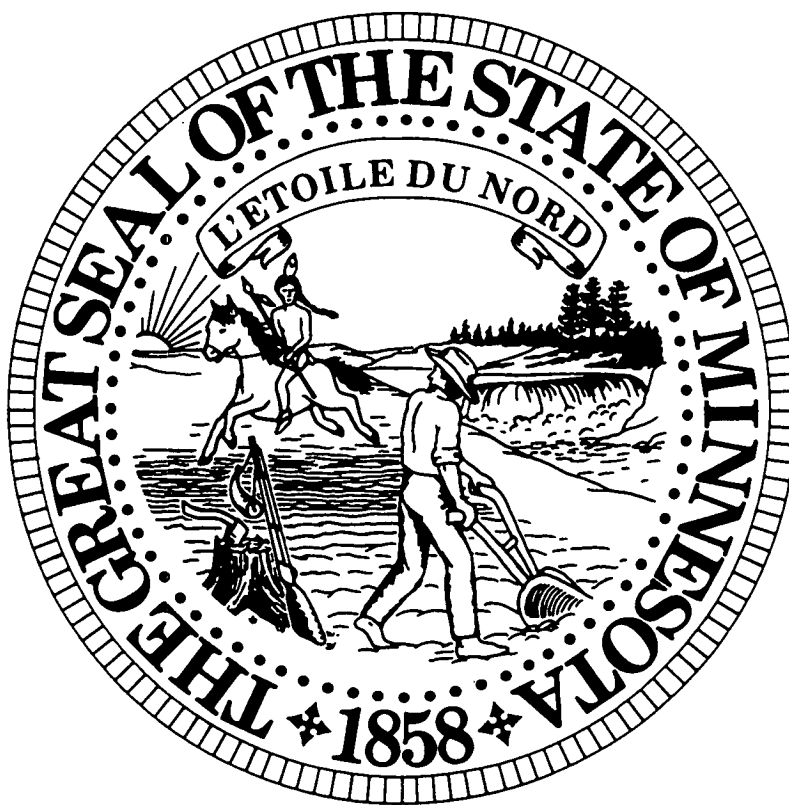


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**State
Register**

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Department of Administration—Print Communications Division



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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, professional-technical-consulting contracts, non-state bids and public contracts and grants.

A *Contracts Supplement* is published Tuesday, Wednesday and Friday and contains bids and proposals for commodities, including printing bids.

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24	Monday 12 December	Monday 28 November	Monday 5 December
25	Monday 19 December	Monday 5 December	Monday 12 December
26	Tuesday 27 December	Monday 12 December	Monday 19 December

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- "Commodity Contract Awards Reports," – lists awards of contracts and bids published in the Tuesday-Wednesday-Friday "*Contracts Supplement*" – published every two weeks, \$5.00 per individual report, plus \$3.00 shipping if applicable. Order stock # 99-42. Six-month subscriptions cost \$75.00 – a savings of about \$38.00 over the cost of purchasing them individually. Appears every two weeks. Order stock # 90-14. Available in hard copy format only.
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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 (612) 296-0504
Room 231 State Capitol, St. Paul, MN 55155

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

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For subscription information call 612/296-0931.

"Commodity Contract Awards Reports" are published every two weeks, and "Professional-Technical-Consulting Contract Awards Reports" are published monthly. Both are available through Minnesota's Bookstore, (612) 297-3000 or 1-800-657-3757.

Individual awards can be obtained from the **Materials Management Helpline** 612/296-2600.

Minnesota Rules: Amendments and Additions

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 1-800-657-3757.

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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 Administration

Proposed Permanent Rules Relating to Foundations

Proposed Permanent Rules Relating to Plan Reviews

Proposed Permanent Rules Relating to Manufactured Homes

DUAL NOTICE: In the Matter of the Proposed Adoption of Amendments to Chapters 1300, 1302, and 1350 of the Minnesota State Building Code

**Notice of Intent to Adopt a Rule without a Public Hearing unless 25 or More Persons Request a Hearing,
And**

Notice of Hearing if 25 or More Requests for Hearing are Received

Introduction. The Department of Administration, Building Codes and Standards Division intends to adopt permanent rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however 25 or more persons submit a written request for a hearing on the rules by January 4, 1995, a public hearing will be held on January 17, 1995. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after January 4, 1995, and before January 17, 1995.

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

Peggi White
Building Codes and Standards Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101
612-296-4626 Voice
TTY/TDD: Twin Cities 612-297-5353 or;
Greater Minnesota 800-657-3529 and ask for voice number

Subject of Rule and Statutory Authority. The proposed rules are amendments to the Minnesota State Building Code. The proposed rules include adoption by reference of Standard A 225.1-1994 for Manufactured Home Installations as published by the National Conference of States on Building Codes and Standards, Inc. in Herndon, Virginia. In addition, amendments relating to the construction of residential basement foundation walls as well as procedural changes in the division's construction approval rules are part of the proposed rules. The statutory authority to adopt the rule is Minnesota Statute 16B.61 subdivision 1. A copy of the proposed rule is published in the "State Register" and attached to this notice as mailed.

Comments. You have until 4:00 p.m. on January 4, 1995 to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. A free copy of the rules is available upon request from Peggi White.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:00 p.m. on January 4, 1995.

Proposed Rules

Your written request for a public hearing must include your name, address and telephone number. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing.

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

Cancellation of Hearing. The hearing scheduled for January 17, 1995 will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call Peggy White at 612-296-4626 Voice or TTY/TDD Twin Cities 612-297-5353 or Greater Minnesota 800-657-3529 and ask for voice number, after January 4, 1994 to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit written requests for a public hearing on the rule, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.14 to 14.20. The hearing will be held on January 17, 1995 in the Building Codes and Standards Division Conference Room, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota, beginning at 9:00 a.m. and will continue until all interested persons have been heard. The hearing will continue, if necessary, at additional times and places as determined during the hearing by the administrative law judge. The administrative law judge assigned to conduct the hearing is Howard Kaibel Jr. Judge Kaibel can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401, 612-341-7608.

Hearing Procedure. If a hearing is held, you and all interested or affected persons including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should relate to the proposed rule. You may also mail written material to the administrative law judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the administrative law judge at the hearing. Comments received during this period will be available for review at the Office of Administrative Hearings. You and the agency may respond in writing within five business days after the comment period ends to any new information submitted. All written materials and responses submitted to the administrative law judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. No additional evidence may be submitted during the five-day response period. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.0200 to 1400.1200 and *Minnesota Statutes*, sections 14.14 to 14.20. Questions about procedure may be directed to the administrative law judge.

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

Small Business Considerations. In preparing these rules, the Building Codes and Standards Division has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rules on small businesses. The proposed rules favorably affect small businesses in that none of the reporting requirements, schedules, or deadlines identified in items (a), (b), or (c) of the statute are applicable. See comment regarding items (d) and (e) in the Statement of Need and Reasonableness.

Expenditure of Public Money by Local Public Bodies. Pursuant to *Minnesota Statutes* section 14.11 subd. 1, the expenditure of public money will not exceed \$100,000 in either of the two years following the adoption of these rules.

Impact on Agriculture Lands. Pursuant to *Minnesota Statutes*, section 14.11, subd. 2, the adoption of these rules will not have any impact on agricultural land.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A requires each lobbyist to register with the Ethical Practices Board. Questions regarding this requirement may be directed to the Ethical Practices Board at First Floor Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, 612-296-5148.

Notice to Department of Finance. In accordance with *Minnesota Statutes* section 16A.1285, subdivision 5, pertaining to

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Proposed Rules

departmental charges, the department has notified the Commissioner of Finance of the department's intent to adopt rules in the above-entitled matter. A copy of the department's notice and the Commissioner of Finance's comments and recommendations are included in the Statement of Need and Reasonableness.

Notice to Chairs of Certain Legislative Committees. In accordance with *Minnesota Statutes*, section 16A.1285, subdivision 4, the department has sent a copy of this notice and a copy of the proposed rules to the Chair of the House Ways and Means Committee and the Chair of the Senate Finance Committee prior to submitting this notice to the "State Register."

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

Adoption Procedure After a Hearing. If a hearing is held, after the close of the hearing record, the administrative law judge will issue a report on the proposed rule. You may request to be notified of the date on which the administrative law judge's report will be available, after which date the agency may not take any final action on the rule for a period of five working days. If you want to be notified about the report, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. You may also request notification of the date on which the rule is adopted and filed with the Secretary of State. The agency's notice of adoption must be mailed on the same day that the rule is filed. If you want to be notified of the adoption, you may so indicate at the hearing or send a request in writing to the agency contact person at any time prior to the filing of the rule with the Secretary of State.

Dated: 21 November 1994

Debra Rae Anderson
Commissioner

Proposed Permanent Rules Relating to Foundations

Rules as Proposed (all new material)

1300.6100 CONVENTIONAL FOUNDATION CONSTRUCTION.

Subpart 1. **Conventional foundation construction.** The provisions in this part may be used for the design and construction of conventional foundations serving Group R, Division 3, and Group U, Division 1 occupancies subject to the approval of the building official. Other methods may be used provided a satisfactory design is submitted showing compliance with the other provisions of this code.

TABLE 2-A

Foundation wall reinforcement requirements of 12-inch thick hollow unit masonry or eight-inch thick cast-in-place (CIP) concrete.

Height of unbalanced backfill	Size of vertical reinforcing bars required when foundation wall is constructed in soil groups I or II of Table 2-B	
	Group I Soil	Group II Soil
5 feet	No. 4 bars	No. 4 bars
6 feet	No. 4 bars	No. 5 bars
7 feet	No. 4 bars	No. 5 bars
8 feet	No. 5 bars	No. 6 bars

Notes:

1. All reinforcing is to be installed vertically a maximum of six feet on center. Vertical reinforcing bars must be placed three inches clear maximum from the inside nonpressure face of masonry walls and 1-1/2 inches clear maximum from the inside face of the CIP walls.

2. Reinforcing may be omitted in wall sections ten feet or less in length that are bounded by wall corners or by wall offsets or returns at least two feet in depth.

3. Reinforced cells of hollow unit masonry must be filled solid with grout having a specified compressive strength at 28 days of 2,000 psi. Reinforcing steel must be ASTM A615 grade 40.
4. Hollow masonry units must be ASTM C-90 Grade N-1 and be installed with Type M or Type S mortar.
5. Cast-in-place concrete must have a 28-day minimum strength of 3,000 psi.
6. Anchor bolts must be installed to align with vertical reinforcing in addition to the locations and in the manner specified in Uniform Building Code, Section 1806.6 or Figure R-303 of the One and Two Family Dwelling Code.
7. If foundation walls are parallel to floor framing, solid blocking or diagonal bracing must be installed at the anchor bolt locations in the first two joist or truss spaces.
8. Floor framing must be nailed to the sill plate in accordance with Uniform Building Code Table 23-I-Q or Table R-402.3a of the One and Two Family Dwelling Code. In addition, approved metal angle clips must be used to fasten floor joists, trusses, or blocking to the sill plate at the anchor bolt locations. The clips must not be less than 18 gauge and be fastened to the plate and adjoining joists, trusses, or blocking with at least three 1-1/2 inch by 8d nails in each leg of the clip.
9. Foundation walls must not exceed a height of 8-1/2 feet, as measured from the basement floor. Height of unbalanced fill must also be measured from the basement floor.
10. Prior to backfilling, foundation walls must be laterally supported by floor construction at both top and bottom or by adequate temporary bracing.
11. A foundation drainage system must be installed, consisting of a foundation drain complying with Uniform Building Code Appendix 1824.3 and 1824.4, section R-305.1 of the One and Two Family Dwelling Code, or other approved design.
12. Foundations must also comply with the applicable construction provisions of Uniform Building Code chapters 19 and 21.

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**TABLE 2-B
TYPES OF SOILS AND THEIR PROPERTIES**

Soil group	Unified soil classification system symbol	Soil description	Drainage Characteristics	Volume change potential expansion
Group I Excellent	GW	Well-graded gravels, gravel sand mixtures, little or no fines.	Good	Low
	GP	Poorly graded gravels or gravel sand mixtures little or no fines.	Good	Low
	SW	Well-graded sands, gravelly sands, little or no fines.	Good	Low
	SP	Poorly graded sands or gravelly sands, little or no fines.	Good	Low
	GM	Silty gravels, gravel-sand-silt mixtures.	Good	Low
	SM	Silty sand, sand-silt mixtures.	Good	Low
Group II Fair to Good	GC	Clayey gravels, gravel-sand-clay mixtures.	Medium	Low
	SC	Clayey sands, sand-clay mixture.	Medium	Low
	ML	Inorganic silts and very fine sands, rock flour, silty or clayey fine sands or clayey silts with slight plasticity.	Medium	Low
	CL	Inorganic clays of low to medium plasticity, gravelly clays, sands, clays, silty clays, lean clays.	Medium	Medium
Group III Poor	CH	Inorganic clays of high plasticity, fat clays	Poor	High
	MH	Inorganic silts, micaceous or diatomaceous fine sandy or silty soils, elastic silts.	Poor	High
Group IV Unsatisfactory	OL	Organic silts and organic silty clays of low plasticity.	Poor	Medium
	OH	Organic clays of medium to high plasticity, organic silts.	Unsatisfactory	High
	Pt	Peat and other highly organic soils.	Unsatisfactory	High

Table 2-B is reproduced by permission of the American Forest and Paper Association (formerly NFPA), Washington, D.C.

Proposed Permanent Rules Relating to Plan Reviews

Rules as Proposed

1302.0100 TITLE.

This chapter shall be known as the "Building Construction Approvals and State Agency Approval Rules."

1302.0200 PURPOSE.

The purpose of this chapter is to establish fees and; establish procedures for the review of building plans, specifications, and related documents; and provide for code administration including plan review and inspection services for certain public buildings, state licensed facilities, and municipalities for which the commissioner undertakes code administration as authorized in Minnesota Statutes, section 16B.62, subdivision 2, to determine compliance with the code; and to establish fees and procedures for the review of building plans, specifications, and related documents implementing code content that are required to be submitted to a state agency.

1302.0400 DEFINITIONS.

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

Subp. 5. Public building. "Public building" means:

- A. a building and its grounds, the cost of which is paid for by the state or a state agency, regardless of its cost; and
B. a school district building project the cost of which is \$100,000 or more.

Subp. 6. State building inspector official. "State building inspector official" has the meaning given in part 1300.2400, subpart 11.

Subp. 7. State licensed facility. "State licensed facility" means a building and its grounds that are licensed by the state as a hospital, nursing home, supervised living facility, free-standing outpatient surgical center, or correctional facility.

1302.0500 PLAN REVIEW FUNCTION RESPONSIBILITIES.

Subpart 1. General. In order to determine compliance with the code, the state building inspector official shall:

- A. provide for the review of building plans and, specifications with, and related documents for public buildings and state licensed facilities;
B. provide for the inspection of any public building buildings and its grounds state licensed facilities; and
C. provide plan review services for any construction project for which plans and specifications are required to be submitted to a state agency; and
D. required to be administered by the commissioner of administration for the administration and enforcement of the code in municipalities for which the state building official undertakes administration of the code as authorized by the commissioner in Minnesota Statutes, section 16B.62, subdivision 2.

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

1302.0600 FEES.

Subpart 1. General Building permits. Fees for building permits and the review of plans and specifications submitted under as required in part 1302.0500, subpart 2 1, must be paid as set forth in the following fee schedule or as adopted by a municipality.

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

B. Other inspections and fees are:

- (1) inspections outside of normal business hours (minimum charge two hours), \$45 per hour¹;
(2) reinspection fees², \$45 per hour¹;
(3) inspections for which no fee is specifically indicated (minimum charge one-half hour), \$45 per hour¹; and

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Proposed Rules

(4) additional plan review required by changes, additions, or revisions to approved plans (minimum charge one-half hour), \$45 per hour¹.

C. Footnotes Footnote to item B:

(4)¹ Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost includes supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

(2)² A reinspection fee may be assessed for each inspection or reinspection when a portion of work for which inspection is called is not complete or when corrections called for are not made.

This item is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for inspection or reinspection.

Reinspection fees may be assessed when the permit card is not properly posted on the work site; the approved plans are not readily available to the inspector; for failure to provide access on the date for which inspection is requested; or for deviating from plans requiring the approval of the building official.

To obtain a reinspection, the applicant shall file an application in writing upon a form furnished for that purpose and pay the reinspection fee in accordance with Table No. 3-A or as set forth in the fee schedule adopted by the jurisdiction.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

Subp. 2. Plan review fee. The plan review fee is Fees for the review of building plans, specifications, and related documents submitted as required in part 1302.0500, subpart 1, must be paid based on 65 percent of the building permit fee determined from the fee schedule. The plan review fee is a separate fee and is in addition to the permit fee. If plans are incomplete or changed so as to require additional plan review, an additional plan review fee must be charged according to the fee schedule required in subpart 1.

Subp. 3. Surcharges Surcharge. Surcharge fees are required for permits issued on all buildings including public buildings and state licensed facilities as required by Minnesota Statutes, section 16B.70 when administration is by a municipality other than the state.

Subp. 4. Fees for prefabricated buildings Distribution. Fees for prefabricated building plans submitted are those in accordance with part 1360.3600. This subpart establishes the fee distribution between the state and municipalities contracting for plan review and/or inspection of public buildings and state licensed facilities.

A. If plan review and inspection services are provided by the state building official, all fees for those services must be remitted to the state.

B. If plan review services are provided by the state building official and inspection services are provided by a contracting municipality:

(1) the state shall charge 75 percent of the plan review fee required by the state's fee schedule in this part; and

(2) the municipality shall charge 25 percent of the plan review fee required by the municipality's adopted fee schedule, for orientation to the plans, in addition to the permit and other customary fees charged by the municipality.

C. If plan review and inspection services are provided by the contracting municipality, all fees for those services must be remitted to the municipality in accordance with their adopted fee schedule.

1302.0700 PLAN REVIEW COMMENTS AND APPROVALS.

Subpart 1. Materials to be submitted. When a municipality does not contract with the state for code administration and enforcement services on public buildings and state licensed facilities as referred to in part 1302.0850, plans, specifications, and related documents for new construction, additions, and remodeling must be submitted to the state building official.

Subp. 2. Information to be included. A person who must submit plans and specifications under this part shall include:

A. two complete sets of drawings, specification books, and other relevant documents necessary to evidence code compliance, with appropriate certification on each sheet of the drawings and the title page of the specifications book;

B. a completed plan review and construction authorization application form provided by the state building official;

C. the appropriate fee established by part 1302.0600; and

D. a reference to any optional chapters of the code as identified in part 1300.2900 adopted by the municipality and any optional appendix chapters of the Uniform Building Code as identified in part 1305.0020 adopted by the municipality.

Subp. 3. State building official's duties. The state building inspector official or the inspector's official's agent shall review sub-

mittals and prepare written comments defining items not in compliance with the code. The written comments must be mailed to the submitting designer with copies to the municipal building official, when applicable, and the owner, and a copy must be kept on file by the state building ~~inspector~~ official. The submitting designer shall respond to the review comments of the state building ~~inspector~~ official within 14 days, describing the methods of correcting the errors or omissions in compliance with the comments of the state building ~~inspector~~ official or the ~~inspector's~~ official's agent.

Authorization for construction must be granted when compliance with the requirements of the code is documented.

1302.0850 CODE ADMINISTRATION BY COMMISSIONER.

The commissioner shall administer and enforce the code as a municipality with respect to public buildings and state licensed facilities as authorized in Minnesota Statutes, section 16B.61, subdivision 1a. This includes the issuance of building permits and performing plan review and inspection.

The state building official shall contract with a municipality for code administration and enforcement services for public buildings and state licensed facilities if the state building official determines that the contracting municipality has adequately trained and qualified personnel to provide services for the construction project.

1302.0950 CODE ENFORCEMENT BY STATE BUILDING OFFICIAL.

In accordance with Minnesota Statutes, section 16B.62, subdivision 2, the state building official shall undertake the administration and enforcement of the code in municipalities where the commissioner determines the code is not being properly administered and enforced and in municipalities that determine not to administer and enforce the code when required by Minnesota Statutes, sections 16B.59 to 16B.75. The commissioner may also contract with other certified building officials to provide the required code administration and enforcement. Any cost to the state arising from the state administration and enforcement of the code shall be borne by the subject municipality.

REPEALER. Minnesota Rules, parts 1302.0300; 1302.0500, subparts 2 and 3; 1302.0800; and 1302.0900, are repealed.

Proposed Permanent Rules Relating to Manufactured Homes

Rules as Proposed

1350.0100 DEFINITIONS.

Subp. 2. [See repealer.]

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

Subp. 5. [See repealer.]

[For text of subps 3 and 4, see M.R.]

Subp. 6. [See repealer.]

Subp. 7. [See repealer.]

[For text of subps 8 to 12, see M.R.]

Subp. 13. [See repealer.]

[For text of subps 14 to 17, see M.R.]

Subp. 18. [See repealer.]

[For text of subps 19 to 23, see M.R.]

Subp. 24. [See repealer.]

[For text of subps 25 and 26, see M.R.]

Subp. 27. [See repealer.]

Subp. 28. [See repealer.]

[For text of subp 29, see M.R.]

Subp. 30. [See repealer.]

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[For text of subs 31 to 34, see M.R.]

Subp. 35. [See repealer.]

[For text of subs 36 and 37, see M.R.]

Subp. 38. **Manufactured home.** "Manufactured home" means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; ~~except that the.~~ Calculations used to determine the number of square feet in a structure must be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. This term also includes any structure structures which meets all meet the above requirements and with respect to which except for the size requirement when the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under Minnesota Statutes, chapter 327.

[For text of subs 39 to 44, see M.R.]

Subp. 45. [See repealer.]

[For text of subs 46 to 51, see M.R.]

Subp. 52. [See repealer.]

[For text of subs 53 and 54, see M.R.]

Subp. 55. [See repealer.]

[For text of subp 56, see M.R.]

Subp. 57. [See repealer.]

Subp. 58. [See repealer.]

Subp. 59. [See repealer.]

[For text of subp 60, see M.R.]

1350.0250 INCORPORATION BY REFERENCE.

ANSI A225.1-1994 Manufactured Home Installations is incorporated by reference and made part of the Minnesota State Building Code. This document is not subject to frequent change and is available in the Minnesota state law library.

1350.0300 ENFORCEMENT.

The commissioner shall administer and enforce ~~all the provisions of parts 1350.0100 to 1350.6900~~ chapter 1350, ANSI A225.1-1994, and the code. Any authorized representative of the Department of Administration may enter any premises where manufactured homes are manufactured, sold, offered for sale, parked in any manufactured home park in the state, or installed in the state ~~if the installation was made after September 1, 1974.~~ The authorized representative may examine any records and may inspect any manufactured home, equipment, or installations to ensure compliance with ~~the provisions of parts 1350.0100 to 1350.6900, ANSI A225.1-1994,~~ and the code. The authorized representative may require that a portion or portions of a manufactured home be removed or exposed in order that an inspection may be made to determine compliance, or require that all portions of an installation be removed or exposed to make this determination.

1350.0400 REQUIREMENT FOR SEALS, CODE COMPLIANCE, CONSTRUCTION COMPLIANCE CERTIFICATES, OR LABELS.

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

Subp. 3. **Requirement for installation seals.** No person shall install or connect to any manufactured home or manufactured home accessory structure a ground support or anchoring system unless the system and installation comply with ~~these rules parts 1350.0100 to 1350.6900.~~ The installer shall affix the correct installation seals to the manufactured home or the manufactured home accessory structure installed in compliance with parts 1350.0100 to 1350.6900. Evidence of compliance shall be supported by the submission of a certificate to the commissioner and the manufactured home owner. Installation seals are not required for manufactured homes installed on a foundation system in a municipality enforcing the State Building Code. A permit to install a manufactured home in a municipality enforcing the State Building Code ~~may~~ must be required by the municipality.

Subp. 4. **Seals for incomplete installations.** ~~When climatic conditions interfere with the completion of installation~~ Temporary installation certificates shall be given to the home owner by the licensed or registered installer for the installation of a manufactured home between the dates of November 15 and March 31 or when climatic conditions interfere in achieving proper installation. If this

occurs, the dealer or installer ~~will~~ shall assign an installation seal for the manufactured home ~~incompletely that has been temporarily~~ installed and shall notify the commissioner stating the condition prohibiting the completion of the installation using the ~~form issued temporary installation certificate provided~~ by the commissioner. ~~A copy of this notice shall be provided to the owner.~~ When climatic conditions permit the completion of installation, the installation ~~will~~ must be promptly completed and the installation seal affixed to the manufactured home. ~~The installation compliance certificate shall be provided to the commissioner and the owner.~~

A building official may approve in writing a permanent installation of a manufactured home between the dates of November 15 and March 31 if the building official determines that climatic conditions would not prevent completion of a permanent installation.

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

1350.0500 ACQUISITION OF LABELS AND SEALS; INSTALLER REGISTRATION.

[For text of subs 1 to 3, see M.R.]

Subp. 4. **Installer registration.** Application for installer registration shall be on the form issued by the commissioner with supporting evidence the commissioner deems necessary to establish that the installer is exempt from licensing and that installation seals issued to an installer will be affixed only to those manufactured homes where the support system and ground anchoring system installations comply with parts 1350.0100 to 1350.6900, ANSI A225.1-1994, and the code.

Subp. 5. **Acquisition of installation seals.** Any licensed or registered installer shall qualify for acquisition of ~~an~~ installation seal seals by applying for registration as an installer seals and certificates to the commissioner on the form ~~issued~~ provided by the commissioner.

1350.0600 APPLICATION FOR SEALS.

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

Subp. 2. **Application for installation seals.** Any licensed or registered installer who has met the applicable requirements of part 1350.0500 shall apply for installation seals. The application shall be on forms issued by the commissioner, and the application shall be accompanied by the installation seal fee ~~set forth~~ in part 1350.6500.

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

1350.0700 DENIAL AND REPOSSESSION OF SEALS.

Subpart 1. **Installation seals.** Should investigation or inspection reveal that a licensed or registered installer has not installed a manufactured home according to ~~parts 1350.0100 to 1350.6900~~ chapter 1350, ANSI A225.1-1994, and the code, the commissioner ~~may~~ shall deny the installer's application for new installation seals, and any installation seals previously issued shall be confiscated. Upon satisfactory proof of modification of such installation bringing it into compliance, the installer may resubmit an application for installation seals.

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

1350.0900 PLACEMENT OF SEALS.

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

Subp. 2. **Installation Seals.** ~~Only one of each type of~~ An anchoring seal and an installation seal shall be assigned to a manufactured home whether the manufactured home consists of one or multiple units. The anchoring seal and installation seal shall be placed in a readily visible location adjacent to the primary label or construction seal. Appropriate anchoring and installation seals shall be affixed to each accessory structure.

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

1350.1000 LOST OR DAMAGED SEALS.

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

Subp. 2. **Installation Seals.** When an anchoring or installation seal is lost or damaged, the commissioner shall be notified in writing. The notice shall identify the ~~construction~~ seal serial number, the ~~mobile~~ manufactured home manufacturer, the manufacturers' serial number and the location of the installation, and where available, the date of installation of the ~~mobile~~ manufactured home including the anchoring or installation seal serial number. Damaged or lost ~~installation~~ seals shall be replaced by the commissioner upon payment of the ~~installation~~ seal fee as provided in part 1350.6500.

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Proposed Rules

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

1350.1100 RETURN OF SEALS.

Subpart 1. ~~Installation~~ **Seals.** On discontinuing the installation of manufactured homes, ~~an the~~ the installer shall notify the commissioner within ten days of the date of ~~such the~~ discontinuance and return all unused ~~installation~~ seals ~~which have been issued to the installer.~~ Installation Seals may not be transferred by any installer.

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

1350.1400 APPLICATION FOR MANUFACTURED HOME ACCESSORY STRUCTURE APPROVAL.

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

Subp. 2. **Plans and specifications.** Submissions of required plans and specifications shall be in duplicate and shall include, but not be limited to, the following:

- A. a dimensioned floor plan(s);
- B. a dimensioned foundation support plan;
- C. proposed use of rooms and method of light and ventilation;
- ~~C.~~ D. size, type, and location of windows and exterior doors;
- ~~D.~~ E. type and location of all appliances and fixtures;
- ~~E.~~ F. type and location of plumbing, drain, water, gas, and electrical connections;
- ~~F.~~ G. type and location of all electrical outlets (receptacles and lights);
- ~~G.~~ H. number of outlets and appliances on each circuit and circuit rating; and
- ~~H.~~ I. installation details and instructions including structural, mechanical, electrical, and plumbing.

1350.2100 INSPECTION REQUESTS.

Any person manufacturing ~~mobile~~ manufactured homes or any person selling, offering for sale, or parking any ~~mobile~~ manufactured home in any mobile home park in the state, or any dealer or installer of ~~mobile~~ manufactured homes, may request the commissioner to make an inspection of any ~~mobile~~ manufactured home manufactured after July 1, 1972, if said person holds title or lease to the house to be inspected. Additionally, any person holding title or lease to the ~~mobile~~ manufactured home may request inspection of the ground support and anchoring system. Inspection requests ~~should~~ shall be made on "Application for Inspection" forms, available from the commissioner. In connection with requested inspections, the commissioner may require plans, specifications, calculations, and test results.

1350.2400 NOTICE OF VIOLATIONS.

When an inspection reveals that a ~~mobile~~ manufactured home is in violation of chapter 1350, ANSI A225.1-1994, or the code, or these parts, the commissioner shall serve upon the owner or the owner's agent a notice specifying the violation. An owner or agent so served shall not move said ~~mobile~~ manufactured home from the premises until such time as the commissioner determines that the ~~mobile~~ manufactured home has been brought into compliance with the code and these parts.

1350.2500 STABILIZING SYSTEMS FOR MANUFACTURED HOME INSTALLATION.

Stabilizing devices when installed at the site of occupancy shall comply with ~~parts 1350.2500 to 1350.8200~~ chapter 1350, ANSI A225.1-1994, and the code.

1350.2700 FOUNDATION AND SUPPORT SYSTEMS.

Subpart 1. **General.** Each manufactured home ~~shall must~~ be installed on a foundation system or ~~shall have a support system as specified herein.~~ A minimum clearance of 12 inches shall be maintained beneath the underside of the main frame (I-beam or channel beam) in the area of utility connections when the manufactured home is not installed on a foundation system: support system according to manufacturer's installation instructions or ANSI A225.1-1994. All foundations or support systems, except manufactured homes located within a licensed manufactured home park must comply with the Minnesota State Building Code.

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

Subp. 3. **Mobile Manufactured homes for which installation instructions are not available.** Where the manufacturer's installation instructions are not available, unless the entire support system is designed by a registered professional engineer or architect, and approved by the authority having jurisdiction prior to installation, supports ~~shall be spaced not more than ten feet apart for mobile homes 12 feet wide or less, and not more than eight feet apart for mobile homes over 12 feet wide, beginning from the front wall of the mobile home, with not more than two feet open-end spacing at the area of the main frame. Supports shall be installed directly under the main frame (or chassis) of the mobile home. Methods other than those specified herein shall be approved prior to~~

installation by the authority having jurisdiction. Double wide mobile homes built with a conventional frame shall have additional supports placed under the center (mating) line at each end wall, and at the support columns located at the sides of center wall openings eight feet in width or greater. The supports shall be constructed to withstand the weight calculated by multiplying one-half the width of the opening (in feet) times one-half the width of the home (in feet) multiplied by 35 pounds per square foot. (30-pound snow load and five-pound roof load.) must be installed according to chapter 1350 and ANSI A225.1-1994.

Subp. 4. **Footings.** The required load-bearing capacity of individual load-bearing supports and their footings shall be calculated at not less than a combined live and dead load of 65 pounds per square foot. Footings shall be adequate in size to withstand the tributary live and dead loads of the mobile home and any concentrated loads.

Footings shall be at least 16-inch by 16-inch by four-inch solid concrete blocks or other product approved for the use intended. As an alternate, two eight-inch by 16-inch by four-inch solid concrete blocks can be used as footings provided the joint between the blocks is parallel to the steel I-beam frame.

Footings or pier foundations, when required, shall be placed level on firm undisturbed soil or on controlled fill which is free of grass and organic materials, compacted to a minimum load-bearing capacity of 2,000 pounds per square foot (unless otherwise approved by a registered professional engineer). Where unusual soil conditions exist as determined by the authority having jurisdiction, footings shall be designed specifically for such conditions. All footings must extend below the design frost line as required by chapter 1300 of the Minnesota State Building Code.

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

Subp. 7. [See repealer.]

1350.2801 PERMANENCY OF CONNECTIONS.

Anchoring equipment must be designed to prevent self-disconnection when ties are slack. Hook ends must not be used in any part of the anchoring system.

1350.3400 UTILITY CONNECTIONS.

Subpart 1. **Water connections.** Water piping to manufactured homes shall be in compliance comply with the 1979 Minnesota Plumbing Code, parts 4715.0200 to 4715.6000 of the Department of Health chapter 4715. Pipes shall be protected from freezing. A heat tape, when installed, shall be listed and installed in conformance with its listing and the manufacturer's instructions. When the manufactured home is installed on a support system subject to ground movement due to freezing and thawing, approved flexible connectors or semirigid copper tubing shall be used to prevent pipe breakage.

Subp. 2. **Sewer connections.** Waste piping to manufactured homes shall be in compliance comply with the 1979 Minnesota Plumbing Code, parts 4715.0200 to 4715.6000 of the Department of Health chapter 4715. When a manufactured home is installed on a support system subject to ground movement due to freezing and thawing, offsets or approved flexible connectors, or both, shall be used to prevent pipe breakage.

Subp. 3. **Gas piping.** Gas piping to the manufactured home shall be of adequate capacity rating to supply the connected load. It shall be installed in compliance Installation of the gas piping shall comply with the Minnesota Heating, Ventilating, Air Conditioning, and Refrigeration State Mechanical Code, chapter 1345 of the Department of Administration 1346. When the manufactured home is installed on a support system subject to ground movement because of freezing and thawing, semirigid copper pipe or a listed manufactured home gas connector for exterior use only shall be installed to prevent pipe breakage. Gas piping shall be protected from physical damage.

Subp. 4. **Tests for gas piping.** The manufactured home fuel gas piping system shall be tested before it is connected to the gas supply. Only air shall be used for the test. The manufactured home gas piping system shall be subjected to a pressure test with all appliance shutoff valves, except those ahead of fuel gas cooking appliances, in the open position. Appliance shutoff valves ahead of fuel gas cooking appliances shall be closed.

The test shall consist of air pressure at not less than ten inches nor more than 14 inches water column (six ounces to eight ounces per square inch). The system shall be isolated from the air pressure source and maintain this pressure for not less than ten minutes without perceptible leakage. Upon satisfactory completion of the test, the appliance valves ahead of fuel gas cooking appliances shall be opened, and the gas cooking appliance connectors tested with soapy water or bubble solution while under the pressure.

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remaining in the piping system. Solutions used for testing for leakage shall not contain corrosive chemicals. Pressure shall be measured with either a manometer, slope gage, or gage calibrated in either water inches or pounds per square inch with increments of either one-tenth inch or one-tenth pounds per square inch, as applicable. Upon satisfactory completion of the test, the manufactured home gas supply connector shall be installed and the connections tested with soapy water or bubble solution. All fuel gas piping systems must be tested before being connected to the fuel gas supply in accordance with ANSI A225.1-1994, sections 8-4 to 8-5.2.

Subp. 5. **Electrical connections.** On-site electrical connections to the manufactured home and any on-site electrical wiring required to prepare the manufactured home for occupancy shall be done in conformance with must conform to the manufactured home building code and shall be installed and inspected as required by the Minnesota Electrical Act, *Minnesota Statutes*, sections 326.241 to 326.248.

1350.3500 OBTAINING APPROVAL OF QUALITY CONTROL.

Subpart 1. **Procedure.** To obtain quality control approval for a an accessory structure manufacturing facility, a manufacturer shall submit a quality control manual pursuant to subpart 2, item A, and consent to investigations and inspections at reasonable hours by the commissioner for field verification of satisfactory quality control.

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

1350.6500 FEES FOR SEALS, CONSTRUCTION COMPLIANCE CERTIFICATES, AND LABELS.

Subpart 1. **Construction seal fees.** Replacement manufactured home and construction seals or accessory structure construction seal fees are ~~\$5~~ \$30 per seal.

Subp. 2. **Installation seal fees.** Manufactured home installation seal fees are ~~\$6~~ \$8 for a support/utility seal and ~~\$4~~ \$8 for an anchoring system seal.

Subp. 3. **Construction compliance certificate fee.** The manufactured home and accessory structure construction compliance certificate fee is ~~\$10~~.

Subp. 4. **Label fee.** The United States Department of Housing and Urban Development monitoring (label) fee is ~~\$19~~ \$24 per label. The United States Department of Housing and Urban Development monitoring (label) fee shall be paid by the manufacturer to the secretary.

Subp. 5. Temporary installation certificate fee. A temporary installation certificate fee is \$2 per certificate.

Subp. 6. Seal order postage and handling fee. The postage and handling fee for each order shipped is \$4.

1350.6600 APPEAL FEE.

The appeal fee is ~~\$20~~ \$70.

1350.6700 ANNUAL REGISTRATION FEES.

An installer shall pay a an initial registration fee of ~~\$20 annually~~ \$50. ~~The~~ In addition, an installer shall pay a renewal fee is of \$35 due January 1 of each year.

1350.6800 OTHER FEES.

For all other work performed by the ~~Department of Administration~~ Minnesota Building Code and Standards Division such as, but not limited to, the review of plans, specifications, ~~and~~ independent agency reports, and quality control evaluation, ~~a fee of \$25 per department employee-hour shall be charged~~ fees must be charged based on the fee schedule in part 1302.0600. Travel expenses must be charged at the rates established for state employees by the commissioner of administration.

1350.8300 FEES.

Fees for licenses and services associated with parts 1350.7000 to 1350.9200 are as follows:

- A. initial license for principal location, (remainder of calendar year), ~~\$100~~ \$200. Fee is not refundable;
- B. initial license for dealer subagency location, ~~\$25~~ \$40. Fee is not refundable;
- C. license biennial renewal, principal location, ~~\$200~~ \$300; dealer subagency location, ~~\$50~~ \$80. Subagency license renewal must coincide with the principal license date;
- D. change of bonding company, ~~\$5~~ \$10. A corrected duplicate license is also required;
- E. reinstatement of bond after cancellation; ~~\$5~~ notice has been received, \$10;
- F. duplicate license, ~~\$5;~~ and \$10;
- G. checks returned without payment, ~~\$10;~~ \$15; and
- H. change of address, \$10. A corrected duplicate license is also required.

1350.8600 REQUIRED DOCUMENTS.

A dealer shall furnish to the parties to a transaction at the time the documents are signed or become available, true and accurate copies of listing agreements, earnest money receipts, purchase agreements, contracts for title, option agreements, safety feature disclosure statements form, statement of sale, energy audits, the formaldehyde warning which is required by *Minnesota Statutes*, section 325F.18, and other records, instruments, or documents which are material to the transaction and which are in the dealer's possession.

The format of the disclosure statement must conform to that contained in sample forms provided by the commissioner and the statement must be signed by the dealer or the dealer's authorized salesperson, the buyer, and the seller. A copy of ~~the disclosure~~ all required documents and disclosures must be kept on file by the dealer.

REPEALER. *Minnesota Rules*, parts 1350.0100, subparts 2, 5, 6, 7, 13, 18, 24, 27, 28, 30, 35, 45, 52, 55, 57, 58, and 59; 1350.2600; 1350.2700, subparts 5, 6, and 7; 1350.2800; 1350.2900; 1350.3000; 1350.3100; 1350.3200; 1350.3300; 1350.3600; 1350.3700; and 1350.5800, are repealed.

Department of Agriculture

Proposed Permanent Rules Relating to Agricultural Inspectors

Notice of Intent to Adopt a Rule without a Public Hearing

The Minnesota Department of Agriculture intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedures Act sections 14.22-14.28. You have 30 days to submit written comment on the proposed rules and may also submit a written request that a hearing be held on the rules.

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

Carol Milligan
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107
(612) 296-6906
Fax (612) 297-7678.

Subject of Rules and Statutory Authority. The proposed rules are about local agricultural inspectors duties. The statutory authority to adopt these rules is *Minnesota Statutes*, section 18.79, subd. 4, and 18.81, subd. 3. A copy of the proposed rules is published in the "State Register" and attached to this notice as mailed.

Comments. You have until 4:30 p.m., January 4, 1995, to submit written comment in support of or in opposition to the proposed rules or any subpart of the rule. Your comments must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Request for a Hearing. In addition to submitting comments, you may also request that hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on January 4, 1995. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rules which caused your request, the reason for the request, and any changes you want made to the proposed rules. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their request in writing. If a public hearing is required, the department will proceed according to *Minnesota Statutes*, sections 14.131-14.20.

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

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Statement of Need and Reasonableness. A Statement of Need and Reasonableness is now available from the department contact person. This statement 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.

Small Business Considerations. This rule applies only to local units of government, and has no impact on small business.

Expenditure of Public Money by Local Public Bodies. A statement of the estimated cost to local public bodies as a result of this rule is attached to this notice.

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

Dated: 15 November 1994

Elton Redalen, Commissioner
Department of Agriculture

FISCAL NOTE

The MDA has considered the impact of the proposed rules on public bodies as required by *Minnesota Statutes*, section 14.11, subdivision 1.

The MDA has determined that, overall, some change in costs may occur for public bodies. The noxious weed law has been in existence for more than sixty years, with enforcement designed to be a cooperative effort by state, county, and local governments. Each level of government has a unique role to fulfill in the enforcement process. When each level cooperates by doing their part, enforcement is efficient and uniform. In recent years, there has been an increasing number of instances where local or county governments have failed to execute their responsibilities. This has resulted in non uniform enforcement, inefficiencies, and increased use of public funds by the other levels of government. The proposed rules focus on county and local government accountability. The increased accountability that would result from the proposed rules could mean increased costs for some local and county governments. The amount of increase is difficult to estimate since each county or municipality may differ in their program need and past performance. If inadequate program support was provided in recent years by a local or county government, an increase in program support now will not result in new costs because they have had the responsibility since 1939. In many instances, all or part of the increase in program costs could be saved at another level of government that had been attempting to do their job for them. The full impact of any increase in costs will also be offset somewhat by increased efficiency. More uniform and effective enforcement will decrease the need for the use of more expensive enforcement measures such as prosecution.

By definition in Part 1505.0751, a municipality is a township or city. Minnesota has over 2,650 municipalities in the eighty-seven counties. Approximately twenty-five percent of the municipalities have not been doing their part in enforcement of the noxious weed law. If it costs a municipality an average of \$400 annually to enforce the noxious weed law, the total increase in cost for all that have not been cooperating would be \$265,000 annually. These are not new costs because the non cooperating municipalities have had this responsibility since 1939. County agricultural inspectors and the MDA have tried to offset this lack of cooperation and have experienced increased costs and decreased efficiency as a result. There are ninety-five county agricultural inspectors who average 13 hours per week and five half time MDA staff involved in the noxious weed control program. If each of these inspectors experienced an increase in costs of at least \$1500 annually due to a lack of cooperation from municipalities, the additional cost would be \$150,000. Therefore, the actual increase in costs for non cooperating municipalities would only be \$115,000 annually if the increased costs for counties and the MDA are considered.

The amount of time spent by each county agricultural inspector on duties assigned to the position averaged 25 hours per week in the early 1980's. That figure dropped to about 19 hours per week on average in 1993. This is a reduction of over 27,000 hours statewide. This reduction significantly impacted the amount of work they have been able to accomplish. One of the duties of a county agricultural inspector is the seed control program. Up until 1985, the number of official seed samples obtained annually was around 2,500. County agricultural inspectors normally obtain 75% of this amount and MDA staff the other 25%. In 1994, only 1,350 official samples were obtained. This reduction is directly attributable to a cutback in the amount of time county agricultural inspectors have to do their job. MDA estimates that 40,000 to 45,000 seed lots are marketed in Minnesota each year. If official samples can be obtained randomly in all areas of the state, four percent of the lots offered for sale is an adequate number of samples for an efficient seed regulatory program. Unless participation from county agricultural inspectors is increased, that percentage is impossible to achieve. The total increase in time would be 9,048 hours if each county increased by two hours per week for seed law enforcement. If the hourly rate of pay is \$15, the increase in cost to counties would be \$135,720 annually. However, since the actual cutback in hours worked by county agricultural inspectors in the past twelve years is over 27,000 hours, the increase would still leave them far short of where they were. For this reason, the extra cost is not considered an increase but rather it brings the

program effort back closer to appropriate levels. This increase would not be a direct function of the new rules since it is needed even if the rules had not been proposed.

Rules as Proposed (all new material)**1505.0751 DEFINITIONS.**

Subpart 1. **Scope.** The definitions in this part apply to parts 1505.0752 to 1505.0758.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of agriculture or an authorized agent and may include a county agricultural inspector.

Subp. 3. **Control program.** "Control program" means the administration and enforcement of laws and rules pertaining to seeds, noxious weeds, screenings, pesticides, fertilizers, feed, or insect pests.

Subp. 4. **County agricultural inspector.** "County agricultural inspector" means an individual appointed by the county board of commissioners under *Minnesota Statutes*, section 18.80, subdivision 1.

Subp. 5. **Enforcement action.** "Enforcement action" means an administrative or legal proceeding used by the commissioner, a county agricultural inspector, or a local weed inspector to carry out duties under *Minnesota Statutes*, sections 18.79, subdivision 1, and 18.81, subdivisions 1 and 2.

Subp. 6. **Local weed inspector.** "Local weed inspector" means the supervisor of a township board or the mayor of a city when they assume the duties of their office or their appointed assistant under *Minnesota Statutes*, section 18.80, subdivisions 2 and 3.

Subp. 7. **Municipality.** "Municipality" means a home rule charter or statutory city or a township.

Subp. 8. **Noxious weed.** "Noxious weed" means an annual, biennial, or perennial plant that the commissioner designates to be injurious to public health, the environment, public roads, crops, livestock, or other property.

1505.0752 PROCEDURE FOR ENFORCEMENT OF NONPERFORMANCE.

Subpart 1. **Local weed inspectors.** The procedure in this subpart applies if a city mayor, township supervisor, or their appointed assistant fails to carry out a duty assigned in *Minnesota Statutes*, section 18.81, subdivision 2.

A. If a county agricultural inspector observes that a local weed inspector has failed to carry out a duty assigned in *Minnesota Statutes*, section 18.81, the county agricultural inspector shall instruct the local weed inspector having jurisdiction to initiate enforcement action including the date by which it must be initiated. If no enforcement action is initiated by the date given, the county agricultural inspector shall notify the local weed inspector of the nonperformance in writing. The notice of nonperformance must include the following:

(1) the name and address of the owner and occupant of the land in violation or of the person selling or transporting noxious weed propagating parts;

(2) the legal description of the land in violation, if applicable;

(3) the names of the noxious weeds growing on the land or being unlawfully sold or transported;

(4) the steps to be followed by the local weed inspector in carrying out the inspector's duty;

(5) the date by which enforcement action must be initiated; and

(6) the county agricultural inspector's signature, address, and telephone number.

B. If a local weed inspector fails to initiate an enforcement action by the date specified in a notice of nonperformance, the county agricultural inspector serving the notice may perform the duty.

C. After an enforcement action resulting from a notice of nonperformance has been completed, the county agricultural inspector involved may file an itemized statement of costs with the clerk in the municipality where the action was carried out if the county cannot be reimbursed in another manner. The municipality shall issue the proper warrants to the county for the services rendered.

D. If a municipality fails to reimburse the county, the county auditor may include the amount listed in the itemized statement as a part of the next annual levy in the municipality and withhold that amount from the municipality in making its next apportionment.

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Subp. 2. **County agricultural inspectors.** The procedure established in this subpart applies if a county agricultural inspector fails to carry out a duty assigned in *Minnesota Statutes*, section 18.81, subdivision 1, clauses (1) to (3).

A. If the commissioner observes that a county agricultural inspector has failed to carry out a duty assigned in *Minnesota Statutes*, section 18.81, the commissioner shall instruct the county agricultural inspector to initiate enforcement action, including the date by which the enforcement action must be initiated. If no enforcement action is initiated by the date given, the commissioner shall notify the county agricultural inspector of the nonperformance in writing. The notice must contain the following:

- (1) the name and address of the person or persons who own, occupy, or manage the land or firm;
- (2) the legal description of the land in violation, if applicable;
- (3) the names of the noxious weeds growing on the land in violation or a specific description of the nonperformance;
- (4) the steps for the county agricultural inspector to follow in order to carry out the inspector's duty;
- (5) the date by which the enforcement action must be taken by the county agricultural inspector; and
- (6) the signature, address, and telephone number of the commissioner.

B. If a county agricultural inspector fails to initiate an enforcement action by the date specified in a notice of nonperformance, the commissioner may carry out the duty for the county. The commissioner shall inform the board of county commissioners of the nonperformance by the agricultural inspector.

C. The commissioner may request the board of county commissioners to provide information concerning any corrective measures taken to prevent future nonperformance actions.

1505.0754 WORK PLANS AND PERFORMANCE EVALUATIONS FOR COUNTY AGRICULTURAL INSPECTORS.

Subpart 1. **Work plans.** A detailed plan of work to be accomplished by each county agricultural inspector must be jointly developed each year by the commissioner and the county agricultural inspector. A separate work plan must be developed for each of the control programs involving seed, noxious weed, and screenings. If participation in the control programs for feed, fertilizer, pesticide, and insect pests is requested by the commissioner, a separate work plan must also be developed for each program. The plan must list the individual tasks, the amount of time sufficient to complete them, and the budget necessary. The plan must be submitted to the board of county commissioners each year for its approval of the amount of time and the budget needed.

If the commissioner requests participation in the feed, fertilizer, pesticide, and insect pest control programs, the written request to do so must accompany the work plan.

Subp. 2. **Performance evaluation.** The performance of a county agricultural inspector must be evaluated annually by the board of commissioners in the county where the inspector is employed. The evaluation must be based on the following criteria:

- A. whether or not all tasks assigned to the inspector by the work plan were performed;
- B. whether or not enforcement actions were initiated in response to all notices of nonperformance received during the calendar year for which the evaluation is being made; and
- C. whether or not the hours of training required by part 1505.0756 were completed.

1505.0756 TRAINING REQUIREMENTS AND AUTHORIZED AGENT STATUS FOR COUNTY AGRICULTURAL INSPECTORS.

Subpart 1. Training requirements.

A. To meet qualifications as a county agricultural inspector in the control programs for noxious weed, seed, and screenings as required by *Minnesota Statutes*, section 18.80, subdivision 1, each county agricultural inspector must complete at least 40 hours of approved training in the first year of employment, and 20 hours in each succeeding year as follows:

- (1) 16 hours in seed law enforcement training in the first year and eight in each succeeding year;
- (2) 20 hours in noxious weed law enforcement training in the first year and ten in each succeeding year; and
- (3) four hours in screenings law enforcement in the first year and two in each succeeding year.

B. To meet qualifications as a county agricultural inspector in the control programs for feed, fertilizers, pesticides, and insect pests, the participating county agricultural inspector must satisfactorily perform all assigned tasks in the noxious weed, seed, and screenings control programs and must complete the number of hours of training required by the county work plan for each program.

Subp. 2. Authorized agent status.

A. *Minnesota Statutes*, section 18.79, subdivision 2, gives the commissioner the power to authorize county agricultural inspectors to act as agents in the administration and enforcement of *Minnesota Statutes*, sections 18.76 to 18.88. As an agent, the

county agricultural inspector has the same authority, within the agent's jurisdiction, as the commissioner to administer and enforce assigned laws.

B. A county agricultural inspector shall submit a request in writing to the commissioner to become or to discontinue being an authorized agent for each control program assigned to the inspector in *Minnesota Statutes*, section 18.81, subdivision 1.

C. A county agricultural inspector is eligible to become an authorized agent of the commissioner for the noxious weed, seed, and screenings control programs one year after completing the initial training needed to meet the qualification requirement if the inspector's latest annual performance evaluation indicates that the inspector has met the criteria specified in part 1505.0754, subpart 2.

D. The commissioner may authorize a county agricultural inspector to be an authorized agent for the feed fertilizer, pesticide, and insect pest control programs if the inspector is already an authorized agent in the noxious weed, seed, and screenings control programs and if the inspector has met the qualification requirement in item C.

E. The commissioner shall provide a letter of authorization along with an endorsement for authorized agent status in each control program on an identification card supplied to each authorized inspector.

F. The commissioner may revoke the authorized agent status for each or all control programs if an inspector fails to meet the criteria specified in part 1505.0754, subpart 2, as determined in the annual performance evaluation.

1505.0758 MEETINGS AND REPORTS REQUIRED OF INSPECTORS.

Subpart 1. Meetings.

A. County agricultural inspectors shall attend the following meetings according to *Minnesota Statutes*, section 18.79, subdivision 7, to receive the training considered necessary by *Minnesota Statutes*, section 18.79, subdivision 6:

(1) an annual short course for all county agricultural inspectors at one location;

(2) an annual meeting for the county agricultural inspectors in a designated region at several locations throughout the state; and

(3) other regional meetings called by the commissioner to address a special problem or training need that may arise involving one or more duties assigned to the position in *Minnesota Statutes*, section 18.81, subdivision 1.

B. Local weed inspectors are required to attend the following meetings according to *Minnesota Statutes*, section 18.79, subdivision 7, to receive the training considered necessary by *Minnesota Statutes*, section 18.79, subdivision 6:

(1) an annual noxious weed law enforcement training meeting or time allotted on the program of an annual meeting of a county township officers association;

(2) for those unable to attend a meeting as provided in subitem (1), a correspondence refresher course or other training approved by the commissioner; and

(3) other meetings called by the commissioner to address a special problem or training need that may arise involving a duty assigned to the position in *Minnesota Statutes*, section 18.81, subdivision 2.

Subp. 2. Reports.

A. The following reports are required from county agricultural inspectors according to *Minnesota Statutes*, section 18.79, subdivision 7, as a record of their activities in performing the duties assigned to them in *Minnesota Statutes*, section 18.81, subdivision 1:

(1) a monthly report to be kept on file in each county and available for review;

(2) an annual report submitted to the commissioner summarizing their activities in the duties assigned to them and the activities of the local weed inspectors reported to them; and

(3) special reports, to be requested as needed and submitted to the commissioner, involving one or more of the duties assigned to them.

B. An annual report from each municipality submitted to the county agricultural inspector in the county where the municipality is located is required of local weed inspectors according to *Minnesota Statutes*, section 18.79, subdivision 7, as a record of their activities in performing the duties assigned to them in *Minnesota Statutes*, section 18.81, subdivision 2.

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Department of Economic Security

Proposed Permanent Rules Relating to Economic Security; Wages

Notice of Intent to Adopt a Rule without a Public Hearing

The Department of Economic Security intends to adopt the above-entitled permanent rules without a public hearing following the procedures set forth in The Administrative Procedures Act, *Minnesota Statutes*, §§ 14.22 to 14.28. You have 30 days to submit written comments on the proposed rule and may also submit a written request that a hearing be held on the rule.

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

Mr. John Svigel
Tax Branch
Department of Economic Security
390 North Robert Street
St. Paul, MN 55101
612/296-3736
Fax 612/297-5283

Subject and Statutory Authority. The proposed rules are revisions of rules relating to unemployment compensation employer taxes. These rules have been developed as authorized by *Minnesota Statutes*, §§ 268.021 and 268.0122, subdivision 5, which permit the Commissioner of the Department of Economic Security to adopt rules governing programs the Commissioner administers. A copy of the proposed rule follows.

Comments. Persons interested in these rules have until 3:30 p.m., January 5, 1995 to submit written comments in support of or in opposition to the rules or any part or subpart of the rules. Your comments must be in writing and received by the agency contact person by the due date. Comments are encouraged. Your comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Request for a Hearing. In addition to submitting comments, you may also make a request for a public hearing on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 3:30 p.m. on January 5, 1995. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a public hearing, a public hearing will be held unless a sufficient number withdraw their request in writing. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, §§ 14.131 to 14.20.

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

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

Small Business Considerations. Small businesses can be affected by these rules. Many small corporations choose to report as subchapter S corporations because it eases the reporting burden for federal purposes. The proposed rule will simplify the reporting procedure for these corporations by narrowing the definition of the term "wages" to actual payments by eliminating the need to declare and pay tax on undistributed profits, and by allowing a consideration of reasonable compensation.

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

R. Jane Brown
Commissioner

Rules as Proposed

3315.0210 TYPES OF WAGES, GENERALLY.

Wages include the monetary value of:

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

E. "S" corporation profits, sometimes referred to as dividends, other than those designated as capital gain distributions or return of capital, distributed or allocated to officers and shareholders who perform services for the corporation. The distribution or allocation of undistributed profits is reportable at the time it is received by, or credited to the account of, the officers and shareholders. Any payments made by a subchapter "S" corporation to or on behalf of officers and shareholders which is reasonable compensation for services performed for the corporation and which the department shall treat as wages for contribution purposes, except as provided in subitems (1) to (5). An "S" corporation is a corporation that is organized under the rules of subchapter S of the *Internal Revenue Code of 1986*.

"Wages" does not include:

- (1) a distribution of earnings and profits which is in excess of any payment treated as wages as defined in this item;
- (2) a loan for business purposes to an officer or shareholder evidenced by a promissory note signed by an officer before the payment of the loan proceeds and recorded on the books and records of the corporation as a loan to an officer or shareholder;
- (3) a repayment of a loan or payment of interest on a loan made by an officer to the corporation and recorded on the books and records of the corporation as a liability of the corporation;
- (4) a reimbursement of reasonable corporation expenses incurred by an officer and documented by a written expense voucher and recorded on the books and records of the corporation as corporate expenses; and
- (5) a reasonable lease or rental payment to an officer who owns property which is leased or rented to the corporation.

[For text of items F to O, see M.R.]

Petroleum Tank Release Compensation Board

Proposed Permanent Rules Relating to Petroleum Tank Releases

DUAL NOTICE: In the Matter of the Proposed Adoption of the Rules Relating to Petroleum Tank Release Compensation Board

Notice of Intent to Adopt Rules without a Public Hearing unless 25 or More Persons Request a Hearing, And

Notice of Hearing if 25 or More Requests for Hearing are Received

Introduction. The Petroleum Tank Release Compensation Board (the "Board") intends to adopt permanent rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, section 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules *within 30 days or* by January 4, 1995, a public hearing will be held on January 27, 1995 at 9:00 a.m. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact Donna Watz at 296-6593 after January 4, 1995 and before January 27, 1995.

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

Shawn Hooper
Department of Commerce
133 East Seventh Street
St. Paul, MN 55101
(612) 297-1119

Subject of Rule and Statutory Authority. The proposed rules pertain to the Petroleum Tank Release Compensation Board. The statutory authority to adopt the rules is *Minnesota Statutes* § 115C.07 subdivision 3(a). A copy of the proposed rules is published in the "State Register" and attached to this notice as mailed. A free copy of the rules is available upon request from the contact person listed above.

Comments. You have until 4:30 p.m. on January 4, 1995, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the contact person by the due date.

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

Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the contact person by 4:30 p.m. on January 4, 1995. Your written request for a public hearing must include your name, address and telephone number. You are encouraged to identify the portion of the proposed rules which caused your request, the reason for the request, and any changes you want made to the proposed rules. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing.

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

Cancellation of Hearing. The hearing scheduled for January 27, 1995 will be canceled if the Board does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the Board will notify you before the scheduled hearing whether or not the hearing will be held. You may also call Donna Watz at 296-6593 after January 4, 1995 to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, section 14.14 to 14.20. The hearing will be held on January 27, 1995 at the Minnesota Department of Commerce, 133 East 7th Street, St. Paul, MN 55101, beginning at 9:00 a.m. and will continue until all interested persons have been heard. The hearing will continue, if necessary, at additional times and places as determined during the hearing by the administrative law judge. The administrative law judge assigned to conduct the hearing is Phyllis Reha. Judge Reha can be reached at the Office of Administrative Hearings, Suite 1700, 100 Washington Square, Minneapolis, MN 55401; telephone (612) 341-7611.

Hearing Procedure. If a hearing is held, you and all interested or affected persons including representatives of associations or other interested groups will have an opportunity to participate. You may present your view either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should relate to the proposed rules. You may also mail written material to the administrative law judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the administrative law judge at the hearing. Comments received during this period will be available for review at the Office of Administrative Hearings. You and the Board may respond in writing within five business days after the submission period ends to any new information submitted. All written materials and responses submitted to the administrative law judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. No additional evidence may be submitted during the five-day period. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.0200 to 1400.1200 and *Minnesota Statutes*, section 14.14 to 14.20. Questions about procedure may be directed to the administrative law judge.

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

Small Business Considerations. *Minnesota Statutes*, § 14.115 subdivision 4 requires that the notice of rulemaking include a statement of the impact of the proposed rules on small businesses. The Board has considered the requirements of *Minnesota Statutes*, § 14.115 and has determined that the proposed rules may affect small businesses which provide consultant and contractor services related to the remediation or clean-up of petroleum releases. The proposed rules will assist all businesses in this field, including small businesses, by establishing clearly defined standards for what tasks will be reimbursed (and at what amount) by the Board. The board believes that the proposed rules will have no negative impact on small businesses.

Additional information on the impact of the proposed rules on small businesses is included in the Statement of Need and Reasonableness.

Expenditure of Public Money by Local Bodies. The adoption of these proposed rules will not require expenditures of public monies. Therefore, *Minnesota Statutes*, section 14.11 subdivision 1 does not apply.

Impact on Agricultural Lands. The adoption of the proposed rules will not have any impact on agricultural land. Therefore, *Minnesota Statutes*, § 14.11 subdivision 2 does not apply.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the Ethical Practices Board. Questions regarding this requirement may be directed to the Ethical Practices Board at First Floor, Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155, (612) 296-5148.

Adoption Procedure if No Hearing. If no hearing is required, after the end of the comment period the Board may adopt the rules. The rules and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rules are submitted to the attorney general or be notified of the attorney general's decision on the rules. If you want to be so notified, or wish to receive a copy of the adopted rules, submit your written request to Donna M. Watz at 133 East Seventh Street, St. Paul, MN 55101.

Adoption Procedure After the Hearing. If a hearing is held, after the close of the hearing record, the administrative law judge will issue a report on the proposed rules. You may request to be notified of the date on which the administrative law judge's report will be available, after which date the Board may not take any final action on the rules for a period of five working days. If you want to be notified about the report, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. You may also request notification of the date on which the rules are adopted and filed with the Secretary of State. The Board's notice of adoption must be mailed on the same day that the rules are filed. If you want to be notified of the adoption, you may so indicate at the hearing or send a request in writing to the contact person at any time prior to the filing of the rules with the Secretary of State.

Dated: 17 November 1994

Shawn K. Hooper
Executive Director

Rules as Proposed

2890.0010 DEFINITIONS.

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

Subp. 2b. Clear and convincing evidence. "Clear and convincing evidence" means evidence that clearly and directly establishes a position with a high probability, and is more than just reasonable evidence but less than proof beyond a reasonable doubt.

[For text of subs 3 to 5, see M.R.]

Subp. 5a. Prima facie unreasonable. "Prima facie unreasonable" means unreasonable absent proof beyond a reasonable doubt.

Subp. 5b. Reasonable evidence. "Reasonable evidence" means evidence that is rational and appropriate to justify a position, but is less than clear or convincing evidence or proof beyond a reasonable doubt.

[For text of subs 6 and 7, see M.R.]

2890.0070 ELIGIBLE COSTS.

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

Subp. 3. Documentation of eligible costs. It is the responsibility of the applicant to obtain and maintain all records that document incurred costs including, but not limited to, all invoices, time records, equipment records, receipts, proposals for consultant services, and bids for contractor services.

2890.0071 INELIGIBLE COSTS.

All costs associated with actions that do not minimize, eliminate, or clean up a release to protect the public health and welfare or the environment are ineligible costs. Ineligible costs include, but are not limited to, the following:

- A. costs related to the repair or replacement of tanks, upgrading tanks, removal of tanks, or abandonment of tanks in place;
- B. loss of income;
- C. attorney's fees;
- D. permanent relocation of residents;
- E. decreased property values;
- F. reimbursement for the applicant's own time spent in planning and administering a corrective action plan;
- G. aesthetic or site improvements;

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Proposed Rules

H. work performed that is not in compliance with safety codes including, but not limited to, Occupational Safety and Health Administration requirements, well codes, and fire codes;

I. overtime pay, unless the agency declared the site to be an emergency prior to the applicant incurring the costs for overtime pay;

J. per diem charges for sites less than 60 miles from an office of the person providing consultant services or contractor services;

K. repair of buildings, roads, yards, fences, or other structures or land damaged by equipment used in the corrective action, unless the damage was necessary to access the petroleum contaminated soil;

L. costs for the demolition, disposal, removal, repair, or replacement of the following items, when the demolition, disposal, removal, repair, or replacement is necessary to remove, repair, upgrade, or replace a tank:

(1) clean overburden;

(2) concrete, asphalt, or other manmade surfacing;

(3) pump islands, canopies, lights, or any other aboveground structures; or

(4) sewer lines, water lines, electrical lines, phone lines, fiber optic lines, or any other utilities;

M. costs for the removal of water from the excavation basin, unless mandated by the agency as a remedial action;

N. site restoration costs for clean fill in excess of the agency-approved amount of petroleum contaminated soil removed for disposal;

O. mark-up charges, including, but not limited to, mark-up charges on contractor services, equipment, materials, travel, and per diem charges; or

P. administrative costs incurred in obtaining reimbursement from the board, including, but not limited to, charges for obtaining proposals or bids, accounting for consultant services or contractor services, compiling materials for and preparing applications to the board for reimbursement, responding to inquiries from the board or its staff, or appearing before the board.

2890.0072 OVERVIEW OF RULES GOVERNING REASONABLENESS OF COSTS FOR CONSULTANT SERVICES.

The board shall approve for reimbursement only those costs for consultant services that meet the standards and requirements in parts 2890.0073 to 2890.0079. Part 2890.0073 sets forth the definition of terms related to consultant services. Parts 2890.0074 to 2890.0076 establish the requirement of a written proposal and invoice for each step of consultant services and the standard tasks and maximum costs for each step of consultant services. Part 2890.0077 states the requirements for competitive bidding in proposals for consultant services, and part 2890.0089 establishes standards for exemption from the competitive bidding requirement. Part 2890.0078 establishes criteria for the board in evaluating costs for consultant services that deviate from either the standard tasks or maximum costs for consultant services, or are higher than the costs stated in the written proposal for consultant services. Part 2890.0079 states the requirement for costs to be reasonable and necessary.

Parts 2890.0072 to 2890.0079 shall be effective for any contract for consultant services entered into on or after the effective date of those parts.

CONSULTANT SERVICES REIMBURSEMENT

2890.0073 DEFINITIONS RELATED TO CONSULTANT SERVICES.

Subpart 1. Scope. As used in this part and parts 2890.0074 to 2890.0079, the terms defined in this part have the meanings given them.

Subp. 2. Air emission testing. "Air emission testing" means evaluation of air emissions from various groundwater or soil treatment systems to determine if the concentration meets the standard emission rate established by the agency.

Subp. 3. Aquifer test. "Aquifer test" means the design of a site-specific hydraulic response test and the collection of data obtained from the test including hydraulic conductivity, storativity, transmissivity, recharge times, radius of influence, and pumpability rates. This generally involves removal of water by pumping at a constant rate over a specified time period based on aquifer characteristics.

Subp. 4. Background review. "Background review" means a search of records to establish the site history. It includes gathering information from the applicant's records and public records. This information includes, but is not limited to, purchase and lease dates, operation dates, previous ownership, previous site use, current and previous underground storage tanks, current and previous waste oil tanks, types of products handled, current site status, tank and line testing results, inventory records, spill history, maintenance history, previous environmental assessments, and geologic setting.

Subp. 5. CAD installation notification worksheet. “CAD installation notification worksheet” means the completion and submission to the agency of a form that provides notification of Corrective Action Design (CAD) system start up, verifies system construction, and documents initial system emissions and operating parameters.

Subp. 6. CAD system monitoring worksheet. “CAD system monitoring worksheet” means the completion and submission to the agency of a form with equations and methods for calculating contaminant mass removal for various remediation technologies.

Subp. 7. Contaminated soil stockpile sampling. “Contaminated soil stockpile sampling” means soil sampling from the stockpile of petroleum contaminated soil.

Subp. 8. Corrective action alternative. “Corrective action alternative” means the development of a conceptual design of a system or scheme for cleanup of petroleum contamination at a site.

Subp. 9. Data reduction. “Data reduction” means the evaluation and interpretation of analytical and field data.

Subp. 10. Delineation decision/work plan. “Delineation decision/work plan” means the development of a plan of action to determine the size and severity of the petroleum contamination and to determine from the data gathered in the course of investigation whether the extent of the petroleum contamination has been defined. This task includes a recommendation letter to the applicant for additional assessment, or if no additional assessment is necessary, a letter recommending that to the applicant.

Subp. 11. Draftsperson. “Draftsperson” means a person with a trade school diploma and one or more years of experience in computer-assisted design.

Subp. 12. Entry level professional. “Entry level professional” means a person with:

A. a college degree in agricultural engineering, chemical engineering, civil engineering, environmental engineering, geological engineering, geotechnical engineering, soil science, geology, hydrogeology, or a related science, and zero to three years of experience in performing the activities listed in this subpart; or

B. a high school degree and a minimum of eight years of experience in performing a majority of the following activities:

- (1) report preparation;
- (2) field work preparation and planning;
- (3) supervision of site assessment activities;
- (4) system installation oversight;
- (5) limited data review and analysis; and
- (6) monitoring activities.

Subp. 13. Equipment. “Equipment” means the purchase or rental of equipment necessary to perform consultant services including, but not limited to, photoionization detectors, flame ionization detectors, electronic water level indicators, oil water interface indicators, sampling bailers, explosimeters, and carbon dioxide meters.

Subp. 14. Excavation basin soil sampling. “Excavation basin soil sampling” means soil sampling of petroleum contaminated soil as it is excavated from the perimeter and bottom of the excavation basin and obtaining representative samples for submission to a laboratory for chemical analysis conducted.

Subp. 15. Excavation report. “Excavation report” means the preparation of a report submitted to the agency that documents petroleum contaminant concentrations encountered during the excavation process.

Subp. 16. Field technician. “Field technician” means a person who performs field work, including one or more of the following activities:

- A.** field work preparation and planning;
- B.** operation and maintenance of equipment;
- C.** well oversight and development;
- D.** waste disposal;
- E.** decontamination of equipment;

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Proposed Rules

E. system installation oversight; and

G. monitoring activities.

Subp. 17. Groundwater pump and treat system design. “Groundwater pump and treat system design” means the design of a remedial technology used to capture the contaminant plume by extracting groundwater and treating the effluent to meet discharge requirements.

Subp. 18. Groundwater receptor survey. “Groundwater receptor survey” means a qualitative survey performed to identify features such as surface water bodies and aquifer and water supply wells that potentially may be impacted if petroleum contamination is present.

Subp. 19. Groundwater sampling. “Groundwater sampling” means the purging of a well by removing the number of well volumes by the agency, the filling and preserving of each sample vial, and water level measurement.

Subp. 20. Health and safety plan. “Health and safety plan” means preparation of a site-specific document containing local, state, and federal safety data instructions and guidelines for health and safety.

Subp. 21. Hydraulic conductivity estimate. “Hydraulic conductivity estimate” means determining the rate at which groundwater can move through subsurface material.

Subp. 22. Infiltration test. “Infiltration test” means the performance and oversight of a test to determine the rate which water introduced at the surface will infiltrate to the subsurface.

Subp. 23. Midlevel professional. “Midlevel professional” means a person with:

A. a college degree in agricultural engineering, chemical engineering, civil engineering, environmental engineering, geological engineering, geotechnical engineering, soil science, geology, hydrogeology, or a related science; registration as a professional engineer or other professional certification, if such certification is available; and at least four years of experience in performing one or more of the activities listed in this subpart; or

B. a graduate degree in the environmental sciences; registration as a professional engineer or other professional certification, if such certification is available; and at least three years of experience in performing one or more of the following activities:

(1) project management;

(2) engineering/equipment design;

(3) report preparation;

(4) data review and analysis;

(5) field work planning;

(6) work plan preparation;

(7) site inspection; and

(8) off-site access.

Subp. 24. Mileage. “Mileage” means a charge per mile to transport individuals to or from the leaksite or other location necessary to provide consultant services.

Subp. 25. Monitoring well. “Monitoring well” means a well constructed for the purpose of measuring water levels and collecting representative groundwater samples.

Subp. 26. MPCA conference call. “MPCA conference call” means a conference call among the agency, the applicant, and the consultant.

Subp. 27. Off-site access. “Off-site access” means the process of obtaining permission from property owners other than the applicant to enter their property for the purpose of doing a remedial investigation or implementing a corrective action plan.

Subp. 28. Passive bioremediation risk assessment. “Passive bioremediation risk assessment” means the analysis of the effectiveness and risks involved in allowing microorganisms to break down petroleum products in the soil and groundwater naturally without the use of any corrective action technology.

Subp. 29. Per diem. “Per diem” means per day costs incurred by the consultant for meals and lodging when the distance to the leaksite makes it more cost-effective for the consultant to lodge overnight near the leaksite.

Subp. 30. Piezometer installation. “Piezometer installation” means the conversion of a small diameter soil boring to a non-pumping well used to measure the elevation of the water table or potentiometric surface.

Subp. 31. Piezometer installation oversight. "Piezometer installation oversight" means the oversight of the conversion of a small diameter soil boring to a nonpumping well used to measure the elevation of the water table or potentiometric surface.

Subp. 32. Project management and administration. "Project management and administration" means the documented management of the project. It includes preparing and submitting status reports, tracking regulatory issues, producing additional assessment or monitor-only recommendation letters, and managing subcontracts. It does not include field work or data analysis.

Subp. 33. Remedial action decision. "Remedial action decision" means the conferences between the consultant and the applicant at which the assessment data is discussed and, if appropriate, a conference call among the agency, the applicant, and the consultant.

Subp. 34. RI/CAD report. "RI/CAD report" means compilation of all data at the time the vertical and horizontal extent of the petroleum contamination has been determined. The CAD portion of the report must include all reduced data from the CAD field tests.

Subp. 35. Senior level professional. "Senior level professional" means a person with:

A. a college degree in agricultural engineering, chemical engineering, civil engineering, environmental engineering, geological engineering, geotechnical engineering, soil science, geology, hydrogeology, or a related science; registration as a professional engineer or other professional certification, if this certification is available; and at least eight years of experience in performing one or more of the activities listed in this subpart; or

B. a graduate degree in the environmental sciences; registration as a professional engineer or other professional certification, if the certification is available; and at least seven years of experience in performing one or more of the following activities:

- (1) project oversight;
- (2) project management;
- (3) aquifer characterization;
- (4) review of technical reports;
- (5) review of remedial plans; and
- (6) data review and analysis.

Subp. 36. Site monitoring worksheet. "Site monitoring worksheet" means the preparation and submission to the agency of a form providing information about groundwater or vapor impact.

Subp. 37. Soil boring drilling. "Soil boring drilling" means the drilling of holes in the ground to determine soil structure or to monitor for the presence of contaminants in soil.

Subp. 38. Soil boring oversight. "Soil boring oversight" means the oversight of the drilling of borings, including soil sampling, logging, and field screening of materials encountered during the installation of borings.

Subp. 39. Soil borings. "Soil borings" means holes drilled in the ground to determine the lithologic log or monitor for the presence of contaminants in soil.

Subp. 40. Soil excavation corrective action plan. "Soil excavation corrective action plan" means the design of a remediation technology that removes petroleum contaminated soils from the ground and treatment by landfarming, thin spreading, composting, incineration, or other agency-approved methods.

Subp. 41. Soil field screening and sampling. "Soil field screening and sampling" means the collection and screening of soil samples that are not collected or screened as part of excavation basin soil sampling, soil boring oversight, soil test pit oversight, or contaminated soil stockpile sampling.

Subp. 42. Soil sampling. "Soil sampling" means the collection of soil samples and the filling and, if necessary, preserving of each sample vial.

Subp. 43. Soil test pit oversight. "Soil test pit oversight" means the oversight of soil test pits as defined in part 2890.0081, including soil sampling.

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Proposed Rules

Subp. 44. Soil treatment permitting. "Soil treatment permitting" means preparation of the application for treatment of petroleum contaminated soil to be submitted to government and regulatory bodies.

Subp. 45. Soil vapor extraction system design. "Soil vapor extraction system design" means the design of a remediation technology that induces air flow from the subsurface and brings contaminants to the surface where they can be treated if necessary and discharged.

Subp. 46. Soil vapor extraction system with groundwater sparging design. "Soil vapor extraction system with groundwater sparging design" means the design of a remediation technology that removes volatile organic compounds from groundwater by forcing an air flow through a well screen placed in the aquifer which causes a bubbling effect in the groundwater and forces contaminants into the soils above the aquifer.

Subp. 47. Sparging test. "Sparging test" means the design and implementation of a site-specific saturated zone air injectability test and the collection of data gained from the test including flow rates, pressure requirements, and radius of influence of the system.

Subp. 48. Surveying. "Surveying" means surveying the locations and elevations of the soil borings and monitoring wells and preparing site maps. The locations of the site boundaries, aboveground features, and belowground features must be known with reasonable accuracy.

Subp. 49. System installation oversight. "System installation oversight" means the consultant's monitoring of the remedial system installation activities performed by the contractor to ensure that all design specifications are met, and discussion with the contractor of any design modifications or system layout changes.

Subp. 50. System operation and maintenance. "System operation and maintenance" means the operation and any necessary maintenance of the remediation system.

Subp. 51. System startup/initial discharge sampling. "System startup/initial discharge sampling" means a one-day trial run of the remediation system to ensure that the system and all its components are in proper running condition, and the collection of any initial discharge samples required by the agency.

Subp. 52. Travel time. "Travel time" means the time spent by the consultant to mobilize equipment and to travel to and from the leaksite or other location necessary to provide consultant services.

Subp. 53. Vacuum enhanced groundwater extraction system design. "Vacuum enhanced groundwater extraction system design" means the design of a combined remediation technology in which groundwater recovery is supplemented by applying vacuum pressure to a recovery well. Vacuum extraction may also remediate petroleum contaminated soil above the water table in the same manner as a soil vapor extraction system.

Subp. 54. Vapor risk assessment and survey. "Vapor risk assessment and survey" means the making of a determination whether the petroleum release has or could cause petroleum vapor accumulation in basements, sewer lines, or other confined spaces.

Subp. 55. Vehicle cost. "Vehicle cost" means the cost of a van or truck used to carry to the leaksite tools or equipment which cannot reasonably fit into a passenger car.

Subp. 56. Vent point. "Vent point" means a borehole screened in the subsurface, typically in the unsaturated zone, and used to extract petroleum vapors and induce clean air in the subsurface.

Subp. 57. Vent point installation. "Vent point installation" means the completion of a vent point from a completed soil boring.

Subp. 58. Vent point installation oversight. "Vent point installation oversight" means the oversight of the completion of a vent point from a completed soil boring.

Subp. 59. Venting test. "Venting test" means the design and implementation of a site-specific vapor extraction test and the collection of data gained from the test, including radius influenced by the system, discharge rates, and contaminant emission rate.

Subp. 60. Waste disposal. "Waste disposal" means the making of arrangements for the disposal of all waste generated at a leaksite, including disposable bailers, rubber gloves, bailer rope, and petroleum contaminated drill cuttings during assessment activity.

Subp. 61. Water discharge compliance permitting. "Water discharge compliance permitting" means preparation of an application for water discharge approval to the appropriate regulatory authorities.

Subp. 62. Water level measurement. "Water level measurement" means the calculation of groundwater elevation referenced to an established elevation.

Subp. 63. Well abandonment. "Well abandonment" means the permanent discontinuation of a well according to applicable well codes.

Subp. 64. Well abandonment oversight. "Well abandonment oversight" means the time required to solicit competitive bids for the permanent discontinuation of a well according to applicable well codes.

Subp. 65. Well installation. "Well installation" means the completion of a monitoring well from a completed soil boring.

Subp. 66. Well oversight and development. "Well oversight and development" means the oversight of the conversion of completed soil borings to monitoring wells.

Subp. 67. Well permitting. "Well permitting" means obtaining permits to allow the drilling and installation of monitoring wells and filing well completion/installation records with state and local agencies.

Subp. 68. Word processor. "Word Processor" means a person who operates a computer for word processing spreadsheets, statistical typing, correspondence, and report generation.

2890.0074 WRITTEN PROPOSAL AND INVOICE REQUIRED FOR CONSULTANT SERVICES.

Subpart 1. Written proposal. The board shall consider as prima facie unreasonable costs incurred for consultant services for which the applicant has not obtained a written proposal for consultant services according to this part. A written proposal for consultant services shall be approved by the applicant, as necessary, in the following steps: underground storage tank removal assessment, initial site assessment, additional site assessments, remedial investigation/corrective action design report, and remedial design/maintenance. The applicant shall approve the written proposal before incurring costs for each step of consultant services. Proposals for each step of consultant services shall be on a form prescribed by the board according to parts 2890.0072 to 2890.0079.

Subp. 2. Invoice. The board shall consider as prima facie unreasonable costs incurred for consultant services that are not billed to the applicant on an invoice form prescribed by the board. The invoice form prescribed by the board shall be consistent with the written proposal for consultant services and shall be according to parts 2890.0072 to 2890.0079.

2890.0075 REASONABLENESS OF WORK PERFORMED; STANDARD TASKS FOR EACH STEP OF CONSULTANT SERVICES.

Subpart 1. Generally. The board shall consider as prima facie unreasonable costs incurred for consultant services for work other than tasks specified in this part.

Subp. 2. Underground storage tank removal assessment. Notwithstanding part 2890.0071, item A, costs for an underground storage tank removal assessment may be incurred before an initial site assessment, but only when an underground storage tank is being removed and the site is discovered to have petroleum contaminated soil. The objectives of the underground storage tank removal assessment are to determine the volume of petroleum contaminated soil, determine the feasibility of excavating the petroleum contaminated soil, and allow for the excavation of petroleum contaminated soil to accommodate new tanks.

The board shall consider as prima facie unreasonable costs incurred for an underground storage tank removal assessment other than costs for the following tasks or items: excavation basin soil sampling, soil test pit oversight, contaminated soil stockpile sampling, travel, mileage, vehicle cost, per diem, and equipment. If petroleum contaminated soil is excavated, an underground storage tank removal assessment may also include soil treatment permitting and an excavation report.

Subp. 3. Initial site assessment. The objectives of the initial site assessment are to determine the vertical and horizontal extent of petroleum contaminated soil, determine if groundwater has been impacted, determine the apparent source or sources of petroleum contamination, and establish any vapor and groundwater receptors. The initial site assessment shall consist of up to five soil borings with up to three of the five borings completed as monitoring wells. Monitoring wells may be completed only if petroleum contamination is found to be in contact with groundwater or bedrock, or if requested by the agency. The board shall consider as prima facie unreasonable costs incurred for an initial site assessment other than costs for the following tasks or items:

- A. project management and administration;
- B. health and safety plan;
- C. background review;
- D. soil field screening and sampling;
- E. soil treatment permitting;
- F. well permitting;
- G. surveying;
- H. soil test pit oversight;

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Proposed Rules

- I. soil boring drilling;
- J. soil boring oversight;
- K. well installation;
- L. well oversight and development;
- M. groundwater sampling;
- N. piezometer installation;
- O. piezometer installation oversight;
- P. vapor risk assessment and survey;
- Q. groundwater receptor survey;
- R. water level measurement;
- S. data reduction;
- T. waste disposal;
- U. delineation decision/work plan;
- V. remedial action decision, if applicable; and
- W. other:
 - (1) travel time;
 - (2) mileage;
 - (3) vehicle cost;
 - (4) per diem; and
 - (5) equipment.

Subp. 4. Additional site assessment. Costs for an additional site assessment may be incurred only if the initial site assessment failed to determine the vertical and horizontal extent of petroleum contaminated soil. The objectives of the additional site assessment are the same as the objectives for the initial site assessment. The additional site assessment shall consist of up to three soil borings, with all completed as monitoring wells if the petroleum is found to be in contact with the groundwater. The applicant shall continue to obtain a proposal for each additional site assessment until the vertical and horizontal extent of petroleum contamination has been determined. The board shall consider as prima facie unreasonable costs incurred for an additional site assessment other than costs for the following tasks or items:

- A. project management and administration;
- B. soil field screening and sampling;
- C. well permitting;
- D. off-site access;
- E. surveying;
- F. soil boring drilling;
- G. soil boring oversight;
- H. well installation;
- I. well oversight and development;
- J. groundwater sampling of wells installed in the additional site assessment;
- K. groundwater sampling on a quarterly basis of wells installed in the initial site assessment;
- L. piezometer installation;
- M. piezometer installation oversight;
- N. water level measurement;
- O. data reduction;
- P. waste disposal;

Q. delineation decision/work plan;

R. remedial action decision; and

S. other:

(1) travel time;

(2) mileage;

(3) vehicle cost;

(4) per diem; and

(5) equipment.

Subp. 5. Remedial investigation/corrective action design report. The objective of the remedial investigation/corrective action design report is to prepare a report either recommending no further corrective action or recommending a specific plan for further corrective action. If the consultant recommends no further corrective action, the board shall consider as prima facie unreasonable costs incurred for a remedial investigation/corrective action design report other than costs for the submission to the agency of an RI/CAD report which proposes and provides justification for no further action.

If the consultant recommends further corrective action, the further objectives of this step are to conduct applicable field and pilot tests and to prepare an RI/CAD report for submission to the agency. The report must present three corrective action alternatives specific to the applicant's site, evaluate these three alternatives, and recommend the most cost-effective alternative. The evaluation of the three corrective action alternatives must set forth long-term costs and separate dollar amounts for consulting and contracting services. Soil removal and treatment is one corrective action alternative whether the soil is landfarmed, thin spread, composted, incinerated, or treated by other approved means.

If the consultant recommends further corrective action, the board shall consider as prima facie unreasonable costs incurred for a remedial investigation/corrective action design report other than costs for the following tasks or items:

A. project management and administration;

B. aquifer test:

(1) hydraulic conductivity estimate;

(2) soil boring drilling;

(3) well installation;

(4) well oversight and development;

(5) well permitting;

(6) data reduction;

C. piezometer installation;

D. piezometer installation oversight;

E. venting test:

(1) soil boring drilling;

(2) vent point installation;

(3) vent point installation oversight;

(4) data reduction;

F. sparging test:

(1) soil boring drilling;

(2) well installation;

(3) well oversight and development;

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Proposed Rules

(4) data reduction;

G. infiltration;

H. groundwater sampling;

I. surveying;

J. data reduction;

K. corrective action alternative;

L. passive bioremediation risk assessment;

M. site monitoring worksheet;

N. MPCA conference call;

O. RI/CAD report;

P. waste disposal; and

Q. other:

(1) travel time;

(2) mileage;

(3) vehicle cost;

(4) per diem; and

(5) equipment.

Subp. 6. Remedial design/maintenance. Costs for remedial design/maintenance may be incurred only if the agency has approved a corrective action design for the site. The objectives of remedial design/maintenance are to develop site-specific drawings, specifications, and schedules consistent with the corrective action design approved by the agency; initiate permitting activities; assist the applicant in obtaining contractor services for the implementation of the system for corrective action; verify and document that installation of the system for corrective action is consistent with the design; and conduct up to one year of operating, monitoring, and maintaining the system for corrective action.

The board shall consider as prima facie unreasonable costs incurred for remedial design/maintenance other than costs for the following tasks or items:

A. project management and administration;

B. groundwater pump and treat system design;

C. soil excavation corrective action plan;

D. soil vapor extraction system design;

E. soil vapor extraction system with groundwater sparging design;

F. vacuum enhanced groundwater extraction system design;

G. system installation oversight;

H. system startup/initial discharge sampling;

I. air emission testing;

J. water discharge compliance permitting;

K. CAD installation notification worksheet;

L. groundwater sampling;

M. soil field screening and sampling;

N. water level measurement;

O. site monitoring worksheet;

P. CAD system monitoring worksheet;

Q. system operation and maintenance;

R. data reduction;

S. well abandonment:

T. well abandonment oversight; and

U. other:

(1) travel time;

(2) mileage;

(3) vehicle cost;

(4) per diem; and

(5) equipment.

2890.0076 MAXIMUM COSTS FOR CONSULTANT SERVICES.

Subpart 1. Maximum labor charges. The board shall consider as prima facie unreasonable costs incurred for consultant services either in excess of the amounts specified in the proposal for consultant services or in excess of the following maximum charges, whichever is less:

A. air emission testing has a maximum cost of two hours per technology employed at the leaksite per quarter;

B. aquifer tests have a maximum cost of 24 hours per test;

C. background review has a maximum cost of eight hours per leaksite;

D. CAD installation notification worksheet has a maximum cost of six hours per report;

E. CAD system monitoring worksheet has a maximum cost of two hours per worksheet per technology employed at the leaksite;

F. contaminated soil stockpile sampling has a maximum charge of four hours per leaksite;

G. corrective action alternative has a maximum cost of \$1,000 per leaksite;

H. data reduction has a maximum cost of six hours plus six hours per technology employed at the leaksite per test;

I. delineation decision/work plan has a maximum cost of two hours per leaksite;

J. excavation basin soil sampling has a maximum cost of two hours per tank;

K. excavation report has a maximum charge of five hours per leaksite;

L. groundwater pump and treat system design has a maximum cost of \$3,500;

M. groundwater receptor survey has a maximum cost of four hours per leaksite;

N. groundwater sampling has a maximum cost of 1-1/2 hours per well per sampling event;

O. health and safety plan has a maximum cost of \$250;

P. hydraulic conductivity estimate has a maximum cost of four hours per test;

Q. infiltration test has a maximum cost of one hour per test;

R. MPCA conference call has a maximum cost of two hours per leaksite;

S. off-site access has a maximum cost of ten hours per leaksite;

T. passive bioremediation risk assessment has a maximum cost of \$1,000;

U. piezometer installation oversight has a maximum cost of four hours per piezometer;

V. project management and administration shall be reimbursed only for actual hours spent on this task with a maximum cost of (1) 15 percent of total consultant services labor charges, inclusive of the cost for hours spent on project management and administration, or (2) \$200 per proposal, whichever is greater;

W. remedial action decision has a maximum cost of four hours per leaksite;

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Proposed Rules

X. RI/CAD report has a maximum cost of 50 hours if the report recommends no further corrective action and a maximum of 65 hours if the report recommends further corrective action;

Y. site monitoring worksheet has a maximum cost of four hours per worksheet;

Z. soil boring oversight has a maximum cost of two hours per boring;

AA. soil excavation corrective action plan has a maximum cost of \$500;

BB. soil field screening and sampling shall be reimbursed only for actual hours spent on this task;

CC. soil test pit oversight has a maximum cost of one hour per test pit;

DD. soil treatment permitting has a maximum cost of two hours per leaksite;

EE. soil vapor extraction system design has a maximum cost of \$3,000;

FF. soil vapor extraction system with groundwater sparging design has a maximum cost of \$3,500;

GG. sparging test has a maximum cost of 16 hours per leaksite;

HH. surveying has a maximum cost of two hours per step of consultant services;

II. system installation oversight shall be reimbursed only for actual hours spent on this task with a maximum cost of 25 percent of the contractor's time on site installing the system;

JJ. system operation and maintenance shall be reimbursed only for actual hours spent on this task and for the cost of materials;

KK. system startup/initial discharge sampling has a maximum cost of eight hours per leaksite;

LL. travel has a maximum cost per trip of (1) for the first two hours of travel, the hourly rate normally charged for the traveler's services, and (2) for each additional hour of travel, \$30 per hour or the hourly rate normally charged for the traveler's services, whichever is less;

MM. vacuum enhanced groundwater extraction system design has a maximum cost of \$4,000;

NN. vapor risk assessment and survey has a maximum cost of four hours per leaksite;

OO. vent point installation oversight has a maximum cost of 1-1/2 hours per vent point;

PP. venting test has a maximum cost of 16 hours per leaksite;

QQ. waste disposal has a maximum cost of three hours per leaksite;

RR. water discharge compliance permitting has a maximum cost of 12 hours per permit application process and two hours per periodic discharge report submittal;

SS. water level measurement has a maximum cost of .25 hours per well;

TT. well abandonment oversight has a maximum cost of .5 hours per well;

UU. well oversight and development has a maximum cost of four hours per well, except when done in connection with aquifer tests when it shall have a maximum cost of eight hours per well; and

VV. well permitting has a maximum cost of .5 hours per well.

Subp. 2. Maximum hourly rates. The board shall consider as prima facie unreasonable hourly rate charges for consultant services in excess of the following: senior level professional at \$110 per hour, midlevel professional at \$85 per hour, entry level professional at \$60 per hour, field technician at \$55 per hour, draftsman at \$45 per hour, and word processor at \$35 per hour.

Subp. 3. Allowable level of expertise. The board shall consider as prima facie unreasonable costs incurred for consultant services when the work is performed by an individual with a level of expertise other than as contained in items A to E.

A. Corrective action alternative, equipment, groundwater pump and treat system design, health and safety plan, mileage, MPCA conference call, passive bioremediation risk assessment, per diem, project management and administration, RI/CAD report, soil excavation corrective action plan, soil vapor extraction system design, soil vapor extraction system with groundwater sparging design, travel, vacuum enhanced groundwater extraction system design, vehicle, and well abandonment shall be performed by one or more of the following:

(1) a senior level professional;

(2) a midlevel professional;

(3) an entry level professional;

(4) a field technician;

(5) a drafts person; and

(6) a word processor.

B. Delineation decision/work plan and remedial action decision shall be performed by one or more of the following:

(1) a senior level professional;

(2) a midlevel professional;

(3) an entry level professional; and

(4) a field technician.

C. CAD installation notification worksheet, CAD system monitoring worksheet, off-site access, system installation oversight, system startup/initial discharge sampling, and well abandonment oversight shall be performed by a midlevel professional.

D. Air emission testing, aquifer test, contaminated soil stockpile sampling, data reduction, excavation basin soil sampling, excavation report, groundwater sampling, hydraulic conductivity estimate, infiltration test, soil boring oversight, soil field screening and sampling, soil test pit oversight, soil treatment permitting, sparging test, surveying, system operation and maintenance, vapor risk assessment and survey, venting test, water discharge compliance permitting, water level measurement, and well permitting shall be performed by an entry-level professional and/or a field technician.

E. Background review, groundwater receptor survey, piezometer installation oversight, site monitoring worksheet, vent point installation oversight, waste disposal, and well oversight and development shall be performed by an entry level professional.

Notwithstanding items A to E, the board shall not consider as prima facie unreasonable tasks performed by an individual with a higher level of expertise than permitted under this subpart if the total charges for the tasks performed by the individual do not exceed the total cost that could have been charged under this part for an individual with the level of expertise permitted to perform the task under this subpart.

Subp. 4. Maximum drilling and well charges. The board shall consider as prima facie unreasonable costs incurred for soil boring drilling, piezometer installation, vent point installation, well abandonment, or well installation in excess of the amount specified in the proposal for consultant services.

Subp. 5. Maximum nonlabor charges. The board shall consider as prima facie unreasonable costs incurred for consultant services in excess of the following maximum charges:

A. mileage has a maximum cost of 27 cents per mile;

B. vehicle has a maximum cost of 35 cents per mile or \$50 per day, whichever is greater;

C. per diem has a maximum cost of \$70 per day or actual cost, whichever is less; and

D. equipment has a maximum cost of the following:

(1) for a disposable item, the cost to purchase the item; or

(2) for a reusable item, the cost to purchase the item or to rent it for the amount of time necessary to transport and use it, whichever is less.

2890.0077 COMPETITIVE BIDDING REQUIREMENTS FOR CONSULTANT SERVICES.

Subpart 1. Generally. The applicant shall obtain written competitive proposals for consultant services according to this part.

Subp. 2. Underground storage tank removal assessment. An applicant is not required to seek competing proposals from consultants for an underground storage tank removal assessment.

Subp. 3. Initial site assessment. The applicant shall obtain at least two written competitive proposals for consultant services for an initial site assessment according to parts 2890.0072 to 2890.0079. The proposals shall be on a form prescribed by the board according to parts 2890.0072 to 2890.0079. The proposals shall comply with all requirements of parts 2890.0072 to 2890.0079.

Subp. 4. Subsequent steps. After the initial site assessment step, the applicant is not required to seek competing proposals from consultants other than the consultant performing the prior step of consultant services if:

A. the applicant continues to use the same consultant that performed services for the prior step; and

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Proposed Rules

B. the consultant that performed services for the prior step does not increase its hourly rates, or increase its soil boring drilling or well installation charges, over the amounts stated in that consultant's proposal for the prior step.

If the applicant seeks competitive proposals after the initial site assessment step, the applicant shall obtain at least two written proposals for consultant services for the appropriate step of consultant services according to parts 2890.0072 to 2890.0079. The proposals shall be on a form prescribed by the board according to parts 2890.0072 to 2890.0079, and the proposal shall comply with all requirements of parts 2890.0072 to 2890.0079.

Subp. 5. Drilling costs.

A. Soil boring drilling shall be bid based on the assumption of drilling to a depth of 30 feet in unconsolidated soil with sampling at five-foot intervals. However, if the applicant knows, determines, or reasonably suspects that the specific site does not contain unconsolidated soil or that borings of a depth of 30 feet with sampling at five-foot intervals would not meet the purpose of drilling the borings, the applicant must make substantial efforts to obtain a minimum of two written competitive proposals for consultant services based on substantially similar assumptions as to the characteristics of the site. These proposals shall specifically state the assumptions of the proposal as to soil conditions, drilling depths, and drilling intervals, and provide a detailed explanation of the basis for those assumptions.

B. Costs for soil boring drilling shall be bid by cost per foot.

Subp. 6. Lowest cost proposal. The board shall consider as prima facie unreasonable total costs for consultant services in excess of the total cost in the lowest competitive proposal for consultant services based on the use of the same technology, and in the case of proposals involving soil borings, substantially similar assumptions as to number of soil borings, number of monitoring wells, soil conditions, drilling depth, and sampling intervals, unless the applicant presents clear and convincing evidence that the services to be performed or the selected consultant's qualifications justified the selection of a higher cost proposal. Factors relevant to the qualifications of a consultant include, but are not limited to, education, experience, certifications and registrations, health and safety training, insurance, availability, and references.

2890.0078 DEVIATIONS FROM STANDARD TASKS AND MAXIMUM COSTS FOR CONSULTANT SERVICES.

Subpart 1. Deviations from standard tasks in proposals.

A. The board shall not consider as prima facie unreasonable tasks performed and costs incurred to implement a technology other than soil borings if:

(1) the tasks and associated costs to implement that alternative technology are identified in the proposal prior to approval by the applicant; and

(2) the board determines that the applicant has established by reasonable evidence that the alternative approach:

(a) met the objectives for that step of consultant services; and

(b) resulted in lower total reimbursed costs, as compared to an approach using soil borings.

B. The board shall not consider as prima facie unreasonable consultant services costs for tasks additional to or different than those specified in part 2890.0075 if:

(1) the proposal accepted by the applicant prior to the provision of consultant services specifically states the additional or different tasks to be performed and provides a detailed explanation of the reasons for these additional or different tasks; and

(2) the board determines by clear and convincing evidence that the additional or different tasks:

(a) met the objectives for that step of consultant services; and

(b) were essential to the completion of the objectives for that step of consultant services or were more cost-effective than the standard tasks for that step of consultant services.

C. The board shall not consider as prima facie unreasonable consultant services charges for a higher number of hours spent performing a task than the number of hours set as the maximum cost for that task in part 2890.0076, subpart 1, if:

(1) the proposal accepted by the applicant prior to the provision of consultant services specifically states that the amount exceeds the maximum cost limits and provides a detailed explanation of the reasons for the higher number of hours; and

(2) the board determines by clear and convincing evidence that the additional or different tasks:

(a) met the objectives for that step of consultant services; and

(b) were essential to the completion of the objectives for that step of consultant services.

D. The board shall not consider as prima facie unreasonable consultant services costs in excess of the maximum costs for soil boring oversight in part 2890.0076, subpart 4, if:

Proposed Rules

(1) the applicant knew, determined, or reasonably suspected prior to accepting a proposal that the specific site does not contain unconsolidated soil or that borings of a depth of 30 feet with sampling at five-foot intervals would not meet the purpose of drilling the borings;

(2) the costs in excess of maximum costs result from depth of drilling greater than 30 feet, or greater drilling costs due to consolidated soil or unusual subsurface conditions;

(3) the proposal accepted by the applicant prior to the provision of consulting services specifically states the assumptions of the proposal as to soil conditions, drilling depths, and drilling intervals, and the proposal provides a detailed explanation of the basis for those assumptions; and

(4) the board determines that the applicant has established by reasonable evidence that the costs incurred for consultant services related to drilling were reasonable given the actual conditions for drilling at that site.

Subp. 2. Deviations from standard tasks or maximum costs after proposal approved by applicant.

A. The board shall not consider as prima facie unreasonable tasks performed that are different than or in addition to the tasks specified in a proposal for consultant services approved by the applicant if:

(1) the applicant approves a change order for the different or additional tasks;

(2) the different or additional tasks were required by circumstances beyond the control of the consultant or applicant that could not have been reasonably anticipated at the time the proposal was accepted by the applicant; and

(3) the board determines that the applicant has established by clear and convincing evidence that the different or additional tasks:

(a) met the objectives for that step of consultant services; and

(b) were essential to complete the objectives for that step of consultant services or were more cost-effective than the standard tasks for that step of consultant services.

B. The board shall not consider as prima facie unreasonable charges for a higher number of hours spent performing a task than the number of hours specified for that task in a proposal approved by the applicant if:

(1) the applicant approves a change order for the higher number of hours;

(2) the higher number of hours for the task were required by circumstances beyond the control of the consultant or applicant that could not have been reasonably anticipated at the time the proposal was accepted by the applicant; and

(3) the board determines that the applicant has established by clear and convincing evidence that the higher number of hours were essential to complete the objectives for that step of consultant services.

C. Notwithstanding items A and B, the board shall not consider as prima facie unreasonable higher charges or a higher number of hours for consultant services for soil boring drilling and soil boring oversight than the costs specified in a proposal approved by the applicant if:

(1) the applicant approves a change order for the additional drilling costs;

(2) the higher costs were required by circumstances beyond the control of the consultant or applicant that could not have been reasonably anticipated at the time the proposal was accepted by the applicant;

(3) the change order is limited to:

(a) depth of drilling greater than specified in the proposal;

(b) redrilled borings due to subsurface conditions; and

(c) other greater drilling costs due to type of soil other than that assumed in the proposal; and

(4) the board determines that the applicant has established by reasonable evidence that the higher number of hours were essential to complete the objectives for that step of consultant services.

D. The applicant shall approve all change orders on a form prescribed by the board. The change order shall contain the following:

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Proposed Rules

- (1) a detailed description of the different or additional tasks and/or higher number of hours;
- (2) the reason for the proposed changes from the original proposal;
- (3) the original proposal amount and the revised proposal amount; and
- (4) signatures of the applicant and the consultant.

Subp. 3. Additional or different tasks approved by the agency. Notwithstanding subparts 1 and 2, the board shall not consider as prima facie unreasonable tasks performed that are different than or in addition to those specified in part 2890.0075 or specified in a proposal for consultant services approved by the applicant if the agency states in writing that the performance of those tasks is necessary and appropriate for the completion of the corrective action.

2890.0079 REASONABLE, NECESSARY, AND ACTUAL CONSULTANT SERVICES COSTS.

Notwithstanding parts 2890.0073 to 2890.0078, the board shall reimburse applicants only for consultant services tasks and costs necessary for corrective action at the applicant's site, only for consultant services costs that are reasonable, and only for actual hours spent by the consultant performing tasks when consultant services are charged based on the consultant's time. The board shall not consider as prima facie unreasonable performance of fewer tasks or lower hours or costs to complete a task than as specified in parts 2890.0075 and 2890.0076.

CONTRACTOR SERVICES STANDARDS

2890.0080 INELIGIBLE OVERVIEW OF RULES GOVERNING REASONABLENESS OF COSTS FOR CONTRACTOR SERVICES.

All costs associated with actions that do not minimize, eliminate, or clean up a release to protect the public health and welfare of the environment are ineligible costs. Ineligible costs include, but are not limited to, any costs related to the permanent repair or replacement of a tank, upgrading tanks, removal of tanks, loss of income, attorney's fees, permanent relocation of residents, decreased property values, reimbursement for the applicant's own time spent in planning and administering a corrective action plan, aesthetic improvements, or any work performed that is not in compliance with safety codes including but not limited to Occupational Safety and Health Administration requirements, well codes, and fire codes. Other ineligible costs include corrective action costs which are covered under an insurance or other contract for initial and supplemental applications received by the board after October 21, 1994. The board shall approve for reimbursement only those costs for contractor services that meet the standards and requirements in parts 2890.0081 to 2890.0086. Part 2890.0081 sets forth the definitions of terms related to contractor services. Part 2890.0082 states the maximum costs for specific contractor services. Part 2890.0083 establishes the requirement of competitive written bids for contractor services, and part 2890.0089 establishes standards for exemption from the competitive bidding requirement. Part 2890.0084 establishes criteria for the board in evaluating costs for contractor services that deviate from the maximum costs for contractor services. Part 2890.0085 states the requirements for costs to be reasonable and necessary. Part 2890.0086 states the need for use of a standardized invoice form.

Parts 2890.0081 to 2890.0086 shall be effective for any contract for contractor services entered into on or after the effective date of parts 2890.0081 to 2890.0086.

2890.0081 DEFINITIONS RELATED TO CONTRACTOR SERVICES.

Subpart 1. Scope. As used in this part and in parts 2890.0082 to 2890.0086, the terms defined in this part have the meanings given them.

Subp. 2. Clean fill purchase, transportation, and installation. "Clean fill purchase, transportation, and installation" means the purchase, transportation, placement, and compaction of soil necessary to replace excavated petroleum contaminated soil.

Subp. 3. Compaction. "Compaction" means the densification of soils by the application of mechanical energy.

Subp. 4. Disking. "Disking" means the periodic tilling of landspread petroleum contaminated soil to aerate the soil.

Subp. 5. Excavation. "Excavation" means utility clearance and all necessary equipment and labor to remove petroleum contaminated soil and any overburden and surfacing which must be displaced in order to access the petroleum contaminated soil.

Subp. 6. Groundwater sampling analysis. "Groundwater sampling analysis" means quantifying the concentration of petroleum contaminants and/or inorganic compounds present in a groundwater sample.

Subp. 7. Hauling. "Hauling" means the transportation and unloading of:

- A. petroleum contaminated soil from the leaksite to an agency-approved stockpiling site and/or soil disposal location; and
- B. concrete, asphalt, or debris from the leaksite to a disposal location.

Subp. 8. Landfarmed soil sampling. "Landfarmed soil sampling" means the periodic collection and testing of soil samples from the landfarming site.

Subp. 9. Landfarming. "Landfarming" consists of the following costs or activities:

- A. costs for use of land;
- B. costs for any permits necessary for the land application of the petroleum contaminated soil;
- C. costs for fertilizer;
- D. separation of rocks and debris from the petroleum contaminated soil;
- E. spreading of petroleum contaminated soil and incorporation with native soil;
- F. periodic disking of soil;
- G. landfarmed soil sampling; and
- H. periodic reporting of the landfarmed soil sampling results.

Subp. 10. Loading. "Loading" means all necessary equipment and labor required to:

- A. load petroleum contaminated soil into trucks at the leaksite;
- B. load petroleum contaminated soil into a stockpile at the leaksite; and
- C. load petroleum contaminated soil into trucks at an off-site stockpiling location.

Subp. 11. Mobilization. "Mobilization" means:

- A. the preparation and transport to and from the leaksite of any necessary excavation equipment after the release is discovered;
- B. the preparation and transport to and from an off-site stockpiling location, if applicable, of equipment needed to consolidate the stockpile;
- C. the preparation and transport to and from an off-site stockpiling location, if applicable, of equipment needed to load petroleum contaminated soil into trucks for hauling to a disposal location; and
- D. the preparation and transport to and from the landfarming site, if applicable, of any equipment necessary for spreading of petroleum contaminated soil.

Subp. 12. Off-site stockpiling. "Off-site stockpiling" means:

- A. all equipment, materials, and labor necessary for stockpiling on property other than the leaksite or the final disposal site; and
- B. the cost to rent the temporary storage site.

Subp. 13. Overburden. "Overburden" means any soil which must be replaced in order to access the petroleum contaminated soil.

Subp. 14. Soil sampling analysis. "Soil sampling analysis" means quantifying the concentration of petroleum contaminants and/or inorganic compounds present in a soil sample.

Subp. 15. Soil test pits. "Soil test pits" means the excavation, backfilling, and compaction, if necessary, of small pits around the tank basin at the time of tank removal to determine the vertical and horizontal extent of petroleum contaminated soil.

Subp. 16. Spreading. "Spreading" means the labor and equipment necessary for the placement of petroleum contaminated soil at the landfarming site.

Subp. 17. Stockpiling. "Stockpiling" means the temporary storage of petroleum contaminated soil.

Subp. 18. System installation. "System installation" means the labor and equipment necessary to install the remediation system.

Subp. 19. Thermal treatment. "Thermal treatment" means the burning of petroleum contaminated soil.

Subp. 20. Treatment of petroleum contaminated water from the excavation basin. "Treatment of petroleum contaminated water from the excavation basin" means the cost to treat petroleum contaminated water from the excavation basin.

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Proposed Rules

Subp. 21. Utility clearance. "Utility clearance" means the process of locating aboveground and belowground utilities and identifying all underground storage tanks and associated lines, pumps, and dispensers.

2890.0082 MAXIMUM COSTS FOR CONTRACTOR SERVICES.

Subpart 1. Maximum costs in "Means" book. The board shall consider as prima facie unreasonable costs incurred either in excess of the amounts specified in the bid for contractor services or in excess of the amounts stated in the most recent edition of "Means Heavy Construction Cost Data," as of the date the costs were incurred, whichever is less, for mobilization; hauling; and cutting, removal, and replacement of concrete and asphalt. "Means Heavy Construction Cost Data" (ed. Cornelis Smit et al., publ. R.S. Means Company, Inc., 1993), is incorporated by reference in this part, and is updated on an annual basis. Two copies of the document are located in the State Law Library.

Subp. 2. Maximum costs for test pits, excavation, loading, clean fill, off-site stockpiling, landfarming, and thermal treatment. The board shall consider as prima facie unreasonable costs incurred for the following contractor services either in excess of the amount specified in the bid for contractor services or in excess of the following maximum charges, whichever is less:

- A. soil test pits has a maximum cost of \$100 per test pit;
- B. excavation has a maximum cost of \$7 per cubic yard;
- C. loading has a maximum cost of \$3 per cubic yard;
- D. clean fill purchase, transportation, and installation has a maximum cost of \$15 per cubic yard;
- E. off-site stockpiling has a maximum cost of \$2.50 per cubic yard;
- F. landfarming has a maximum cost that shall be determined by the county of disposal site as follows:

(1) Becker, Beltrami, Benton, Blue Earth, Brown, Cass, Chisago, Clay, Clearwater, Crow Wing, Dodge, Douglas, Faribault, Fillmore, Freeborn, Goodhue, Grant, Houston, Hubbard, Isanti, Kanabec, Kittson, Lake of the Woods, Le Sueur, Mahnomon, Marshall, Martin, Mille Lacs, Morrison, Mower, Nicollet, Norman, Olmsted, Otter Tail, Pennington, Pine, Polk, Pope, Red Lake, Rice, Roseau, Sherburne, Sibley, Stearns, Steele, Stevens, Todd, Traverse, Wabasha, Wadena, Waseca, Watonwan, Wilkin, Winona, and Wright: \$20 per cubic yard;

(2) Anoka, Big Stone, Carver, Chippewa, Cottonwood, Dakota, Hennepin, Jackson, Kandiyohi, Lac Qui Parle, Lincoln, Lyon, McLeod, Meeker, Murray, Nobles, Pipestone, Ramsey, Redwood, Renville, Rock, Scott, Swift, Washington, and Yellow Medicine: \$25 per cubic yard; and

(3) Aitkin, Carlton, Cook, Itasca, Koochiching, Lake, and St. Louis: \$30 per cubic yard; and

- G. thermal treatment of petroleum contaminated soil has a maximum cost of \$40 per cubic yard.

Notwithstanding item G, if the type of soil to be treated requires the thermal treatment facility to operate at a reduced rate of production, the maximum reimbursable cost for thermal treatment of petroleum contaminated soil shall be \$50 per cubic yard.

Subp. 3. Maximum drilling and well charges. To the extent that soil boring drilling, piezometer installation, vent point installation, well abandonment, and well installation constitute contractor services, reimbursement of costs for these services shall be governed by parts 2890.0072 to 2890.0079.

Subp. 4. Maximum costs for all other contractor services. For contractor services not otherwise listed in this part, including, but not limited to, groundwater sampling analysis, soil sampling analysis, treatment of petroleum contaminated water from the excavation basin, and system installation, the board shall consider as prima facie unreasonable costs incurred in excess of the amount specified in the bid for contractor services.

2890.0083 COMPETITIVE BIDDING REQUIREMENTS FOR CONTRACTOR SERVICES.

Subpart 1. Generally; competitive bidding required. The applicant shall obtain, publicly or privately, a minimum of two written competitive bids for each contractor service prior to incurring costs for that contractor service. Bids for contractor services shall be on a form prescribed by the board according to parts 2890.0081 to 2890.0086. The applicant shall only obtain bids for contractor services from persons who are registered with the board.

Subp. 2. Cost per cubic yard bidding required. The following contractor services must be itemized on a cost per cubic yard basis on the bid form for contractor services:

- A. hauling;
- B. excavation;
- C. clean fill purchase, transportation, and installation;
- D. off-site stockpiling;

- E. landfarming, including a breakdown by cost per cubic yard for each of the tasks listed in part 2890.0081, subpart 9; and
- F. thermal treatment.

Subp. 3. Lowest cost bid. Total costs in excess of those in the bid of the lowest qualified bidder shall be considered prima facie unreasonable by the board.

2890.0084 DEVIATIONS FROM MAXIMUM COSTS FOR CONTRACTOR SERVICES.

Subpart 1. Bids over maximum costs. The board shall not consider as prima facie unreasonable contractor services costs higher than the maximum costs in part 2890.0082 if:

A. the bid accepted by the applicant prior to the provision of contractor services specifically states that the amount exceeds the maximum cost limits and provides a detailed explanation of the reasons for costs in excess of the maximum cost limits; and

B. the board determines by clear and convincing evidence that the higher costs:

- (1) were justified by unusual conditions existing at the applicant's site; and
- (2) were essential to complete the corrective action properly.

Subp. 2. Additional costs incurred after bid approved by applicant.

A. The board shall not consider as prima facie unreasonable charges greater than the amount specified in a bid approved by an applicant if:

(1) the applicant approves a change order for the higher costs;

(2) the higher costs were required by circumstances beyond the control of the contractor that could not have been reasonably anticipated at the time the bid was accepted by the applicant; and

(3) the board determines that the applicant has established by clear and convincing evidence that the higher costs were essential to complete the corrective action properly.

B. The applicant shall approve all change orders on a form prescribed by the board. The charge order form shall contain the following:

- (1) a detailed description of the higher costs;
- (2) the reason for the proposed changes from the original proposal;
- (3) the original proposal amount and the revised proposal amount; and
- (4) signatures of the applicant and the contractor.

2890.0085 REASONABLE, NECESSARY, AND ACTUAL COSTS.

Notwithstanding parts 2890.0081 to 2890.0084, the board shall reimburse applicants only for contractor services tasks and costs necessary for the corrective action at the applicant's site, only for contractor services costs that are reasonable, and only for actual hours spent by the contractor when contractor services are charged based on the contractor's time.

2890.0086 INVOICE.

The board shall consider as prima facie unreasonable costs incurred for contractor services that are not billed to the applicant on an invoice form prescribed by the board. The invoice form prescribed by the board shall be consistent with the bid form for contractor services and according to parts 2890.0081 to 2890.0085.

2890.0089 EXEMPTIONS FROM COMPETITIVE BIDDING.

The applicant shall be granted an exemption from the competitive bidding requirement of parts 2890.0077 and 2890.0083 if:

A. the board determines that the applicant has provided satisfactory evidence that:

(1) only one contractor or consultant was reasonably available to perform the necessary service and that costs are not substantially in excess of costs charged for similar services by a comparable contractor or consultant in the same geographical area; or

(2) the necessary services were required by an emergency, including the emergency abatement of free product, for which there was not sufficient time to obtain bids or proposals; or

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Adopted Rules

B. the board makes an annual determination that the applicant has established that a standard contract that was entered into via a bidding or evaluation process will result in reasonable corrective action costs by providing to the board:

(1) documentation of the bidding process that led to the standing contract for contractor services or a written explanation of the evaluation process that led to the standing contract for consultant services; and

(2) a written explanation of why the standing contract results in lower corrective action costs than obtaining bids or proposals on a per job basis.

2890.0090 APPLICATION PROCESS.

Subpart 1. **Applications.** An applicant shall complete, sign, and submit to the board a written application. The application shall be made on a form prescribed by the board and shall contain at least the following:

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

D. an itemized list of all corrective actions taken, the eligible costs associated with the actions, and the name of the engineer, contractor, or subcontractor who performed the action; ~~and~~

E. ~~documentation of solicitation of competitive bids or proposals or qualification for exemption as required by part 2890.0075. a copy of all competitive bids and competitive proposals obtained by the applicant as required by parts 2890.0077 and 2890.0083, or documentation of an exemption from these requirements under part 2890.0089;~~

F. a copy of the proposals for each step of consultant services as required by parts 2890.0074 to 2890.0077 and a copy of all change orders, if any, as required by parts 2890.0078 and 2890.0084; and

G. a copy of all invoices as required by parts 2890.0074 and 2890.0086.

[For text of subps 2 to 6, see M.R.]

REPEALER. Minnesota Rules, parts 2890.0075; 2890.0080; and 2890.0095, are repealed.

EFFECTIVE DATE. These rules are effective 60 days after notice of adoption is published in the "State Register."

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 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 Human Services

Adopted Permanent Rules Governing MinnesotaCare

The rules proposed and published at "State Register," Volume 19, Number 12, pages 627-637, September 19, 1994 (19 SR 627), are adopted with the following modifications:

Rules as Adopted

9506.0010 DEFINITIONS.

Subp. 11. **Family.** "Family" means a parent or parents and their children, or guardians and their wards who are children, and dependent siblings, residing in the same household. The term includes children and dependent siblings temporarily absent from the household in settings such as schools, camps, or visitation with noncustodial parents. Family also means an emancipated minor and an emancipated minor's spouse, spouses in households without children, and single individuals in a one-person household.

9506.0020 ELIGIBILITY FOR MINNESOTACARE.

Subpart 1. **General eligibility requirements.** Except as provided in subparts 2, 3, and 5, an applicant or enrollee must:

C. not ~~currently~~ simultaneously be covered by general assistance medical care and MinnesotaCare;

Subp. 6. Annual redetermination required. The commissioner shall annually redetermine continued MinnesotaCare eligibility for each enrollee.

Subp. 7. Enrollee cooperation with annual redetermination. Enrollees must annually provide the information needed to redetermine eligibility before the anniversary date of initial eligibility. The anniversary date of initial eligibility is the yearly recurrence of the first day of the month following the date of enrollment in MinnesotaCare.

9506.0030 APPLICATION; ENROLLMENT; COVERAGE.

Subp. 4. **Enrollment and beginning of coverage.** The date of enrollment and the date coverage begins are determined as follows:

B. Coverage begins the first day of the calendar month following the date of enrollment, except:

(1) if the initial premium payment is received after noon of the last business day of the month of enrollment, coverage begins the first day of the second following calendar month;

(2) coverage for eligible newborns in an enrolled family begins immediately from the moment of birth;

(3) ~~(3)~~ coverage for eligible adoptive children of a family enrolled in MinnesotaCare begins on the date of placement for the purpose of adoption;

(4) ~~(4)~~ coverage for other new members of an enrolled family begins the first day of the month following the month in which the new member's eligibility is determined and the first premium payment is received; and

(5) ~~(5)~~ coverage of enrollees who are hospitalized on the first day of the month following enrollment begins the day following the date of discharge from the hospital.

9506.0040 PREMIUM PAYMENTS.

Subp. 6. **Disenrollment.** The commissioner shall disenroll enrollees who fail to pay the required premium when due. MinnesotaCare coverage terminates the last day of the calendar month following the due date specified in subpart 5 unless the premium is received by noon of the last business day of the calendar month following the termination due date.

Subp. 8. **Premium payment adjustments.** The commissioner shall adjust enrollees' premium payments upon receipt of the audit information required under part 9506.0060, subparts 1 to 4 and 2. Adjustments to premium payments are effective on the first day of the month following issuance of an adjusted premium invoice.

9506.0050 COORDINATION OF MINNESOTACARE AND MEDICAL ASSISTANCE.

Subp. 3. **Coordination of coverage for hospital inpatient services under MinnesotaCare and medical assistance.** Coverage for inpatient hospital services for enrollees shall be coordinated between MinnesotaCare and medical assistance as provided in this subpart.

C. If an enrollee is determined eligible for medical assistance with a spend-down:

(2) the enrollee must pay the MinnesotaCare premium, spend-down amounts that exceed the \$10,000 annual benefit limit for adults, and the cost of services not covered by MinnesotaCare or medical assistance during any month in which inpatient hospital services are provided;

(a) the MinnesotaCare premium during the months of inpatient hospitalization;

(b) inpatient hospital costs included in the enrollee's spend-down that are not paid for by MinnesotaCare; and

(c) services not covered by MinnesotaCare or medical assistance;

(4) MinnesotaCare shall pay inpatient hospital costs up to the enrollee's spend-down for inpatient hospital services up to the limit or the MinnesotaCare \$10,000 annual benefit limit for adults, whichever is less; and

9506.0060 QUALITY CONTROL.

Subpart 1. **Annual redetermination required.** ~~The commissioner shall annually redetermine continued MinnesotaCare eligibility for each enrollee.~~

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Adopted Rules

Subp. 2. Enrollee cooperation with annual redetermination. Enrollees must annually provide the information needed to redetermine eligibility before the anniversary date of initial eligibility. The anniversary date of initial eligibility is the yearly recurrence of the first day of the month following the date of enrollment in MinnesotaCare.

Subp. 3. Changes. Enrollees must report to the department any changes in the following:

Subp. 4 2. Random audits. The commissioner shall perform audits of randomly selected enrollees to verify enrollees' gross annual family income and MinnesotaCare eligibility. Enrollees being audited must provide additional income and eligibility information, including:

Subp. 5 3. Disenrollment. The commissioner shall disenroll enrollees who refuse to provide information required under subparts 1 and 2 to 4. MinnesotaCare coverage will terminate the last day of the calendar month in which notice of cancellation is sent. Persons may reenroll after complying with this part and being determined eligible for MinnesotaCare.

Gambling in Minnesota

Lawful Gambling Statutes 1992

Chapter 349. 65 pp. 2-5 SR \$ 6.95

Lawful Gambling Rules 1993

Chapter 7861 thru 7865. 80pp. 3-3 SR \$ 6.95

Gambling Manager's Handbook 1992

Requirements of gambling activities 10-19SR \$16.95

High Stakes: Gambling in Minnesota 1992

Overview to gambling in Minnesota 10-46SR \$ 8.95

Gambling in Minnesota 1993

Supplement to High Stakes Gambling 10-26s1SR \$ 5.95

Gaming News Subscription

Yearly subscription. 90-8SR \$40.00

Gambling Organizations Directory

Lists name and address of licensed gambling organizations in Minnesota 99-2SR \$29.95

Regulatory Accounting Manual

Procedures guide includes tax forms 10-40SR \$14.95

Accounting Manual Worksheets 8-11SR \$ 7.95

View-through Binder 8 1/2 x 11 10-25 SR \$ 5.95

Tab Dividers 10 per package 10-19 SR \$16.95

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Official Notices

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

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

Department of Agriculture

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond under *Minnesota Statutes, Chapter 41C*

NOTICE IS HEREBY GIVEN that a public hearing will be held on **December 20, 1994**, at 9 A.M. in **Room 145** Department of Agriculture Building, 90 West Plato Boulevard, Saint Paul, Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes, Chapter 41C*, in order to finance the purchase of **approximately 120 acres of farmland with buildings** located in **Section 6, Riverdale Township, Watonwan County and Section 31; Lake Hanska Township, Brown County, Minnesota** on behalf of **Mike & Laurie Lilleodden**, a married couple (the Borrowers). The maximum aggregate face amount of the proposed bond issue is **\$135,600.00**. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 2 November 1994

Wayne Marsof
RFA Executive Director (acting)

State Arts Board

Notice of Solicitation of Outside Information or Opinions on Rules Governing the Agency's Procedures for Reviewing and Distribution of Grants, Loans and Other Forms of Assistance

NOTICE IS HEREBY GIVEN that the State Board of the Arts is seeking information or opinions from sources outside the agency in preparing to propose the repeal and reenactment of the rules governing the agency's procedures for reviewing and distribution of grants, loans and other forms of assistance. The adoption of the rule is authorized by *Minnesota Statutes*, section 129D.04 subd. (e) and subd. (f) (1990), which requires the agency to promulgate by rule procedures to be followed by the board in receiving and reviewing requests for grants, loans, and other forms of assistance and to promulgate by rule standards consistent with this chapter to be followed by the board in the distribution of grants, loans, and other forms of assistance.

The agency intends to convene a task force in December, 1994 comprised of members of the Board and its staff, members of the Board and staff of the eleven Minnesota Regional Arts Councils and representatives of Minnesota Citizens for the Arts. It is expected that the rulemaking process will be completed by Spring of 1995.

The State Board of the Arts requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Sam W. Grabarski, Minnesota State Arts Board, 432 Summit Avenue, St. Paul, Minnesota 55102. Oral statement will be received during regular business hours over the telephone at 612/297-2603 and in person at the above address.

All statements of information and opinions shall be accepted until December 27, 1994. Any written material received by the State Board of the Arts shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Sam W. Grabarski
Executive Director

Official Notices

Early Childhood Care and Education Council

Notice of Meetings of the Regular Full Council and the Executive Committee

NOTICE IS HEREBY GIVEN that the Minnesota Early Childhood Care and Education Council (ECCE) has scheduled the following meetings. Direct inquiries to: Jevne Kloeber, Executive Director, Minnesota Early Childhood Care and Education Council, Third Floor, Ford Building, 117 University Avenue, St. Paul, MN 55155; Phone: 612/296-1400; TDD MRS 612/297-5353 (Metro) or TDD MRS 800/627-3529 (Greater Minnesota).

REGULAR FULL COUNCIL MEETING - January 30, 1995, 10 am-3 pm, Room 116B, Administration Building, 50 Sherburne Avenue, St. Paul, MN. Standing Committee meetings 12-1 pm if needed.

EXECUTIVE COMMITTEE MEETING - February 20, 1995, 10 am-12:30 pm, Third Floor Ford Building, 117 University Avenue, St. Paul, MN.

REGULAR FULL COUNCIL MEETING - March 27, 1995, 10 am-3 pm, Room 116B, Administration Building, 50 Sherburne Avenue, St. Paul, MN. Standing Committee meetings 12-1 pm if needed.

EXECUTIVE COMMITTEE MEETING - April 17, 1995, 10 am-12:30 pm, Third Floor Ford Building, 117 University Avenue, St. Paul, MN.

REGULAR FULL COUNCIL MEETING - May 15, 1995, 10 am-3 pm, Room 116A, Administration Building, 50 Sherburne Avenue, St. Paul, MN. Standing Committee Meetings 12-1 pm if needed.

EXECUTIVE COMMITTEE MEETING - June 19, 1995, 10 am-12:30 pm, Room 116A Administrative Building, 50 Sherburne Avenue, St. Paul, MN.

Contact the Council for specific agenda details.

Executive Council

State Board of Investment

Land Exchange Board

Investment Advisory Council

Official Notice of Meetings of the Executive Council, State Board of Investment, Land Exchange Board and Investment Advisory Council

The Executive Council, State Board of Investment and the Land Exchange Board will meet on Wednesday, December 14, 1994 at 8:30 A.M. in Room 125, State Capitol, Saint Paul, MN.

The Investment Advisory Council will meet on Tuesday, December 13, 1994 at 2:00 P.M. in Suite 105, 55 Sherburne Avenue, St. Paul, MN.

Department of Labor and Industry

Labor Standards Division

Notice of Prevailing Wage Certifications for Commercial Construction Projects

Effective December 5, 1994 prevailing wage rates were determined and certified for commercial construction projects in the following counties:

Brown: New Ulm High School Concession Stand-New Ulm.

Cass: Ah-Gwah-Ching Steam System Remodel-Ah-Gwah-Ching.

Clay: Moorhead Weigh Station-Moorhead.

Dakota: Scott Highlands Jr. High School Chiller Retrofit (CFC)-Apple Valley.

Dodge: ISD #204 Kasson New Elementary School-Kasson.

Hennepin: 1994 Lindberg Terminal Interior Rehabilitation-Mpls/Stp Airport; Jackson Middle School Additions & Alterations-

Champlin; U of M Annual Contract for Design Build Services-Minneapolis.

Ramsey: U of M Annual Contract for Design Build Services-St. Paul.

Copies of the certified wage rate 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 charge 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

Public Employees Retirement Association

Notice of Meetings of the Board of Trustees and the Board's Legislative Committee

A Special Meeting of the Board of Trustees of the Public Employees Retirement Association (PERA) will be held on Friday, December 9, 1994, at 9 a.m. in Room 112 of the State Capitol. The purpose of this meeting is to consider the Administrative Law Judge's recommendations in the matters of the application of John Allers and Konrad Stroh for retirement benefits, and the application of John Allers for the early retirement incentive.

A meeting of the Legislative Committee of the Board of Trustees will be held on Tuesday, December 13, 1994, at 9:30 a.m. in the offices of the association, 514 St. Peter Street, Suite 200 - Skyway Level, St. Paul, Minnesota.

Department of Public Safety

Notice of Violence Prevention Advisory Task Force Meeting

The Violence Prevention Advisory Task Force will be meeting on December 12, 1994, from 9:00 a.m. - 4:00 p.m. at the Crown Sterling Suites, 175 East 10th Street, St. Paul.

The Task Force was created by the 1994 legislature as part of The Omnibus Crime Bill. The purpose of the Task Force is to define violence prevention, develop measurable violence prevention goals, inventory state violence prevention programs, develop a state violence prevention policy and funding plan and make recommendations for an on-going system to evaluate the effectiveness of violence prevention programs.

Office of the Secretary of State

Notice of Vacancies in Multi-Member Agencies

NOTICE IS HEREBY GIVEN to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* 15.0597, subdivision 4. Application forms may be obtained from the Office of the Secretary of State, Open Appointments, 180 State Office Building, 100 Constitution Ave., St. Paul 55155-1299; (612) 297-5845, or in person at Room 174 of the State Office Building. In accordance with the Minnesota Open Appointments Law, the Secretary of State acts as an administrator in publishing vacancies, receiving applications, and recording appointments. Applications will be reviewed and appointments made by the Appointing Authorities for these various agencies. Completed applications are to be submitted to the Secretary of State by December 27, 1994. Appointing Authorities for these agencies may also choose to review applications received by the Secretary of State after that date. Applications are kept on file for a one year period.

The 1994 Annual Compilation and Statistical Report is now available from the Minnesota Bookstore. This publication includes a complete listing of state boards and councils that follow the Open Appointments process, descriptions of these agencies and their memberships, and statistical information about appointments and vacancies made during the 1994 fiscal year. The 1994 Annual Compilation also indicates members with terms that end in January 1995 as open for application; many of these positions are still open. To order copies of the 1994 Annual Compilation please call the Minnesota Bookstore at 297-3000 or 1-800-657-3757.

BOARD OF MEDICAL PRACTICE 2700 University Ave. W., Room 106, St. Paul, MN 55114-1080. 612-642-0538. *Minnesota Statutes* 147.01.

APPOINTING AUTHORITY: Governor (01).

COMPENSATION: \$55 per diem plus expenses.

VACANCY: Three vacancies: One public member resident of Minnesota from Congressional District 1, 4, 5, or 8; one licensed

Official Notices

physician/surgeon with a Doctor of Osteopathy degree and training residing in Minnesota; and one licensed physician/surgeon residing in the second congressional district of Minnesota. These three positions were also indicated as open for application in the November 7, 1994 announcement due to terms of members scheduled to end in January 1995.

The board examines, licenses, and registers medical doctors and doctors of osteopathy, physician assistants, midwives, respiratory care practitioners, physical therapists and athletic trainers and enforces the relevant practice Acts. The board consists of sixteen members, including ten licensed M.D. physicians; one licensed Doctor of Osteopathy; and five public members. Members shall not serve more than eight years consecutively. Monthly meetings, some committee meetings. Time commitment expected is one business day and one Saturday per month, plus preparation time. Members must file with the Ethical Practices Board. The board does not expire.

CHEMICAL DEPENDENCY COUNSELING LICENSING ADVISORY COUNCIL MN Dept. of Health, 717 Delaware St. SE, Mpls, MN 55440-9441. 612-282-5626. *Minnesota Statutes 148C.02, Laws of 1993.*

APPOINTING AUTHORITY: Commissioner of Health (13).

COMPENSATION: \$55 per diem plus expenses.

VACANCY: One position not previously filled: Public member, a person who is not, or never was, a member of the profession or occupation being regulated or the spouse of any such person, or a person who does not have or has ever had, a material financial interest in either providing the professional service being regulated or an activity directly related to the profession or occupation being regulated.

The council advises the Commissioner in development of rules for licensure of chemical dependency counselors and in administering or contracting for the competency testing, licensing, and ethical review of chemical dependency counselors. The council consists of 13 members including: Seven licensed chemical dependency counselors (except for initial appointees); three public members; one director or coordinator of an accredited chemical dependency training program; and one member who is a former consumer of chemical dependency counseling service who received the service more than three years before their appointment. The American Indian Advisory Committee on Chemical Dependency shall appoint the remaining member. Meetings occur approximately once a month for two to three hours at the MN Dept. of Health. The council expires June 30, 1997 per *Minnesota Statutes 15.0575 subd. 5* as amended by *Laws of 1993.*

HEALTH TECHNOLOGY ADVISORY COMMITTEE 121 E 7th Place, Suite 400, St. Paul, MN 55101 *Minnesota Statutes 62J.15.*

APPOINTING AUTHORITY: MN Health Care Commission (36).

COMPENSATION: None.

VACANCY: One vacancy.

The committee conducts evaluations of specific technologies to provide information to the Minnesota Health Care Commission on safety, improvement in health outcomes, clinical effectiveness and cost effectiveness. The advisory committee may include members of the MN Health Care Commission and must include at least one person representing physicians, at least one person representing hospitals, and at least one person representing the health care technology industry. Meetings are regularly held the third Thursday of each month from 1:00 to 4:00 p.m. at various locations. The committee expires June 30, 1997 per *Minnesota Statutes 15.059 subd. 5* as amended by *Laws of 1993.*

MN SMALL BUSINESS DEVELOPMENT CENTER ADVISORY BOARD MN Dept. of Trade and Economic Development, 500 Metro Square, 121 7th Place E., St. Paul, MN 55101-2146. 612-297-5773. *Minnesota Statutes 116J.68(n).*

APPOINTING AUTHORITY: Commissioner of Trade and Economic Development (27).

COMPENSATION: None.

VACANCY: Eleven positions: Members serve pursuant to 15 *United States Code 648* and 12 *Code of Federal Regulations 129.18* to advise and counsel the Director of the Minnesota SBDC Network on policy issues affecting delivery of small business assistance services under the SBDC program. Members also advise and assist in leveraging contributions of local financial and other resources to support the program and its regional centers. By federal regulation, the board must be "composed predominantly of small business owners and representatives of small business associations." Members are chosen from geographic service areas of regional SBDC offices, one from each of the following regions: Northwest, Northeast, North Central, Central, Southwest, South Central, and Southeast Minnesota; two members from the Twin Cities Metro area and two members serving as at-large members.

The advisory board is to advise, counsel and confer with the director of the Small Business Development Center Network on all policy matters pertaining to the operation of the network, to include advice and counsel on needs assessments, program offerings, and program evaluations. The advisory board also is to advise and assist in leveraging of local financial and other resources to support the statewide Small Business Development Center Network and regional SBDC centers. The advisory board consists of eleven members, composed primarily of small business owners and representatives of small business associations; including one member from each of the eight regions served by the outstate regional centers and two representatives from the metro areas and one at-large member. Meetings will occur in March and October, 4 hours per meeting; meeting location to be rotated among SBDC regional center locations. The board does not expire.

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

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

Department of Agriculture

Energy and Sustainable Agriculture Program

Notice of Availability of Funds for Conservation Reserve Program (CRP) Project Grants

The Minnesota Department of Agriculture announces the availability of grant funds to help meet major goals of its Conservation Reserve Program (CRP) project. The purpose of these grants is to address the issue of expiring CRP contracts in partnership with other agencies and organizations concerned about the fate of cropland soon to emerge from the CRP and the potential impact of this land-use transition on surrounding communities, watersheds, and wildlife. Grant proposals are invited in any one of the following three CRP project categories:

- 1) **Fact-Sheet Package:** Develop a package of modular fact sheets describing profitable and environmentally sound land-use options for current and future CRP landowners.
- 2) **Environmental Models:** Facilitate targeting of public conservation dollars toward environmentally critical areas. Develop methods for assessing the ecological suitability of CRP lands for various future land uses. Develop models to identify the CRP lands most likely to contribute to environmental degradation.
- 3) **Policy Analysis:** Engage CRP contract-holders and other stakeholders in the process of identifying CRP policy options. Develop a policy analysis tool to help communities, planners, and policy-makers explore, demonstrate, and prepare for the environmental and economic consequences of different post-CRP public policies and land use decisions.

A total of \$46,000 is available for grants, with maximum awards of \$20,000 per grant. Applicants may apply for, but will not be awarded, more than one grant. Successful applicants will begin projects as soon as possible in order to complete key portions of the workplan by the CRP project deadline of June 30, 1995; remaining work may be completed over a period of 5 to 8 months beyond that date. This notice does not obligate the Minnesota Department of Agriculture to issue grant funds.

Eligible Applicants

Eligible applicants include individuals or groups representing partnerships of one or more of the following types of agencies/organizations: local government units (including county-level offices of federal agencies), nonprofit and farm organizations, and public or private higher-educational institutions. Applications from groups representing more than one agency/organization are encouraged. Priority will be given to proposals that promise to dovetail CRP project goals with the applicant's own program goals.

Application forms, proposal guidelines, and additional information can be obtained from Barbara Weisman, CRP Project Coordinator, Minnesota Department of Agriculture, Energy and Sustainable Agriculture Program, 90 West Plato Boulevard, St. Paul, MN 55107. Phone (612) 282-6831. Fax (612) 297-7678.

Applications must be received by the Minnesota Department of Agriculture no later than 4:30 p.m. on Friday, January 20, 1995.

Department of Human Services

Children's Trust Fund

Request for Proposals for Parent Education and Family Support

The Children's Trust Fund (CTF), established in 1986, is supported by a surcharge on birth certificates, federal and state monies, and private donations. The CTF's mission is to prevent child maltreatment by funding primary and secondary prevention programs that strengthen families. *This CTF grant cycle runs from October 1, 1995 to September 30, 1998.*

THE DEADLINE FOR SUBMITTING GRANT APPLICATIONS IS MARCH 1, 1995.

Professional, Technical & Consulting Contracts

Description: The funding focus identified by the CTF Advisory Council for the 1995-98 grant cycle is *parent education and family support*.

Eligibility: To be eligible for a grant, applications must be submitted by private nonprofit or public agencies. They must also:

1. Identify a service delivery component, rather than use funds for general program operation;
2. Match at least 40% of the CTF funds with either in-kind or cash contributions. The 40% match must be applied to the specific program or component for which CTF funds are requested;
3. Have been in operation for a minimum of two years.

Priority: Highest priority will be given to those applications which:

- Target parents of young children (i.e., 0 to 5 years of age)
- Are responsive to diverse and underserved groups in their community
- Serve families in poverty
- Have matching dollars from sources other than state or federal funds

All interested parties should request a *Grant Application Packet* directly from the CTF (see address below). This packet contains definitions, forms, and instructions for completing the application as well as complete details on the submission process.

Selection Process: Local, county, and regional programs must submit their applications to the appropriate Child Abuse and Prevention Council (CAPC) for review and ranking. Statewide and tribal programs should submit their applications directly to the CTF Advisory Council. All applications meeting eligibility requirements are evaluated according to criteria which are listed in the *Grant Application Packet*. Final decisions are made by the Commissioner of the Department of Human Services, based on the advice and consent of the CTF Advisory Council. Notifications of the award decisions will be mailed by July 10, 1995.

For more information contact:

Maureen Cannon, Executive Director
Children's Trust Fund
444 Lafayette Road No.
St. Paul, MN 55155-3839
Telephone: 612/296-KIDS

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.

In accordance with *Minnesota Rules Part 1230.1910*, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a 6% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (612)296-2600 or [TDD (612)297-5353 and ask for 296-2600].

Department of Education

Notice of Request for Proposals for Computer-Based Information Systems for Minnesota's Results-Oriented Graduation Standards

The Minnesota Department of Education is soliciting proposals from qualified vendors to develop technology for data collection/reporting by schools and the state for the proposed graduation standards.

SCOPE OF THE PROJECT:

This Request for Proposals (RFP) process will produce access to information management systems that help maintain records, conduct progress/performance reporting, and support assessment for Minnesota's Results-Oriented Graduation Standards.

The development of a computer-based information system will be the result of a collaboration between Minnesota educators and the selected vendor who will form a private-public partnership to share development costs.

Professional, Technical & Consulting Contracts

IMPLEMENTATION TARGET DATE:

January 1, 1996

PROJECTED COST:

It is anticipated that the deliverables specified in this project will not exceed \$200,000.00

COPIES OF RFP/INFORMATION AND QUESTIONS:

Copies of the RFP may be obtained from Mary Mehsikomer, Office of Information Technologies, Minnesota Department of Education by calling (612) 296-2752. Please provide your name, mailing address, and phone number when requesting the RFP.

All other requests for information or questions should be directed to:

J. Mark Manning
Office of Information Technologies
Minnesota Department of Education
936 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
PHONE: [612] 297-3151

Other Department personnel are NOT allowed to discuss the Request for Proposal with anyone, including responders, before the proposal submission deadline.

SUBMISSION OF PROPOSALS:

All proposals must be received by J. Mark Manning, Office of Information Technologies (address above) no later than 4:00 P.M. on December 16, 1994. Late proposals will not be accepted.

Department of Transportation

Engineering Services Division

Notice of Request for Consultants in the Field of Pollutant and Contaminated Substance Involvement

The Minnesota Department of Transportation is seeking consultants to assist the Department in the delivery of its construction program by providing professional services in the field of pollutant and contaminated substance involvement. Assessment of properties known or suspected to be impacted by pollutants, contaminants or hazardous wastes, including remedial investigation services, remedial/corrective action design plan services, remedial action oversight, waste management facility audits, and laboratory services are needed to supplement the professional and technical staff of the Department in this field of endeavor. These services will be used on an as-needed basis by the Department only as assistance in the delivery of its varied construction and maintenance program.

This T-Contract program will run for approximately 3 years and has a total value of \$6,000,000.00. Multiple consultants will be selected for this program.

Work is proposed to start after January 1, 1995.

In accordance with *Minnesota Rules* Part 1230.1910, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a 6% preference in the evaluation of their proposal, and certified Economically Disadvantaged Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a 4% preference in the evaluation of their proposal.

A Request for Proposal can be obtained from the MN/DOT Associate Agreements Administrator:

Mr. Robert W. Flicek
Consultant Services Unit, Room 320
Minnesota Department of Transportation
395 John Ireland Boulevard, Mailstop 680
St. Paul, Minnesota 55155
Phone: (612) 297-1197 Fax: (612) 282-5127

Non-State Public Bids, Contracts & Grants

Request for Proposals will be available by mail from this office through December 28, 1994. A written request is required to receive the Request for Proposal. Indicate whether your firm is a Targeted Group Business or Disadvantaged Business Enterprise in your written request. After December 28, 1994, the Request for Proposal must be picked up in person.

No time extensions will be granted.

Proposals must be received at the above address no later than 2:00 P.M. on January 13, 1995. No proposals will be accepted after 2:00 P.M.

This request does not obligate the State of Minnesota Department of Transportation to complete the work contemplated in this notice, and the Department reserves the right to cancel this solicitation. All expenses incurred in responding to this notice shall be borne by the responder.

Non-State Public Bids, Contracts & Grants

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

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

Metropolitan Council

Notice of Request for Proposals (RFP) for Housing Demonstration Program Counseling Services

The Metropolitan Council requests proposals to provide housing counseling and support services in a voluntary demonstration program for families who receive Section 8 assistance. Under the program, 100 participating families who live in high poverty areas in Minneapolis and St. Paul will receive information, counseling and support services to help them exercise their option to move to low poverty areas in Minneapolis, St. Paul and the suburbs.

Proposals are requested for the housing, counseling and support services to be provided. Services to families will include financial counseling, coaching, referral to available rental units, linking to resources (schools, social services, day care, grocery stores, etc.) in the new community, transportation and child care to view rental units. Support services will also include recruitment of owners and rental units to the program.

Counseling services will commence about April 3, 1995 and terminate on approximately November 1, 1996.

Eight copies of the proposal must be received no later than 4:30 p.m. on Friday, February 3, 1995. Proposals should be sent to Metropolitan Council, 230 E. 5th St., St. Paul, MN 55101, Attention: Liz Newberry.

Copies of the RFP may be obtained from the Council offices by calling 612/291-6501 or 612/291-0904 (TDD). The RFP will contain information about a pre-bid conference to be held on Thursday, December 15, 1994. Inquiries about the demonstration program should be directed to Liz Newberry at 612/291-6575 or 612/291-0904 (TDD).



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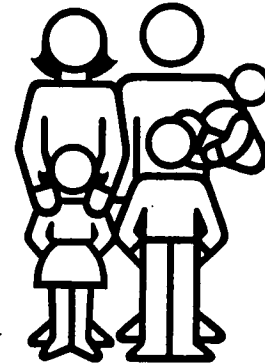
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Selected Chapters from the 1993 Minnesota Statutes related to human services delivery. Among the many topics covered are: government data practices, human service licensing, MN Commitment Act of 1982, medical assistance, MN Family Preservation Act, and chemical dependency. Looseleaf, 1,551pp. Requires 2 binders. Stock No. 2-56 \$34.95

Health Care Program Manual

(...formerly known as the MA/GAMC Medical Care Provider Manual) This MinnesotaCare Programs Provider Manual provides up-to-date information for providers and agency personnel regarding services to Medicaid patients. Covers GAMC and MinnesotaCare services, provider enrollment, claims processing and program compliance. 336pp. (DHS, 1994)
Stock No. 10-12 \$20.00

Home Health Care/Hospice Rules 1993

MN Statutes Chapter 144A and MN Rules Chapters 4668 and 4669. 61pp. Stock No. 3-82 \$6.95

Nursing & Boarding Care Home Rules

Chapters 4620.1200, 4638, 4655, and 4660. Licensing requirements for facilities where nursing, personal or custodial care is provided. 215pp. (1993)
Stock No. 3-12 \$14.00

Nursing Board Laws

MN Statutes Chapter 148 governs practice of professional nursing in Minnesota. 20pp. (1993)
Stock No. 2-91 \$5.00

Nursing Board Rules

Rules governing preparation programs and licensing and registration of nurses. MN Chapters 6301, 6305, 6310, 6316, 6321, 6330 and 6340. Includes '94 rule changes as an insert. 70pp. (1993) Stock No. 3-94 \$7.00

Social Work Practice Act

Laws and rules relating to social work licenses. MN Statutes Chapter 148B and MN Rules Chapter 8740. 70pp. (1993) Stock No. 3-39 \$7.95

Supervised Living Facilities Laws & Rules

Statutes Chapters 144.56 and 144.651-.653 and Rules Chapter 4665. Standards for construction, equipment, maintenance, and operation of supervised living facilities. 42pp. (1992) Stock No. 3-15 \$4.50

Pharmacy Laws

MN Statutes Chapter 151-152, 214, 319A and sections of other chapters. 122pp. (1993)
Stock No. 2-78 \$8.00

Pharmacy Rules

MN Rules Chapter 6800. 100pp. (1993)
Stock No. 3-67 \$8.95



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