is not required by this part to submit a statement of actuarial opinion in accordance with part 2711.0080 for any year shall submit a statement of actuarial opinion in accordance with part 2711.0070 for that year unless as provided for by part 2711.0030, subpart 2, the commissioner requires a statement of actuarial opinion in accordance with part 2711.0080.

Subp. 4. **Large companies.** A category D company shall submit a statement of actuarial opinion in accordance with part 2711.0080 for each year.

2711.0070 STATEMENT OF ACTUARIAL OPINION NOT INCLUDING AN ASSET ADEQUACY ANALYSIS.

Subpart 1. **General description.** The statement of actuarial opinion required by this part consists of a paragraph identifying the appointed actuary and the actuary's qualifications; a regulatory authority paragraph stating that the company is exempt pursuant to this chapter from submitting a statement of actuarial opinion based on an asset adequacy analysis and that the opinion, which is not based on an asset adequacy analysis, is rendered in accordance with part 2711.0070; a scope paragraph identifying the subjects on which the opinion is to be expressed and describing the scope of the appointed actuary's work; and an opinion paragraph expressing the appointed actuary's opinion as required by *Minnesota Statutes*, section 61A.25, subdivision 2a.

Subp. 2. **Recommended language.** The following language provided is that which in typical circumstances would be included in a statement of actuarial opinion in accordance with this part. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary must use language which clearly expresses the actuary's professional judgment. However, the opinion must retain all pertinent aspects of the language provided in this part.

A. The opening paragraph should indicate the appointed actuary's relationship to the company. For a company actuary, the opening paragraph of the actuarial opinion should read as follows:

"I, [name of actuary], am [title] of [name of company] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the board of directors of said insurer to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health companies."

For a consulting actuary, the opening paragraph of the actuarial opinion should contain a statement such as:

"I, [name and title of actuary], a member of the American Academy of Actuaries, am associated with the firm of [insert name of consulting firm]. I have been appointed by, or by the authority of, the board of directors of [name of company] to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

B. The regulatory authority paragraph should include a statement such as the following: "This company is exempt pursuant to *Minnesota Rules*, part 2711.0060, of the Minnesota Department of Commerce from submitting a statement of actuarial opinion based on an asset adequacy analysis. This opinion, which is not based on an asset adequacy analysis, is rendered in accordance with *Minnesota Rules*, part 2711.0070."

C. The scope paragraph should contain a sentence such as the following: "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 19..."

The paragraph should list items and amounts with respect to which the appointed actuary is expressing an opinion. The list should include but not be necessarily limited to:

- (1) aggregate reserve and deposit funds for policies and contracts included in exhibit 8;
- (2) aggregate reserve and deposit funds for policies and contracts included in exhibit 9;
- (3) deposit funds, premiums, dividend and coupon accumulations, and supplementary contracts not involving life contingencies included in exhibit 10; and
- (4) policy and contract claims—liability end of current year included in exhibit 11, part 1.

D. If the appointed actuary has examined the underlying records, the scope paragraph should also include the following:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic records and such tests of the actuarial calculations as I considered necessary."

E. If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force prepared by the company or a third party, the scope paragraph should include a sentence such as one of the following:

"I have relied upon listings and summaries of policies and contracts and other liabilities in force prepared by [name and title of company officer certifying in-force records] as certified in the attached statement. (See accompanying affidavit by a company officer.) In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

or

"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

The statement of the person certifying shall follow the form indicated by item J.

F. The opinion paragraph should include the following:

"In my opinion the amounts carried in the balance sheet on account of the actuarial items identified above:

- (1) are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated in accordance with sound actuarial principles;
- (2) are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;
- (3) meet the requirements of the insurance law and regulations of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

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(4) are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end with any exceptions as noted below; and

(5) include provision for all actuarial reserves and related statement items which ought to be established. The actuarial methods, considerations, and analyses used in forming my opinion conform to the appropriate standards of practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion."

G. The concluding paragraph should document the eligibility for the company to provide an opinion as provided by this part. It shall include the following:

"This opinion is provided in accordance with *Minnesota Rules*, part 2711.0070. As such it does not include an opinion regarding the adequacy of reserves and related actuarial items when considered in light of the assets which support them.

Eligibility for *Minnesota Rules*, part 2711.0070, is confirmed as follows:

(a) The ratio of the sum of capital and surplus to the sum of cash and invested assets is [insert amount], which equals or exceeds the applicable criterion based on the admitted assets of the company (*Minnesota Rules*, part 2711.0060, subpart 3).

(b) The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is [insert amount], which is less than the applicable criteria based on the admitted assets of the company (*Minnesota Rules*, part 2711.0060, subpart 3).

(c) The ratio of the statement value of the noninvestment grade bonds to the sum of capital and surplus is [insert amount], which is less than the applicable criteria of 0.50.

(d) To my knowledge, the NAIC examiner team has not designated the company as a first priority company in any of the two calendar years preceding the calendar for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable; or the company has resolved such first or second priority status to the satisfaction of the commissioner of the state of domicile, and has provided the necessary NAIC notification.

(e) To my knowledge there is not a specific request from any commissioner requiring an asset adequacy analysis opinion.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary"

H. If there has been any change in the actuarial assumptions from those previously employed, that change should be described in the annual statement or in a paragraph of the statement of actuarial opinion, and the reference in item F, paragraph (d), to consistency should read as follows:

"...with the exception of the change described on page [...] of the annual statement (or in the preceding paragraph)."

The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this paragraph.

I. If the appointed actuary is unable to form an opinion, the actuary shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, the actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reasons for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

J. If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force, there should be attached to the opinion the statement of a company officer or accounting firm who prepared underlying data similar to the following:

"I, [name of officer], [title] of [name and address of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19..., prepared for and submitted to [name of appointed actuary], were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

Signature of the Officer of the Company
or Accounting Firm

Address of the Officer of the Company
or Accounting Firm

Telephone Number of the Officer of the
Company or Accounting Firm

2711.0080 STATEMENT OF ACTUARIAL OPINION BASED ON AN ASSET ADEQUACY ANALYSIS.

Subpart 1. **General description.** The statement of actuarial opinion submitted in accordance with this part shall consist of:

- A. a paragraph, as required by subpart 2, item A, identifying the appointed actuary and the actuary's qualifications;
- B. a scope paragraph, as required by subpart 2, item B, identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a delineation of the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis, and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed;
- C. a reliance paragraph, as required by subpart 2, item C, describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures, or assumptions (for example, anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios) supported by a statement of each expert in the form prescribed by subpart 5;
- D. an opinion paragraph, as required by subpart 2, item F, expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities; and
- E. one or more additional paragraphs as needed in individual company cases if the appointed actuary:
 - (1) considers it necessary to state a qualification of the actuary's opinion;
 - (2) must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;
 - (3) must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR), Interest Maintenance Reserve (IMR), or other mandatory or voluntary statement reserves for asset adequacy analysis;
 - (4) must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;
 - (5) must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release; or
 - (6) chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

Subp. 2. **Recommended language.** The following paragraphs are to be included in the statement of actuarial opinion in accordance with this part. The language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language which clearly expresses the actuary's professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this part.

A. The opening paragraph should generally indicate the appointed actuary's relationship to the company and the actuary's qualifications to sign the opinion. For a company actuary, the opening paragraph of the actuarial opinion should read as follows:

"I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the board of directors of said insurer to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

For a consulting actuary, the opening paragraph should contain a sentence such as:

"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting

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firm]. I have been appointed by, or by the authority of, the board of directors of [name of company] to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

B. The scope paragraph should include a statement such as the following:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 19... Delineated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.

Asset Adequacy Tested Amounts				Reserves and Liabilities	
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1) + (2) + (3) (4)
Exhibit 8					
A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability - Active					
F Disability - Disabled					
G Miscellaneous Total (Exhibit 8 Item 1, Page 3)	_____	_____		_____	_____
Exhibit 9					
A Active Life Reserve					
B Claim Reserve Total (Exhibit 9 Item 2, Page 3)	_____	_____		_____	_____
Exhibit 10					
1 Premiums and Other Deposit Funds					
1.1 Policyholder Premiums (Page 3, Line 10.1)					
1.2 Guaranteed Interest Contracts (Page 3, Line 10.2)					
1.3 Other Contract Deposit Funds (Page 3, Line 10.3)					
2 Supplementary Contracts Not Involving Life Contingencies (Page 3, Line 3)					
3 Dividend and Coupon Accumulations (Page 3, Line 5)					
Total Exhibit 10	_____	_____		_____	_____

Exhibit 11 Part 1

1	Life				
	(Page 3, Line 4.1)				
2	Health				
	(Page 3, Line 4.2)				
	Total Exhibit 11, Part 1	_____	_____	_____	_____
Separate Accounts					
	(Page 3, Line 27)	_____	_____	_____	_____
	TOTAL RESERVES	_____	_____	_____	_____
IMR (Page _____ Line _____) _____					
AVR (Page _____ Line _____) _____ (c)					

Notes:

- (a) The additional actuarial reserves are the reserves established under part 2711.0050, subpart 5, item B or C.
- (b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in part 2711.0050, subpart 4, by means of symbols which should be defined in footnotes to the table.
- (c) Allocated amount."

C. If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as the following:

"I have relied on [name], [title] for [e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and, as certified in the attached statement, ..."

or

"I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."

Such a statement of reliance on other experts should be accompanied by a statement by each of such experts of the form prescribed by subpart 5.

D. If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should also include the following:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary."

E. If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force and/or asset records prepared by the company or a third party, the reliance paragraph should include a sentence such as:

"I have relied upon listings and summaries [of policies and contracts, of asset records] prepared by [name and title of company officer certifying in-force records] as certified in the attached statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

or

"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."

Such a section must be accompanied by a statement by each person relied upon of the form prescribed in subpart 5.

F. The opinion paragraph should include the following:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

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

(1) are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

(2) are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

(3) meet the requirements of the insurance law and regulations of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

(4) are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); and

(5) include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the principal repayments and investment earnings from such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

The actuarial methods, considerations, and analyses used in forming my opinion conform to the appropriate standards of practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion."

or

"The following material change or changes which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: [Describe the change or changes.]"

Note: Choose one of the above two paragraphs, whichever is applicable.

"The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis."

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary

Subp. 3. Assumptions for new issues. The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this part.

Subp. 4. Adverse opinions. If the appointed actuary is unable to form an opinion, then the actuary shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then the actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reasons for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

Subp. 5. Reliance on data furnished by other persons. If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force and/or asset-oriented information, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared the underlying data similar to the following:

"I, [name of officer], [title], of [name of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19.., and other liabilities prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete."

Signature of the Officer of the Company
or Accounting Firm

Address of the Officer of the Company
or Accounting Firm

Telephone Number of the Officer of the
Company or Accounting Firm

and/or

"I, [name of officer], [title], of [name of company, accounting firm, or security analyst], hereby affirm that the listings, summaries, and analyses relating to data prepared for and submitted to [name of appointed actuary], in support of the asset-oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete."

Signature of the Officer of the Company,
Accounting Firm, or the Security Analyst

Address of the Officer of the Company,
Accounting Firm, or the Security Analyst

Telephone Number of the Officer of the Company,
Accounting Firm, or the Security Analyst

2711.0090 DESCRIPTION OF ACTUARIAL MEMORANDUM INCLUDING AN ASSET ADEQUACY ANALYSIS.

Subpart 1. General.

A. In accordance with *Minnesota Statutes*, section 61A.25, subdivisions 2a and 2b, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of the actuary's opinion regarding the reserves under a part 2711.0080 opinion. The memorandum shall be made available for examination by the commissioner upon the commissioner's request but shall be returned to the company after the examination and shall not be considered a record of the Department of Commerce or subject to automatic filing with the commissioner.

B. In preparing the memorandum, the appointed actuary may rely on, and include as a part of the actuary's own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of part 2711.0050, subpart 2, with respect to the areas covered in the memoranda, and so state in their memoranda.

C. If the commissioner requests a memorandum and no such memorandum exists or if the commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this chapter, the commissioner may designate a qualified actuary to review the opinion and prepare a supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but the review shall be directed and controlled by the commissioner.

D. The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the commissioner. Any information provided by the company to the reviewing actuary and included in the work papers is considered as material provided by the company to the commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the commissioner pursuant to *Minnesota Statutes*, section 61A.25, subdivision 2a, clause (j). The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this chapter for any one of the current year or the preceding three years.

Subp. 2. **Details of the memorandum section documenting asset adequacy analysis.** When an actuarial opinion under part 2711.0080 is provided, the memorandum must demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in part 2711.0050, subpart 4, and any additional standards under this chapter. It must specify:

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

Proposed Rules

A. for reserves:

(1) product descriptions including market description, underwriting and other aspects of a risk profile, and the specific risks the appointed actuary deems significant;

(2) source of liability in force;

(3) reserve method and basis;

(4) investment reserves; and

(5) reinsurance arrangements;

B. for assets:

(1) portfolio descriptions, including a risk profile disclosing the quality, distribution, and types of assets;

(2) investment and disinvestment assumptions;

(3) source of asset data; and

(4) asset valuation bases;

C. analysis basis:

(1) methodology;

(2) rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed;

(3) rationale for degree of rigor in analyzing different blocks of business;

(4) criteria for determining asset adequacy; and

(5) effect of federal income taxes, reinsurance, and other relevant factors;

D. summary of results; and

E. conclusions.

Subp. 3. **Conformity to standards of practice.** The memorandum must include the following statement:

"Actuarial methods, considerations, and analyses used in the preparation of this memorandum conform to the appropriate standards of practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

2711.0100 ADDITIONAL CONSIDERATIONS FOR ANALYSIS.

Subpart 1. **Aggregation.** For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with part 2711.0080, reserves and assets may be aggregated by either of the methods in item A or B.

A. Aggregate the reserves and related actuarial items, and the supporting assets, for different products or lines of business before analyzing the adequacy of the combined assets to mature the combined liabilities. The appointed actuary must be satisfied that the assets held in support of the reserves and related actuarial items so aggregated are managed in such a manner that the cash flows from the aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated.

B. Aggregate the results of asset adequacy analysis of one or more products or lines of business, the reserves for which prove through analysis to be redundant, with the results of one or more products or lines of business, the reserves for which prove through analysis to be deficient. The appointed actuary must be satisfied that the asset adequacy results for the various products or lines of business for which the results are so aggregated:

(1) are developed using consistent economic scenarios; or

(2) are subject to mutually independent risks, for example, the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves.

In the event of any aggregation, the actuary must disclose in the actuary's opinion that the reserves were aggregated on the basis of the method in item A or B, whichever is applicable, and describe the aggregation in the supporting memorandum.

Subp. 2. **Selection of assets for analysis.** The appointed actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, hereafter called "specified reserves." A particular asset or portion thereof supporting a group of specified reserves cannot support any other group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in subpart 3. If the method of asset allocation is not consistent from year to year, the extent of its inconsistency should be described in the supporting memorandum.

Subp. 3. **Use of assets supporting Interest Maintenance Reserve and Asset Valuation Reserve.** An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, must be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

The amount of the assets used for the AVR must be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets must be disclosed in the memorandum.

Subp. 4. **Required interest scenarios.** For the purpose of performing the asset adequacy analysis required by this chapter, the qualified actuary shall follow standards adopted by the Actuarial Standards Board; nevertheless, the appointed actuary must consider in the analysis the effect of at least the following interest rate scenarios:

- A. level with no deviation;
- B. uniformly increasing over ten years at a half percent per year and then level;
- C. uniformly increasing at one percent per year over five years and then uniformly decreasing at one percent per year to the original level at the end of ten years and then level;
- D. an immediate increase of three percent and then level;
- E. uniformly decreasing over ten years at a half percent per year and then level;
- F. uniformly decreasing at one percent per year over five years and then uniformly increasing at one percent per year to the original level at the end of ten years and then level; and
- G. an immediate decrease of three percent and then level.

For these and other scenarios which may be used, projected interest rates for a five-year treasury note need not be reduced beyond the point where such five-year treasury note yield would be at 50 percent of its initial level.

The beginning interest rates may be based on interest rates for new investments as of the valuation date similar to recent investments allocated to support the product being tested or be based on an outside index, such as treasury yields, of assets of the appropriate length on a date close to the valuation date. Whatever method is used to determine the beginning yield curve and associated interest rates should be specifically defined. The beginning yield curve and associated interest rates should be consistent for all interest rate scenarios.

Subp. 5. **Documentation.** The appointed actuary shall retain on file, for at least seven years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions, and the results obtained.

EFFECTIVE DATE. This chapter is effective five working days after notice of adoption is published in the *State Register* and applies to annual statements required to be filed in 1993 and subsequent years.

Department of Education

Proposed Permanent Rules Relating to Special Education; Revision of Certain Criteria

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Board of Education intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22 to 14.28. *Minnesota Statutes*, section 120.17, Subd. 3, charges the Board with the responsibility to promulgate rules that will provide standards and procedures appropriate for the implementation of special education services for students with disabilities by all school districts. This notice for rule making is not to initiate new rules but rather, provide technical amendments and clarifications to existing special education rules.

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

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 rules within the 30-day comment period which runs through November 30, 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 rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20.

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

Wayne Erickson
811 Capitol Square
550 Cedar St.
St. Paul, Minnesota 55101

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

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

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

The State Board of Education estimates that there will be no cost to local school districts in the state in order to implement the proposed revisions.

The following rules will be revised: 3525.1329, 3525.1333, 3525.1341, 3525.1343 and 3525.2925.

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

State Board of Education

Dated: 15 September 1992

State of Minnesota
Gene Mammenga
Secretary
State Board of Education

Rules as Proposed

3525.1329 EMOTIONAL OR BEHAVIORAL DISORDERS.

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

Subp. 2. **Criteria.** The team shall determine that a pupil is eligible as having an emotional or behavioral disorder and in need of special education and related services when the pupil meets the criteria in items A to D.

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

C. The combined results of prior documented interventions and the assessment data must establish significant impairments in one or more of the following areas: personal, social, academic, or vocational skills. This finding must be supported by data from two or more of the following procedures: adaptive behavior scales, sociometric or social skill measures, achievement or cognitive tests; grades, systematic behavioral checklists or observations, vocational skill inventories, or reports. The data must document that the impairment:

- (1) severely interferes with the pupil's or other students' ~~academic~~ educational performance;

[For text of subitems (2) to (4), see M.R.]

[For text of items D and E, see M.R.]

3525.1333 MENTALLY IMPAIRED: MILD-MODERATE/MODERATE-SEVERE.

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

Subp. 3. **Criteria for moderate-severe.** The team shall determine that a pupil is eligible as having a moderate-severe mental impairment and is in need of special education instruction and service if the pupil meets the criteria of both items A and B.

A. Performance that falls below the 10th percentile in the following adaptive behavior domains measured in both school and home or community on nationally-normed, technically adequate measures of adaptive behavior:

(1) personal or independent functioning, personal or social functioning, functional academic competencies, or vocational or occupational competencies; and

(2) ~~the pupil's performance does not exceed the 25th percentile in more than one domain; and~~

(3) the data is supported by written evidence drawn from two or more of the following sources:

[For text of units (a) to (h), see M.R.]

[For text of item B, see M.R.]

3525.1341 SPECIFIC LEARNING DISABILITY.

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

Subp. 2. **Criteria.** The team shall determine that a pupil has a specific learning disability and is in need of special education and related services when the pupil meets the criteria described in items A ~~to~~ through C. Information about each item must be sought from the parent and included as part of the assessment data. The assessment data must confirm that the disabling effects of the pupil's disability occur in a variety of settings.

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

3525.1343 SPEECH OR LANGUAGE IMPAIRMENTS.

Subpart 1. **Fluency disorder; definition and criteria.** "Fluency disorder" means the intrusion or repetition of sounds, syllables, and words; prolongations of sounds; avoidance of words; silent blocks; or inappropriate inhalation, exhalation, or phonation patterns. These patterns may also be accompanied by facial and body movements associated with the effort to speak. Fluency patterns that can be attributed only to dialectical, cultural, or ethnic differences or to the influence of a foreign language should not be identified as a disorder.

The team shall determine that a pupil has a fluency disorder and is eligible for speech or language special education when the pupil meets the criteria in both items A and B:

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

Subp. 2. **Voice disorder; definition and criteria.** "Voice disorder" means the absence of voice or presence of abnormal quality, pitch, resonance, loudness, or duration. Voice patterns that can be attributed only to dialectical, cultural, or ethnic differences or to the influence of a foreign language should not be identified as a disorder.

The team shall determine that a pupil has a voice disorder and is eligible for speech or language special education when the pupil meets the criteria in both items A and B:

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

Subp. 3. **Articulation disorder; definition and criteria.** "Articulation disorder" means the absence of or incorrect production of speech sounds that are developmentally appropriate. Articulation patterns that can be attributed only to dialectical, cultural, or ethnic differences or to the influence of a foreign language should not be identified as a disorder.

The team shall determine that a pupil has an articulation disorder and is eligible for speech or language special education when the pupil meets the criteria in item A and either item B, C, or D:

A. the behavior interferes with communication as judged by a teacher of communication disorders and either another adult or the child; and

B. test performance falls 2.0 standard deviations below the mean on a technically adequate, norm-referenced articulation test; and or

C. ~~speech intelligibility is affected as documented by two three-minute conversational speech samples; or~~

~~D-~~ performance on a pressure consonant test indicates problems in nasal resonance; or

~~E-~~ D. a pupil is nine years of age or older and a sound is consistently in error ~~during speech samples~~ as documented by two three-minute conversational speech samples.

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

Proposed Rules

Subp. 4. **Language disorder; definition and criteria.** "Language disorder" means a breakdown in communication as characterized by problems in expressing needs, ideas, or information that may be accompanied by problems in understanding. Language patterns that can be attributed only to dialectical, cultural, or ethnic differences or to the influence of a foreign language should not be identified as a disorder.

The team shall determine that a pupil has a language disorder and is eligible for speech or language special education services when the pupil meets the criteria in items A and B and either C or D:

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

3525.2925 USE OF BEHAVIORAL INTERVENTIONS WITH PUPILS.

[For text of subps 1 to 4, see M.R.]

Subp. 5. **Assessment.** An assessment must be performed consistent with the requirements in parts 3525.2500 to 3525.2750 before recommending or initiating a behavioral intervention using a regulated procedure. The assessment shall include an analysis of purpose and the effect of the behavior and the seriousness of the behavior to warrant the use of a regulated procedure. A minimum of two positive behavioral interventions must be attempted and documented as part of an assessment. The assessment summary report shall include:

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

D. review of frequent use of exempted procedures; e.g. ~~sitting in the hallway~~;

E. documentation that the assessment team has ruled out any other treatable cause such as a medical or health condition for the interfering behavior;

F. a description of the alternative procedures that have been considered and an explanation for why these are not expected to work; and

G. the proposed regulated procedures for the behavioral intervention planning.

If the use of a regulated procedure is being considered, a professional whose background and expertise in the use of positive approaches to behavioral intervention and the use of aversive and deprivation intervention must be on the pupil's team.

If a pupil's behavior is such that positive behavioral intervention has not been effective in achieving the goals of the IEP and the team recommends that a regulated procedure be used, an IEP team meeting must be scheduled to review the student's IEP. The team must specify what assessment data exists and if additional assessment is needed to determine which, if any, regulated procedure would be appropriate.

[For text of subps 6 to 10, see M.R.]

Department of Health

Proposed Permanent Rules Relating to Health Maintenance Organizations

Alternative Notices: Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing

I

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (Department) is hereby giving notice of its intent to adopt rules without a public hearing under the non-controversial rulemaking procedure of *Minnesota Statutes*, sections 14.22 to 14.28. However, if 25 or more persons request a hearing, thus necessitating that one be held pursuant to *Minnesota Statutes*, section 14.25, and in order to expedite the rulemaking process should that occur, the Department is at the same time hereby giving notice of the hearing on the proposed rules pursuant to *Minnesota Statutes*, section 14.131 to 14.20. The hearing will, of course, be cancelled if 25 or more people do not request that one be held. The hearing will also be cancelled if a sufficient number of people withdraw their requests for a hearing. With the comment period closing on November 25, 1992 there will be 14 days before the scheduled hearing date which is December 9, 1992. This 14 day period will give interested persons ample time to contact the Department to find out whether the hearing will be cancelled and to plan accordingly.

II

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Department proposes to adopt the above-captioned rules without a public hearing unless

25 or more persons submit written requests for a public hearing. The Department has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28.

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on November 25, 1992. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rule by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the rules, it is requested that the Department be informed of the specific amendments on which the hearing is being requested at the time that the hearing request is made. This will enable the Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by November 25, 1992. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes*, sections 14.131 to 14.20 and the hearing notice provided in Part III below.

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

Irene R. Goldman, Health Systems Analyst
Health Care Delivery Systems Division
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis, MN 55440
(612) 623-5292

The statutory authority of the Department to adopt the proposed rules is contained in *Minnesota Statutes*, section 62D.20.

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

- 1) Repeal the current rules governing availability and accessibility of care as found in *Minnesota Rules* 4685.1000;
- 2) define terms;
- 3) set out specific requirements for making primary and specialty physician services, hospital services and ancillary health services available and accessible;
- 4) establish geographic accessibility standards;
- 5) set out how exceptions for access to care and geographic accessibility will be evaluated;
- 6) set out coordination of care requirements;
- 7) require timely access to health care services;
- 8) set standards for access to emergency health care services;
- 9) establish requirements for continuity of care when a primary care provider leaves an HMO; and
- 10) correct one small grammatical error in the quality assurance rules currently in effect.

The proposed rules will be published in the *State Register* issue of October 26, 1992 and a free copy of the rules may be obtained from the Department by writing or telephoning Irene Goldman at the address or telephone number listed above.

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules has been prepared and may be obtained from the Department by writing or telephoning Irene Goldman at the address or telephone number listed above.

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

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

It is the position of the Department that these proposed rules are not subject to *Minnesota Statutes*, section 14.115 regarding small business considerations in rulemaking. The basis for this position is addressed in the statement of need and reasonableness.

If no hearing is required, upon adoption of the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 amendments as adopted should submit a written request to Irene Goldman at the address listed above.

III NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE-CAPTIONED RULES WITHIN THE 30 DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON December 9, 1992 IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 and *Minnesota Rules*, parts 1400.0200 to 1400.1200 in Room D, Veterans Service Building, 20 W. 12th Street, St. Paul, Minnesota 55155 on December 9, 1992 commencing at 9:00 a.m. All interested or affected persons, including representatives of association or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record should be mailed to:

Barbara L. Neilson
Administrative Law Judge
Office of Administrative Hearings
100 Washington Square
Suite 1700
Minneapolis, Minnesota 55401-2138
(612) 341-7604

Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Department and interested persons may respond in writing within five working days after the submission period ends to any new information submitted. No additional evidence may be submitted during the five-day period. This rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the administrative law judge.

If adopted, the proposed rules will:

- 1) Repeal the current rules governing availability and accessibility of care as found in *Minnesota Rules* 4685.1000;
- 2) define terms;
- 3) set out specific requirements for making primary and specialty physician services, hospital services and ancillary health services available and accessible;
- 4) establish geographic accessibility standards;
- 5) set out how exceptions for access to care and geographic accessibility will be evaluated;
- 6) set out coordination of care requirements;
- 7) require timely access to health care services;
- 8) set standards for access to emergency health care services;
- 9) establish requirements for continuity of care when a primary care provider leaves an HMO; and
- 10) correct one small grammatical error in the quality assurance rules currently in effect.

The proposed rules will be published in the *State Register* issue of October 26, 1992 and a free copy of the rules may be obtained from the Department by writing or telephoning Irene Goldman at the address or telephone number listed in Part II of this notice.

The statutory authority of the Department to adopt the proposed rules is contained in *Minnesota Statutes*, section 62D.20.

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

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

(1) engaged for pay or other consideration, or authorized to spend money by another individual, association, political subdivision, or public higher education system, who spends more than five hours in any month or more than \$250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

(2) who spends more than \$250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

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

Ethical Practices Board

First Floor, Centennial Office Building
658 Cedar Street

St. Paul, Minnesota 55155
(612) 296-5148

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

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

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

It is the position of the Department that these proposed rules are not subject to *Minnesota Statutes*, section 14.115 regarding small business consideration in rulemaking. The basis for this position is addressed in the statement of need and reasonableness.

IV NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING

**PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III
ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A
HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE. ALSO, THE
HEARING WILL BE CANCELLED IF A SUFFICIENT NUMBER OF PEOPLE
WITHDRAW REQUESTS FOR A HEARING IN RESPONSE TO PROPOSED REVISIONS
OF THE PROPOSED RULES BY THE DEPARTMENT.**

To be informed whether the hearing in Part III above will be held, please telephone Irene Goldman at the telephone number listed above in Part II of this notice before November 25, 1992 and leave your name, address, and telephone number. You will be notified if the hearing has been cancelled. You may also telephone Irene Goldman after November 25, 1992 for oral confirmation regarding the scheduled hearing.

Dated: 6 October 1992

Marlene E. Marschall
Commissioner of Health

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Proposed Rules

Rules as Proposed

DEFINITIONS

4685.0100 DEFINITIONS.

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

Subp. 3. **Act.** "Act" means the Health Maintenance Act of 1973, ~~Laws of Minnesota 1973, chapter 670, Minnesota Statutes~~, chapter 62D.

Subp. 3a. **Ancillary services.** "Ancillary services" means laboratory services, radiology services, durable medical equipment, pharmacy services, rehabilitative services, and similar services and supplies dispensed by order or prescription of the primary care physician, specialty physician, or other provider authorized to prescribe those services.

[For text of subps 4 and 4a, see M.R.]

Subp. 5. **Comprehensive health maintenance service.** "Comprehensive health maintenance service" means a group of services which includes at least all of the types of services defined below:

A. "Emergency care" means professional health services medically necessary care which is immediately necessary to preserve life or stabilize health, prevent serious impairment to bodily functions, organs or parts, or prevent placing the physical or mental health of the enrollee in serious jeopardy.

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

[For text of subps 6 to 8, see M.R.]

Subp. 8a. [See repealer.]

[For text of subps 9 and 9a, see M.R.]

Subp. 9b. **Medically necessary care.** "Medically necessary care" means health care services appropriate, in terms of type, frequency, level, setting, and duration, to the enrollee's diagnosis or condition, and diagnostic testing and preventive services. Medically necessary care must:

A. be consistent with generally accepted principles of practice as determined by health care providers in the same or similar general specialty as typically manages the condition, procedure, or treatment at issue; and

B. help restore or maintain the enrollee's health;

C. prevent deterioration of the enrollee's condition; or

D. prevent the possible onset of a health problem or detect an incipient problem.

Subp. 9c. **Member.** "Member" means enrollee, as defined by *Minnesota Statutes*, section 62D.02, subdivision 6. "Member" also means "subscriber," and the terms may be used interchangeably.

[For text of subps 10 to 12, see M.R.]

Subp. 12a. **Primary care physician.** "Primary care physician" means a licensed physician, either employed by or under contract with the health maintenance organization, who is in general practice, or who has special education, training, or experience, or who is board-certified or board-eligible and working toward certification by the American Board of Medical Specialists or the American Board of Osteopathy in family practice, pediatrics, internal medicine, or obstetrics and gynecology.

[For text of subp 13, see M.R.]

Subp. 13a. **Referral.** "Referral" means a prior written authorization from the health maintenance organization or an authorized provider that directs an enrollee to have one or more appointments with a health care provider, for consultation, diagnosis, or treatment of a medical condition, to be covered as a benefit under the enrollee's health maintenance organization contract.

Subp. 13b. **Specialty physician.** "Specialty physician" means a licensed physician, other than a primary care physician, either employed by or under contract with the health maintenance organization, who has specialized education, training, or experience, or who is board-certified or board-eligible and working toward certification in a specialty board approved by the American Board of Medical Specialists or the American Board of Osteopathy from the major areas of clinical services.

[For text of subps 14 and 15, see M.R.]

Subp. 16. **Urgently needed care.** "Urgently needed care" means medically necessary care which does not meet the definition of emergency care but is needed as soon as possible, usually within 24 hours.

ACCESSIBILITY OF SERVICES

4685.1010 AVAILABILITY AND ACCESSIBILITY.

Subpart 1. **Definitions.** For the purpose of this part, the terms in items A and B have the meanings given them.

A. “Centers of excellence” means medical facilities that provide specialized medical care such as organ transplants and coronary artery bypass surgery. Examples of criteria the health maintenance organization may use in designating a facility as a center of excellence are volume of services provided annually and the mortality and morbidity rates. Centers of excellence may be located within or outside the health maintenance organization’s service area.

B. “Service area” means the geographic locations in which the health maintenance organization is approved by the commissioner to sell its health maintenance organization products. Geographic locations shall be identified according to recognized political subdivisions such as cities, counties, and townships.

Subp. 2. Basic services. The health maintenance organization shall have available, either directly or through arrangements, appropriate and sufficient personnel, physical resources, and equipment to meet the projected needs of its enrollees for covered health care services. The health maintenance organization shall develop and implement written standards or guidelines which address the assessment of provider capacity to provide timely access to health care services in accordance with subpart 6.

A. Primary care physician services.

(1) Primary care physician services shall be available and accessible 24 hours per day, seven days per week within the health maintenance organization’s service area. The health maintenance organization shall fulfill this requirement through written standards for:

- (a) regularly scheduled appointments during normal business hours;
- (b) after hours clinics;
- (c) use of a 24-hour answering service with standards for maximum allowable call-back times based on what is medically appropriate to each situation;
- (d) back-up coverage by another participating primary care physician; and
- (e) referrals to urgent care centers, where available, and to hospital emergency care.

(2) The health maintenance organization shall provide or contract with a sufficient number of primary care physicians to meet the projected needs of its enrollees for primary care physician services.

(3) The health maintenance organization shall ensure that there are a number of primary care physicians with hospital admitting privileges at one or more participating general hospitals within the health maintenance organization’s service area so that necessary admissions are made on a timely basis consistent with generally accepted principles of practice.

B. Specialty physician services.

(1) The health maintenance organization shall contract for specialty physician services which are covered benefits and to which enrollees have continued access in the health maintenance organization’s service area. These services shall be available and accessible 24 hours per day, seven days per week. The health maintenance organization shall fulfill this requirement through written standards for:

- (a) regularly scheduled appointments during normal business hours;
- (b) after hours clinics;
- (c) use of a 24-hour answering service with standards for maximum allowable call-back times based on what is medically appropriate to each situation;
- (d) back-up coverage by another participating specialty physician; and
- (e) referrals to urgent care centers, where available, and to hospital emergency care.

(2) Specialty physician services to which enrollees do not have continued access, for example referrals for consultation or second opinions, shall be provided by the health maintenance organization through contracts or other arrangements with specialty physicians.

(3) The health maintenance organization shall ensure that there are a number of specialty physicians with hospital admitting privileges so that necessary admissions are made on a timely basis consistent with generally accepted principles of practice.

C. Services of facilities licensed as general hospitals under chapter 4640 (general hospital services) shall be provided through contracts between the health maintenance organization and hospitals. These services shall be available and accessible, on a timely

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basis consistent with generally accepted principles of practice, 24 hours per day, seven days per week within the health maintenance organization's service area. Services of facilities licensed as specialized hospitals under chapter 4640 (specialized hospital services), including chemical dependency and mental health services, shall be provided through contracts between the health maintenance organization or its contracted providers and hospitals, either within or outside the health maintenance organization's service area. These services shall be available during normal business hours consistent with generally accepted principles of practice.

D. The health maintenance organization shall contract with or employ sufficient numbers of providers of ancillary services to meet the projected needs of its enrollees. The services shall be available during normal daytime business hours consistent with generally accepted principles of practice.

E. The health maintenance organization shall contract with or employ sufficient numbers of qualified providers of outpatient mental health and chemical dependency services to meet the projected needs of its enrollees consistent with generally accepted principles of practice.

(1) Services for people with alcohol and other chemical dependency problems shall be provided by outpatient treatment programs licensed by the Minnesota Department of Human Services under parts 9530.5000 to 9530.6500 or by hospitals licensed under chapter 4640.

(2) Outpatient chemical dependency treatment programs serving adolescents must meet all of the requirements of the Minnesota Department of Human Services contained in part 9530.6400.

(3) Outpatient mental health services shall be provided by licensed psychiatrists, psychologists, social workers, marriage and family therapists, and psychiatric nurses, as appropriate in each case, and by mental health centers and mental health clinics licensed by the Minnesota Department of Human Services under chapter 9520.

(4) The health maintenance organization, either directly or through its contracted mental health or chemical dependency provider, shall have available services that are culturally specific or appropriate to a specific age, gender, or sexual preference.

F. The health maintenance organization shall contract for emergency care and urgently needed care to be available and accessible within the health maintenance organization's service area 24 hours per day, seven days per week. Contracts may be with hospitals, urgent care centers, and after hours clinics. Emergency care and urgently needed care provided by noncontracted providers shall be covered in accordance with subpart 7.

G. If a specific health maintenance organization provider refuses to continue to provide care to a specific health maintenance organization enrollee, the health maintenance organization shall furnish the enrollee with the name, address, and telephone number of other participating providers in the same area of medical specialty. Examples of reasons for refusal to continue to provide care to an enrollee are: unpaid bills incurred by that individual before enrollment in the health maintenance organization; unpaid copayments or coinsurance incurred by the enrollee after enrollment in the health maintenance organization; an enrollee who is uncooperative or abusive toward the provider; and the inability of the enrollee and the provider to agree on a course of treatment.

H. The health maintenance organization is responsible for implementing a system that assures that routine referrals, either by the health maintenance organization or by a participating provider, are made to participating providers. An enrollee cannot be held liable if the health maintenance organization provider, in error, gives a referral to a nonparticipating provider. This issue may be addressed in contracts between the health maintenance organization and its providers.

Subp. 3. Geographic accessibility.

A. The maximum travel distance or time within the health maintenance organization's service area to the nearest provider of primary care services or to the nearest general hospital provider shall be the lesser of 30 miles or 30 minutes. The health maintenance organization shall designate which method is used. The commissioner shall grant an exception to this requirement, as provided in subpart 4, if the health maintenance organization can demonstrate with specific data that the 30-mile or 30-minute requirement is not feasible in a particular service area or part of a service area.

B. The maximum travel distance or time within the health maintenance organization's service area to the nearest provider of specialty physician services, ancillary services, specialized hospital services, and all other health services shall be the lesser of 60 miles or 60 minutes. The health maintenance organization shall designate which method is used. The commissioner shall grant an exception to this requirement, as provided in subpart 4, if the health maintenance organization can demonstrate with specific data that the 60-mile or 60-minute requirement is not feasible in a particular service area or part of a service area.

C. The provisions of items A and B do not apply when enrollees are referred to centers of excellence for health care services.

Subp. 4. Exceptions for access to care and geographic accessibility. A request for an exception to the requirements of subparts 2 and 3 shall be considered a filing under part 4685.3300. The health maintenance organization shall submit specific data in support of its request. The commissioner shall consider the factors in items A to C in granting an exception if the health maintenance organization is unable to meet the requirements of subparts 2 and 3 in a particular service area or part of a service area.

A. the utilization patterns of the existing health care delivery system or the health maintenance organization's reasonably justified projections of utilization of health care services in the proposed service area;

B. the financial ability of the health maintenance organization to pay charges for health care services that are not provided under contract or by employees of the health maintenance organization. The commissioner shall determine what information must be submitted by the health maintenance organization in order to demonstrate its financial ability to pay charges and may require an analysis of the impact on minimum loss ratio requirements; and

C. the health maintenance organization's system of documentation of authorized referrals to nonparticipating providers. This system of documentation of authorized referrals shall explain how, under certain circumstances, enrollees will be given referrals to nonparticipating providers, either by the health maintenance organization or by a provider acting on behalf of the health maintenance organization.

Subp. 5. Coordination of care.

A. The health maintenance organization shall provide the services of primary care physicians, either directly or through contracts or other arrangements, to provide initial and basic care to enrollees. In plans in which referrals to specialty physicians and ancillary services are required, the primary care physicians shall initiate the referrals. The health maintenance organization shall inform its primary care physicians of their responsibility to provide written referrals and any specific procedures that must be followed in providing referrals. If requested by an enrollee, or if determined necessary because of a pattern of inappropriate utilization of services, an enrollee's health care may be supervised and coordinated by the primary care physician. An enrollee who is dissatisfied with the assigned or selected primary care physician shall be allowed to change primary care physicians in accordance with the health maintenance organization's procedures and policies.

B. The health maintenance organization shall provide for the coordination and continuity of care for enrollees given a referral to specialty physicians and, where possible, provide this coordination through the enrollee's primary care physician.

Subp. 6. Timely access to health care services.

A. The health maintenance organization, either directly or through its provider contracts, shall arrange for covered health care services, including referrals to participating and nonparticipating specialty physicians, to be accessible to enrollees in accordance with medically appropriate guidelines consistent with generally accepted principles of practice.

B. The health maintenance organization or its participating providers shall have appointment scheduling guidelines based on type of health care service. Examples of types of health care services include well baby and well child examinations, prenatal care appointments, routine physicals, follow up appointments for chronic conditions such as high blood pressure, and diagnosis of acute pain or injury.

Subp. 7. Access to emergency care.

A. In accordance with the requirements of Minnesota Statutes, section 62D.07, the health maintenance organization shall inform its enrollees, through the evidence of coverage or contract, as well as through other forms of communication, how to obtain emergency care.

B. The health maintenance organization may require enrollees to notify it of nonreferred emergency care, including mental health and chemical dependency care, as soon as possible after emergency care is initially provided, and no later than 48 hours after becoming physically or mentally able to give notice. However, the health maintenance organization shall make exceptions in situations in which:

(1) the enrollee is physically or mentally unable to give notice within 48 hours; and

(2) emergency care would have been covered under the contract had notice been provided within the 48-hour time period.

C. Emergency care shall be covered whether provided by participating or nonparticipating providers.

D. Emergency care shall be covered whether provided within or outside the health maintenance organization's service area.

E. In determining whether care is reimbursable as emergency care, the health maintenance organization shall take the following factors into consideration:

(1) a reasonable person's belief that the circumstances required immediate medical care that could not wait until the next working day or next available clinic appointment;

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(2) the time of day and day of week the care was provided;

(3) the presenting symptoms, to ensure that the decision to reimburse as emergency care shall not be made solely on the basis of the actual diagnosis;

(4) the enrollee's efforts to follow the health maintenance organization's established procedures for obtaining emergency care; and

(5) any circumstances which precluded use of the health maintenance organization's established procedures for obtaining emergency care.

In processing the claim, the health maintenance organization shall obtain sufficient information from the provider of emergency care, including the presenting symptoms, to enable the health maintenance organization to make an informed determination as to whether reimbursement as emergency care is appropriate.

Subp. 8. Continuity of care in the event of contract termination.

A. The health maintenance organization shall prepare a written plan that provides for continuity of care in the event of contract termination between the health maintenance organization and any of its contracted primary care providers or general hospital providers, or in the event of site closings involving a primary care provider with more than one location of service.

B. The written plan shall explain how:

(1) if the health maintenance organization has received at least 120 days' prior notice of the termination or site closing, the health maintenance organization will inform the affected enrollees about the termination or site closing at least 30 days before the termination or closing is effective. The health maintenance organization will also inform the affected enrollees what other participating providers are available to assume their care; and

(2) the health maintenance organization will facilitate an orderly transfer of its enrollees from the terminating provider or closing provider site to the new provider so that continuity of care is maintained.

C. The written plan shall explain the procedures by which enrollees will be transferred to other participating providers unless special circumstances require them to be transferred to nonparticipating providers.

D. The written plan shall explain who will identify enrollees with special medical needs or at special risk and what criteria will be used for this determination.

E. The written plan shall explain how continuity of care will be provided for enrollees identified as having special medical needs or at special risk. The health maintenance organization can assign this responsibility to its contracted primary care providers.

F. The written plan shall explain how, if the contract termination was not for cause, enrollees will be informed that they can request a referral to the terminating provider if medical circumstances warrant. The health maintenance organization can require medical records and other supporting documentation in support of the requested referral. Each request for referral to a terminating provider shall be considered by the health maintenance organization on a case-by-case basis.

G. The written plan shall explain how, if the contract termination was for cause, enrollees will be notified of the change and transferred to participating providers in a timely manner so that health care services remain available and accessible to the affected enrollees. If the contract was terminated by the health maintenance organization for cause, the health maintenance organization shall not be required to refer an enrollee back to the terminating provider.

QUALITY ASSURANCE

4685.1115 ACTIVITIES.

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

Subp. 2. **Scope.** The components of the health maintenance organization subject to evaluation include the following:

[For text of item A, see M.R.]

B. Organizational components which are the aspects of the health plan that affect accessibility, availability, comprehensiveness, and continuity of health care, and which include the following:

- (1) referrals;
- (2) case management;
- (3) discharge planning;
- (4) appointment scheduling and waiting periods for all types of health care ~~of providers~~ services;
- (5) second opinions, as applicable;
- (6) prior authorizations, as applicable;

(7) provider reimbursement arrangements; and

(8) other systems, procedures, or administrative requirements used by the health maintenance organization that affect delivery of care.

[For text of item C, see M.R.]

4685.3300 PERIODIC FILINGS.

[For text of subps 1a to 8, see M.R.]

Subp. 9. **Service area expansion.** The filing of a request to expand a service area must be accompanied by sufficient supporting documentation including the following:

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

H. any other information relating to documentation of service area, facility, and personnel availability and accessibility to allow a determination of compliance with part ~~4685.1000~~ 4685.1010.

[For text of subps 10 to 11, see M.R.]

REPEALER. Minnesota Rules, parts 4685.0100, subpart 8a; and 4685.1000, are repealed.

Department of Health

Proposed Permanent Rules Relating to Merit System

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 Health 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 144.071.

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 11, 1992, IN CONFERENCE ROOMS 5B AND 5C, HUMAN SERVICES BUILDING, 444 LAFAYETTE ROAD, ST. PAUL, MINNESOTA 55155, AT 9:00 A.M., 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 HEALTH. To verify whether a hearing will be held, please call the Minnesota Merit System between November 26, 1992 and December 10, 1992 at (612) 296-3996.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Betty Carlson
Minnesota Merit System
2nd floor, Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3822

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 25, 1992.

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Proposed Rules

The proposed rule may be modified if the modifications are supported by data and views 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: Betty Carlson, Minnesota Merit System, 2nd Floor, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota, 55155-3822, telephone (612) 296-3996.

The Minnesota Merit System rules provide for a system of personnel administration for local and county health and human services agencies. The rules apply to all positions funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration. The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 CFR Part 900).

A proposed revision to 4670.1320 provides for a recommended salary adjustment of 2.5% for all incumbents on the professional and administrative, health services support, clerical and building maintenance salary schedules who are covered by Merit System compensation plans, to be effective January 1, 1993.

Proposed revisions to 4670.4200-4240 (the compensation plan) provide for an adjustment of 2.5% to the minimum and maximum salaries for classes covered by the Merit System, effective January 1, 1993.

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 Betty Carlson at the address or telephone number listed above.

Adoption of these rules will not result in additional spending by local public bodies in the excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Betty Carlson at the address or telephone number listed 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 Betty Carlson at the address above.

Dated: 30 September 1992

Marlene E. Marschall
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 Conference Rooms 5B and 5C, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155 on December 11, 1992, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. 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 CANCELED 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 HEALTH. To verify whether a hearing will be held, please call the Minnesota Merit System between November 26, 1992 and December 10, 1992 at (612) 296-3996.

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 #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 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 procedure may be directed to the Administrative Law Judge.

The Minnesota Merit System rules provide for a system of personnel administration for local and county health agencies. The rules apply to all positions and employees engaged in the administration of emergency management programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration. The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 CFR Part 900).

A proposed revision to 4670.1320 provides for a recommended salary adjustment of 2.5% for all incumbents on the professional and administrative, health services support, clerical and building maintenance salary schedules who are covered by Merit System compensation plans, to be effective January 1, 1993.

Proposed revisions to 4670.4200-4240 (the compensation plan) provide for an adjustment of 2.5% to the minimum and maximum salaries for classes covered by the Merit System, effective January 1, 1993.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 144.071. Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. 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 Betty Carlson, Department of Human Services, 2nd Floor, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155-3822, telephone 612/296-3996.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Betty Carlson at the address above.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Betty Carlson at the address or telephone number listed above.

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

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

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

Dated: 30 September 1992

Marlene E. Marschall
Commissioner

Rules as Proposed

4670.1320 RECOMMENDED ADJUSTMENTS.

The merit system general adjustment recommended for incumbents is ~~2-1/4~~ 2-1/2 percent for employees on the professional and administrative, health services support, clerical, and building maintenance salary schedules.

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Proposed Rules

4670.4210 PROFESSIONAL AND ADMINISTRATIVE COMPENSATION PLAN, ~~1992~~ 1993.

Subpart 1. Plan.

	Minimum	Maximum
Assistant Director of Environmental Health	2338 <u>2396</u>	3654 <u>3742</u>
Director of Environmental Health	2675 <u>2742</u>	4179 <u>4283</u>
Director of Public Health Nursing	2235 <u>2291</u>	3654 <u>3742</u>
Public Health Educator	1873 <u>1920</u>	3192 <u>3272</u>
Public Health Nurse	1964 <u>2010</u>	3052 <u>3128</u>
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	1873 <u>1920</u>	2923 <u>2996</u>
Sanitarian	1790 <u>1835</u>	2923 <u>2996</u>

4670.4220 HEALTH SERVICES SUPPORT PERSONNEL COMPENSATION PLAN.

Subpart 1. Plan.

	Minimum	Maximum
Bookkeeper	1280 <u>1312</u>	2000 <u>2050</u>
Home Health Aide	1224 <u>1255</u>	1830 <u>1876</u>
Home Health Aide Coordinator	1437 <u>1473</u>	2142 <u>2196</u>
Inspector	1437 <u>1473</u>	2142 <u>2196</u>
Licensed Practical Nurse	1437 <u>1473</u>	2142 <u>2196</u>
Public Health Aide	1049 <u>1075</u>	1713 <u>1756</u>

4670.4230 CLERICAL COMPENSATION PLAN.

Subpart 1. Plan.

	Minimum	Maximum
Clerk I	902 <u>925</u>	1467 <u>1504</u>
Clerk II	1049 <u>1075</u>	1713 <u>1756</u>
Clerk III	1224 <u>1255</u>	1830 <u>1876</u>
Clerk-Typist I	985 <u>1010</u>	1600 <u>1640</u>
Clerk-Typist II	1049 <u>1075</u>	1713 <u>1756</u>
Clerk-Typist III	1311 <u>1344</u>	1964 <u>2010</u>
Clerk-Steno	1049 <u>1075</u>	1713 <u>1756</u>
Switchboard Operator	985 <u>1010</u>	1600 <u>1640</u>

4670.4240 BUILDING MAINTENANCE COMPENSATION PLAN.

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

Subp. 2. Shift differential; janitors.

	Minimum	Maximum
Janitor	1049 <u>1075</u>	1713 <u>1756</u>

Department of Health

Proposed Permanent Rules Relating to Infectious Waste

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing on the Proposed Rules if Fewer Than 25 Persons Request a Hearing

I

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (hereinafter "Department") hereby proposes to adopt rules without a public hearing under the rulemaking procedure of *Minnesota Statutes*, sections 14.22 to 14.28. However, if 25 or more persons request a hearing on the proposed rules, one will be held according to *Minnesota Statutes*, section 14.25. To expedite the rulemaking process should that occur,

the Department is at the same time giving notice of hearing on the proposed rules according to *Minnesota Statutes*, section 14.131 to 14.20. The hearing on the proposed rules will be cancelled if 25 or more persons do not request that one be held. With the comment period closing at 4:30 p.m. on November 25, 1992, there will be 14 days before the scheduled hearing date. This 14-day period will give interested persons time to contact the Department to find out whether the hearing will be cancelled.

II NOTICE OF INTENT TO ADOPT PROPOSED RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health (hereinafter "Department") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing with respect to the proposed rules. The Department has elected to follow the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28.

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comment in support of or in opposition to the proposed rules. The 30 days will expire on November 25, 1992. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rules by the commentor. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request, in writing, during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portions of the proposed rules addressed, the reason for the request, and any changes the commentor wants made to the proposed rules. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Department be informed of the specific portion of the rules on which the hearing is being requested at the time that the hearing request is made. This will enable the Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed amendments or a portion thereof by 4:30 p.m. on November 25, 1992 thus necessitating that one be held with respect to the proposed rules. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes*, sections 14.131 to 14.20 and the hearing notice provided in section III below.

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

Sheila Brunelle
Environmental Health Division
Minnesota Department of Health
925 Southeast Delaware Street
Minneapolis, Minnesota 55459-0040
(612) 627-5114

Statutory authority to adopt the proposed rules to implement the Infectious Waste Control Act is contained in *Minnesota Statutes*, section 116.81, subdivision 2. The Commissioner of Health also has authority to oversee the sanitary conditions in hospitals, mortuaries and other public places and specified in *Minnesota Statutes*, section 144.12, subdivision 1, clauses (1), (2), (3), (6), (7) and (10) and section 149.05, subdivision 1 (3).

The proposed rules are published immediately following this notice in the *State Register* on October 26, 1992 and a free copy of the rules may be obtained from the Department by writing or telephoning Sheila Brunelle at the address or telephone number listed above.

The proposed rules establish criteria and procedures for the: 1) on-site management of infectious waste and pathological waste by the generators of such waste; and 2) development and submission of generator management plans. Parts 4622.0100 to 4622.1200 directly implement the Infectious Waste Control Act. Amendments to part 4610.2300 (relating to mortuaries and funeral establishments), parts 4655.9070 (relating to nursing homes), and part 4675.2205 (relating to free standing surgical centers) are proposed to bring those existing standards into compliance with the proposed state standards for the management of infectious waste and submission of generator management plans. A complete copy of the proposed certified rules is attached to this notice.

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and may be obtained from the Department by writing or telephoning Sheila Brunelle at the address or telephone number listed above.

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

After the close of the comment period on the proposed rules, if no hearing is required, the Department will submit to the Attorney General the proposed rules and notice as published, the rules as proposed for adoption, any written comments received by the Department, the statement of need and reasonableness, and a statement explaining any modifications to the proposed rules. The Attorney General will approve and disapprove the rules as to their legality and their form, including the issue of substantial change and determine whether the Department has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. The Department will give notice to all persons who request to be informed that these materials have been submitted to the Attorney General. Persons who wish to be advised of the submission of these materials to the Attorney General should submit a written request to Sheila Brunelle at the address listed above. If the proposed rule has been modified, the notice will also state that fact and will state that a free copy of the proposed rule, as modified, will be available upon request from the Department.

LOCAL GOVERNMENT CONSIDERATIONS

The adoption of the proposed rules will not require the expenditure of public money by local public bodies of greater than \$100,000 in the two years following promulgation. The Infectious Waste Control Act has been in effect and applicable to generators since adoption in 1989. The basic management provisions of the act including the submission of fees, the development of generator waste management plans and the application of most waste management practices are already prescribed by law. Using its authority under the act, the Department has solicited the submission of and received generator management plans from persons the Department identified as potential generators of infectious and pathological waste. The Department does not anticipate that the proposed rules embody basic requirements not already delineated by law.

AGRICULTURAL LAND

The proposed rule amendments will not have a direct and substantial adverse impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes*, section 14.11.

SMALL BUSINESS CONSIDERATIONS

The Department is subject to *Minnesota Statutes*, section 14.115 regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

III

NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING ON THE PROPOSED RULES

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING ON THE PROPOSED RULES WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON THURSDAY, DECEMBER 10, 1992 IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held under *Minnesota Statutes*, sections 14.131 to 14.20, in Room 5 of the State Office Building, 100 Constitution Avenue, St. Paul, Minnesota, on Thursday, December 10, 1992, commencing at 9:00 a.m.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Howard L. Kaibel Jr., Administrative Law Judge, Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone (612) 341-7608.

Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Department and interested persons may respond in writing within five business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the five-day period. This rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the administrative law judge.

Statutory authority to adopt proposed rules to implement the Infectious Waste Control Act is contained in *Minnesota Statutes*, section 116.81, subdivision 2. The Commissioner of Health also has authority to oversee the sanitary conditions in hospitals, mortuaries and other public places and specified in *Minnesota Statutes*, section 144.12, subdivision 1, clauses (1), (2), (3), (6), (7) and (10) and section 149.05, subdivision 1 (3).

The proposed rules are published immediately following this notice in the *State Register* on October 26, 1992, and a free copy of the rule amendment may be obtained from the Department by writing or telephoning Sheila Brunelle listed above in Part II of this notice.

The proposed rules establish criteria and procedures for the: 1) on-site management of infectious waste and pathological waste by the generators of such waste; and 2) development and submission of generator management plans. Parts 4622.0100 to 4622.1200 directly implement the Infectious Waste Control Act. Amendments to part 4610.2300 (relating to mortuaries and funeral establishments), part 4655.9070 (relating to nursing homes), and part 4675.2205 (relating to free standing surgical centers) are proposed to bring those existing standards into compliance with the proposed state standards for the management of infectious waste and submission of generator management plans. A complete copy of the proposed certified rules is attached to this notice.

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

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Questions should be directed to the Ethical Practices Board, First Floor South, Centennial Office Building, St. Paul, Minnesota 55155, telephone: (612) 296-5148.

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

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

LOCAL GOVERNMENT CONSIDERATIONS

The adoption of the proposed rules will not require the expenditure of public money by local public bodies of greater than \$100,000 in the two years following promulgation. The Infectious Waste Control Act has been in effect and applicable to generators since adoption in 1989. The basic management provisions of the act including the submission of fees, the development of generator waste management plans and the application of most waste management practices are already prescribed by law. Using its authority under the act, the Department has solicited the submission of and received generator management plans from persons the Department identified as potential generators of infectious and pathological waste. The Department does not anticipate that the proposed rules embody basic requirements not already delineated by law.

AGRICULTURAL LAND

The proposed rule amendments will not have a direct and substantial adverse impact on agricultural land; therefore, no further information need to be provided under *Minnesota Statutes*, section 14.11.

SMALL BUSINESS CONSIDERATIONS

The Department is subject to *Minnesota Statutes*, section 14.115, regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

IV

NOTICE OF INTENT TO CANCEL HEARING ON THE PROPOSED RULES IF FEWER THAN 25 PERSONS REQUEST A HEARING ON THE PROPOSED RULES

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED ON THE PROPOSED RULES IF FEWER THAN 25 PERSONS REQUEST A HEARING ON THE PROPOSED RULES IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To be informed whether the hearing noticed in Part III above will be held, please call or write Sheila Brunelle at the address or

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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Proposed Rules

telephone number listed above before 4:30 p.m., November 25, 1992, and leave your name, address, and telephone number. You will be notified after November 25, 1992, if the hearing has been cancelled. You may also call Jane Nelson at (612) 627-5038 after November 25, 1992, for oral confirmation regarding the scheduled hearing.

Dated: 12 October 1992

Marlene E. Marschall
Commissioner of Health

Rules as Proposed

4610.2300 SANITARY CONDITION OF FUNERAL ESTABLISHMENTS.

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

Subp. 3. **Removal of waste.** Refuse, bandages, cotton, and other wastes shall be collected in approved receptacles as provided in the embalming and preparation room. All infectious waste and pathological waste ~~shall~~ as defined in Minnesota Statutes, section 116.76, must be handled in a sanitary manner and destroyed by incineration according to parts 4622.0100 to 4622.1200 and Minnesota Statutes, sections 116.76 to 116.83 and 145.1621. Embalming tables, hoppers, sinks, receptacles, instruments, positioning blocks, and other appliances used in the embalming of dead human bodies shall be thoroughly cleaned immediately upon completion of preparation and embalming.

4622.0100 APPLICABILITY.

Subpart 1. **General.** Parts 4622.0100 to 4622.1200 govern the on-site management of infectious waste and pathological waste and the development of generator management plans. Parts 4622.0100 to 4622.1200 apply to all generators regardless of the quantity of infectious waste and pathological waste generated. Parts 4622.0100 to 4622.1200 must be read in conjunction with Minnesota Statutes, sections 116.76 to 116.83.

Subp. 2. **Excluded waste.** In accordance with Minnesota Statutes, section 116.77, parts 4622.0100 to 4622.1200 do not apply to a person who generates:

- A. household waste;
- B. farm operation waste; or
- C. agricultural business waste.

Subp. 3. **Excluded generators.** In accordance with Minnesota Statutes, section 116.76, subdivision 9, the following persons are not generators regulated by the commissioner for purposes of the management of infectious waste or the submission of a generator management plan:

- A. an ambulance service licensed under Minnesota Statutes, section 144.802;
- B. an eligible board of health, community health board, or public health nursing agency as defined in Minnesota Statutes, section 116.78, subdivision 10;
- C. a program providing school health service under Minnesota Statutes, section 123.35, subdivision 17; and
- D. any person acting as a "good samaritan" within the context of Minnesota Statutes, section 604.05.

Subp. 4. **Other practices.** Parts 4622.0100 to 4622.1200 do not apply to:

- A. the operation of on-site incinerators; and
- B. off-site waste management practices regulated by the agency including persons who transport infectious waste or pathological waste.

4622.0300 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 4622.0100 to 4622.1200.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. **Agricultural business waste.** "Agricultural business waste" means waste produced by:

- A. a soil preparation service;
- B. a crop service;
- C. a slaughtering or rendering operation;
- D. an animal service except veterinary medicine;
- E. a farm labor and management service;

F. a landscaping and horticultural service for another on a contract or fee basis; or

G. a feedlot or poultry hatchery.

Subp. 4. **Blood.** "Blood" has the meaning given in Minnesota Statutes, section 116.76, subdivision 3.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of health.

Subp. 6. **Decontamination.** "Decontamination" has the meaning given in Minnesota Statutes, section 116.76, subdivision 6.

Subp. 7. **Disinfection.** "Disinfection" has the meaning given in part 7035.9110, subpart 7.

Subp. 8. **Facility.** "Facility" means a site under the control of a generator where infectious or pathological waste is generated, stored, decontaminated, incinerated, or disposed. A mobile self-contained unit such as a bloodmobile, a mobile veterinary vehicle, or a mobile x-ray unit are individually a facility.

Subp. 9. **Farm operation waste.** "Farm operation waste" means waste produced by an operation involved in the growing or harvesting of crops, the raising of livestock or poultry, or related activities conducted on a site such as a farm, ranch, orchard, dairy farm, or similar farming operation.

Subp. 10. **Generating employee.** "Generating employee" means an employee, either full- or part-time, whose activities produce infectious or pathological waste. Volunteers are not employees for purposes of fee payment.

Subp. 11. **Generator.** "Generator" has the meaning given in Minnesota Statutes, section 116.76, subdivision 9.

Subp. 12. **Generator management plan.** "Generator management plan" means a written and implemented system developed by a generator for the safe on-site management of infectious or pathological waste that complies with Minnesota Statutes, section 116.79, subdivisions 1, 2, and 3, and parts 4622.0100 to 4622.1200.

Subp. 13. **Household.** "Household" has the meaning given in Minnesota Statutes, section 116.76. Household includes a domicile such as a student dormitory or convent where the resident self-administers medication. Household does not include a facility licensed as a hospital, nursing home, boarding care facility, or intermediate care facility.

Subp. 14. **Household waste.** "Household waste" means waste produced in a household and includes waste produced by members through self-administration. Household waste does not include waste produced in a household by a home care or hospice program regulated under Minnesota Statutes, sections 144A.43 to 144A.49.

Subp. 15. **Infectious agent.** "Infectious agent" has the meaning given in Minnesota Statutes, section 116.76, subdivision 11.

Subp. 16. **Infectious waste.** "Infectious waste" has the meaning given in Minnesota Statutes, section 116.76, subdivision 12.

Subp. 17. **Laboratory.** "Laboratory" means a research, analytical, or clinical facility that performs health care-related analyses or services. This includes medical, pathological, pharmaceutical, and other research, commercial, or industrial laboratories.

Subp. 18. **Laboratory waste.** "Laboratory waste" has the meaning given in Minnesota Statutes, section 116.76, subdivision 13.

Subp. 19. **Off-site.** "Off-site" has the meaning given in part 7035.9100, subpart 13.

Subp. 20. **On-site.** "On-site" means any facility including the appurtenances and vehicles at which infectious waste or pathological waste is generated or decontaminated and which is owned by, leased to, or under contract to the generator of the waste.

Subp. 21. **Pathological waste.** "Pathological waste" has the meaning given in Minnesota Statutes, section 116.76, subdivision 14.

Subp. 22. **Person.** "Person" has the meaning given in Minnesota Statutes, section 116.76, subdivision 15.

Subp. 23. **Point of generation.** "Point of generation" means the location where infectious waste or pathological waste first becomes waste.

Subp. 24. **Regulated human body fluids.** "Regulated human body fluids" has the meaning given in Minnesota Statutes, section 116.76, subdivision 16.

Subp. 25. **Research animal waste.** "Research animal waste" has the meaning given in Minnesota Statutes, section 116.76, subdivision 17.

Subp. 26. **Satellite facility.** "Satellite facility" means a facility operated by and under the control of a generator but not located on the primary site of the generator.

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Proposed Rules

Subp. 27. Sharps. "Sharps" has the meaning given in *Minnesota Statutes*, section 116.76, subdivision 18.

Subp. 28. Spill. "Spill" has the meaning given in part 7035.9110, subpart 22.

Subp. 29. Storage. "Storage" means the on-site holding by the generator of infectious waste or pathological waste:

- A. generated on-site by the generator or by the generator's satellite facility; or
- B. stored by the generator for a party specified in part 4622.0100, subpart 3.

Subp. 30. Transportation. "Transportation" means the collection, transfer, or movement of infectious waste or pathological waste by a generator on-site, from or between satellite facilities.

Subp. 31. Universal biohazard symbol. "Universal biohazard symbol" means a symbol that conforms to the design shown in *Code of Federal Regulations*, title 29, section 1910.145(f)(8)(ii).

Subp. 32. Waste. "Waste" means a material discarded for disposal.

4622.0400 GENERAL MANAGEMENT STANDARDS.

Subpart 1. Policies and procedures. A generator of infectious waste or pathological waste must prepare, maintain, and implement written policies and procedures that:

- A. are consistent with parts 4622.0100 to 4622.1200;
- B. identify and address the management of all infectious waste and pathological waste generated; and
- C. are updated as needed or required by *Minnesota Statutes*, sections 116.76 to 116.83.

Subp. 2. Employee training. Employee training must be provided for employees who generate and handle infectious waste or pathological waste. Training must be provided for employees before operating on-site decontamination, incineration, or disposal systems to assure proper operation, waste treatment, and safety. Employee training must include:

- A. an explanation of the generator's infectious waste management plan;
- B. procedures to ensure the proper separation of infectious waste and pathological waste from other solid waste; and
- C. policies and procedures applicable to the employee's assigned roles and responsibilities.

All employees who generate and handle infectious waste and pathological waste shall attend refresher training as often as necessary to prevent violations.

Subp. 3. Segregation at point of generation; mixing wastes. Infectious waste and pathological waste must be segregated by container from other waste at the point of generation within the facility. Any solid waste mixed with infectious waste must be managed as infectious waste.

Subp. 4. No recycling. There must be no recycling effort of infectious waste and pathological waste before the waste is decontaminated.

Subp. 5. Labeling waste. All bags, boxes, and other containers used for the collection, transportation, or storage of infectious waste or pathological waste on-site must be clearly and conspicuously labeled with the universal biohazard symbol or with the words "Infectious Waste" written in letters no less than one inch in height on a background with contrasting color. Waste labeled as infectious or with the universal biohazard symbol must be managed as infectious waste. Bags that change color or labels that change during decontamination are acceptable. All removable bags must be labeled as well as outside containers enclosing the bags.

Subp. 6. Packaging waste. Packaging must be appropriate for the type of infectious waste and pathological waste generated and the type of handling and treatment anticipated.

- A. Infectious waste and pathological waste must be packaged and contained to prevent release of the waste material.
- B. Packages of infectious waste and pathological waste must remain intact until decontamination, incineration, or disposal unless a compaction system or other treatment method is approved by the commissioner.
- C. Decontaminated infectious waste and decontaminated pathological waste must be repackaged or relabeled on-site before it is handled and disposed of as solid waste.
- D. Except for fluid infectious waste and sharps, infectious waste and pathological waste must be contained in plastic bags that are impervious to moisture and of sufficient strength to preclude ripping, tearing, or bursting during use, storage, collection, transportation, and decontamination.

E. Material in a fluid state of greater than 20 cubic centimeters must be packaged in a container that prevents spillage. This container may be placed with bagged infectious and pathological waste.

F. A container designed for reuse, if reused, must be intact and disinfected as specified in subpart 12, if it has been in contact with infectious waste or pathological waste.

Subp. 7. Sharps. Sharps must be segregated from other waste and discarded directly into single-use or reusable sharps containers.

A. Glass or rigid plastic vials containing infectious waste must be managed as infectious waste.

B. Discarded sharps must be placed directly into containers that are leak-resistant, puncture-resistant, and burst-resistant under normal conditions of handling and use.

C. Sharps containers must be maintained to prevent spillage and tampering.

Subp. 8. On-site compaction of infectious waste; on-site compaction or mixing of sharps with other waste. A generator must not compact infectious waste on-site with other waste before decontamination, incineration, or disposal unless the compaction process meets the requirements in this subpart. Discarded sharps must not be compacted or mixed with other solid waste on-site unless the compaction process or mixing process meets the requirements in this subpart.

A. The compaction of infectious waste, or the compaction or mixing process for sharps, must be an integral part of:

(1) an off-site decontamination process approved by the agency for the decontamination of infectious waste;

(2) an off-site disposal system approved by the agency for the disposal of infectious waste; or

(3) an on-site decontamination process approved by the commissioner in accordance with part 4622.0700 for the on-site decontamination of infectious waste.

B. To obtain approval, a written request to compact infectious waste, or to compact or mix sharps with other solid waste, must be directed by the generator to the commissioner. The request must:

(1) specify the reason for the request;

(2) describe the process proposed for use;

(3) if decontamination takes place on-site, present evidence verifying that the proposed compaction or mixing process is an integral part of the on-site decontamination process that meets the requirements of part 4622.0700; and

(4) describe how the health and safety of employees and the public are protected during compaction or mixing, decontamination, storage, transportation, and disposal.

D. The commissioner shall approve the request if the commissioner determines that the process meets the requirements in this subpart and there is no evidence of adverse effect on the health and safety of employees and the public during compaction or mixing, decontamination, storage, transportation, and disposal.

E. The commissioner shall respond to the request within 60 days after receipt of all required information. A generator whose compaction or mixing process is not approved by the commissioner may reapply when new information or data relevant to the reasons for the decision is available.

Subp. 9. Waste from other regulated generators. A generator must not accept infectious waste or pathological waste for storage, decontamination, or incineration from another regulated generator unless the other generator has a card from the commissioner acknowledging receipt by the commissioner of a generator management plan and the fee specified in part 4622.1100.

Subp. 10. Record retention and access. All generator records on the generation and management of infectious waste and pathological waste must be maintained for three years and made available for inspection by the commissioner on request according to Minnesota Statutes, section 116.83, subdivision 3. If the three-year period expires during an unresolved enforcement action, the period is automatically extended until resolution of the pending enforcement action.

Subp. 11. Spill containment, cleanup kit. Infectious waste and pathological waste must be contained so there is no discharge or release of any waste during collection, storage, decontamination, incineration, or disposal. If a spill occurs on-site, a spill cleanup kit must be readily available on-site that is sufficient to contain the spill.

A. The cleanup kit must include at least:

(1) absorbent material for spilled liquids;

(2) detergent;

(3) hospital grade disinfectant as specified in subpart 12;

(4) packaging and labeling, as required in this part;

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- (5) cleanup utensils; and
- (6) latex and neoprene gloves, a surgical facemask, and goggles.

B. When responding to a spill:

- (1) access to the spill area by unauthorized personnel must be prevented;
- (2) broken containers and spillage must be packaged and labeled as required in this part;
- (3) absorbent material must be applied to surface areas that have been contaminated with infectious waste; and
- (4) reusable items must be cleaned and disinfected using the procedures in subpart 12.

Subp. 12. Spill cleanup procedures. Surfaces contaminated with spilled infectious waste or pathological waste must be cleaned with a detergent to remove visible soil and be disinfected with a chemical germicide registered by the Environmental Protection Agency as a hospital disinfectant that is a tuberculocidal when used at recommended dilutions.

Subp. 13. Cleaning of decontamination devices. Autoclaves and other decontamination devices must be maintained in a sanitary condition. Work areas and loading devices must be cleaned and disinfected after each use.

4622.0600 ON-SITE STORAGE.

Subpart 1. General. All on-site storage of infectious waste and pathological waste must be in a designated area away from general traffic flow patterns and be accessible only to authorized personnel. Storage of infectious waste and pathological waste must be in a manner that protects human health and the environment.

Subp. 2. Area. An area used for the storage of infectious waste and pathological waste, other than the point of generation, must be constructed of smooth, easily cleanable materials capable of being maintained in a sanitary condition and designed to prevent the entry of vermin. The central storage area must be conspicuously marked with the universal biohazard symbol or with the words "Infectious Waste" on or adjacent to the exterior of any entry door or access gate.

Subp. 3. Storage of plastic bags. Plastic bags of infectious waste and pathological waste must be packaged for storage by placement in corrugated cardboard boxes or equivalent rigid containers such as reusable barrels, cartons, or bins. Containers must be closed or covered to preclude losing or spilling the contents and labeled according to part 4622.0400, subpart 5.

A. Reusable storage containers for plastic bags must be rigid, leak-resistant, burst-resistant, and tear-resistant under normal conditions of handling and use, be constructed of smooth, easily cleanable, impermeable materials, and be resistant to corrosion by disinfectant chemicals.

B. Single-use outer containers used for the on-site storage of bagged infectious waste or pathological waste must be rigid, leak-resistant, burst-resistant, and tear-resistant under normal conditions of handling and use.

4622.0700 ON-SITE DECONTAMINATION, INCINERATION, DISPOSAL.

Subpart 1. General. Any on-site decontamination, incineration, or disposal of infectious waste or pathological waste, including a generator-operated mobile decontamination unit, must comply with this part.

Subp. 2. Procedures. A generator must develop written procedures for each decontamination, incineration, and disposal method used at the facility and ensure compliance with the procedures.

Subp. 3. Loading. Loading of infectious waste and pathological waste must not exceed the design capacity of the decontamination device.

Subp. 4. Maintenance. The decontamination device must be maintained according to manufacturer's instructions and a record kept of the dates of calibration, repair, and service.

Subp. 5. Load decontamination verification. Unless the decontamination device is equipped to continuously monitor and record time, temperature, and pressure during the entire length of the decontamination cycle, each load of infectious waste and pathological waste to be decontaminated must have an indicator placed in the center of the load aggregate, that verifies that the waste material has been decontaminated or the decontamination temperature and pressure indicated in the generator's procedures has been reached. Depending on the device and method used, decontamination is verified if:

A. a temperature of at least 250 degrees Fahrenheit or 121 degrees Celsius at 15 pounds per square inch of steam gauge pressure for one hour or an equivalent setting is reached;

B. for steam autoclaves without time, temperature, and pressure monitors, a biological indicator indicates the complete kill of bacillus stearothermophilus spores;

C. for dry heat or ethylene oxide decontamination, a biological indicator indicates the complete kill of bacillus subtilis spores;
or

D. there is an equivalent spore test or laboratory culture of the treatment residue prior to disposal showing that infectious agents have been killed.

Subp. 6. Decontamination records. The following records must be maintained on-site by the generator for three years:

A. a record with an entry for each load of infectious waste or pathological waste decontaminated on-site in accordance with subpart 5. The record must specify for each load the:

- (1) date and operator;
- (2) approximate amount of waste decontaminated; and
- (3) method of decontamination and relevant parameters such as time and temperature; and

B. a record of the verification of the generator's decontamination process in accordance with subpart 7.

Subp. 7. Decontamination process verification. The generator's decontamination process, including all devices such as autoclaves, must be monitored and verified for effectiveness initially and at least once every 40 hours of operation thereafter using normal operating and loading procedures to ensure decontamination of the infectious waste or pathological waste. A record must be maintained of the results for at least three years. Using a load for testing that is comparable in amount and density to that routinely decontaminated, decontamination is verified if:

A. a biological indicator placed in the center of the load aggregate shows the complete kill of bacillus stearothermophilus spores or bacillus subtilis spores; or

B. there is an equivalent spore test or laboratory culture of the treatment residue prior to disposal showing that infectious agents have been killed.

Subp. 8. Autoclaving. The use of a steam autoclave is an approved method for the decontamination of infectious waste if the device and procedure used meet the standards in this part.

Subp. 9. Incineration. Incineration is an approved method for the on-site management of infectious or pathological waste if:

- A. the incinerator complies with applicable rules of the agency and the State Fire Marshal; and
- B. the generator has an approved management plan from the agency.

Subp. 10. Other treatment methods. Other treatment methods for the decontamination of infectious waste or pathological waste must be reviewed and approved by the commissioner before use. A written request from the generator must be directed to the commissioner.

A. The request must:

- (1) specify the reason for the request;
 - (2) describe the decontamination method proposed;
 - (3) present evidence that the proposed method provides effective decontamination of the infectious waste, including sharps;
- and
- (4) describe how the health and safety of employees and the public are protected.

B. The commissioner shall approve the alternative method if:

- (1) there is verification that the infectious waste or pathological waste is decontaminated in accordance with subpart 7; and
- (2) there is no evidence of adverse effect on the health and safety of employees and the public.

C. The commissioner shall respond to the request within 60 days after receipt of all required information. The commissioner shall provide written reasons for the decision. A person whose alternative decontamination process is not approved may reapply when new information or data relevant to the reasons for the decision are available.

Subp. 11. Disposal by sanitary sewer. Blood or blood products and other regulated human body fluids may be disposed of in a sanitary sewer unless prohibited by local ordinance.

Subp. 12. Body tissue. Body tissue that has been histologically fixed must be considered decontaminated. Tissues prepared by frozen sectioning must not be considered decontaminated.

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4622.0900 GENERATOR MANAGEMENT PLAN SUBMISSION.

A person required by Minnesota Statutes, section 116.79, subdivision 1, to have a generator management plan must comply with this part.

A. A management plan submitted to the commissioner for approval must provide the information listed in part 4622.1000, be signed and dated by the generator, and designate the person responsible for ensuring implementation of the plan at each facility.

B. A generator who begins to generate infectious waste or pathological waste after adoption of parts 4622.0100 to 4622.1200 or who does not have a plan on file with the commissioner must submit to the commissioner a copy of a generator management plan as specified in part 4622.1000 before initiating the management of or continuing to generate infectious waste or pathological waste.

C. If a generator sells or transfers a facility to another generator, the generator to whom the facility has been transferred must submit a generator management plan and fee.

4622.1000 GENERATOR MANAGEMENT PLAN.

Subpart 1. General. A generator must develop and submit to the commissioner for approval a generator management plan covering all facilities operated by the generator. The generator must ensure the implementation of the plan submitted.

Subp. 2. Plan contents. The generator management plan must contain the information specified in this subpart.

A. The plan must specify the name, address, and phone number of each generating facility covered by the plan and the name, title, and phone number of the individual responsible for the management of the infectious waste and pathological waste at each facility.

B. The management plan must list all physicians, dentists, chiropractors, podiatrists, veterinarians, certified nurse practitioners, certified nurse midwives, physician assistants, or the number of practitioners specified in part 4622.1100, item C, employed by, under contract to, or working at all generating facilities, except at hospitals and laboratories.

(1) A management plan from a hospital or long-term care facility including a nursing home, boarding care facility, or intermediate care facility must list the number of licensed beds.

(2) A management plan from a laboratory or a licensed home care agency must list the number of generating employees.

C. The generator management plan must identify the types of infectious waste and pathological waste generated.

D. All infectious waste and pathological waste generated at a hospital or nursing home must be covered by the hospital or nursing home's generator management plan.

E. A home care provider registered and licensed under Minnesota Statutes, sections 144A.43 to 144A.49, must submit a generator management plan to cover all generating activity provided by that generator.

F. All information in the generator management plan must be consistent with the policies and procedures established in parts 4622.0100 to 4622.1200 and must include the information required in Minnesota Statutes, section 116.79.

G. The generator management plan must describe the activities, programs, and locations at and associated with each facility that generates infectious waste and pathological waste.

H. The plan must estimate the average monthly quantity of infectious waste and pathological waste to be generated by each facility. Quantities of sharps and bagged infectious waste and pathological waste must be reported in pounds and liquid infectious waste must be reported in gallons.

I. The plan must describe the procedures for segregating infectious waste and pathological waste from other waste material at the point of generation.

J. The plan must describe each facility's procedure for packaging infectious waste and pathological waste.

K. The plan must describe each facility's procedure for labeling all bags, boxes, and other containers used for infectious waste and pathological waste on-site.

L. The plan must describe each facility's procedure for collecting the infectious waste and pathological waste from the point of generation to the central collection point, before and after decontamination or disposal on-site, or its transport off-site.

M. The plan must describe each facility's procedure for the storage of infectious waste and pathological waste at temporary collection points and at central collection points. If a generator stores infectious waste or pathological waste from a satellite facility or another generator, the plan must identify the type of waste to be stored and the generating facility.

N. The generator must describe the method and procedures used for on-site decontamination of infectious waste and pathological waste, including the estimated average monthly volume in gallons and pounds of waste decontaminated.

(1) If a generator decontaminates infectious waste or pathological waste for any other generator, the plan must:

- (a) identify all other generators;
- (b) identify whether the waste is sharps or bagged waste; and
- (c) estimate the average monthly quantity in pounds of waste decontaminated.

(2) If a generator puts blood or other regulated human body fluids into an on-site sanitary sewer for disposal, the plan must indicate that blood and regulated human body fluids are disposed of in this manner and estimate the average monthly total volume in gallons.

(3) If a generator incinerates infectious waste or pathological waste on-site, the plan must:

- (a) identify the quantity in pounds on a monthly average that is generated and incinerated on-site;
- (b) have the on-site generator management plan required by the agency as an attachment; and
- (c) require a record of each load of infectious waste and pathological waste incinerated on-site. The record must specify for each load the date, operator, and approximate amount of waste incinerated and be retained for three years.

Q. If a generator incinerates infectious waste or pathological waste for any other generator, the plan must:

- (1) identify all other generators;
- (2) identify whether the waste is sharps or bagged infectious waste; and
- (3) estimate the average monthly quantity in pounds of waste incinerated.

P. If a generator has infectious waste or pathological waste transported off-site for storage, decontamination, or disposal by a commercial transporter as defined in Minnesota Statutes, section 116.76, subdivision 4, the plan must:

- (1) list the company name, address, and phone number;
- (2) list the agency registration identification number, and contact person for each commercial transporter used by the facility;
- (3) identify whether the waste is sharps or bagged waste; and
- (4) specify the average monthly quantity in pounds of infectious waste and pathological waste handled by each commercial transporter.

Q. If an intermediate facility or commercial transporter is used between initial transport and final disposal of infectious or pathological waste, the plan must:

- (1) identify each intermediate facility and commercial transporter used by name, address, phone number, and contact person;
- (2) estimate the average monthly quantity of sharps and bagged infectious waste and pathological waste in pounds handled; and
- (3) describe the services provided.

R. If a generator transports the generator's own waste or if the generator's waste is transported by another generator off-site, the generator's management plan must identify the transporting generator and all storage, decontamination, and disposal facilities by name, address, telephone number, contact person, and service provided. The monthly quantity in pounds of sharps and bagged infectious and pathological waste handled by each facility must be specified. A record for each shipment must be maintained on-site for three years. The shipment record must specify the:

- (1) decontamination or disposal facility;
- (2) weight or volume of the waste; and
- (3) date the waste left the generator's facility.

S. If the generator mails sharps for storage, decontamination, or disposal, the plan must specify how the generator will comply with applicable federal laws and rules. The plan must specify the name of the facility to which the sharps are mailed, facility address, phone number, contact person who receives the sharps, and the average monthly quantity in pounds. If the facility to which the sharps are mailed is not the disposal facility, the plan must identify the disposal facility.

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T. If a generator transports infectious waste or pathological waste for another generator, the plan must list the name of each generator whose waste is transported.

U. If a generator's infectious waste or pathological waste is transported by any other generator, the plan must identify all generators transporting the waste.

V. The plan must describe the steps taken by the generator to minimize the exposure of employees to infectious agents throughout the process of handling infectious waste and pathological wastes.

W. The plan must identify a contingency system to be used, if the present infectious waste and pathological waste disposal system breaks down or is unavailable.

Subp. 3. Maintenance of plan on-site. A copy of the current generator management plan must be maintained on the site of each facility.

4622.1050 GENERATOR MANAGEMENT PLAN RENEWAL, RESUBMISSION.

A generator must update and resubmit a generator management plan on January 1 of each even-numbered year.

A. A generator management plan must be submitted for renewal at least 30 days before the expiration of the previous generator management plan.

B. During the period the plan is in effect, a generator must notify the commissioner if the facility ceases operation.

C. The generator must submit a revised plan to the commissioner if:

(1) the generator opens a satellite facility not previously identified in the generator management plan; or

(2) the generator materially changes the infectious waste management system including changes in the method of waste decontamination.

4622.1100 FEES.

A generator management plan must be submitted to the commissioner with the fee required by *Minnesota Statutes*, section 116.79, subdivision 3.

A. If a generator management plan covers more than one facility, the appropriate fee for each facility must be paid pursuant to *Minnesota Statutes*, section 116.79, subdivision 3.

B. If a hospital and nursing home are a single facility, the fee is determined by the total number of licensed beds and based on the fee for a hospital.

C. The fee for a generator at a facility staffed by a practitioner, other than one specified in *Minnesota Statutes*, section 116.79, subdivision 3, paragraph (b), clause (1) or (2), must be in accordance with the fee specified in *Minnesota Statutes*, section 116.79, subdivision 3, paragraph (b), clause (1) or (2), if the facility does not come under any other provision of *Minnesota Statutes*, section 116.79, subdivision 3, paragraph (b). Practitioners other than those specified in *Minnesota Statutes*, section 116.79, subdivision 3, paragraph (b), clause (1) or (2), include nurses, laboratory or blood bank technologists and technicians, phlebotomists, dialysis personnel, medical technicians, physical therapists, and x-ray technicians.

D. A facility providing phlebotomy services only shall pay a fee in accordance with *Minnesota Statutes*, section 116.79, subdivision 3, paragraph (b), clause (1) or (2).

4622.1150 GENERATOR MANAGEMENT PLAN REVIEW.

The commissioner shall select generator management plans for review in accordance with standard procedures for random sample selection.

A. On review of an infectious waste generator management plan under *Minnesota Statutes*, section 116.79, the commissioner may require a generator to modify the infectious waste generator management plan if the commissioner determines the plan does not comply with parts 4622.0100 to 4622.1200.

B. On determination that the plan does not comply with parts 4622.0100 to 4622.1200, the commissioner shall notify the generator in writing of the commissioner's determination and specify the modifications necessary for compliance.

C. The generator must modify the plan to comply with parts 4622.0100 to 4622.1200 within 20 working days after receipt of the notice from the commissioner.

4622.1200 REMEDIES AND PENALTIES.

A generator who fails to submit a plan or fee or manage infectious waste and pathological waste in accordance with *Minnesota Statutes*, sections 116.76 to 116.83, and parts 4622.0100 to 4622.1200 is subject to the procedures, remedies, and penalties specified in *Minnesota Statutes*, sections 115.071 and 116.072.

4655.9070 HOUSEKEEPING RULES APPLICABLE ONLY TO NURSING HOMES.

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

Subp. 2. **Disposal Management of special waste.** ~~Materials or waste such as dressings or disposable pads which are infectious or suspected of presenting a potential health hazard shall be collected in a manner which will prevent transmission of disease, and shall be incinerated. If regular waste or refuse is not incinerated, infectious waste shall be collected separately in special bags to indicate their content. Needles and similar medical single-use items shall be destroyed before disposal, unless incinerated. Infectious waste and pathological waste as defined in Minnesota Statutes, section 116.76, must be managed according to Minnesota Statutes, sections 116.76 to 116.83, and parts 4622.0100 to 4622.1200.~~

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

4675.2205 INFECTIOUS WASTE AND PATHOLOGICAL WASTE.

Infectious waste and pathological waste as defined in Minnesota Statutes, section 116.76, must be managed according to Minnesota Statutes, sections 116.76 to 116.83 and 145.1621 and parts 4622.0100 to 4622.1200.

REPEALER. Minnesota Rules, parts 4675.2200, 4675.2300, 4675.2400, 4675.2500, and 4675.2600, are repealed.

Department of Human Services

Proposed Permanent Rules Relating to Merit System

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 256.012.

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 11, 1992, IN CONFERENCE ROOMS 5B AND 5C OF THE HUMAN SERVICES BUILDING, 444 LAFAYETTE ROAD, ST. PAUL, MINNESOTA 55155, AT 9:00 A.M., 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 26, 1992 and December 10, 1992 at (612) 296-3996.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Betty Carlson
Minnesota Merit System
2nd Floor, Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3822

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 25, 1992.

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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The proposed rule may be modified if the modifications are supported by data and views 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: Betty Carlson, Minnesota Merit System, 2nd Floor, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155-3822, telephone (612) 296-3996.

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

The Minnesota Merit System rules provide for a system of personnel administration for 73 county welfare and human services agencies. The rules apply to all positions and employees engaged in the administration of community social services or income maintenance programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration. The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for a Merit System of Personnel Administration (5 CFR Part 900).

A proposed revision to part 9575.0350 provides for a recommended salary adjustment of 2.5% for all incumbents on the professional, support, clerical, and maintenance and trades salary schedules who are covered by Merit System compensation plans, to be effective January 1, 1993.

Proposed revisions to part 9575.1500 (the compensation plan) provide for an adjustment of 2.5% to the minimum and maximum salaries for most of the classes covered by the Merit System. The proposed revisions to part 9575.1500 also provide for adjustment of varying amounts to the minimum and maximum salaries for a few of the classifications. These varying adjustments have been proposed to correct compensation inequities based upon comparable work value.

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

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

Dated: 30 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 Conference Rooms 5B and 5C at the Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155 on December 11, 1992, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. 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 CANCELED 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 26, 1992 and December 10, 1992 at (612) 296-3996.

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 #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 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*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The Minnesota Merit System rules provide for a system of personnel administration for 73 county welfare and human services agencies. The rules apply to all positions and employees engaged in the administration of community social services or income maintenance programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration. The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies of Personnel Administration (5 CFR Part 900).

A proposed revision to part 9575.0350 provides for a recommended salary adjustment of 2.5% for all incumbents on the professional, support, clerical, and maintenance and trades salary schedules who are covered by Merit System compensation plans, to be effective January 1, 1993.

Proposed revisions to 9575.1500 (the compensation plan) provide for an adjustment of 2.5% to the minimum and maximum salaries for most of the classes covered by the Merit System. The proposed revisions to part 9575.1500 also provide for adjustment of varying amounts to the minimum and maximum salaries for a few of the classifications. These varying adjustments have been proposed to correct compensation inequities based upon comparable work value.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 256.012. Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. 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 Betty Carlson, Minnesota Department of Human Services, 2nd Floor, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155-3822, telephone 612/296-3996.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Betty Carlson 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 Betty Carlson at the address or telephone number listed above.

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

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

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: 29 September 1992

Natalie Haas Steffen
Commissioner

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

Rules as Proposed

9575.0350 SALARY ADJUSTMENTS AND INCREASES.

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

Subp. 3. **Recommended adjustment.** The merit system general adjustment recommended for incumbents is ~~2-1/4~~ 2-1/2 percent for employees on the professional, support, clerical, and maintenance and trades salary schedules.

[For text of subps 4 and 5, see M.R.]

9575.1500 COMPENSATION PLAN; HUMAN SERVICES, ~~1992~~ 1993.

Subpart 1. **Professional.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum	Maximum
Accountant	1873 <u>1920</u>	2923 <u>2996</u>
Accounting Supervisor	2235 <u>2291</u>	3651 <u>3742</u>
Administrative Assistant I	2338 <u>2396</u>	3996 <u>4096</u>
Administrative Assistant II	2733 <u>2801</u>	4273 <u>4380</u>
Administrative Assistant III	3120 <u>3198</u>	4655 <u>4771</u>
Adult Day Care Center Supervisor	1790 <u>1835</u>	2923 <u>2996</u>
Assistant Welfare Director	4179 <u>4283</u>	6205 <u>6360</u>
Chemical Dependency Coordinator	1873 <u>1920</u>	2923 <u>2996</u>
Collections and Accounting Unit Supervisor	1961 <u>2010</u>	3192 <u>3272</u>
Collection Services Supervisor II	1961 <u>2010</u>	3192 <u>3272</u>
Community Health Services Supervisor	2235 <u>2291</u>	3651 <u>3742</u>
Computer Programmer	1790 <u>1835</u>	2923 <u>2996</u>
Contract Services Representative	2047 <u>2098</u>	3341 <u>3425</u>
County Agency Social Worker (Licensing Specialist)	1790 <u>1835</u>	2923 <u>2996</u>
County Agency Social Worker	1873 <u>1920</u>	3192 <u>3272</u>
County Agency Social Worker (Child Protection Specialist)	1873 <u>1920</u>	3192 <u>3272</u>
County Agency Social Worker (MSW)	1961 <u>2010</u>	3192 <u>3272</u>
County Agency Social Worker (MSW) (Child Protection Specialist)	1961 <u>2010</u>	3192 <u>3272</u>
Director of Business Management I	2733 <u>2801</u>	4273 <u>4380</u>
Director of Business Management II	3268 <u>3350</u>	4860 <u>4982</u>
Director of Financial Assistance	3268 <u>3350</u>	4860 <u>4982</u>
Director of Planning	3268 <u>3350</u>	4860 <u>4982</u>
Director of Public Health Nursing	2235 <u>2291</u>	3651 <u>3742</u>
Director of Social Services	3268 <u>3350</u>	4860 <u>4982</u>
Employment Guidance Counselor	1713 <u>1756</u>	2566 <u>2630</u>
Family Based Services Supervisor	1873 <u>1920</u>	2923 <u>2996</u>
Family Service Coordinator II	1713 <u>1756</u>	2566 <u>2630</u>
Financial Assistance Supervisor I	1961 <u>2010</u>	3192 <u>3272</u>
Financial Assistance Supervisor II	2235 <u>2291</u>	3651 <u>3742</u>
Financial Assistance Supervisor III	2338 <u>2396</u>	3996 <u>4096</u>
Fiscal Manager	2338 <u>2396</u>	3996 <u>4096</u>
Fiscal Officer	1713 <u>1756</u>	2566 <u>2630</u>
Fiscal Supervisor I	1790 <u>1835</u>	2923 <u>2996</u>
Fiscal Supervisor II	2235 <u>2291</u>	3651 <u>3742</u>
Gerontology Counselor	1961 <u>2010</u>	3192 <u>3272</u>
Human Services Director III	3570 <u>3659</u>	5307 <u>5440</u>
Human Services Supervisor I	2338 <u>2396</u>	3996 <u>4096</u>
Human Services Supervisor II	3052 <u>3128</u>	4560 <u>4674</u>
Mental Health Program Manager	2733 <u>2801</u>	4273 <u>4380</u>
Mental Health Worker	2047 <u>2098</u>	3341 <u>3425</u>
Nutrition Project Assistant Director	1790 <u>1835</u>	2923 <u>2996</u>
Nutrition Project Director	2235 <u>2291</u>	3651 <u>3742</u>
Office Services Supervisor	1639 <u>1756</u>	2566 <u>2630</u>
Planner (Human Services)	2047 <u>2098</u>	3341 <u>3425</u>

Proposed Rules

	Minimum	Maximum
Psychologist I	1961 <u>2010</u>	3192 <u>3272</u>
Psychologist II	2235 <u>2291</u>	3651 <u>3742</u>
Psychologist III	2983 <u>3058</u>	4273 <u>4380</u>
Public Health Educator	1873 <u>1920</u>	3192 <u>3272</u>
Public Health Nurse	1961 <u>2010</u>	3052 <u>3128</u>
Public Health Nurse (Team Leader)	2047 <u>2098</u>	3192 <u>3272</u>
Public Health Nursing Supervisor	2142 <u>2196</u>	3341 <u>3425</u>
Registered Dietician	1790 <u>1835</u>	2923 <u>2996</u>
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	1873 <u>1920</u>	2923 <u>2996</u>
Sanitarian	1790 <u>1835</u>	2923 <u>2996</u>
Senior Staff Development Specialist	2235 <u>2291</u>	3651 <u>3742</u>
Social Services Supervisor I	2338 <u>2396</u>	3996 <u>4096</u>
Social Services Supervisor II	2675 <u>2742</u>	4368 <u>4477</u>
Social Services Supervisor III	3052 <u>3128</u>	4560 <u>4674</u>
Staff Development Specialist	1790 <u>1835</u>	2923 <u>2996</u>
Student Social Worker (Intern) Rate proposed by appointing authority.		
Support Services and Accounting Supervisor	2047 <u>2098</u>	3341 <u>3425</u>
Support Services Supervisor	1873 <u>1920</u>	2923 <u>2996</u>
Trainee		
Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of human services.		
Volunteer Services Coordinator	1790 <u>1835</u>	2923 <u>2996</u>
Welfare Director I	2733 <u>2801</u>	4273 <u>4380</u>
Welfare Director II	3052 <u>3128</u>	4560 <u>4674</u>
Welfare Director III	3268 <u>3350</u>	4860 <u>4982</u>
Welfare Director IV	3570 <u>3659</u>	5307 <u>5440</u>
Welfare Director V	3844 <u>3909</u>	
	5672 <u>5814</u>	
Welfare Director VI	4758 <u>4877</u>	6761 <u>6930</u>

Subp. 4. **Support personnel.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum	Maximum
Account Clerk	1224 <u>1255</u>	1830 <u>1876</u>
Accounting Technician	1311 <u>1344</u>	1961 <u>2010</u>
Adult Day Care Center Program Coordinator	1437 <u>1473</u>	2142 <u>2196</u>
Case Aide	1311 <u>1344</u>	2142 <u>2196</u>
Chemical Dependency Counselor	1600 <u>1640</u>	2282 <u>2339</u>
Child Health Aide	1049 <u>1075</u>	1713 <u>1756</u>
Child Support Officer	1713 <u>1756</u>	2566 <u>2630</u>
(Administrative Process) Child Support Officer I	1533 <u>1640</u>	2282 <u>2339</u>
Child Support Officer II	1713 <u>1756</u>	2566 <u>2630</u>
Collections Officer	1437 <u>1473</u>	2142 <u>2196</u>
Collection Services Supervisor I	1873 <u>1920</u>	2923 <u>2996</u>
Community Service Aide	1049 <u>1075</u>	1713 <u>1756</u>
Community Support Technician	1600 <u>1640</u>	2282 <u>2339</u>
Computer Operations Specialist	1224 <u>1255</u>	1830 <u>1876</u>
Coordinator of Aging	1713 <u>1756</u>	2566 <u>2630</u>
Crisis Center Resource Aide	1311 <u>1344</u>	1961 <u>2010</u>
Executive Assistant	1600 <u>1640</u>	2282 <u>2339</u>

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Proposed Rules

	Minimum	Maximum
Family Based Services Provider	1600 <u>1640</u>	2282 <u>2339</u>
Family Service Aide I	1224 <u>1255</u>	1830 <u>1876</u>
Family Service Aide II	1311 <u>1344</u>	1961 <u>2010</u>
Family Service Coordinator I	1437 <u>1473</u>	2142 <u>2196</u>
Family Service/Home Health Aide	1224 <u>1255</u>	1830 <u>1876</u>
Financial Assistance Specialist	1639 <u>1756</u>	2566 <u>2630</u>
Financial Worker	1311 <u>1440</u>	2142 <u>2339</u>
Home Health Aide	1224 <u>1255</u>	1830 <u>1876</u>
Home Health Aide Coordinator	1437 <u>1473</u>	2142 <u>2196</u>
Housekeeper		
Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of human services.		
Housing Coordinator	1873 <u>1920</u>	2923 <u>2996</u>
Housing Rehabilitation Specialist	1437 <u>1473</u>	2142 <u>2196</u>
Licensed Practical Nurse	1437 <u>1473</u>	2142 <u>2196</u>
Methods and Procedures Technician	1600 <u>1640</u>	2282 <u>2339</u>
Monitoring and Review Specialist	1437 <u>1473</u>	2142 <u>2196</u>
Public Health Aide	1049 <u>1075</u>	1713 <u>1756</u>
Senior Citizen's Aide	1224 <u>1255</u>	1830 <u>1876</u>
SILS Program Coordinator	1600 <u>1640</u>	2282 <u>2339</u>
Support and Collections Specialist	1713 <u>1756</u>	2566 <u>2630</u>
Support Enforcement Aide	1224 <u>1255</u>	1830 <u>1876</u>
Welfare Fraud Investigator	1713 <u>1756</u>	2566 <u>2630</u>

Subp. 7. **Clerical.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum	Maximum
Administrative Secretary	1311 <u>1344</u>	1961 <u>2010</u>
Clerk I	902 <u>925</u>	1467 <u>1504</u>
Clerk II	1049 <u>1075</u>	1713 <u>1756</u>
Clerk III	1224 <u>1255</u>	1830 <u>1876</u>
Clerk-Typist I	985 <u>1010</u>	1600 <u>1640</u>
Clerk-Typist II	1049 <u>1075</u>	1713 <u>1756</u>
Clerk-Typist III	1311 <u>1344</u>	1961 <u>2010</u>
Clerk-Steno	1049 <u>1075</u>	1713 <u>1756</u>
Data Entry Operator	985 <u>1010</u>	1600 <u>1640</u>
Information Systems Specialist	1049 <u>1075</u>	1713 <u>1756</u>
Legal Secretary	1224 <u>1255</u>	1830 <u>1876</u>
Switchboard Operator	985 <u>1010</u>	1600 <u>1640</u>

Subp. 10. **Maintenance and trades.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions. Janitors who are required to work for a period of at least five hours after 6 p.m. on a regularly scheduled basis may be paid a shift differential in the amount of one salary step above their normal day-work rate.

	Minimum	Maximum
Auto Automobile/Van Driver	985 <u>1010</u>	1600 <u>1640</u>
Bus Driver	1049 <u>1075</u>	1713 <u>1756</u>
Janitor	1049 <u>1075</u>	1713 <u>1756</u>
Maintenance Worker	1224 <u>1255</u>	1830 <u>1876</u>

Department of Public Safety

Proposed Permanent Rules Relating to Merit System

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 Public Safety 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 12.22, subd. 3.

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 11, 1992, IN CONFERENCE ROOMS 5B AND 5C, HUMAN SERVICES BUILDING, 444 LAFAYETTE ROAD, ST. PAUL, MINNESOTA 55155, AT 9:00 A.M., 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 PUBLIC SAFETY. To verify whether a hearing will be held, please call the Minnesota Merit System between November 26, 1992 and December 10, 1992, at (612) 296-3996.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Betty Carlson
Minnesota Merit System
2nd Floor, Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3822

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 25, 1992.

The proposed rule may be modified if the modifications are supported by data and views 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: Betty Carlson, Minnesota Merit System, 2nd Floor, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155-3822, telephone (612) 296-3996.

The Minnesota Merit System rules provide for a system of personnel administration for 22 local and county emergency management agencies. The rules apply to all positions and employees engaged in the administration of emergency management programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration. The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 CFR Part 900).

A proposed revision to part 7520.0650 provides for a recommended salary adjustment of 2.5% for all incumbents on the professional and clerical salary schedules who are covered by Merit System compensation plans, to be effective January 1, 1993.

Proposed revisions to part 7520.1000-1100 (the compensation plan) also provide for an adjustment of 2.5% to the minimum and maximum salaries for classes covered by the Merit System, effective January 1, 1993.

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

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Proposed Rules

request from Betty Carlson at the address and telephone number listed above.

Adoption of these rules will not result in additional spending by local public bodies in the excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Betty Carlson at the address and telephone number listed 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 Betty Carlson at the address above.

Dated: 30 September 1992

Arne H. Carlson
Governor

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 Conference Rooms 5B and 5C, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155 on December 11, 1992, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. 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 CANCELED 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 Minnesota Merit System between November 26, 1992 and December 10, 1992 at (612) 296-3996.

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 #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 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*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The Minnesota Merit System rules provide for a system of personnel administration for 22 local and county emergency management agencies. The rules apply to all positions and employees engaged in the administration of emergency management programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration. The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 CFR Part 900).

A proposed revision to part 7520.0650 provides for a recommended salary adjustment of 2.5% for all incumbents on the professional and clerical salary schedules who are covered by Merit System compensation plans, to be effective January 1, 1993.

Proposed revisions to 7520.1000-1100 (the compensation plan) provide for an adjustment of 2.5% to the minimum and maximum salaries for classes covered by the Merit System, effective January 1, 1993.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 12.22, subd. 3. Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. 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 Betty Carlson, Department of Human Services, 2nd Floor, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155-3822, telephone 612/296-3996.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Betty Carlson at the address above.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Betty Carlson at the address or telephone number listed above.

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

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

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

Dated: 30 September 1992

Arne H. Carlson
Governor

Rules as Proposed

7520.0650 SALARY ADJUSTMENTS AND INCREASES.

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

Subp. 3. **Recommended adjustment.** The merit system general adjustment recommended for incumbents is ~~2-1/4~~ 2-1/2 percent for employees on the professional and clerical salary schedules.

[For text of subps 4 and 5, see M.R.]

7520.1000 COMPENSATION PLAN (EMERGENCY MANAGEMENT), ~~1992~~ 1993; PROFESSIONAL.

Subpart 1. Plan.

	Minimum	Maximum
Administrative Officer	1873 <u>1920</u>	2799 <u>2869</u>
Assistant Emergency Management Director	1713 <u>1756</u>	2566 <u>2630</u>
Communications Officer	1639 <u>1680</u>	2446 <u>2507</u>
Operations Officer	1873 <u>1920</u>	2799 <u>2869</u>
Public Information Officer	1873 <u>1920</u>	2799 <u>2869</u>
Radiological Officer	1639 <u>1680</u>	2446 <u>2507</u>
Safety Services Coordinator	1873 <u>1920</u>	2799 <u>2869</u>

7520.1100 COMPENSATION PLAN (EMERGENCY MANAGEMENT), ~~1992~~ 1993; CLERICAL.

Subpart 1. Plan.

	Minimum	Maximum
Clerk I	902 <u>925</u>	1467 <u>1504</u>
Clerk II	1049 <u>1075</u>	1713 <u>1756</u>

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

Proposed Rules

Clerk III
Clerk-Typist I
Clerk-Typist II
Clerk-Typist III
Clerk-Steno

Minimum	Maximum
4224 <u>1255</u>	4830 <u>1876</u>
985 <u>1010</u>	4600 <u>1640</u>
4049 <u>1075</u>	4743 <u>1756</u>
4344 <u>1344</u>	4964 <u>2010</u>
4049 <u>1075</u>	4743 <u>1756</u>

Adopted Rules

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

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

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

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

Department of Agriculture

Adopted Permanent Rules Relating to Advocate Fees

The rules proposed and published at *State Register*, Volume 17, Number 4, pages 133-134, July 27, 1992 (17 SR 133), are adopted as proposed.

Department of Human Services

Adopted Permanent Rules Relating to State Grants for Mental Health Services

The rules proposed and published at *State Register*, Volume 17, Number 3, pages 88-95, July 20, 1992 (17 SR 88), are adopted with the following modifications:

Rules as Adopted

9535.1725 DISTRIBUTION FORMULA.

At or before the beginning of the grant period, the commissioner shall use the formulas in items A to F to distribute grants under parts 9535.1700 to 9535.1760 to county boards whose grant applications meet the requirements in parts 9535.1700 to 9535.1760.

D. If the appropriations under this part are decreased from the appropriations for the preceding year, then the per-county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

Errata

Department of Commerce

Proposed Permanent Rules Relating to Real Estate Appraiser Licensing and Education

Correction to Notice of Intent to Adopt Rules Without a Public Hearing

The Notice of Intent to Adopt Rules without a Public Hearing on the above-referenced rules, appearing in the *State Register* on Monday 12 October 1992, Vol. 17, No. 15, page 741, incorrectly listed the end of the comment period as October 19, 1992. Consequently, the comment period has been extended to 5:00 p.m. on November 25, 1992. Questions may be addressed to Donna M. Watz at 297-1118.

Emergency Rules

Proposed Emergency Rules

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

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

Adopted Emergency Rules

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

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

Continued/Extended Emergency Rules

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

Department of Labor and Industry

Adopted Emergency Rules Relating to Workers' Compensation; Managed Care

The rules proposed and published at *State Register*, Volume 17, Number 4, pages 147-152, July 27, 1992 (17 SR 147), are adopted with the following modifications:

Rules as Adopted

5218.0100 [Emergency] DEFINITIONS.

Subp. 3. **Emergency care.** "Emergency care" means ~~professional health services necessary to preserve life or limb~~ those medical services that are required for the immediate diagnosis and treatment of medical conditions that, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death, or that are immediately necessary to alleviate severe pain.

Subp. 4. **Employee.** "Employee" means an employee entitled to treatment of a ~~work~~ personal injury under *Minnesota Statutes*, section 176.135.

Subp. 5. ~~Geographical service area.~~ "Geographical service area" means ~~those counties in which a managed care plan has been certified to provide comprehensive health care services to injured employees.~~

Subp. 6. ~~5.~~ **Health care provider.** "Health care provider" has the meaning given in *Minnesota Statutes*, section 176.011, subdivision 24.

Subp. 7. ~~6.~~ **Insurer.** "Insurer" means the insurer providing workers' compensation insurance required by *Minnesota Statutes*, chapter 176, and includes a self-insured employer.

Subp. 8. ~~7.~~ **Managed care plan.** "Managed care plan" means a plan certified by the commissioner that provides for the management of treatment to injured employees under *Minnesota Statutes*, sections 176.135 and 176.1351.

Subp. 9. ~~8.~~ **Participating health care provider.** "Participating health care provider" means any person, provider, company, professional corporation, organization, or business entity with which the managed care plan has contracts or other agreements for the delivery of medical services or supplies to injured employees.

Subp. ~~10.~~ ~~9.~~ **Physician.** "Physician" has the meaning given in *Minnesota Statutes*, section 176.135, subdivision 2a.

Subp. ~~11.~~ ~~10.~~ **Revocation.** "Revocation" means a ~~permanent revocation~~ the termination of a managed care plan's certification to provide services under parts 5218.0100 to 5218.9000 [Emergency].

Subp. ~~12.~~ ~~11.~~ **Suspension.** "Suspension" means a ~~stopping by the commissioner~~ of the managed care plan's authority to enter into new or amended contracts with insurers has been suspended by the commissioner for a specified period of time.

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Emergency Rules

5218.0220 [Emergency] PURPOSE AND SCOPE.

The purpose of parts 5218.0100 to 5218.9000 [Emergency] is to establish procedures and requirements for certification as a managed care plan relating to the delivery of medical services to injured employees within the workers' compensation system ~~under a managed care plan certified by the commissioner~~ under *Minnesota Statutes*, sections 176.135, subdivision 1, paragraph (f), and 176.1351.

5218.0230 [Emergency] ~~EFFECTIVE DATE~~ PROVISIONAL CERTIFICATION.

A managed care plan certified under the emergency rulemaking authority will receive provisional certification that will expire 60 days after adoption of the permanent rules unless otherwise provided for in the permanent rules.

5218.1000 [Emergency] APPLICATION FOR CERTIFICATION.

Subpart 1. **Provisional certification.** Except as provided in part 5218.2000 [Emergency], subpart 3, any person or entity may make written application to the commissioner to provide managed care to injured employees for injuries and diseases compensable under *Minnesota Statutes*, chapter 176, under a plan certified by the commissioner. To obtain provisional certification of a plan, the requirements in items A to D must be complied with and documented.

B. The plan must report the total annual compensation paid to an administrator, director, or executive officer of the managed care plan ~~shall not exceed if it exceeds~~ ten times the average annual wage as calculated in *Minnesota Statutes*, section 176.011, subdivision 20. The ~~limit on total annual~~ compensation under this subpart does not include payment received by a health care provider for actual medical services rendered to an employee under *Minnesota Statutes*, chapter 176. When a managed care plan is certified, the commissioner shall report any annual compensation that exceeds ten times the average annual wage to the Legislative Reference Library in accordance with *Minnesota Statutes*, section 3.302.

D. Additional documentation must be submitted as specified in subitems (1) to (11).

(1) The managed care plan must provide a list of the names, addresses, and specialties of the participating health care providers who will provide services under the managed care plan; ~~together with; the type of license, registration, or certification held by each participating provider;~~ and a statement that all licensing, registration, or certification requirements have been met and are current for the health care provider to practice in Minnesota.

(2) The managed care plan must provide a description of the times, places, and manner of providing services under the plan; ~~including a description of the initial geographical service area, designated by county.~~ The plan must comply with units (a) and (b).

(a) The managed care plan must ~~provide~~ ensure provision of quality services that meet all uniform treatment standards ~~prescribed~~ adopted by the commissioner under *Minnesota Statutes*, section 176.83, subdivision 5, and all medical and health care services that may be required by *Minnesota Statutes*, chapter 176, in a manner that is timely, effective, and convenient for the employee.

(b) The managed care plan may not discriminate against or exclude from participation in the plan any category of health care providers and must include an adequate number of each category of health care providers to give employees convenient geographic accessibility to all categories of providers and adequate flexibility to choose health care providers from among those who provide services under the plan, consistent with subitem (3), provided that the treatment is medically appropriate.

(3) The managed care plan must include a ~~procedure~~ procedures to ensure that the employee will:

(a) receive initial evaluation or treatment by a participating ~~physician~~ health care provider licensed in Minnesota within 24 hours of ~~a the employee's request for treatment, following a work injury; the managed care plan may permit initial evaluations by a participating chiropractor; in which case the employee may decide whether the evaluation will be by a physician or a chiropractor;~~

(b) receive initial evaluation or treatment by a participating ~~physician~~ health care provider licensed in Minnesota within five working days of ~~a the employee's request for a change of doctor in cases where the employee has received treatment for the work injury by a health care provider outside the managed care plan under part 5218.5000 [Emergency], subpart 1, item A- The managed care plan may permit an initial evaluation by a participating chiropractor; in which case the employee may decide whether the evaluation will be by a physician or chiropractor;~~

(c) be initially allowed to choose from at least three health care providers to whom the employee has been referred by the evaluating provider under unit (a) or (b) for treatment, and allow the employee to change providers within the managed care plan at least once. The evaluating provider may be one of the three providers. The procedure to allow the employee to select a from three health care provider providers must provide allow direct access to all health care profession disciplines if the treatment is determined to be appropriate for the condition by the evaluating health care provider under unit (a) or (b) under the managed care plan's standards and the provider's scope of practice, or if the insurer approves the treatment;

(d) receive ~~treatment or~~ consultation by a managed care plan physician in cases requiring emergency in-patient hospitalization at a hospital that is not a participating provider;

(e) receive information or advice on a 24-hour basis regarding the availability of necessary medical services available within the managed care plan. The information may be provided through recorded telephone messages. However, the message must include information on how the employee can obtain emergency services or other urgently needed care and how the employee can access an evaluation within 24 hours of the injury as required under unit (a); and

(f) have access to treatment from health care providers within 30 miles of either the employee's place of employment or residence; or the distance the employee normally travels to work, considering the normal patterns of travel, whichever is furthest if the residence or place of employment is within the seven-county metropolitan area. The seven-county metropolitan area includes Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties. If the employee's residence and place of employment are outside the seven-county metropolitan area the allowable distance is 50 miles. If the employee requires specialized care that is not available within the stated mileage restriction, the managed care plan may refer the employee to a provider outside of the stated mileage restriction.

(6) The managed care plan must designate the name, address, and phone number of a communication liaison for the department ~~and, the insurer, the employer, and the employee.~~

(10) The managed care plan must describe how it will provide aggressive case management for injured employees, and a program for early return to work and cooperative efforts by the employees, the employer, and the managed care plan to promote workplace health and safety consultative and other services. The program for early return to work must provide for cooperation with an employee's qualified rehabilitation consultant.

(11) The managed care plan must submit any treatment standards it has developed for medical services that have not already been prescribed by the commissioner and that are reasonably likely to be used in the treatment of workers' compensation injuries. All managed care plan health care providers and health care providers described in those providing services under part 5218.5000 [Emergency] will shall be governed by these standards and by the standards prescribed by the commissioner under Minnesota Statutes, section 176.83, subdivision 5.

Subp. 2. **Notification; approval or denial.** The commissioner shall notify the applicant in writing of the approval or denial of certification. If certification is granted, the commissioner shall notify the managed care plan applicant of the effective date of the certification ~~and the initial geographical service area approved.~~ If the certification is denied, the applicant will be provided in writing with the reason for the denial. If the commissioner must require is unable to determine whether the proposed plan complies with all statutory and rule requirements from the documents submitted, an in-person meeting an if necessary to determine compliance with parts 5218.0100 to 5218.9000 [Emergency] with the managed care plan applicant shall be held. Modification of the plan as certified shall require approval before it may be implemented.

Subp. 3. **Review of decision.** Any person aggrieved by a denial of certification by the commissioner may request in writing, within 30 days of the date the denial is served and filed, the initiation of a contested case proceeding under Minnesota Statutes, chapter 14. Following receipt of the administrative law judge's findings and recommendations, the commissioner shall issue a final decision in accordance with Minnesota Statutes, section 14.62. An appeal from the commissioner's final decision and order may be taken to the workers' compensation court of appeals pursuant to Minnesota Statutes, sections 176.421 and 176.442.

5218.2000 [Emergency] COVERAGE RESPONSIBILITY OF MANAGED CARE PLAN.

Subp. 2. **Geographical service area; expansion.** ~~The commissioner shall designate a managed care plan's initial geographical service area and approve any expansions to the managed care plan's service area. Injured employees shall not be covered by a managed care plan until the commissioner has approved the proposed expansion of the geographical service area.~~

Subp. 3. **Contracts and coverage.** ~~When A managed care plan contracts must contract with an the insurer liable under Minnesota Statutes, chapter 176, to provide services; to employees with a personal injury. The contract shall specify those employers covered by the contract and the estimated number of covered employees. The managed care plan contract must include the terms and conditions in items A to F.~~

~~A. The employer's place of employment must be within the authorized geographical service area.~~

~~B. Insurers may contract with multiple managed care plans to provide coverage for employers. When insurers contract an insurer contracts with multiple managed care plans to cover the same employer, each employee shall have the initial choice at time of injury to select the managed care plan that will manage the employee's care. The employee shall select a managed care plan from those that have a contract with the insurer liable for the personal injury under Minnesota Statutes, chapter 176, and that provide services within the mileage restrictions under part 5218.1000 [Emergency], subpart 1, item D, subitem (3), unit (f).~~

~~C. B. An employee with a compensable personal injury under Minnesota Statutes, chapter 176, occurring on or after the effective date of the managed care plan contract with the insurer liable for the injury under Minnesota Statutes, chapter 176, shall receive medical services in the manner prescribed by the terms and conditions of the managed care plan contract.~~

~~D. C. The requirements established in parts 5218.0100 to 5218.9000 [Emergency] do not apply to an employee with a~~

Emergency Rules

compensable injury under *Minnesota Statutes*, chapter 176, that occurred before the effective date of the managed care plan contract, until the employee requests a change of doctor. At that time, further services shall be provided by the managed care plan in accordance with the procedures set forth in part 5218.1000 [Emergency], subpart 1, item D, subitem (3), units (b) and (c). Services by health care providers who are not participating providers must be delivered according to part 5218.5000 [Emergency].

~~E. D.~~ To ensure continuity of care, the managed care plan contract shall specify the manner in which an injured employee with a compensable injury will receive medical services when a managed care plan contract or a contract with a health care provider terminates. When a contract with a health care provider terminates, or when managed care plan coverage for an injured employee is being transferred from one managed care plan to another, the employee may continue to treat with the ~~employee's original~~ health care provider under the terminated contract until the employee requests a change of doctor. At that time further services shall be provided under the managed care plan in accordance with the procedures set forth in part 5218.1000 [Emergency], subpart 1, item D, subitem (3), units (b) and (c). Services by providers who are not participating providers must be performed according to part 5218.5000 [Emergency].

~~F. E.~~ Except as provided in part 5218.5000 [Emergency], an employer may require an employee who is claiming a workers' compensation injury to receive treatment from a managed care plan before the employer accepts or denies liability for the injury. In such cases the employer is liable for the cost of any treatment related to the claimed personal injury that is given by a participating health care provider before notice is given to the employee of a denial of liability, even if the employer is later determined to be not liable for the claimed injury. If liability is denied, the employer cannot pursue reimbursement from the employee. This item does not limit the employer's right to pursue any other applicable subrogation or reimbursement rights it may have against parties.

~~F.~~ The employee may receive treatment from any health care provider chosen by the employee after a notice of denial of liability has been given to the employee, or if the employer does not require the employee to receive treatment from a managed care plan prior to accepting liability for a claimed injury. If the employer later accepts liability or is determined by the commissioner, a compensation judge, or an appellate court to be liable for the claimed injury, the employer is responsible for the cost of all reasonable and necessary medical treatment received by the employee. ~~Once~~ If the employer has admitted admits liability for the claimed injury ~~or once the employer has been determined to be liable for the claimed~~ within 14 days after receiving notice of the injury, the employer may require that further medical treatment be received through the managed care plan unless the employee had a documented history of treatment with the health care provider as described in part 5218.5000 [Emergency], before the injury. If liability is admitted or determined later than 14 days after notice of the injury and the employee has been receiving treatment from a nonparticipating provider under this item, the employee is not required to receive further treatment under the managed care plan, if the health care provider agrees to comply with part 5218.5000 [Emergency], subpart 2.

Subp. 4. ~~3.~~ **Restrictions.** When an insurer contracts with a single managed care plan for coverage for an employer, the plan may not be formed, operated, or administered by the same employer or insurer. When an insurer contracts with multiple managed care plans, one or more of the plans, but not all, may be operated, formed, or administered by the employer or insurer. No employee shall be required to obtain services under a managed care plan that is operated, formed, or administered by the employer or insurer liable for the services under *Minnesota Statutes*, chapter 176. At the time such a plan is offered, the employer shall give written notice of the affiliation and that no employee is required to obtain services under a managed care plan operated, formed, or administered by the employer or insurer.

5218.3000 [Emergency] REPORTING REQUIREMENTS FOR PROVISIONALLY CERTIFIED MANAGED CARE PLAN.

Subp. 2. **Requirements.** Within six months of provisional certification, each managed care plan shall provide the following information ~~in a form and format prescribed by the commissioner:~~

B. a listing of all health care providers outside of the managed care plan who provided services to employees under part 5218.5000 [Emergency], subpart 1, item C:

D. a summary of any sanctions or punitive actions taken by the managed care plan against its ~~members~~ participating providers:

E. a report that summarizes peer review ~~and~~ utilization review ~~performed, and dispute resolution proceedings~~ showing cases reviewed, issues involved, and ~~any~~ action taken. The peer and utilization review must include, ~~but is not limited to,~~ evaluation of compliance with applicable treatment standards adopted by the commissioner; and

F. any proposed changes to the certified managed care plan ~~as certified by the commissioner.~~

Subp. 3. **Insurers; data.** The managed care plan must report to the insurer any data regarding medical services and supplies related to the workers' compensation claim required by the insurer to determine compensability, in accordance with Minnesota Statutes, sections 176.135, subdivision 7 and 176.138, and any other data required by rule.

Subp. 4. **Monitoring.** The commissioner shall require additional information from the managed care plan ~~as necessary to monitor~~ if the information is relevant to determining the managed care plan's compliance with parts 5218.0100 to 5218.9000 [Emergency] and *Minnesota Statutes*, section 176.1351.

5218.4000 [Emergency] COMMENCEMENT AND TERMINATION OF CONTRACT WITH PARTICIPATING PROVIDERS.

Subp. 2. **Termination.** A participating provider may elect to terminate participation in the managed care plan or be subject to cancellation by the managed care plan under the requirements of the managed care plan. Upon termination of a provider contract, the managed care plan shall make alternate arrangements to provide continuing medical services for an affected injured employee under the plan in accordance with part 5218.2000 [Emergency], subpart 2, item D.

5218.5000 [Emergency] HEALTH CARE PROVIDERS WHO ARE NOT PARTICIPATING HEALTH CARE PROVIDERS.

Subpart 1. **Authorized services.** ~~The managed care plan shall authorize~~ A health care provider who is not a participating health care provider ~~to~~ may provide medical services to an employee covered by a managed care plan in any of the following circumstances:

A. if the health care provider maintains the employee's medical records ~~and~~ has a documented history of treatment of that employee at least twice in the four years before the date of injury, and complies with Minnesota Statutes, section 176.1351, subdivision 2, clause (8). The employee must provide the insurer with copies of medical records documenting the previous treatment. The insurer must treat the medical records as private data. If the employee requests a change of doctor, further services shall be provided by the managed care plan in accordance with the procedures set forth in part 5218.1000 [Emergency], subpart 1, item D, subitem (3), units (b) and (c);

B. for emergency treatment; ~~or~~

C. when the employee is referred outside the managed care plan for medical services by the managed care plan; ~~or~~

D. when the employee has received treatment for a claimed injury from a nonparticipating provider under part 5218.2000 [Emergency], subpart 2, item F, and liability for the injury is admitted or established later than 14 days after the employer received notice of the injury.

Subp. 2. **Requirements.** A health care provider who is not a participating health care provider must:

B. agree to refer the covered employee to the managed care plan for specialized care, ~~which includes, but is not limited to,~~ physical therapy, and diagnostic testing, except for minor diagnostic testing that may be done in the provider's office. The provider referring the employee may continue to provide direct treatment.

Subp. 3. **Disputes.** Any dispute under subpart 1 or 2 relating to the employee's selection of a health care provider who is not a managed care plan participating health care provider shall be resolved according to part 5218.7000 [Emergency]. Any dispute relating to a health care provider's compliance with the managed care plan standards and procedures or treatment standards adopted by the commissioner shall be resolved according to part 5218.7000 [Emergency] ~~or~~ A health care provider who does not comply with the requirements in subpart 2 is subject to denial of payment for the services in accordance with the procedures in part 5218.7000 [Emergency] and sanctions under Minnesota Statutes, section 176.103.

5218.6000 [Emergency] CHARGES AND FEES.

Billings for medical services under a managed care plan shall be submitted in the form and format as prescribed in part 5221.0700, subpart 2. The payment by the insurer or the managed care plan to participating and nonparticipating health care providers for medical services shall be according to the timeframes and procedures in part 5221.0600, subpart 3, and *Minnesota Statutes*, section 176.135, subdivision 6, and shall be equal to the maximum amount allowed under Minnesota Statutes, section 176.136, subdivisions 1a and 1b. A managed care plan may not require a health care provider to accept a lesser payment or pay a fee as a condition of receiving referrals from or becoming a participating provider in the plan.

5218.7000 [Emergency] DISPUTE RESOLUTION.

Disputes that arise between the employee and the managed care plan related to the delivery of health services under this chapter shall first be processed through the dispute resolution process of the managed care plan. The managed care plan dispute resolution process must be completed within 30 days of receipt of a request. If the dispute cannot be resolved, the commissioner ~~may issue an order to resolve the dispute shall proceed under Minnesota Statutes, sections 176.106 and 176.305 or 176.2615.~~

5218.8000 [Emergency] MONITORING.

Subp. 2. **Records.** All records of the managed care plan and its participating health care providers ~~shall be disclosed on request of the commissioner when necessary to ensure relevant to determining compliance with Minnesota Statutes, section 176.1351, and parts 5218.0100 to 5218.9000 [Emergency] shall be disclosed upon request of the commissioner. These~~ Records must be legible and cannot be kept in a coded or semicoded manner unless a legend is provided for the codes. The release of records filed with the commissioner is subject to Minnesota Statutes, sections 13.37, 145.61 to 145.67, 176.231, subdivisions 8 and 9, 176.234, and 176.138.

5218.9000 [Emergency] SUSPENSION; REVOCATION.

Subpart 1. **Complaints; investigation.** Complaints pertaining to violations of parts 5218.0100 to 5218.9000 [Emergency] or Minnesota Statutes, section 176.1351, by the managed care plan shall be directed in writing to the commissioner. On receipt of a written complaint, or after monitoring the managed care plan operations, the department shall investigate the alleged ~~rule~~ violation.

Emergency Rules

The investigation may include, but shall not be limited to, request for and review of pertinent managed care plan records. If the department determines on completion of the investigation that reveals reasonable cause to believe that there has been a rule violation warranting suspension or revocation of provisional certification, the commissioner shall initiate a contested case proceeding under *Minnesota Statutes*, chapter 14.

Subp. 2. **Criteria.** Under *Minnesota Statutes*, section 176.1351, subdivision 5, the provisional certification of a managed care plan issued by the commissioner shall be suspended or revoked by the commissioner if:

C. the managed care plan fails to comply with *Minnesota Statutes*, section 176.1351, parts 5218.0100 to 5218.9000 [Emergency], ~~and or~~ requirements of utilization and treatment standards adopted under *Minnesota Statutes*, section 176.83;

D. any false or misleading information is submitted by the managed care plan or ~~a member of the plan~~ participating provider; or

E. the managed care plan continues to use the services of a health care provider whose license, registration, or certification has been suspended or revoked ~~by the licensing board~~, or under *Minnesota Statutes*, section 176.103, or who is ineligible to provide treatment to an injured employee under *Minnesota Statutes*, section 256B.0644.

Subp. 3. **Effects.** ~~All contracts with insurers are void~~ No employee is covered by a contract between a managed care plan and insurer if a the managed care plan's provisional certification is revoked. The managed care plan may reapply for certification as specified in the order of revocation. Upon suspension of certification, the managed care plan may continue to provide services under contracts in effect if the commissioner determines injured employees will continue to receive necessary medical services under *Minnesota Statutes*, section 176.135.

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 Executive Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association (MCHA), Executive Committee will be held at 8:00 a.m. on Monday, November 2, 1992 at Northwestern National Life Insurance Company, 100 Washington Avenue South, Minneapolis, Minnesota. Please contact Inge Chapin at (612) 593-9609 for room information.

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

Minnesota Comprehensive Health Association

Notice of Actuarial Committee Meeting

NOTICE IS HEREBY GIVEN that a meeting of the Actuarial Committee of the Minnesota Comprehensive Health Association (MCHA), will convene at 3:00 p.m. on Wednesday, November 4, 1992 at Blue Cross Blue Shield of Minnesota, 3535 Blue Cross Road, Eagan, Minnesota, in the Law Conference Room, third floor north.

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

Minnesota Comprehensive Health Association

Notice of Meeting of the Finance Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association (MCHA), Finance Committee will be held at 3:00 p.m. on Tuesday, October 27, 1992 at North American Life & Casualty Company, 1750 Hennepin Avenue South, Minneapolis, Minnesota.

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

Minnesota Comprehensive Health Association

Notice of Meeting of the Research Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association (MCHA), Research Committee will be held at 8:30 a.m. on Friday, October 30, 1992 at Group Health, Inc., 2829 University Avenue SE, Minneapolis, Minnesota, in the Human Resources Conference Room 5C.

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

Department of Health

Notice of Meeting

In conjunction with the 1992 health care reform legislation (presently MnCare, formerly HealthRight), there will be an initial meeting of the Conflict of Interest Advisory Panel at 1:00 p.m. on Tuesday, November 3, 1992. The meeting will be held in the Administration Building, Room #116A, 50 Sherburne Avenue, St. Paul, Minnesota.

Department of Human Services

Additions to the Notice of Health Services Requiring Prior Authorization for MA/GAMC

The following are additions, changes and deletions to the list of services requiring prior authorization which was published in the April 02, 1990 *State Register*, Vol 14, #40, pages 2365-2377. The added services will require prior authorization for services provided on or after November 1, 1992. Home Care Services added services will require prior authorization for services provided on or after October 1, 1992.

I. DENTAL SERVICES

OTHER REPAIR PROCEDURES

Add:

D7971	Excision of pericoronal gingiva
D7980	Sialolithotomy
D7981	Excision of salivary gland
D7982	Sialodochoplasty

CHANGE:

III. MEDICAL SUPPLIES AND EQUIPMENT; PROSTHESES AND ORTHOSES

Medical Equipment

Providers must get prior authorization for all procedure codes listed in Chapter 35, Section 06 where prior authorization is indicated, and the following general areas.

1. All wheelchairs and wheelchair accessories and repairs for nursing facility residents. Requests must state if the recipient or facility owns the wheelchair.
2. Repairs when the charge exceeds \$300. This includes labor and parts charges. All repairs and adaptations to equipment for nursing facility residents need written prior authorization. Specify who owns the equipment.
3. Maintenance of equipment.

Enteral Nutrition Products

1. All enteral nutrition products except those for treatment of phenylketonuria, hyperlysinemia, and maple syrup urine disease, and the first 30 days after hospital discharge to other than a long-term care facility. See Nutritional Services chapter for coverage standards and rebate requirements.

Prostheses and Orthoses

Providers must get prior authorization for the following.

1. Prostheses and orthoses when the purchase or projected cumulative rental cost exceeds \$2,000. This requirement excludes orthopedic footwear. (see number 2 below).

Official Notices

2. Custom orthopedic footwear requires prior authorization (see codes below). Noncustom orthopedic footwear requires prior authorization regardless of cost if the shoe will not be attached to a leg brace.
3. Repairs and adaptations to medical equipment, prostheses and orthoses when the cost exceeds \$300.
4. Charges in excess of \$100 on L1499, L7499, and L8499.

<u>Service Code</u>	<u>Service Description</u>
L3230	Orthopedic footwear, custom shoes, depth inlay
L3250	Orthopedic footwear, custom molded shoes, removable inner molds, prosthetic shoe
Y5370	Wig

IV. HEARING AIDS

ADD:

5. Adult pure-tone average (PTA) is less than 20 dB HL in fitted ear.

VI. REHABILITATIVE SERVICES

PHYSICAL THERAPY

ADD:

<u>Service Code</u>	<u>Service Description</u>
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Any combination of the following codes that exceed two per calendar year:

X4601 Initial physical therapy evaluation for new patient

Any combination of the following codes that exceeds 30 hours per calendar year:

97145 Additional 15 minutes of 97110-97128, 90900 and 97799

97799 Wound care, initial 30 minutes

SPEECH-LANGUAGE PATHOLOGY

The following codes require prior authorization:

ADD:

92599 Unlisted otorhinolaryngological services.

VII. HOME CARE SERVICES

CHANGE:

Effective October 1, 1991, an MA recipient (except for Elderly Waiver [EW], Community Alternative Care [CAC], Community Alternatives for Disabled Individuals [CADI], or Traumatic Brain Injury [TBI] waiver recipients) may receive the following amounts of home care services each calendar year (NOTE: The first calendar year runs from October 1, 1991 through December 31, 1991. Subsequent years run from January 1st through December 31st):

1. a combined total of forty (40) skilled nurse visits (X5284) or home health aide visits (X5285); and
2. a total of 40 units (10 hours) of R.N. supervision for personal care services (X4037 or X5644).

ADD:

Some procedure codes have been changed or eliminated. See Home Care Services chapter.

<u>Service Code</u>	<u>Service Description</u>
X5643	15 minutes of personal care service by an independently enrolled personal care assistant (PCA)
X5645	15 minutes of personal care service by a provider organization
X5641	15 minutes of private duty nursing service by an independently enrolled R.N.
X5642	15 minutes of private duty nursing service by an independently enrolled licensed practical nurse (L.P.N.)
X5646	15 minutes of private duty nursing service by or under contract with a private duty nursing provider organization to a non-ventilator dependent recipient

<u>Service Code</u>	<u>Service Description</u>
X5647	15 minutes of private duty nursing service by an R.N. employed by or under contract with a private duty nursing provider organization to a ventilator dependent recipient
X5648	15 minutes of private duty nursing service by a L.P.N. employed by or under contract with a private duty nursing provider organization to a non-ventilator dependent recipient
X5649	15 minutes of private duty nursing service by a L.P.N. employed by or under contract with a private duty nursing provider organization to a non-ventilator dependent recipient

Refer to sections 507.01 or 507.03 for procedures to follow to request prior authorization.

VIII. ALL OTHER SERVICES

ADD:

<u>Service Code</u>	<u>Service Description</u>
X5231	Face-to face contract between the case manager and the client
X5232	Face-to-face contact between the case manager and the client's family, legal representative, primary caregiver, mental health providers, or other service providers, or other interested persons
X5233	Telephone contact between the case manager and client, the client's mental health provider or other service providers, a client's family, legal representative, primary caregiver, or other interested persons (MA reimbursement limited to two hours per month)
X5234	Contacts between the case manager and the case manager's clinical supervisor concerning the client
X5235	Development, review, and revision of the client's ICSP or IFCSP, including the case manager's functional assessment of the client
X5236	Time spent by the case manager traveling <u>outside</u> the county of financial responsibility to meet face-to-face with a client or the client's family, legal representative, or primary caregiver when the client is a resident of a regional treatment center, residential treatment facility, or an inpatient hospital located outside the county of financial responsibility (MA reimbursement limited to eight hours per day)
X5237	Time spent by the case manager traveling <u>within</u> the county of financial responsibility to meet face-to-face with the client or the client's family, legal representative, or primary caregiver

ADD:

64613*8 cervical spinal muscles

Department of Labor and Industry

Labor Standards Division

Notice of Prevailing Wage Certifications for Construction Projects

Effective October 26, 1992 prevailing wage rates are certified for commercial construction projects in: St. Louis county: Iron Range Rehabilitation Center, Cotton Community Center, Water Source Relocation, Range Center Inc.; Hennepin county: Oak Terrace Asbestos Abatement, Southdale Library Asbestos Abatement, Oak Terrace Facilities Demolition; Nobles county: Learning Resource Center.

Copies of the certified wage rates for these projects may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306. The charges for the cost of copying and mailing are \$1.36 per project. Make check or money order payable to the State of Minnesota.

John B. Lennes, Jr.
Commissioner

Department of Trade and Economic Development

Annual Meeting Cancelled

The Minnesota Job Skills Partnership Board is hereby serving notification of cancellation of the Annual Meeting scheduled for November 16, 1992. The receiving of grant applications for this period is also being canceled. Reopening of the grant round applications will be published in February, 1993.

The Minnesota Job Skills Partnership Board solicits grant proposals from educational and other non-profit organizations for training programs designed for specific businesses. Please contact the Partnership office at 612/296-0388 for details regarding this notice.

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 Natural Resources

Request for Proposal for Technical Assistance

Note: This request for proposal does not obligate the State to complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

A. Scope of project

To provide technical assistance to communities and organizations receiving Minnesota ReLeaf Community Forest Program Grants.

B. Goals and objectives

To assist 43 cities/organizations in DNR Division of Forestry's Rochester Region so that \$310,000.00 of MN ReLeaf funds is directed to energy conservation plantings of trees and shrubs.

C. Project tasks

Proposals will be judged by an interview based on how well they can provide the technical assistance in the following categories and prices.

SECTION 1: IMPLEMENTATION ASSISTANCE 50%

FEE PER TASK

Project review and consultation with technical advisor with emphasis on community-specific tree planting/care standards and planting stock acquisition.	\$90
Outline documentation and reporting requirements for planting.	\$20
Plan project activities: steps, time frame, responsible.	\$40
Outline short and long term project maintenance plans.	\$20
Planning for volunteers: supervision, job descriptions, recognition.	\$20
Assistance meeting these standards where applicable: Establishing a tree board or department; tree ordinance development; planning for a comprehensive community forestry program; and planning an Arbor Day proclamation and observance.	\$120

SECTION 2: TRAINING 20%

Training for nursery stock handling, tree care and/or planting.	\$250
Energy conservation presentation.	\$250
Publications provided.	cost
Television, radio or newspaper interview.	\$60

SECTION 3: MONITORING 30%

Monitor project progress.	\$50
Project completion review.	\$85
Final written evaluation.	\$150

D. Department contacts

Prospective responders who have any questions regarding this request for proposal may call or write:

Gerald L. Jensen
Regional Staff Forester
2300 Silver Creek Road NE
Rochester, MN 55906
Phone: 507-285-7428

Mr. Jensen is the only employee authorized to answer questions regarding this proposal.

E. Submission of proposals

All proposals must be sent to and received by Gerald Jensen at the above address Not later than 4:30 p.m. November 6, 1992.

Late proposals will not be accepted. Submit 2 copies of proposal. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. Each copy of the proposal must be signed, in ink, by an authorized member of the firm. Commitment to the prices and terms of the proposal as stated must be valid for the length of the project.

F. Project costs

The department has estimated that the cost of this project should not exceed \$20,000.00.

G. Project completion date

The project will be completed by June 30, 1993.

H. Proposal contents

Each responder will be interviewed to determine their ability to perform the tasks as outlined in this proposal.

The responder will be willing to work for the fees stated in the tasks. The department will direct the responder to the 43 communities of concern.

I. Evaluation criteria

All proposals received by the deadline will be evaluated independently by representatives of the Department of Natural Resources. All qualified responders will be interviewed to determine their ability to complete the contract.

Evaluation and selection may be completed by November 15, 1992.

J. Worker's compensation

The successful responder will be required to submit acceptable evidence of compliance with worker's compensation insurance coverage requirements prior to execution of the contract.

Department of Public Safety

Office of Traffic Safety

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
Department of Public Safety
207 Transportation Bldg.
395 John Ireland Blvd.
St. Paul, MN 55155
(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.

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 Workers' Compensation Assigned Risk Plan

Notice of Request for Proposals for Managed Care Services

The Minnesota Workers' Compensation Assigned Risk Plan is soliciting proposals from qualified firms to provide managed care services to the Plan. Interested parties should obtain formal Request for Proposals from Deborah Betz at MWCARP Administrative Office, 4500 Park Glen Road - Suite 410, Minneapolis, MN 55416 (612) 920-3048.

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: A I—Sun sparestations
Contact: Bernadette Vogel 612-296-3778
Bid due date at 2pm: November 2
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12900-13496-1

Commodity: B F—Atomic absorption lamps
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: November 2
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32200-34548

Commodity: B F—Cambro Kitchenware
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: October 30
Agency: Brainerd Regional Human Service Center
Deliver to: Brainerd
Requisition #: B 55304-09451

State Contracts and Advertised Bids

Commodity: B F—CCTV and accessories
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: October 30
Agency: Minnesota Department of Jobs & Training
Deliver to: Various Places
Requisition #: B 21701-53234

Commodity: B F—Knitting machine
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: October 30
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-67573

Commodity: B G—Meat for December
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: November 10
Agency: Minnesota Correctional Facility
Deliver to: Oak Park Heights
Requisition #: B 78630-11060

Commodity: B E—Lab supplies
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: November 2
Agency: Rochester Community College
Deliver to: Rochester
Requisition #: B 27148-61043

Commodity: B E—Aladdin tableware
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: October 30
Agency: Brainerd Regional Human Service Center
Deliver to: Brainerd
Requisition #: B 55304-09450

Commodity: B F—Used CCTV
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: October 30
Agency: Minnesota Department of Jobs & Training
Deliver to: Various Places
Requisition #: B 21701-53231

Commodity: B F—CCTV and accessories
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: October 30
Agency: Minnesota Department of Jobs & Training
Deliver to: Various Places
Requisition #: B 21701-53236

Commodity: B F—Miscellaneous plumbing values
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: October 30
Agency: Minnesota Correctional Facility
Deliver to: Stillwater
Requisition #: B 78620-00477

Commodity: A H—Repair IBM 3179 display units
Contact: Bernadette Vogel 612-296-3778
Bid due date at 2pm: November 4
Agency: Minnesota Department of Jobs & Training
Deliver to: St. Paul
Requisition #: B 21200-53390

Commodity: B G L—Data I/O programming system
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: November 2
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-24174

Commodity: B F—Mac software
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: November 2
Agency: Lakewood Community College
Deliver to: White Bear Lake
Requisition #: B 27154-47536

Commodity: A H M—Sound system—Rebid
Contact: Pam Anderson 612-296-1053
Bid due date at 2pm: November 4
Agency: Minnesota Correctional Facility—Faribault
Deliver to: Faribault
Requisition #: B 78790-20806-1

Commodity: B F—Aluminum containers
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: November 4
Agency: Department of Public Services
Deliver to: Roseville
Requisition #: B 80300-93174

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 E—Plastic pallets
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: November 4
Agency: Brainerd Regional Human Services Center
Deliver to: Brainerd
Requisition #: B 02310-36077

Commodity: B F—Fastpath V
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: November 2
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-02279

Commodity: B E—Turbostar
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: November 2
Agency: Metropolitan State University
Deliver to: St. Paul
Requisition #: B 26176-03499

Commodity: B G L—Interpro monitor
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: November 2
Agency: Minnesota Department of Transportation
Deliver to: St. Paul
Requisition #: B 79000-31845

Commodity: B F—Pneumatic pressure indicator
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: November 4
Agency: Minnesota Department of Transportation
Deliver to: Maplewood
Requisition #: B 79000-32394

Commodity: B F—Field standard test measure
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: November 4
Agency: Department of Public Service
Deliver to: Roseville
Requisition #: B 80300-93195

State Contracts and Advertised Bids

Commodity: B F—Meat for December
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: November 10
Agency: Minnesota Correctional Facility—Faribault
Deliver to: Faribault
Requisition #: B 78790-30558

Commodity: B F—Micrographic supplies
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: November 2
Agency: Intertechnologies group
Deliver to: St. Paul
Requisition #: B 02443-30293

Commodity: B F—Smoke detection
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: November 2
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12800-12940

Commodity: B G—Shelving—Rebid
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: November 2
Agency: Trade & Economic Development/Fiscal Services
Deliver to: Various Places
Requisition #: B 22400-00310-1

Commodity: B E—American sealt shells
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: November 2
Agency: Inver Hills Community College
Deliver to: Inver Grove Heights
Requisition #: B 27157-48958

Commodity: Fire detection alarm
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: October 28
Agency: Faribault Regional Center
Deliver to: Various Places
Requisition #: B 55303-93171

Commodity: B G—Pallet racking
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: November 2
Agency: Minnesota Correctional Facility
Deliver to: Lino Lakes
Requisition #: B 78550-93858

Commodity: B E—Stack chair
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: November 4
Agency: Minnesota Correctional Facility
Deliver to: Sauk Centre
Requisition #: B 78770-03583

Commodity: B G M—Folding tables
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: November 2
Agency: Minnesota Department of Jobs & Training
Deliver to: West St. Paul
Requisition #: B 21200-53219

Commodity: B F—ATV—Rebid
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: November 2
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-24155-1

Commodity: Fire detection alarm
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: October 28
Agency: Faribault Regional Center
Deliver to: Various Places
Requisition #: B 55303-93170

Commodity: Fire detection alarm
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: October 28
Agency: Faribault Regional Center
Deliver to: Various Places
Requisition #: B 55303-93174

Commodity: A H K M—Folding machine
Contact: Jack Bauer 612-296-2621
Bid due date at 2pm: November 4
Agency: Minnesota Correctional Facility
Deliver to: Red Wing
Requisition #: B 78760-03234

Commodity: A I—Tank testing
Contact: Jack Bauer 612-296-2621
Bid due date at 2pm: November 2
Agency: Minnesota Department of Transportation
Deliver to: Various Places
Requisition #: B 79000-31840

Commodity: B F—8" concrete block
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: November 2
Agency: Facilities Management Office
Deliver to: Little Falls
Requisition #: B 01000-07194

Commodity: B F—LCD projector
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: November 2
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-66925

Commodity: B F—Serofuges
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: November 2
Agency: North Hennepin Community College
Deliver to: Brooklyn Park
Requisition #: B 27153-21468

Commodity: B F—Microwave vehicle sensors
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: November 4
Agency: Minnesota Department of Transportation
Deliver to: Fort Snelling
Requisition #: B 79000-32380

Commodity: A I—Materials for construction of chemicals
Contact: Pam Anderson 612-296-1053
Bid due date at 2pm: November 2
Agency: Minnesota Department of Transportation
Deliver to: Various Places
Requisition #: B 79050-70159

Commodity: B F—Dental supplies
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: November 2
Agency: Brainerd Regional Human Service Center
Deliver to: Brainerd
Requisition #: B 55304-09447

Commodity: B F—Athletic trainers supplies
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: November 2
Agency: Winona State University
Deliver to: Winona
Requisition #: B 26074-14737

Commodity: B G M—Finnigan auto sampler
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: November 4
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12400-13671

Commodity: B G—Quadraverb digital effects processor
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: November 2
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-67761

Commodity: A I—All weather observation station
Contact: Pam Anderson 612-296-1053
Bid due date at 2pm: November 5
Agency: Minnesota Department of Transportation
Deliver to: Various Places
Requisition #: B 79000-32359

Commodity: B G—Burle motorized zoom lens
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: November 2
Agency: Minnesota Department of Transportation
Deliver to: Fort Snelling
Requisition #: B 79000-32381

Commodity: B F—Lumber, treated
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: November 2
Agency: Minnesota Department of Transportation
Deliver to: Windom
Requisition #: B 79750-01247

Commodity: B F—Loop detector cable
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: November 2
Agency: Minnesota Department of Transportation
Deliver to: Fort Snelling
Requisition #: B 79000-32379

Commodity: B F K—Flowers & plants for spring 1993
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: November 2
Agency: I R R & R B
Deliver to: Chisholm
Requisition #: B 43000-70248-1

Commodity: B F—Reception furniture
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: November 4
Agency: Bemidji State University
Deliver to: Bemidji
Requisition #: B 26070-14914

For Real Estate Professionals:

REAL ESTATE RULES 1991

Chapters 2800, 2805, and 2810 from the Minnesota Rules. *Essential* for both students and established brokers and salespersons. It contains all education and licensing requirements. Code No. 3-99. \$6.00

REAL ESTATE LAWS 1990

Includes all the changes made by the 1990 State Legislature. Complete and up-to-date. Code No. 2-92. \$8.00.

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



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Murder: Minnesota style

Murder in Minnesota: A treasury of vintage crimes in which famous and obscure characters come to life in all their cleverness or murderous madness. Minnesota cases from 1858-1917. 253 pp. photos, index. Code 17-35, \$6.95.

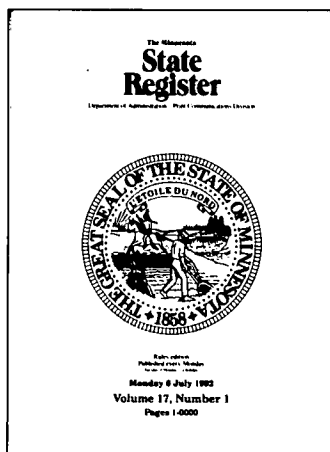
Robber and Hero: On September 7, 1876 six members of the James-Younger gang blasted their way out of Northfield, Minnesota. George Huntington's classic account of the Northfield Bank raid is as fascinating today as it was when first published 19 years after the attempted robbery. 125 pp., charts, maps, photos, with index. Code 17-40, \$5.95.

Secrets of the Congdon Mansion: The prosecutor called it a crime of greed. A complex, intriguing murder case, set in one of Minnesota's most spectacular mansions, and now a top Minnesota tourist attraction on Duluth's famous Lake Superior North Shore Drive. By Joe Kimball, 64 pp., drawings. Code 19-56, \$5.95.

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

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The "inside scoop" on OVER \$1 BILLION in annual business contracts.



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