

94, August 8

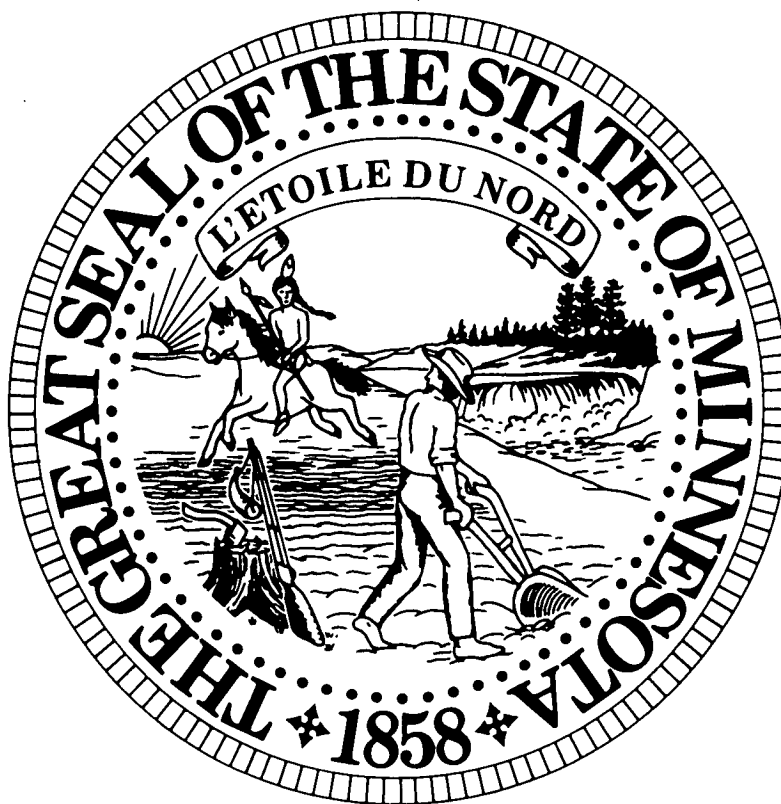
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The Minnesota
**State
Register**

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.

Printing Schedule and Submission Deadlines

Vol. 19 Issue Number	PUBLISH DATE	Deadline for both Adopted and Proposed RULES	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts
6	Monday 8 August	Monday 25 July	Monday 1 August
7	Monday 15 August	Monday 1 August	Monday 8 August
8	Monday 22 August	Monday 8 August	Monday 15 August
9	Monday 29 August	Monday 15 August	Monday 22 August

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

Commissioner's Office

St. Paul, MN 66146-7100

August 8, 1994

To: See List

From: Patricia A. Lien

Assistant Commissioner for Tax Policy



Subject: **Revenue Notice #94-17**

Attached, for your information, is a copy of Revenue Notice #94-17, which was published in the 8/8/94 edition of the *State Register*.

Attachment

List:	Morrie Anderson	Mary Lange
	John Lally	Anne Gravelle
	Barb Young	Donna Slamkowski
	Paul Blaisdell	Tom Ellerbe
	Karen Barrett	Lynne Nystrom-Text Retrieval
	Terese Koenig	Ann Rest
	Senator Doug Johnson	Keith Carlson
	Legislative Reference Library	

DEPARTMENT OF REVENUE

Revenue Notice #94-17: Corporate Franchise Tax; Foreign Operating Corporation (FOC) Factors

Issue: Whether a corporation which does not have both a property and payroll factor can qualify as a Foreign Operating Corporation (FOC) under Minnesota statutes, section 290.01, subdivision. 6(b).

A corporation cannot qualify as an FOC without both a property and payroll factor.

The statute in question requires that a corporation have the following characteristics to qualify as an FOC. It must:

1. Be a domestic corporation;
2. Be a member of a unitary group, one of whose members is subject to Minnesota taxation, and;
3. Either;
 - A. "The average of the percentage of its property and payrolls assigned to locations inside the United States and the District of Columbia, excluding the Commonwealth of Puerto Rico and possessions of the United States, as determined under 290.191 or 290.20 is 20 percent or less", or;
 - B. The corporation is an Internal Revenue Code section 936 corporation.

The statute requires that two factors be averaged. Two factors cannot be averaged when only one is present. As the statute cannot require a mathematical impossibility, a corporation with only payroll or property, not both, cannot qualify as an FOC. A person claiming an exclusion from the general rule of taxation cannot strain the language of the statute to force the exclusion's application.

As a starting point in any analysis of a tax statute, it is necessary to determine the nature of the statutory provision in question. Minnesota statutes, section 290.01, subdivision 6(b) provides for an exception from taxation to a corporation generally included as an entity subject to tax. Language relating to exceptions must be strictly construed in favor of the general application of the tax. In such an instance taxation is presumed, and the taxpayer must show by clear and express statutory language that it is entitled to the exclusion. Unclear or imprecise language cannot be interpreted to support a position excluding income or persons from taxation if they have previously generally been defined as taxable. Ambiguity as to legislative intent does not fulfill the taxpayer's burden of persuasion, for any ambiguity as to the deduction, exemption or other exclusion from the general rule of taxation must be resolved in favor of taxation.

Dated: August 8, 1994

SK/slg

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"Commodity Awards Reports" are published every two weeks, and "Professional-Technical-Consulting Awards Reports" are published monthly. Both are available through Minnesota's Bookstore.

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.

Board of Animal Health

Proposed Permanent Rules Relating to Pseudorabies

Notice of Intent to Adopt Rules without a Public Hearing

Introduction. The Minnesota Board of Animal Health 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. You have 30 days to submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules.

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

Dr. Paul L. Anderson
Minnesota Board of Animal Health
90 West Plato Boulevard
St. Paul MN 55107
Telephone - (612) 296-2942 ext. 21

Subject of Rules and Statutory Authority. The proposed rules are about importation of swine, pseudorabies control and eradication, pseudorabies requirements for exhibition, sale of swine at markets and other sales, sale of swine at state-federal markets, and sale of swine at public stockyards. The statutory authority to adopt the rules is *Minnesota Statutes* 35.03 and 35.255. 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., Wednesday, September 7, 1994, 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 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 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 4:30 p.m., Wednesday, September 7, 1994. 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 requests in writing. If a public hearing is required, the Board of Animal Health will follow the procedures in *Minnesota Statutes*, sections 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 Board of Animal Health 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.

Statement of Need and Reasonableness. A Statement Of Need And Reasonableness is now available. 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. A free copy of the Statement may be obtained from Dr. Paul L. Anderson at the address and telephone number listed above.

Small Business Considerations. In preparing these rules, the Board of Animal Health has considered the requirements of

Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules may affect small businesses engaged in swine productions. The Board of Animal Health believes that amended rules will reduce regulation and the economic impact on most swine producers. For swine producers with pseudorabies infected herds, the financial burden of compliance will not increase, but surveillance testing in these herds will increase in order to meet program objectives. The Board of Animal Health's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed further in the Statement Of Need And Reasonableness.

Expenditure of Public Money by Local Public Bodies. *Minnesota Statutes*, section 14.11, subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules.

Impact on Agriculture Lands. *Minnesota Statutes*, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

Departmental Charges. *Minnesota Statutes*, section 16A.1285, subdivisions 4 and 5, do not apply because the rules do not establish or adjust departmental charges.

Adoption and Reviews of Rules. If no hearing is required, after the end of the comment period, the Board of Animal Health 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 wish to be so notified, or you wish to receive a copy of the adopted rules, submit your request to Dr. Paul L. Anderson listed above.

Dated: 19 July 1994

Thomas J. Hagerty
Executive Secretary
Board of Animal Health

Rules as Proposed

IMPORTATION OF SWINE

1700.2590 DEFINITIONS.

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

Subp. 4. **Pseudorabies-monitored herd.** "Pseudorabies-monitored herd" means a herd that ~~has been tested negative on an official pseudorabies test of breeding swine within the past 12 months according to the following schedule:~~ is in compliance with part 1705.2474.

Sow Herd Size	Number To Test
Up to ten sows	All
Over ten but less than 36 sows	Ten sows
More than 36 sows	30 percent, but no more than 30 sows

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

1700.2650 PERMITS.

Prior to importation of swine, except for swine originating from a Stage III, IV, or V state or area, or swine going directly to slaughter, the veterinarian completing the certificate of veterinary inspection under part 1700.2700 must obtain a permit ~~number~~ from the board. Before a permit is issued, the board must be given the following information: the source of the swine to be imported, the number of swine to be imported, and the destination of the swine. The permit number issued by the board must be included on the certificate of veterinary inspection.

1700.2800 CONTENTS OF CERTIFICATE OF VETERINARY INSPECTION.

Certificates of veterinary inspection for feeder swine must list identification numbers, the herd of origin, the destination, and one of the following statements: "these feeder swine originate from a pseudorabies-monitored herd," "these feeder swine originate from

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

Proposed Rules

a pseudorabies qualified pseudorabies-negative herd," "these feeder swine originate from a qualified negative gene-altered vaccinated herd," "these feeder swine have all been tested for pseudorabies within 30 days before importation and found negative," or "these feeder or breeding swine originate from an officially designated Stage III, IV, or V pseudorabies area," as defined in part 1705.2400, subpart 5a 6d, and the State-Federal Program Standards for Pseudorabies Eradication.

Certificates of veterinary inspection for breeding swine must show the individual identification number of each animal. Acceptable individual identification must be either eartag, tattoo, registration number, or approved ear notch system. The certificate must also show the date of test; if tested; or the validated and qualified herd number and the date of the last qualified and validated herd test; if not tested within 30 days before importation.

Certificates of veterinary inspection for feral swine must list individual eartag numbers and show that the swine were tested for pseudorabies and brucellosis and found negative within 30 days before importation.

One copy of the certificate of veterinary inspection approved by the animal health department of the state of origin must be forwarded to the board within 14 days.

1700.2850 FEEDER SWINE.

Feeder swine must originate from pseudorabies-monitored herds, qualified pseudorabies-negative herds, qualified negative gene-altered vaccinated herds, or an officially designated Stage III, IV, or V pseudorabies area, or must be tested negative within 30 days prior to importation, and must not be transported or confined with swine of unknown status. Feral swine may not be imported into Minnesota without a negative pseudorabies and brucellosis test within the previous 30 days.

1700.2900 BREEDING SWINE.

Subpart 1. Testing requirements. Breeding swine must be:

A. negative to the brucellosis buffered antigen test conducted at a state or federal laboratory within 30 days prior to importation, or originate from a validated brucellosis free swine herd, or originate directly from a nonquarantined herd in a validated brucellosis free state;

B. negative to an official test for pseudorabies within 30 days prior to importation, or originate from a qualified pseudorabies-negative herd; and, or originate from a qualified negative gene-altered vaccinated herd, or originate from a Stage IV or V state or area.

C. Subp. 2. Retesting requirements. Unless breeding swine originate from a Stage III, IV, or V state or area, they must be separated from all other swine until tested negative for pseudorabies not less than 30 15 nor more than 60 days following importation according to the following sample size:

- (1) if there are ten or less breeding swine, all must be tested;
- (2) if there are 11 to 35 breeding swine, ten must be tested; and
- (3) if there are 36 or more breeding swine, 30 percent or 30 head, whichever is less, must be tested.

This item does not apply to breeding stock sales centers in Minnesota as provided in parts 1705.2400, subpart 15, and 1705.2480, subpart 9.

Subp. 3. Transportation. Breeding swine must not be transported or confined with swine of unknown status.

1700.2950 IMPORTATION OF SWINE SEMEN AND EMBRYOS.

Swine semen and swine embryos imported into Minnesota for insemination of swine or implantation into swine must be accompanied by a document issued by an accredited veterinarian stating that the donor swine are not known to be infected with or exposed to pseudorabies, were negative to an official pseudorabies test within 30 days prior to the collection of the semen or embryos, or were members of a qualified pseudorabies-negative or qualified negative gene-altered vaccinated herd, and had not been exposed to pseudorabies within 30 days prior to the collection of the semen or embryos.

1700.3010 RESTRICTION OF IMPORTED FEEDING SWINE.

Imported feeder swine are restricted to the premises where they are to be fed until they are sold for slaughter except that:

A. Feeder swine imported for resale at a market are restricted to the premises of the buyer ~~where they are to be fed until sold to slaughter; or,~~

B. Feeder swine imported for resale by a licensed livestock dealer must be sold to a feeding premises within 72 hours.

C. Feeder swine may be moved from the herd of the buyer for purposes other than immediate slaughter only if all are negative to a pseudorabies test conducted within 30 days prior to the movement.

PSEUDORABIES CONTROL AND ERADICATION

1705.2400 DEFINITIONS.

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

Subp. 1b. **Approved differential pseudorabies test.** "Approved differential pseudorabies test" means any test for the diagnosis of pseudorabies that:

A. can distinguish vaccinated swine from infected swine;

B. is produced under license from the United States Department of Agriculture for use in the pseudorabies eradication program;

C. is conducted in a laboratory approved by the United States Department of Agriculture; and

D. is approved by the board if it finds that it is appropriate for the detection of pseudorabies.

Subp. 1c. **Approved offspring segregation plan.** "Approved offspring segregation plan" means a plan by which swine are weaned and isolated from the herd of origin under the direction of and approval of the board.

Subp. 4e. **1d. Approved premises.** "Approved premises" means a ~~feedlot~~ premises that has been inspected by board personnel and approved to feed out quarantined feeder pigs or light weight market hogs in isolation from other domestic animals and sell those pigs directly to slaughter, in compliance with part 1705.2434.

Subp. 2. **Board.** "Board" means the Board of Animal Health.

Subp. 3. **Breeding herd.** "Breeding herd" means ~~all swine on one premises a herd of breeding swine that have been maintained together for a minimum of 60 days that are maintained for breeding purposes. These swine must be kept separated from all swine from other sources, and care personnel and equipment must not be interchanged with other herds. For purposes of blood testing, the new additions to a swine herd must be in the herd at least 60 days.~~

The terms "swine," "pigs," and "hogs" are used interchangeably in parts 1705.2400 to 1705.2530.

[For text of subps 3a to 3c, see M.R.]

Subp. 3d. **Finishing herd.** "Finishing herd" means a herd of feeder swine ~~being raised that have been maintained together for a minimum of 30 days on premises where there are no breeding swine. For purposes of blood testing, swine must be in the herd for at least 30 days.~~

Subp. 3e. **Herd.** "Herd" means any group of swine maintained on common ground for any purpose, or two or more groups of swine under common ownership or supervision, geographically separated, but which have an interchange or movement of animals without regard to whether the animals are infected with or exposed to pseudorabies. If a herd owner receives swine from or moves swine to an entity in which the herd owner has a material ownership interest, the entity must be considered part of the herd owner's herd for purposes of swine movement.

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

Subp. 5a. **Low-prevalence pseudorabies area; Stage III area.** "Low-prevalence pseudorabies area" or "Stage III area" means a state or area that is ~~cooperating in Stage III, IV, or V of the national PRV pseudorabies eradication program. A Stage III area must have a surveillance program in operation that shows less than one percent herd infection rate and a mandatory herd cleanup program for infected herds.~~

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

Subp. 6. **Official pseudorabies test.** "Official pseudorabies test" means the serum neutralization test or other ~~tests approved test defined as an "official pseudorabies test"~~ by the United States Department of Agriculture which may be approved by the board if it finds that they are appropriate for the detection of pseudorabies. In approving additional tests the board shall consider scientific evidence of their reliability, the opinions of experts, experience with their use, their cost-effectiveness, and their hazards, if any. ~~The board shall keep a list of approved tests available to the public.~~

Subp. 6a. **Official random sample test (95/10).** "Official random sample test (95/10)" means a herd sampling procedure that ~~considers~~ provides a 95 percent probability of detecting infection in a herd in which at least ten percent of the swine are positive for pseudorabies. Each segregated group of swine at a particular site must be considered to be a separate group and sample be sampled as follows:

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- A. less than 100 head, test 25;
- B. 100 to 200 head, test 27;
- C. 201 to 999 head, test 28; and
- D. 1,000 or over, test 29.

In each breeding herd, each parity must be included in the sample.

Subp. 6b. **Official random sample test (95/5).** "Official random sample test (95/5)" means a herd sampling procedure that provides a 95 percent probability of detecting infection in a herd in which at least five percent of the swine are positive for pseudorabies. Each segregated group of swine at a particular site must be considered to be a separate group and be sampled as follows:

- A. less than 100 head, test 45;
- B. 100 to 200 head, test 51;
- C. 201 to 999 head, test 57; and
- D. 1,000 or over, test 59.

In each breeding herd, each parity must be included in the sample.

Subp. 6c. **Owner's notice of shipment.** "Owner's notice of shipment" refers to the form provided by the board to the owners of all quarantined herds at the time of quarantine which is used to accompany the movement of quarantined animals.

Subp. 6d. **Program stages of the National Pseudorabies Eradication Program.** Five "program stages" are defined in the National Pseudorabies Eradication Program which classify states or areas in their progress toward complete eradication of the disease:

A. Stage I is the "Preparation" stage. This is the initial program stage in which the basic procedures to control and eradicate pseudorabies are developed.

B. Stage II is the "Control" stage. The goals of this stage are for a state or area to determine which herds are infected with pseudorabies and to begin herd cleanup.

C. Stage III is the "Mandatory Herd Cleanup" stage. In this stage, the cleanup of infected herds becomes mandatory. For a state or area to qualify for this stage, prevalence of pseudorabies infected herds must be less than one percent of the total swine herds in the state or area.

D. Stage IV is the "Surveillance" stage. For a state or area to qualify for this stage, there may be no known infected herds in the state or area.

E. Stage V is the "Free" stage. For a state or area to qualify for this stage, the state or area must have had no known infected herds for one year since the recognition of Stage IV status.

Subp. 7. [See repealer.]

[For text of subp 7a, see M.R.]

Subp. 7b. **Qualified herd.** "Qualified herd" means "qualified negative gene-altered vaccinated herd" or "qualified pseudorabies-negative herd" unless specifically identified as one or the other.

Subp. 7c. **Qualified negative gene-altered vaccinated herd.** "Qualified negative gene-altered vaccinated herd" means a herd of swine which has been free of pseudorabies for the previous 90 days, in which all swine over six months of age have been initially tested negative for pseudorabies, and for which the procedures in part 1705.2482 have been followed.

Subp. 8. **Qualified pseudorabies-negative herd.** "Qualified pseudorabies-negative herd" means a herd of swine which has been free of pseudorabies for the previous ~~six months~~ 90 days, in which all swine over six months ~~old~~ of age have been initially tested negative for pseudorabies, and for which the procedures in part 1705.2480 have been followed.

Subp. 9. **Quarantined herd.** "Quarantined herd" means an infected herd maintained on the quarantined premises so as not to have contact with animals belonging to other owners. "Quarantined herd" includes a herd quarantined because of the owner's refusal to test the herd as required by parts 1705.2400 to 1705.2530.

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

1705.2430 INFECTED HERD QUARANTINE AND DISPOSAL PROCEDURES.

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

Subp. 2. **Epidemiological investigation.** If species of animals other than swine have been diagnosed as having pseudorabies, the state or federal district veterinarian shall conduct an epidemiological investigation of any swine on the premises. The investiga-

tion must include blood testing of a monitoring sample of the swine herd. The owner shall pay the fees associated with this testing unless state funds are available for this purpose. If pseudorabies reactors are disclosed, ~~or if the owner refuses to cooperate in ear-~~
~~marking out the test,~~ the swine herd must be quarantined ~~in accordance with the quarantine procedures of this part.~~

Subp. 3. **Permitted disposal.** Swine may only be removed from a quarantined herd ~~must be or~~ disposed of pursuant to item A ~~or, B, or C.~~

A. Market or breeding swine or other infected or exposed species may ~~only~~ be sold for slaughter via a federally approved slaughter market, public stockyard, packer buying station, or directly to a slaughter plant accompanied by an owner's notice of shipment.

B. Feeder pigs may ~~only~~ be sold, loaned, leased, or moved for custom/contract feeding to an approved premises and must be accompanied by an owner's notice of shipment. ~~The approved premises must be a feedlot where purchased quarantined swine can be fed out in isolation from other domestic animals and where a state or federal veterinarian has determined that no breeding swine are on the premises; and the feedlot owner agrees to sell all the swine from the feedlot directly for slaughter accompanied by an owner's notice of shipment.~~

C. A quarantined swine herd may be sold to another owner only with the permission of the board and only if the buyer agrees to:

- (1) maintain them at the same place where the herd was quarantined; ~~with the permission of the board;~~ and
- (2) sign an approved official pseudorabies herd cleanup plan.

~~No person may sell swine that are known to be infected with or have been exposed to pseudorabies, except directly to slaughter or, in the case of feeder pigs, to approved premises. Breeding swine may be sold under item C. Quarantined animals may not be shown at public exhibitions.~~

Subp. 4. **Movement to another location.** If movement is otherwise allowable under parts 1705.2400 to 1705.2530, Quarantined swine that remain within a quarantined herd may be moved from their farm of origin to another location only if all of the following conditions are met:

A. Swine may be moved only with the prior approval of the district veterinarian. ~~The new~~

B. Swine may not be moved to a location which is within a Stage III area unless part of the herd was at this location when the original herd quarantine was issued or movement is part of an approved offspring segregation plan and the herd of origin is also located in the Stage III area.

C. Swine may not be moved to a location which is within a Stage IV or V county or area.

D. Swine may not be moved to a location ~~may not be~~ which is within the northern zone or unless movement is part of an approved offspring segregation plan and the herd of origin is also located in the northern zone.

E. Swine may not be moved to a location which is within two miles of a qualified or controlled vaccinated herd unless part of the herd was at this location when the original herd quarantine was issued. The new location must be quarantined by the district veterinarian and subject to the same restrictions as the original quarantined premises.

F. All of the swine that are moved except for those under an approved offspring segregation plan must be vaccinated for pseudorabies ~~and the herd must be on an official herd cleanup plan.~~

1705.2434 APPROVED PREMISES PROCEDURES.

Subpart 1. **Qualifications.** No person may accept feeder swine from quarantined herds for purposes of feeding them out unless a permit is obtained from the board. A person seeking a permit must agree to provide the board's representative access during business hours to the feedlot premises and records required by this part. ~~The board shall grant an approved premises permit when otherwise authorized by this part. The permit allows the person to whom it is issued to obtain feeder pigs from quarantined herds and feed them out. The operator of an approved premises must comply with the following requirements:~~

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

G. Records of swine purchases and sales, including names of sellers and buyers, dates of purchase, and number of head, must

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be ~~kept~~ maintained in a timely manner and understandable form, retained for at least one year and made available for inspection by board personnel.

Subp. 2. **Location.** No approved premises may be established within the ~~Minnesota~~ northern zone ~~established in part 1705.2472, subpart 4,~~ or in a county in the southern zone that has been declared to be in Stage III, IV, or V of the national pseudorabies eradication program. Approved premises may not be established within a two mile radius of an existing qualified ~~or controlled vaccinated~~ herd or a swine herd in the process of becoming a qualified herd as indicated by board records. Approved premises may not continue to operate as approved premises when the county in which the premises is located has been granted Stage III status in the national pseudorabies eradication program and has maintained this status for one year.

Subp. 3. [See repealer.]

Subp. 4. **Annual renewal.** Approved premises permits must be renewed annually by the board, based upon an annual report of the district veterinarian for the district in which the ~~feedlot~~ premises is located. The permit must be renewed if the district veterinarian finds that the ~~feedlot~~ premises is and has been in compliance with the board's rules. The district veterinarian shall inspect approved premises on the complaint of any person or at the board's direction. The board may suspend or cancel the permit of approved premises for noncompliance with the requirements in this part. Whenever the permit of approved premises is suspended, canceled, or not renewed, the ~~feedlot~~ premises remains under pseudorabies quarantine until the quarantine is released under part 1705.2440.

Subp. 5. **Continued operation of approved premises.** Approved premises that have legally been established under this part must be permitted to continue to operate if a swine herd within two miles subsequently becomes a qualified ~~or controlled vaccinated~~ herd.

1705.2440 RELEASE OF QUARANTINE.

Subpart 1. **Methods.** Swine herd quarantine release may be accomplished by any of the methods in items A to ~~D~~ E.

A. Depopulation; repopulation: The entire herd may be sold to slaughter accompanied by an owner's notice of shipment. The premises must be cleaned and disinfected under the direction of the board. The quarantine must be released 30 days after completion of the cleaning and disinfection. If cleaning and disinfection are not done, the hog facility may stand empty for 12 months and the quarantine must then be released.

B. Test and removal ~~must be accomplished according to subitem (1) or (2):~~ (1): All swine positive to ~~an official~~ a pseudorabies serologic test must be removed from the premises. All breeding swine that remain in the herd and ~~a 28 head~~ an official random sample (95/10) of grower-finishing swine over two months of age must be subjected to ~~an official~~ a pseudorabies serologic test and found negative 30 days or more after removal of swine positive to ~~an official~~ a pseudorabies serologic test. ~~A second test at least 30 days after the first is required if the state or area is in Stage III or IV of the pseudorabies program.~~

(2) C. Official random sample: During Stage I or II of the pseudorabies program, all swine present on the date a quarantine was imposed must be removed from the herd and there must be no clinical signs in the herd for at least six months. Two successive official random sample (95/10) tests of the breeding herd, conducted at least 90 days apart, must be determined by the official pseudorabies epidemiologist to reveal no infection. Two successive official random sample (95/10) tests of progeny at least four months of age, conducted at least 90 days apart, must also be negative.

In finishing herds without any breeding swine, there must be two successive negative official random sample tests (95/10), conducted at least 90 days apart, on hogs over four months of age.

Herds removed from quarantine by the official random sample testing schedule must be tested negative by an official random sample (95/10) test one year after the quarantine is released.

During Stage III of the pseudorabies program, an official random sample (95/5) must be used in each instance of this part that calls for an official random sample (95/10).

During Stage IV or V of the pseudorabies program, quarantine release by official random sample may not be used.

~~C, D.~~ Offspring segregation: Under an approved offspring segregation plan, progeny of a quarantined herd may be moved to a premises different from that of the herd of origin, and themselves be quarantined. All of these pigs must be tested for pseudorabies no sooner than 30 days after the isolation. If 100 percent of these tests are negative for pseudorabies, the quarantine on the progeny herd must be released.

~~D, E.~~ Other procedures: Quarantines of swine herds may be released by herd testing schedules in addition to those in this part if they are approved by the United States Department of Agriculture, are equally reliable and effective as the other methods in this part, and are consistent with the eradication goals of parts 1705.2400 to 1705.2520.

Subp. 2. **Vaccination titres.** When ~~an epidemiological evaluation and herd history establish that~~ a tentative diagnosis of pseudorabies is may be the result of a vaccination, ~~the quarantine an epidemiological investigation must be released~~ conducted. The

epidemiological evaluation must be conducted under the direction of the district veterinarian and must include all the items in items A to D.

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

D. A negative pseudorabies test must be conducted; ~~at the owner's expense, on at least 20 unvaccinated swine over four months of age on a monitoring sample of swine.~~

Subp. 3. **Ten-day period for release.** A quarantine on livestock other than swine must be released ten days after the diagnosis or exposure if there are no signs or symptoms of pseudorabies in ~~the herd those livestock.~~

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

1705.2450 PSEUDORABIES TRACE TO SOURCE OR DESTINATION HERDS.

Subpart 1. **Information furnished.** The owner of a herd in which pseudorabies has been diagnosed shall furnish the following information to the board:

A. a list of sources of purchases of feeder or breeding swine during the preceding ~~12~~ six months; and

B. a list of sales of feeder or breeding swine during the preceding ~~12~~ six months.

Subp. 2. **Pseudorabies diagnosed in recently purchased swine.** If pseudorabies is diagnosed in breeding or feeder swine which have been purchased from or sold to another swine producer within the preceding ~~12~~ six months, the board shall require a pseudorabies test of a monitoring sample of the herd of the seller or buyer.

Subp. 3. [See repealer.]

Subp. 4. **Owner's expense.** Testing pursuant to subpart 2 ~~or 3~~ must be done at the swine owner's expense, unless state funds are available for this purpose.

1705.2460 INTRASTATE MOVEMENT OF BREEDING SWINE.

Subpart 1. ~~Health certificate Requirements for movement. No person may sell, lease, exhibit, loan, or move for contract farrowing any breeding swine within the state except to slaughter unless the swine are~~ Except for movement to another location within the same swine herd, or movement directly to slaughter, breeding swine moving from their premises of origin must:

~~A. be accompanied by a health certificate of veterinary inspection or pseudorabies test chart provided by the seller which includes; and~~

~~A. B. identification be identified~~ by an eartag, tattoo, brand, or ear notch recognized by a breed association; and

~~B. C. a be negative to an official or approved differential pseudorabies test conducted within 30 days prior to the sale movement, except for swine or originate from a qualified pseudorabies-negative herd or a pseudorabies-controlled qualified negative gene-altered vaccinated herd.~~

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

Subp. 3. **Restricted-movement identification.** Restricted-movement breeding swine must be identified at the swine concentration point ~~by a metal eartag in the right ear pursuant to subpart 1.~~

[For text of subps 4 to 8a, see M.R.]

~~Subp. 8b. Sale of swine semen and embryos. Except for movement to another location within the same swine herd, swine semen and embryos moving from their premises of origin for insemination of swine or implantation into swine must be accompanied by a document issued by an accredited veterinarian stating that the donor swine are not known to be infected with or exposed to pseudorabies, were negative to a pseudorabies test within 30 days prior to the collection of the semen or embryos or were members of a qualified pseudorabies-negative or qualified negative gene-altered vaccinated herd, and had not been exposed to pseudorabies within 30 days prior to the collection of the semen or embryos.~~

Subp. 9. [See repealer.]

1705.2470 INTRASTATE MOVEMENT OF FEEDER PIGS.

Subpart 1. ~~Negative test before~~ Requirements for movement. Feeder swine moving from the premises of origin must test ~~be~~

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tested negative for pseudorabies within 30 days prior to movement ~~unless they or~~ originate from one of the following source herds a:

- A. pseudorabies-monitored herd;
- B. qualified pseudorabies-negative herd;
- C. ~~pseudorabies-controlled~~ qualified negative gene-altered vaccinated herd; or
- D. ~~Stages~~ Stage III, IV, or V low-prevalence pseudorabies ~~areas~~ area.

[For text of subp 1a, see M.R.]

Subp. 1b. **Feeder pig identification.** All feeder pigs sold must be identified with a metal eartag ~~or a~~, legible pseudorabies-monitored herd number ear tattoo, legible pseudorabies-monitored herd number shoulder slap tattoo, or eartag imprinted with the monitored herd number assigned to that herd.

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

Subp. 2a. [See repealer.]

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

Subp. 4. **Restricted-movement feeder pigs purchased for resale.** Restricted-movement feeder pigs purchased at a swine concentration point by a livestock dealer for resale purposes must be:

- A. maintained separately from other swine until resold;
- B. accompanied to the farm of destination by a ~~document explaining the restricted-movement feeder pig status~~ restricted movement certificate; and
- C. maintained on the farm of destination, fed out, and sold pursuant to subpart 5.

Subp. 5. **Sale of restricted-movement feeder pigs.** Restricted-movement feeder pigs may be sold as market hogs through any livestock marketing channel. They may not, however, be sold through a marketing facility at which breeding stock or pseudorabies-monitored feeder pigs are sold unless the facility maintains separate chutes, pens, and scales for breeding swine and pseudorabies-monitored feeder pigs.

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

1705.2472 CONTROL AND ERADICATION OF PSEUDORABIES NORTHERN AND SOUTHERN ZONES.

Subpart 1. **Zoning of state.** For purposes of controlling the spread of pseudorabies and ~~eventually~~ eradicating the disease, the state is divided into two zones, a northern zone and a southern zone. The northern zone includes the counties of Washington, Ramsey, Hennepin, Wright, Meeker, Kandiyohi, Chippewa, Swift, Big Stone, and all counties to the north of them. The southern zone includes all counties not included in the northern zone.

Subp. 3. [See repealer.]

1705.2474 PSEUDORABIES-MONITORED HERD PROCEDURES.

Subpart 1. **Attaining monitored status.** In order for a herd to attain a pseudorabies-monitored herd status, a monitoring sample of the herd must test negative for pseudorabies. Testing must be done at the owner's expense unless state funds are available for this purpose.

Subp. 2. **Proof of herd status.** All swine producers or dealers selling feeder pigs in Minnesota shall provide to the buyer proof of the pseudorabies-monitored status of the herd of origin upon request. That proof must include one of the following:

- A. a current pseudorabies-monitored herd identification card or other proof of a current herd monitoring test;
- B. a qualified pseudorabies-negative herd number;
- C. a ~~pseudorabies-controlled~~ qualified negative gene-altered vaccinated herd number; or
- D. ~~have~~ proof that they originated directly from a Stage III, IV, or V area.

Subp. 3. **Annual remonitoring.** All herds must have an annual negative test of a monitoring sample of the herd on a date within 30 days of the anniversary date of the original monitoring test as required in subpart 1. The annual remonitoring may be discontinued when the area in which the herd is located becomes a Stage III, IV, or V area and surveillance programs are in place that do not require on-farm monitoring.

For finishing herds that have completed an initial monitoring test, confirmation of all out status for the herd may be accepted in lieu of an annual remonitoring test. The all out status must be confirmed in writing ~~by~~ to the board.

1705.2476 PSEUDORABIES SURVEILLANCE AND CONTROL OF SPREAD.

Subpart 1. **Purpose.** The surveillance and control programs in this part are designed to identify pseudorabies infected herds, control spread of the disease, and eradicate pseudorabies from Minnesota.

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

Subp. 4. **Circle testing around all new qualified or controlled vaccinated herds.** The board shall require a test of a monitoring sample of swine in herds within a one and one-half mile radius of all new Minnesota qualified pseudorabies-negative or ~~controlled~~ qualified negative gene-altered vaccinated herds. At the time of the circle testing, qualified, ~~controlled vaccinated~~, or monitored herds that have been tested within the last year need not be retested.

If positive titres are disclosed on this test, ~~or the owner refuses to allow the herd to be tested~~, the herd must be considered to be an infected herd and must be quarantined. This circle testing must be done at state expense if the funds are available.

Subp. 5. **Cleanup of herds disclosed to be positive near qualified and controlled vaccinated herds.** ~~In order to protect Minnesota's swine bloodlines~~. All herds that are disclosed to be pseudorabies-positive within a one and one-half mile radius of all qualified ~~and controlled vaccinated~~ herds must:

A. begin a board-approved official pseudorabies herd cleanup plan within ~~a three-month period or~~ 90 days of the date of quarantine and vaccinate all breeding swine with an approved pseudorabies vaccine on a continuing basis; and

B. vaccinate all feeder pigs coming into finishing herds.

Subp. 6. **Circle testing around quarantined herds.** The board shall require a test of a monitoring sample of swine in herds within a one and one-half mile radius of ~~the following~~ all new quarantined herds:

A. ~~all pseudorabies quarantined herds in the northern zone; and~~

B. ~~all new pseudorabies quarantined herds in any part of the state disclosed to be infected.~~

At the time of the circle testing, qualified, ~~controlled vaccinated~~, or monitored herds that have been tested within the last year need not be retested. If positive titres are disclosed on this test, ~~or the owner refuses to test~~, the herd must be considered an infected herd and placed under quarantine. This testing must be done at state expense if the funds are available.

Subp. 7. **Mandatory herd monitoring.** As part of the national pseudorabies eradication program, all swine herds in Minnesota must be annually monitored pursuant to part 1705.2474, at the owners' expense ~~unless state funds are available for this purpose~~. A monitoring sample of each herd must be tested.

The annual remonitoring may be discontinued when the area in which the herd is located becomes a Stage III, ~~IV, or V~~ area and surveillance programs are in place that do not require on-farm monitoring.

Subp. 8. **Quarantined herd cleanup.** The owners of all quarantined herds in Minnesota must sign an approved official pseudorabies herd cleanup plan within 90 days of the original quarantine date. Each herd cleanup plan must be updated every 12 months.

An official random sample test (95/10) of breeding swine and an official random sample test (95/10) of finishing swine in each quarantined herd must be completed at least every 12 months to assess the prevalence of pseudorabies infected swine in the herd. When a quarantined herd is located in a Stage III, IV, or V area, an official random sample test (95/5) of breeding swine and an official random sample test (95/5) of finishing swine in the herd must be completed at least every six months to assess the prevalence of pseudorabies infected swine in the herd.

Herd cleanup testing must be paid for by state or federal funds if the funds are available. If state or federal funds are not available, ~~herd cleanup is not mandated, but may be voluntarily testing that is required in this part must be~~ done at the owner's expense.

1705.2480 QUALIFIED PSEUDORABIES-NEGATIVE HERD PROCEDURES.

Subpart 1. **Qualifications.** To qualify a herd for qualified pseudorabies-negative herd status:

A. the herd must have been free of pseudorabies for the previous ~~six months~~ 90 days;

B. all breeding stock six months of age or older must be negative to an official pseudorabies test;

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C. ~~the~~ offspring over four months of age that are located on the same premises as the breeding herd must be negative for pseudorabies using the following testing schedule:

- (1) 10 head or less, test all;
- (2) 11 to 35 head, test 10; or
- (3) 36 or more head, test 30 percent up to a maximum of 30 head; ~~and~~

D. ~~offspring over four months of age that are located on any premises different from that of the breeding herd must be negative for pseudorabies using an official random sample test (95/10); and~~

E. the herd owner must sign an agreement to comply with parts 1705.2400 to 1705.2530.

Subp. 2. **Qualified pseudorabies-negative herd certificate.** Following the receipt by the board of a report of the initial negative herd test and the signed herd agreement, the board shall issue a numbered qualified pseudorabies-negative herd certificate. The initial qualification is valid for 90 days or until the next scheduled requalification test.

Subp. 3. **Requalification testing.** The pseudorabies status of a qualified pseudorabies-negative herd must be ~~monitored and its status~~ maintained by having a negative official pseudorabies test of at least ~~25~~ 20 percent of the breeding herd ~~and a sample of offspring as described in subpart 1, item C,~~ every 80 to 100 days. ~~All breeding swine must be subject to at least one official test once a year. No swine may be tested twice in one year to comply with the 25 percent test requirement.~~

All qualified pseudorabies-negative herds must use one of the following herd testing schedules:

A. To test on a quarterly schedule:

- (1) test ~~25~~ 20 percent of the breeding herd ~~and every 90 days;~~
- (2) test offspring over four months of age that are located on the same premises as the breeding herd every 90 days ~~as outlined in subpart 1, item C~~ using the following test schedule:
 - (a) 10 head or less, test all;
 - (b) 11 to 35 head, test 10; or
 - (c) 36 or more head, test 30 percent up to a maximum of 30 head; and
- (3) test offspring over four months of age that are located on any premises different than that of the breeding herd every 30 days using an official random sample test (95/10); or

B. To test on a monthly schedule:

- (1) Test ~~ten~~ seven percent of the breeding herd every 30 days ~~and;~~
- (2) test offspring over four months of age that are located on the same premises as the breeding herd every ~~90~~ 30 days ~~as outlined in subpart 1, item C; using the following test schedule:~~
 - (a) 10 head or less, test all;
 - (b) 11 or more head, test 10 head; and
- (3) test offspring over four months of age that are located on any premises different from that of the breeding herd every 30 days using an official random sample test (95/10).

If there are ~~ten~~ or fewer swine at least ~~six~~ months of age in the herd at any quarterly requalification test, all swine at least ~~six~~ months of age must be tested.

If the breeding herd or offspring is are maintained on more than one premises, the appropriate percentage of the animals on each premises must be tested for each requalification.

Subp. 4. **Qualification canceled, regained.** The board shall cancel qualified pseudorabies-negative herd status if any swine show a positive test or are diagnosed as having pseudorabies, if herd additions are made contrary to subparts 5 and 6, or for failure to comply with subpart 3.

Swine herds which have lost their qualified pseudorabies-negative herd status may regain that status by being free of pseudorabies for a period of ~~six months~~ 90 days and by following the herd qualification procedure in subpart 1.

Subp. 5. **Testing purchased additions.** All purchased additions, except those purchased pursuant to subpart 6, must have a negative official test for pseudorabies within 30 days prior to movement, and must be isolated and retested negative with an official pseudorabies test at least ~~30~~ 15 and within 45 days from the date of their ~~receipt~~ arrival upon the premises.

Subp. 6. **Additions from qualified herds.** Additions may be purchased directly from a qualified pseudorabies-negative herd ~~or a pseudorabies-controlled vaccinated herd without the negative 30-day test prior to movement. These animals, however, must be~~

isolated and tested negative at least 30 and within 45 days after their receipt. Purchased additions are not considered to be part of the herd for monitoring pursuant to subpart 3 until 30 days after the test isolation or testing.

Subp. 7. **Swine returned to a qualified pseudorabies-negative herd.** Swine returned to qualified pseudorabies-negative herds from exhibitions or which are otherwise commingled with swine from herds not qualified must be kept in isolation upon return for 30 15 days and have a negative official pseudorabies test before rejoining the herd.

Subp. 8. **Sale from qualified pseudorabies-negative herd.** Swine from a qualified pseudorabies-negative herd may be sold in Minnesota for breeding or feeding purposes without further testing or restriction of movement unless they are sold through a swine concentration point.

Subp. 9. **Qualifications of breeding swine sales centers.** Breeding swine sales centers operated by breeding companies, in which animals are collected from qualified ~~negative~~ herds, must test ten percent of their hog inventory each month with a minimum of ten animals tested.

1705.2482 QUALIFIED NEGATIVE GENE-ALTERED VACCINATED HERD PROCEDURES.

Subpart 1. Qualifications. To qualify a herd for qualified negative gene-altered vaccinated herd status:

A. the herd must have been free of pseudorabies for the previous 90 days;

B. all breeding stock six months of age or older must be negative to an official pseudorabies test or to an approved differential pseudorabies test;

C. offspring over four months of age that are located on the same premises as the breeding herd must be negative for pseudorabies using the following test schedule:

(1) 10 head or less, test all;

(2) 11 to 35 head, test 10; or

(3) 36 or more head, test 30 percent up to a maximum of 30 head;

D. offspring over four months of age that are located on any premises different from that of the breeding herd must be negative for pseudorabies using an official random sample test (95/10);

E. the herd owner must sign an agreement to comply with parts 1705.2400 to 1705.2530;

F. within 30 days after test results show the herd to be negative for pseudorabies, all swine in the herd over six months of age must be vaccinated with an official gene-altered pseudorabies vaccine. Only one official gene-altered pseudorabies vaccine may be used in the herd; and

G. any herd designated as a qualified pseudorabies-negative herd may achieve status as a qualified negative gene-altered vaccinated herd if all swine in the herd over six months of age are vaccinated with an official gene-altered pseudorabies vaccine. Only one official gene-altered pseudorabies vaccine may be used in the herd.

Subp. 2. **Qualified negative gene-altered vaccinated herd certificate.** Following the receipt by the board of a report of the initial negative herd test and the signed herd agreement, the board shall issue a numbered qualified negative gene-altered herd certificate. The initial qualification is valid for 90 days or until the next scheduled requalification test.

Subp. 3. **Requalification testing.** The pseudorabies status of a qualified negative gene-altered vaccinated herd must be maintained by having a negative test of at least 20 percent of the breeding herd every 80 to 100 days.

All qualified negative gene-altered vaccinated herds must use one of the following herd testing schedules:

A. To test on a quarterly schedule:

(1) test 20 percent of the breeding herd every 90 days;

(2) test offspring over four months of age that are located on the same premises as the breeding herd every 90 days using the following test schedule:

(a) 10 head or less, test all;

(b) 11 to 35 head, test 10;

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(c) 36 or more head, test 30 percent up to a maximum of 30 head; and

(3) test offspring over four months of age that are located on any premises different than that of the breeding herd every 30 days using an official random sample test (95/10); or

B. To test on a monthly schedule:

(1) test seven percent of the breeding herd every 30 days;

(2) test offspring over four months of age that are located on the same premises as the breeding herd every 30 days using the following schedule:

(a) 10 head or less, test all;

(b) 11 or more head, test 10 head; and

(3) test offspring over four months of age that are located on any premises different than that of the breeding herd every 30 days using an official random sample test (95/10).

If the breeding herd or offspring are maintained on more than one premises, the appropriate percentage of the animals on each premises must be tested for each requalification.

Subp. 4. Qualification canceled, regained. The board shall cancel qualified negative gene-altered vaccinated herd status if any swine show a positive test or are diagnosed as having pseudorabies, if herd additions are made contrary to subparts 5 and 6, or for failure to comply with subpart 3.

Swine herds which have lost their qualified negative gene-altered vaccinated herd status may regain that status by being free of pseudorabies for a period of 90 days and by following the herd qualification procedure in subpart 1.

Subp. 5. Testing purchased additions. All purchased additions, except those purchased pursuant to subpart 6, must have a negative test for pseudorabies within 30 days prior to movement, and must be isolated and retested negative at least 15 and within 45 days from the date of their arrival upon the premises.

Subp. 6. Additions from qualified herds. Additions may be purchased directly from a qualified pseudorabies-negative herd or a qualified negative gene-altered vaccinated herd without isolation or testing.

Subp. 7. Swine returned to qualified negative gene-altered vaccinated herd. Swine returned to qualified negative gene-altered vaccinated herds from exhibitions or which are otherwise commingled with swine from herds not qualified must be kept in isolation upon return for 15 days and have a negative pseudorabies test before rejoining the herd.

Subp. 8. Sale from qualified negative gene-altered vaccinated herd. Swine from a qualified negative gene-altered vaccinated herd may be sold in Minnesota for breeding or feeding purposes without further testing or restriction of movement unless they are sold through a swine concentration point.

Subp. 9. Qualification of breeding swine sales centers. Breeding swine sales centers operated by breeding companies, in which animals are collected from qualified herds, must test ten percent of their hog inventory each month with a minimum of ten animals tested.

1705.2500 COMMUNITY NOTIFICATION OF PSEUDORABIES INFECTION.

Following the declaration of a quarantine or approval of approved premises status, the board shall notify owners of livestock owners located within a one-mile radius of the infected quarantined herd or approved premises.

1715.0105 EXHIBITION OF SWINE PSEUDORABIES.

All swine, except swine entered in a slaughter class pursuant to part 1715.0060, must:

A. have had a negative official or approved differential pseudorabies test conducted within 30 days prior to the opening date of the exhibition, a record of which and the result must be entered on a test chart or certificate of veterinary inspection and presented to the official veterinarian at the time of entry; or

B. originate from a qualified pseudorabies-negative herd or a ~~pseudorabies-controlled~~ qualified negative gene-altered vaccinated herd pursuant to parts 1705.2480 and ~~1705.2490~~ 1705.2482, with the qualified herd number or pseudorabies-controlled vaccinated herd number and date of last qualifying test reported to the official veterinarian at the time of entry.

1715.0550 SALE OF SWINE.

Subpart 1. **Order of sale in mixed market facilities.** Slaughter swine must be sold after feeder and breeding swine in markets that do not use completely separate facilities for slaughter swine. No feeder or breeding swine may be sold through slaughter swine facilities until the facilities are cleaned and disinfected. Breeding swine must be sold through the sales ring first, followed by monitored feeder pigs, ~~and then nonmonitored feeder pigs.~~

Subp. 2. Breeding swine. Breeding swine must:

A. be negative to ~~a~~ an official or approved differential pseudorabies test less than 30 days before sale or originate from a qualified pseudorabies-negative herd or a ~~pseudorabies-controlled~~ qualified negative gene-altered vaccinated herd;

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

Subp. 3. Feeder pigs. Feeder pigs and all swine other than breeding or slaughter swine must:

A. be identified by a metal eartag ~~or a~~ legible pseudorabies-monitored herd numbered ear tattoo, legible pseudorabies-monitored herd number shoulder slap tattoo, or pseudorabies-monitored herd numbered eartag;

B. leave the sale with a restricted-movement certificate; and

C. ~~beginning on July 1, 1988, in the northern zone as defined in part 1705.2472, subpart 2, or on January 1, 1990, statewide,~~ feeder pigs sold must be tested negative for pseudorabies within 30 days prior to sale or originate from:

- (1) a qualified pseudorabies-negative herd;
- (2) a ~~pseudorabies-controlled~~ qualified negative gene-altered vaccinated herd;
- (3) an officially designated low-prevalence Stage III, IV, or V pseudorabies area; or
- (4) a pseudorabies-monitored herd complying with part 1705.2474.

If feeder pigs to be sold do not originate from one of the kinds of herds in subitems (1) to (4), they must have a negative test for pseudorabies within the previous 30 days.

When nonmonitored and monitored feeder pigs are sold at the same sale, completely separate facilities must be used or the monitored feeder pigs must be sold before the unmonitored feeder pigs. While in transit through marketing channels, all feeder pigs from monitored herds must be maintained so that they are not exposed to swine of unknown pseudorabies status or maintained in facilities or trucks contaminated by those swine. Failure to do so causes them to lose their monitored status.

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

Subp. 6. Stage III areas Location of pseudorabies-restricted feeder pig markets. Pseudorabies-restricted feeder pig markets under this part may not be established or authorized in the northern zone as defined in part 1705.2472 or in an area that is in Stage III, IV, or V of the ~~state-federal industry national pseudorabies eradication program standards.~~

1715.0705 SALE OF SWINE.

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

Subp. 2. Breeding swine. Breeding swine must:

A. be negative to ~~a~~ an official or approved differential pseudorabies test less than 30 days before sale or originate from a qualified pseudorabies-negative herd or a ~~pseudorabies-controlled~~ qualified negative gene-altered vaccinated herd;

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

Subp. 3. Feeder pigs. Feeder pigs and all other swine other than breeding or slaughter swine must:

A. be identified by a metal eartag ~~or a~~ legible pseudorabies-monitored herd numbered ear tattoo, legible pseudorabies-monitored herd number shoulder slap tattoo, or pseudorabies pseudorabies-monitored herd numbered eartag;

B. leave the sale with a restricted-movement certificate;

C. ~~originate from a~~ qualified pseudorabies-negative herd;

D. ~~originate from a~~ pseudorabies-controlled vaccinated herd;

E. ~~originate from an~~ officially designated low-prevalence pseudorabies area;

F. ~~enter the market with a record of a negative pseudorabies test within 30 days before sale; or~~

G. ~~originate from a~~ pseudorabies monitored herd complying with part 1705.2474, effective July 1, 1988, in the northern zone and January 1, 1990, in the southern zone as defined in part 1705.2472, subpart 2. be tested negative for pseudorabies within 30 days prior to sale or originate from:

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- (1) a qualified pseudorabies-negative herd;
- (2) a qualified negative gene-altered vaccinated herd;
- (3) an officially designated Stage III, IV, or V low-prevalence pseudorabies area; or
- (4) a pseudorabies-monitored herd complying with part 1705.2474.

When nonmonitored and monitored feeder pigs are sold at the same sale, completely separate facilities must be used and the monitored feeder pigs must be sold first. While in transit through marketing channels, all feeder pigs from monitored herds must be maintained so that they are not exposed to swine of unknown pseudorabies status or maintained in facilities or trucks contaminated by those swine. Failure to do so causes them to lose their monitored status.

1715.1450 SALE OF SWINE.

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

Subp. 2. **Breeding swine.** Breeding swine must:

A. be negative to a an official or approved differential pseudorabies test less than 30 days before sale or originate from a qualified pseudorabies-negative herd or a ~~pseudorabies-controlled~~ qualified negative gene-altered vaccinated herd;

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

Subp. 3. **Feeder pigs.** Feeder pigs and all other swine other than breeding or slaughter swine must:

A. be identified by a metal eartag, ~~or~~ legible pseudorabies-monitored herd numbered ear tattoo, legible pseudorabies-monitored herd number shoulder slap tattoo, or pseudorabies-monitored herd numbered eartag;

B. leave the sale with a restricted-movement certificate; and

C. ~~commencing on July 1, 1988, in the northern zone, as defined in part 1705.2472, subpart 2, and commencing statewide on January 1, 1990, all feeder pigs must be tested negative for pseudorabies within 30 days prior to sale or originate from:~~

- (1) a qualified pseudorabies-negative herd;
- (2) a ~~pseudorabies-controlled~~ qualified negative gene-altered vaccinated herd;
- (3) an officially designated Stage III, IV, or V low-prevalence pseudorabies area; or
- (4) a monitored pseudorabies-negative herd complying with part 1705.2474.

~~If any feeder pigs to be sold do not originate from one of the herds in subitems (1) to (4) they must have a negative test for pseudorabies within the previous 30 days. Monitored feeder pigs must be sold before nonmonitored feeder pigs. While in transit through marketing channels, all feeder pigs from monitored herds must be maintained so that they are not exposed to swine of unknown pseudorabies status or maintained in facilities or trucks contaminated by those swine. Failure to do so causes them to lose their monitored status.~~

[For text of subp 4, see M.R.]

REPEALER. Minnesota Rules, parts 1705.2400, subpart 7; 1705.2434, subpart 3; 1705.2450, subpart 3; 1705.2460, subpart 9; 1705.2470, subpart 2a; 1705.2472, subpart 3; 1705.2490; and 1705.2510, are repealed.

Board of Dentistry

Proposed Permanent Rules Relating to Continuing Dental Education

Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Dentistry (hereinafter "Board") intends to adopt the above entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes* 150A.04, subd. 5 and 214.06, subd. 1.

All persons have until September 9, 1994, in which to submit comment in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any changes proposed.

Any person may make a written request for a public hearing on the rules within the comment period which will close on September 9, 1994. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing

will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* 14.131 to 14.20. Comments or written requests for a public hearing must be submitted to:

Richard W. Diercks, Executive Director
Minnesota Board of Dentistry (612) 642-0579
2700 University Avenue West, Suite 70
St. Paul, Minnesota 55114
Minnesota Relay Service for Hearing and Speech Impaired:
Metro Area: (612) 297-5353
Outside Metro Area: (800) 627-3529

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

The rules proposed for adoption increase fees for sponsors of CDE courses; require CDE sponsors to submit renewal applications annually; establish stricter and clearer standards for approval of CDE sponsors; establish standards for CDE courses; clarify the requirements for proof of participation in CDE courses; require sponsors to maintain records of CDE course offerings and attendance; give the board authority to review CDE sponsors' records and conduct surveys of participants; require, if a course is not taken from an approved sponsor, that the licensee or registrant apply for course approval within 30 days, rather than two weeks, after completing the course; clarify credit hours for CDE courses and activities; clarify that successful completion of examinations and education programs will not satisfy specific continuing education requirements such as for infection control; and give registered dental assistants CDE credit comparable to that given to dentists and dental hygienists for completion of examinations and education programs. A free copy of the rules is available upon request from Karen L. Ramsey at the Board office.

A **Statement of Need and Reasonableness** has been prepared and is available from Karen L. Ramsey upon request. The statement describes the need for and reasonableness of the proposed rules, identifies the data and information relied upon to support the proposed rules, and addresses the Board's position regarding the applicability of the small business rulemaking provisions and the impact of the proposed amendments on small business.

Minnesota Statutes 14.115 specifies certain actions which an agency must take if any agency engages in rulemaking which may affect small businesses. It is the Board's position that the Board's rules are not subject to section 14.115.

Upon adoption of the rules by the Board, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rules must submit a written request to Karen L. Ramsey at the board office.

Dated: 25 July 1994

Richard W. Diercks
Executive Director

Rules as Proposed

3100.0100 DEFINITIONS.

[For text of subps 1 to 7, see M.R.]

Subp. 7a. Clinical participation. "Clinical participation" means that participants provide clinical treatment to, or practice clinical techniques on, humans.

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

Subp. 9. Course Continuing dental education. "Course" means an educational offering, class, presentation, meeting, or other similar event which is offered by a sponsor and qualifies for CDE credit or for which a licensee or registrant requests CDE credit pursuant to part 3100.4300. "Continuing dental education" means courses and activities approved by the board or presented by CDE sponsors approved by the board for credit toward the continuing education requirements for the renewal of licenses and registrations.

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[For text of subs 9a to 12b, see M.R.]

Subp. 12c. Laboratory or preclinical participation. "Laboratory or preclinical participation" means that participants practice treatment techniques using study models, casts, manikins, or other simulation methods.

[For text of subs 13 to 21, see M.R.]

3100.2000 FEES.

[For text of subs 1 to 6, see M.R.]

Subp. 8. Application for initial approval as sponsor of CDE courses. A person An organization applying for approval as a sponsor of CDE courses pursuant to part 3100.4200, subpart 2, shall submit with an application a fee in the amount of \$75 a fee of \$100 with the initial application and a fee of \$50 with each annual renewal application.

[For text of subs 8a to 10, see M.R.]

3100.4100 CONTINUING DENTAL EDUCATION.

Subpart 1. Evidence of attendance. Each licensee and registrant shall provide evidence of attendance at, or participation in, continuing dental education (CDE) as required by parts 3100.4100 to 3100.4600 3100.4500. Such evidence must be presented to the board on preprinted cards supplied by the board.

[For text of subs 2 to 5, see M.R.]

3100.4200 CDE SPONSORS.

Subpart 1. Sponsor approval system Approval of sponsors. The board adopts a sponsor approval CDE system except as provided for in part 3100.4300. Except as provided in part 3100.4300, sponsors of CDE courses must be approved by the board in accordance with the requirements in this part.

Subp. 2. Application procedure. Persons or Organizations intending to offer courses for CDE credit shall present a completed application on a form provided by the board. The form will request the submission of information which will enable the board to determine whether the applicant meets the standards for sponsor approval as specified in subpart 5. The board may require the submission of any other information it deems necessary to determine whether the applicant meets those standards. Each application for sponsor approval submitted to the board must include the application fee established in part 3100.2000 before the application will be considered. The board may use as a consultant consult with a committee, which may include nonboard members, to evaluate sponsor applications.

Subp. 4. Sponsor renewal. When the board approves a sponsor, the approval will remain in effect for four years. In order to remain an approved sponsor, the sponsor must again submit an application and fee as provided for in subpart 2 and be approved before the expiration of the four-year period. Each approved sponsor must complete and submit to the board a renewal application provided by the board by May 1 of each year. Sponsors receiving initial approval must submit their first renewal application by May 1 of the following year. Each renewal application submitted to the board must include the renewal application fee established in part 3100.2000.

Subp. 5. Approval standards. The board will approve as a sponsor those applicants which meet the following standards:

A. The applicant is formally organized as a corporation (for profit or not for profit), partnership, accredited educational institution, or other formal association and has as one of its principal purposes the sponsoring of CDE courses. To be approved by the board as a sponsor, an applicant must comply with the standards specified in subitems (1) to (6).

(1) The applicant must be an accredited post-secondary educational institution, a professional association, a corporation, a partnership, a sole proprietorship, or other formal organization.

(2) The organization must have as one of its stated purposes the provision of continuing dental education for persons licensed or registered by the board.

(3) The organization must have a designated individual to plan and manage CDE activities.

(4) The organization must disclose to the board any disciplinary or legal action taken or pending against the organization, its officers, or members of the organization directly involved in CDE activities.

(5) The organization must have written policies on any conflict of interest which an individual presenting a course might have. The policies must minimize the potential for conflict of interest and require disclosure of a potential conflict of interest.

(6) In the materials used to publicize course offerings for CDE credit, the organization must provide complete and accurate information.

B. The courses proposed by a sponsor must have significant intellectual or practical content which deal in the clinical and sei-

entific aspect of dentistry and patient communication or in nonclinical subjects relating to the dental profession as specified in part 3100.4100, subpart 2. Courses offered for CDE credit by the sponsor must meet the criteria specified in subitems (1) to (5).

(1) The course must be presented as an organized program of learning.

(2) The methods used for presenting course materials must include one or more of the following: clinical participation, group discussion, laboratory or preclinical participation, lecture, media usage, and self-instruction.

(3) The course must be on clinical subjects or on nonclinical subjects as specified in part 3100.4100, subpart 2, and must be designed to review existing dental concepts and techniques or to update participants on advances in the dental sciences or related sciences on oral health subjects.

(4) The subject matter of a clinical participation course must be within the legal scope of practice of the licensee or registrant in Minnesota.

(5) The content of the course must promote practices that are scientifically valid, have proven efficacy, or ensure public safety.

C. The applicant shall permit only those who are qualified by practical or academic experience to teach, speak, lecture, or make presentations at CDE course sponsored by it. Courses must be presented, conducted, or designed by individuals who have competence as well as education, training, or experience in the subject of the course.

D. Activities must be conducted in a classroom, laboratory, or other facility appropriate for the subject offered.

E. Except as provided in item F, when videotapes, motion pictures, audio tapes, interactive television classrooms, teleconferences, distance learning activities, or other interactive devices or methods are used to present CDE materials, a qualified individual must be available to interact with the participants and to verify attendance. For purposes of this item, a "qualified individual" is an individual who has competence as well as education, training, or experience in the subject of the course.

F. Courses designed as self-instructional activities must include a test which measures the licensee's or registrant's level of comprehension of the course content. The test must be submitted to the sponsor for grading and determination of successful completion of the course.

Subp. 6. **Proof of participation.** Each sponsor, at least once during each CDE course sponsored by it, shall announce to all participants that in order to receive CDE credit that they submit to the sponsor a card supplied by the board within two weeks of completion of the course. The sponsor must inform the participants of each CDE course it presents that it is an approved sponsor for CDE in Minnesota and that the participant will receive credit for the course by submitting the licensee's or registrant's preprinted CDE card to the sponsor upon completion of the course. The sponsor shall submit all cards to the board in an envelope provided by the board within three weeks 30 days after completion of the course.

Subp. 6a. Record keeping.

A. The sponsor must maintain records of each CDE course offering. Records must include the date and location of the course; the number of hours; the subject matter of the course, including the title, objectives, program, and other printed information relating to content; the name and credentials of the presenter; and the names of the participants. For an annual convention or mid-year meeting, records of the names of the participants do not have to be maintained for each CDE course offering; records of the names of the participants for the convention or meeting as a whole are sufficient. For purposes of this item, "annual convention or mid-year meeting" means an annual convention or mid-year meeting that does not require preregistration for individual course offerings and that is sponsored by the Minnesota Dental Association, the Minnesota Dental Hygienists Association, the Minnesota Dental Assistants Association, or a district or component society of one of these associations. The records required under this item must be maintained for three years following the course offering.

B. The board may review records maintained pursuant to item A and may conduct a survey of a sample of the participants in a course to determine the sponsor's compliance with the standards specified in subpart 5.

Subp. 7. **Denial or revocation of approval.** The board shall state in writing its reasons for denying any sponsor application.

The board may deny approval of a specific course offered by an approved sponsor if such a course does not meet the standards of courses as specified by part 3100.4300, subpart 3 3100.4200, subpart 5, items B to F.

The board may revoke its approval of any a sponsor for failure failing to comply with provisions of subparts 4, 5, and 6 and part

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Proposed Rules

3100.4700, and 6a, for falsification of any information requested or required by the board relating to the application for approval as a sponsor or to the administration of courses of a sponsor, or for other just cause.

3100.4300 APPROVAL OF COURSES ATTENDED PRESENTED BY NONAPPROVED SPONSORS.

Subpart 1. **Credit for nonapproved courses by nonapproved sponsors.** Licensees or registrants may apply individually for approval of CDE courses for CDE credit which are sponsored by organizations which have not applied and been approved as sponsors pursuant to part 3100.4200. Information as Licensees or registrants shall submit to the board the information specified in subpart 2 as well as any other information which the board may reasonably require for the purposes of evaluating the course for which approval is sought shall be submitted to the board. The board may use as consultants consult with a committee appointed for such evaluation to perform the evaluations.

Subp. 2. **Information required.** The following information; along with the form supplied by the board for reporting participation in CDE courses with the back side of it completed, shall be submitted to the board by a licensee or registrant seeking approval of courses pursuant to this part:

A. the name and address of the organization sponsoring the course for which credit is requested a completed CDE card supplied by the board for reporting participation in a CDE course;

B. the name and address of the person in the sponsoring organization with which the board may correspond with respect to the course for which credit is requested evidence of the licensee's or registrant's attendance at, or participation in, the course;

C. a detailed description of the content of the course the name and address of the organization sponsoring the course for which credit is requested;

D. the name and credentials of each instructor or person making a presentation the name and address of a person in the sponsoring organization with whom the board may correspond with respect to the course for which credit is requested;

E. the location including the name and address of the facility at which the course will be conducted: an outline or written description of all the material covered in the course;

F. the name and credentials of each person making a presentation at the course; and

G. the name and address of the facility at which the course was conducted.

Subp. 2a. **Time limits for notice of attendance.** If a course is taken from a sponsor not approved by the board under part 3100.4200, the licensee or registrant must apply for course approval under this part within 30 days after completing the course.

Subp. 3. **Course approval standards.** The board shall must grant CDE credit for any a course which meets the following standards specified in part 3100.4100, subpart 2, and 3100.4200, subpart 5. The course shall have significant intellectual or practical content dealing in the clinical and scientific aspect of dentistry and patient communication, or in nonclinical subjects related to the dental profession as specified in part 3100.4100, subpart 2.

Subp. 4. **Qualifications to present courses** Written denial. Each person making a CDE course presentation shall be qualified by practical or academic experience to teach the subjects he or she covers. Participants shall attend courses in a classroom, laboratory, or setting suitable for the course. Video, motion picture, or sound tape presentations may be used provided a qualified person is present to verify attendance. The board must state in writing its reasons for denying a request for approval of a course or activity for CDE credit hours.

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

3100.4400 ESTABLISHING CREDIT HOURS FOR CDE COURSES AND ACTIVITIES.

For courses presented by sponsors approved pursuant to part 3100.4200, and for courses approved pursuant to part 3100.4300, the board ~~shall fix~~ must set the number of hours of CDE credit based upon the following criteria: in this part.

A. Multiday convention-type meetings such as state or national dental conventions or their equivalent Dental conventions which last more than one day will be given awarded three clock hours credit.

B. Scientific or educational meetings or courses or similar offerings will be credited on an hour-for-hour basis: Courses presented through the use of one of the following methods will be awarded one credit for each hour of the course: clinical participation, group discussion, laboratory or preclinical participation, lecture, and media usage.

C. Home study with an accompanying examination will be awarded hourly credit if the Self-instructional courses for which an examination is successfully completed will be awarded credit based upon a the board's determination by the board or sponsor of the reasonable amount of time necessary to cover the material and take the examination and. Credit will not be awarded on the basis of the individual time taken by the licensee or registrant to study or review the material.

D. A presentation of a CDE course made on behalf of an approved sponsor will be credited on an hour-for-hour basis awarded one credit per hour of the presentation.

E. Authoring or co-authoring a published scientific article will be awarded five credits per article.

F. Successful completion of postgraduate courses will be awarded ten credits per credit hour.

G. Successful completion of a jurisprudence examination administered by the board will be awarded two credits once during each five-year CDE cycle, starting with the licensee's or registrant's second five-year CDE cycle. For purposes of this item, a "jurisprudence examination" means an examination on the requirements of this chapter, Minnesota Statutes, chapter 150A, 214, or 319A, or all of the foregoing.

3100.4500 SOURCES OF CDE CREDIT HOURS FOR EXAMINATIONS AND ADVANCED EDUCATION PROGRAM.

Subpart 1. [See repealer.]

Subp. 2. **Other forms of CDE.** The board may also approve other forms of CDE examinations and advanced education programs for CDE credit if the approval standards as specified in parts 3100.4100, subpart 2, and 3100.4200, subpart 5 and 3100.4300, subpart 3, are met. Examples of such other forms of CDE examinations and advanced education program are:

A. ~~Successfully passing~~ Successful completion of part II of the national board examination for dentists if taken five or more years after graduation. Except for any specific topic area required by statute or rule, this will fulfill the five-year requirement for dentists.

B. ~~Satisfactory~~ Successful completion of an advanced education program such as an internship or residency accredited by the American Dental Association Commission on Accreditation and approved by the board. Except for any specific topic area required by statute or rule, such programs will fulfill the five-year requirement for dentists.

C. ~~Successfully passing~~ Successful completion of the national board examination for dental hygiene if taken five or more years after graduation. Except for any specific topic area required by statute or rule, this will fulfill the five-year requirement for hygienists.

D. Satisfactory completion of an advanced education program approved by the board. Except for any specific topic area required by statute or rule, this will fulfill the five-year requirement for hygienists.

E. ~~Publication of articles or books. CDE credit will be granted on an individual consideration basis. Successful completion of the examination for initial registration as a registered dental assistant if taken five or more years after initial registration. Except for any specific topic area required by statute or rule, this will fulfill the five-year requirement for registered dental assistants.~~

F. Successful completion of an advanced education program approved by the board. Except for any specific topic area required by statute or rule, this will fulfill the five-year requirement for registered dental assistants.

REPEALER. Minnesota Rules, parts 3100.4300, subparts 5 and 6; 3100.4500, subpart 1; and 3100.4600, are repealed.

EFFECTIVE DATE. Minnesota Rules, part 3100.4200, subpart 4, is effective May 1, 1995.

Board of Dentistry

Proposed Permanent Rules Relating to Faculty and Resident Dentists

Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Dentistry (hereinafter "Board") intends to adopt the above entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes* 150A.04, subd. 5; 150A.06, subds. 1, 1a, and 1b; 150A.08, subd. 1(6); and 150A.08, subd. 3, 214.06, subd. 1, and 214.06, subds. 1 and 2.

All persons have until September 9, 1994, in which to submit comment in support of or in opposition to the proposed rules.

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. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any changes proposed.

Any person may make a written request for a public hearing on the rules within the comment period which will close on September 9, 1994. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* 14.131 to 14.20. Comments or written requests for a public hearing must be submitted to:

Richard W. Diercks, Executive Director
Minnesota Board of Dentistry (612) 642-0579
2700 University Avenue West, Suite 70
St. Paul, Minnesota 55114
Minnesota Relay Service for Hearing and Speech Impaired:
Metro Area: (612) 297-5353
Outside Metro Area: (800) 627-3529

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

The rules proposed for adoption establish requirements for licensure as a faculty dentist, establish requirements for licensure as a resident dentist, provide for terms and renewal of licensure as a faculty or resident dentist, and establish application and annual fees for faculty and resident dentists. A free copy of the rules is available upon request from Karen L. Ramsey at the Board office.

A **Statement of Need and Reasonableness** has been prepared and is available from Karen L. Ramsey upon request. The statement describes the need for and reasonableness of the proposed rules, identifies the data and information relied upon to support the proposed rules, and addresses the Board's position regarding the applicability of the small business rulemaking provisions and the impact of the proposed amendments on small business.

Minnesota Statutes 14.115 specifies certain actions which an agency must take if any agency engages in rulemaking which may affect small businesses. It is the Board's position that the Board's rules are not subject to section 14.115.

Upon adoption of the rules by the Board, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rules must submit a written request to Karen L. Ramsey at the board office.

Dated: 25 July 1994

Richard W. Diercks
Executive Director

Rules as Proposed

3100.0100 DEFINITIONS.

[For text of subps 1 to 11, see M.R.]

Subp. 11a. Faculty dentist. "Faculty dentist" has the meaning given it in *Minnesota Statutes*, section 150A.01, subdivision 6a.

[For text of subps 12a to 18, see M.R.]

Subp. 18a. Resident dentist. "Resident dentist" has the meaning given it in *Minnesota Statutes*, section 150A.01, subdivision 8a.

[For text of subps 20 and 21, see M.R.]

3100.1150 LICENSE TO PRACTICE DENTISTRY AS A FACULTY DENTIST.

Subpart 1. Licensure.

A. In order to practice dentistry, a faculty member must be licensed by the board.

B. The board must license a person to practice dentistry as a faculty dentist if:

(1) the person completes and submits to the board an application furnished by the board;

(2) the person is not otherwise licensed to practice dentistry in Minnesota;

(3) the dean of a school of dentistry or the director of an advanced dental education program accredited by the

Commission on Accreditation certifies to the board, in accordance with the requirements of item C, that the person is a member of the school's faculty and practices dentistry; and

(4) the person has not engaged in behavior for which licensure may be suspended, revoked, limited, modified, or denied on any of the grounds specified in Minnesota Statutes, sections 150A.08, 214.17 to 214.25, 214.33, subdivision 2, or part 3100.6100, 3100.6200, or 3100.6300.

C. The board must accept an applicant as a faculty dentist if the dean of a school of dentistry or the director of an advanced dental education program accredited by the Commission on Accreditation provides to the board the following information:

(1) the applicant's full name;

(2) the applicant's social security number;

(3) the applicant's home and work address;

(4) a statement that the applicant is a member of the faculty and practices dentistry within the school or its affiliated teaching facilities, but only for purposes of instruction or research;

(5) the dates of the applicant's employment by the school of dentistry;

(6) a statement that the applicant has been notified of the need to be licensed by the board as a faculty dentist; and

(7) a statement that the information provided is accurate and complete.

Subp. 2. Termination of licensure.

A. A person's license to practice dentistry as a faculty dentist is terminated when the person is no longer a member of the faculty of a school of dentistry or when the person discontinues practicing dentistry.

B. A person licensed to practice dentistry as a faculty dentist must inform the board when the licensee is no longer a member of the faculty of a school of dentistry or when the person discontinues practicing dentistry.

C. A person who fails to inform the board as required in item B is deemed to have committed fraud or deception within the meaning of Minnesota Statutes, section 150A.08, subdivision 1, clause (1).

3100.1160 LICENSE TO PRACTICE DENTISTRY AS A RESIDENT DENTIST.

Subpart 1. Licensure.

A. In order to practice dentistry, an enrolled graduate student or a student of an advanced education program must be licensed by the board.

B. The board must license a person to practice dentistry as a resident dentist if:

(1) the person completes and submits to the board an application furnished by the board;

(2) the person is not otherwise licensed to practice dentistry in Minnesota;

(3) the person provides evidence of having graduated from a dental school;

(4) the person provides evidence of being an enrolled graduate student or a student of an advanced dental education program accredited by the Commission on Accreditation; and

(5) the person has not engaged in behavior for which licensure may be suspended, revoked, limited, modified, or denied on any of the grounds specified in Minnesota Statutes, section 150A.08.

Subp. 2. Termination of licensure.

A. A person's license to practice dentistry as a resident dentist is terminated when the person is no longer an enrolled graduate student or a student of an advanced dental education program accredited by the Commission on Accreditation.

B. A person licensed to practice dentistry as a resident dentist must inform the board when the licensee is no longer an enrolled graduate student or a student of an advanced dental education program accredited by the Commission on Accreditation.

C. A person who fails to inform the board as required in item B is deemed to have committed fraud or deception within the meaning of Minnesota Statutes, section 150.08, subdivision 1, clause (1).

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Proposed Rules

3100.1700 TERMS AND RENEWAL OF ~~LICENSE~~ LICENSURE AND REGISTRATION; GENERAL.

Subpart 1. **Terms Requirements.** Each initial license or registration issued by the board is valid from the date issued until renewed or terminated in accordance with the procedures specified in this part. Each annually renewed license or registration issued by the board is valid from January 1 of the year for which it was issued until renewed or terminated in accordance with the procedures specified in this part. The requirements of this part apply to the terms and renewal of licensure or registration of an applicant other than a faculty or resident dentist. The requirements for the terms and renewal of licensure as a faculty or resident dentist are specified in part 3100.1750.

Subp. 1a. **Terms.** An initial license or registration issued by the board is valid from the date issued until renewed or terminated in accordance with the procedures specified in this part. An annually renewed license or registration issued by the board is valid from January 1 of the year for which it was issued until renewed or terminated in accordance with the procedures specified in this part.

[For text of subps 2 to 5, see M.R.]

3100.1750 TERMS AND RENEWAL OF LICENSURE; FACULTY AND RESIDENT DENTISTS.

Subpart 1. **Requirements.** The requirements of this part apply to the terms and renewal of licensure as a faculty or resident dentist.

Subp. 2. **Terms.** An initial license issued by the board is valid from the date issued until renewed or terminated in accordance with the procedures specified in this part. An annually renewed license issued by the board is valid from July 1 of the year for which it was issued until renewed or terminated in accordance with the procedures specified in this part.

Subp. 3. **Renewal applications.**

A. A faculty or resident dentist must complete and submit to the board an application form furnished by the board, together with the applicable annual renewal and late fees, no later than June 30 of the year preceding the year for which licensure renewal is requested. The board must not accept a renewal application received by the board after the first workday following June 30.

B. An applicant must submit on the application form the following:

- (1) the applicant's signature;
- (2) the applicant's institutional addresses;
- (3) the applicant's license number; and
- (4) any additional information requested by the board.

3100.2000 FEES.

Subpart 1. **Application fees.** Each applicant for licensure as a dentist or dental hygienist or for registration as a registered dental assistant or for a limited registration as a dental assistant under part 3100.8500, subpart 3, shall submit with a license or registration application a fee in the following amounts:

- A. dentist application, \$140;
- B. ~~dental hygienist \$50~~ faculty dentist application, ~~\$55~~ \$140;
- C. ~~dental assistant hygienist~~ application, ~~\$35 and~~ \$55;
- D. ~~limited registration resident dentist~~ application, ~~\$45~~ \$55;
- E. dental assistant application, \$35; and
- F. limited registration application, \$15.

Subp. 2. **Annual license or registration fees.** Each dentist, dental hygienist, and registered dental assistant, and dental assistant with a limited registration under part 3100.8500, subpart 3, shall submit with an annual license or registration renewal application a fee as established by the board not to exceed the following amounts:

- A. dentist, \$138;
- B. ~~dental hygienist, \$50~~ faculty dentist, \$138;
- C. ~~registered dental assistant hygienist, \$34 and~~ \$50;
- D. ~~dental assistant with a limited registration, \$42~~ resident dentist, \$50;
- E. registered dental assistant, \$26; and
- F. dental assistant with a limited registration, \$12.

[For text of subparts 3 to 10, see M.R.]

EFFECTIVE DATE. *Minnesota Rules*, parts 3100.0100, subparts 11, 11a, and 18a; 3100.1150; 3100.1160; 3100.1700, subparts 1 and 1a; 3100.1750; and 3100.2000, subparts 1 and 2, are effective August 31, 1995.

Board of Dentistry

Proposed Permanent Rules Relating to Registered Dental Assistants

Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Dentistry (hereinafter "Board") intends to adopt the above entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes* 150A.04, subd. 5; 150A.06, subds. 2 and 2a; 150A.08, subd. 1(6); and 150A.10, subd. 2.

All persons have until September 9, 1994, in which to submit comment in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any changes proposed.

Any person may make a written request for a public hearing on the rules within the comment period which will close on September 9, 1994. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* 14.131 to 14.20. Comments or written requests for a public hearing must be submitted to:

Richard W. Diercks, Executive Director
Minnesota Board of Dentistry (612) 642-0579
2700 University Avenue West, Suite 70
St. Paul, Minnesota 55114
Minnesota Relay Service for Hearing and Speech Impaired:
Metro Area: (612) 297-5353
Outside Metro Area: (800) 627-3529

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

The rules proposed for adoption expand the duties of registered dental assistants under general supervision, indirect supervision, and direct supervision; clarify the duties of dental hygienists under general supervision; and expand the duties of dental hygienists under direct supervision. A free copy of the rules is available upon request from Karen L. Ramsey at the Board office.

A **Statement of Need and Reasonableness** has been prepared and is available from Karen L. Ramsey upon request. The statement describes the need for and reasonableness of the proposed rules, identifies the data and information relied upon to support the proposed rules, and addresses the Board's position regarding the applicability of the small business rulemaking provisions and the impact of the proposed amendments on small business.

Minnesota Statutes 14.115 specifies certain actions which an agency must take if any agency engages in rulemaking which may affect small businesses. It is the Board's position that the Board's rules are not subject to section 14.115.

Upon adoption of the rules by the Board, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rules must submit a written request to Karen L. Ramsey at the board office.

Dated: 25 July 1994

Richard W. Diercks
Executive Director

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Proposed Rules

Rules as Proposed

3100.1300 APPLICATION FOR REGISTRATION AS A REGISTERED DENTAL ASSISTANT.

Any person desiring to be registered as a dental assistant shall submit to the board an application and credentials as prescribed by the act and shall conform to the following rules:

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

C. Submission of evidence of satisfactorily passing a board-approved registration examination designed to determine the applicant's knowledge of the clinical duties specified in part 3100.8500, ~~subpart~~ subparts 1 to 1b.

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

3100.8500 REGISTERED DENTAL ASSISTANTS.

Subpart 1. **Duties under general supervision.** A registered dental assistant may perform the following duties if a dentist has authorized the procedures and the registered dental assistant performs the procedures in accordance with the dentist's diagnosis and treatment plan: cut arch wires, remove loose bands, or remove loose brackets on orthodontic appliances to provide palliative treatment.

Subp. 1a. Duties under indirect supervision. A registered dental assistant, in addition to the services performed by the assistant, may perform the following services if a dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed:

- A. take radiographs;
- B. take impressions for casts and appropriate bite registration. Dental assistants shall not take impressions and bite registrations for final construction of fixed and removable prostheses;
- C. apply topical medications that are physiologically reversible, topical fluoride, bleaching agents, and cavity varnishes prescribed by dentists;
- D. place and remove rubber dam;
- E. remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments only;
- F. perform mechanical polishing to clinical crowns not including instrumentation. Removal of calculus by instrumentation must be done by a dentist or dental hygienist before mechanical polishing;
- G. preselect orthodontic bands;
- H. place and remove periodontal dressings;
- I. remove sutures;
- J. monitor a patient who has been induced by a dentist into nitrous oxide inhalation analgesia;
- K. place and remove elastic orthodontic separators; ~~and~~
- L. remove and place ligature ties and arch wires on orthodontic appliances. A dentist must select and, if necessary, adjust arch wires prior to placement;
- M. dry root canals with paper points; and
- N. place cotton pellets and temporary restorative materials into endodontic access openings.

Subp. ~~1a~~ 1b. **Duties under direct supervision.** A registered dental assistant may perform the following services if a dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and evaluates the performance of the auxiliary before dismissing the patient:

- A. remove excess bond material from orthodontic appliances with hand instruments only;
- B. etch appropriate enamel surfaces before bonding of orthodontic appliances by a dentist;
- C. etch appropriate enamel surfaces and apply pit and fissure sealants. Before the application of pit and fissure sealants, a registered dental assistant must have successfully completed a course in pit and fissure sealants at a dental school, dental hygiene school, or dental assisting school that has been accredited by the Commission on Accreditation; ~~and~~
- D. make preliminary adaptation of temporary crowns; and
- E. remove temporary crowns with hand instruments only.

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

3100.8700 DENTAL HYGIENISTS.

Subpart 1. **Duties under general supervision.** A dental hygienist may perform the following services if a dentist has authorized them and the hygienist carries them out in accordance with the dentist's diagnosis and treatment plan:

- A. all services permitted under parts 3100.8400 to 3100.8500, ~~subpart 1~~ subparts 1 and 1a;
- B. complete prophylaxis to include scaling, root planing, and polishing of restorations; ~~and temporary replacement of restorations~~;
- C. preliminary charting of the oral cavity and surrounding structures to include case histories, and periodontal charting (this does not infer the making of a diagnosis);
- D. dietary analysis, salivary analysis, and preparation of smears for dental health purposes;
- E. application of pit and fissure sealants; ~~and~~
- F. ~~remove~~ removal of excess bond material from orthodontic appliances; and
- G. replacement of intact temporary crowns or restorations with temporary restorative materials prior to the placement of a permanent restoration. Replacement of restorations does not include the construction of temporary crowns.

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

Subp. 2a. **Duties under direct supervision.** A dental hygienist may perform the following procedures if a dentist is in the office, personally diagnoses the condition to be treated, personally authorizes the procedure, and evaluates the performance of the dental hygienist before dismissing the patient:

- A. etch appropriate enamel surfaces before bonding of orthodontic appliances by a dentist; ~~and~~
- B. make preliminary adaptation of temporary crowns; and
- C. remove temporary crowns with hand instruments only.

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

Department of Health

Proposed Permanent Rules Relating to Health Risk Limits

Notice of Intent to Adopt Permanent Rules without a Public Hearing

The Minnesota Department of Health intends to adopt a permanent rule without a public hearing following the procedures and authority set forth in *Minnesota Statutes*, section 103H.201 as amended by *Laws of Minnesota 1994*, Chapter 557, sections 17 and 18 to add additional health risk limits. The department will also use the procedures provided for exempted rules set forth in *Minnesota Statutes*, section 14.38, subdivisions 7 and 8.

The amendments to the existing rules are proposed to add health risk limit numbers and toxic endpoints for additional chemicals and substances found to degrade Minnesota groundwater. The additional substances are proposed based on new authority provided in *Laws of Minnesota 1994*, Chapter 557, section 17 which amended *Minnesota Statutes*, section 103H.201.

A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed. Additional copies of the proposed rule are available from:

Larry Gust, Health Risk Assessment Unit
Division of Environmental Health
Minnesota Department of Health
925 S. E. Delaware Street P.O. Box 59040
Minneapolis, Minnesota 55459-0040
(612) 627-5053 FAX (612) 627-5479

A copy of this notice and the proposed rule amendments was mailed to all parties who have registered their names with the

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Proposed Rules

department for purposes of notice of rulemaking activity. A copy was also mailed to the Minnesota extension service and soil and water conservation districts.

Period to comment. You have 60 days, until 4:30 p.m. October 7, 1994, to submit written comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. The proposed rules may be modified in response to comment received. Comment must be in writing and received by Larry Gust by 4:30 p.m., October 7, 1994. The comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. Commentors are requested to provide their name and address. Comments and questions on the proposed rule amendments must be submitted to Larry Gust.

Procedure for response to comment. Following the 60 day comment period the department will publish the adopted rules in the *State Register* and, at the same time, make available a summary of the public comment received and the commissioner's responses to the comment. The proposed rule amendments may be modified in response to comment received. All written comment received by the department and the department's responses to comment becomes part of the rulemaking record on this matter.

Request for hearing. You may make a written request for a public hearing on the proposed rule within the 60 day comment period, until 4:30 p.m. October 7, 1994. Any person may submit a written request for a public hearing on all or a portion of the proposed rules. If 25 or more persons submit a written request for a public hearing, the department will undertake to adopt the proposed amendments and additional health risk limits under the administrative procedures for a public hearing, *Minnesota Statutes*, section 14.25 unless a sufficient number withdraw their requests in writing. Written requests for a hearing must be submitted to Larry Gust. The 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. The proposed rules may be modified in response to comment received without a public hearing.

Content of rule. The Minnesota Department of Health is proposing to amend adopted rules contained in *Minnesota Rules*, part 4717.7100 to 4717.7800. *Minnesota Statutes*, section 103H.201 as amended by Chapter 557 provides that the commissioner may adopt health risk limits using the following criteria. For a systemic toxicant that is not a carcinogen, the health risk limits shall be derived using the United States Environmental Protection Agency (USEPA) risk assessment method using a reference dose, a drinking water equivalent, and a relative source contribution factor. For toxicants that are known or probable carcinogens, the health risk limits shall be derived from a quantitative estimate of the chemical's carcinogenic potency published by the United States Environmental Protection Agency and determined by the commissioner to have undergone thorough scientific review.

The proposed amendments add 31 health risk limits to the 89 currently adopted. Many of the proposed substances had been maintained by the department as recommended allowable limits. To provide for consistency with *Minnesota Statutes*, section 103H.201 as amended by Chapter 557, the department is also proposing to delete references to the Integrated Risk Information System as the exclusive data source for health risk limits throughout the proposed rules; to clarify the definitions of "reference dose" and "slope factor or potency slope"; and to add toxic endpoints for those additional substances for which they are indicated in USEPA data bases.

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

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

Impact on agricultural lands. The proposed rules will have no direct or substantial adverse impact on agricultural land.

Adoption and review of rule. If no hearing is required, on adoption of the rule, the rule will be adopted pursuant to the procedures for exempted rules prescribed in *Minnesota Statutes*, section 14.38, contained in subdivisions 7 and 8. The Revisor of Statutes will approve the form of the rules, the rule will be filed with the secretary of state, and the adopted rule will be effective five working days after publication in the *State Register*.

Dated: 18 July 1994

Mary Jo O'Brien
Commissioner of Health

This notice and the proposed rule may be available in an alternative format.

Rules as Proposed

4717.7150 DEFINITIONS.

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

Subp. 5. [See repealer.]

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

Subp. 7. **Reference dose or RfD.** “Reference dose” or “RfD” means the ~~toxic potency of a systemic toxicant listed on IRIS as the reference dose or RfD dose of a substance or chemical that is unlikely to cause toxic effects in humans who are exposed to this dose daily over a lifetime.~~ The RfD is expressed in units of milligrams of the substance or chemical per kilogram of body weight per day.

[For text of subp 8, see M.R.]

Subp. 9. **Slope factor or potency slope.** “Slope factor” or “potency slope” means the ~~carcinogenic potency listed on IRIS as the slope factor or potency slope measure of potency for carcinogens. This number is projected from a mathematical extrapolation model that uses data for each carcinogen.~~ It is expressed as the cancer risk per unit dose in units of the inverse of milligrams of the substance or chemical per kilogram of body weight per day.

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

4717.7200 HEALTH RISK LIMITS FOR SYSTEMIC TOXICANTS.

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

Subp. 2. **Equation for systemic toxicants other than nitrate (as nitrogen) or possible human carcinogens.** The equation for determining the health risk limit for a systemic toxicant other than nitrate (as nitrogen) or a possible human carcinogen is:

$$\text{HRL} = \frac{(\text{RfD})(70)(\text{RSC})(1,000)}{(2)}$$

Where:

- A. HRL is expressed in microgram or micrograms per liter.
- B. (70) is the standard weight of an adult expressed in kilograms.
- C. The RSC for substances or chemicals not listed in item D shall be 0.2.
- D. The RSC for the following substances or chemicals is:

Name	CAS RN	RSC
(1) antimony	7440-36-0	0.4
(2) barium	7440-39-3	0.8
(3) cadmium	7440-43-9	0.25
(4) <u>chromium III</u>	<u>16065-83-1</u>	<u>0.7</u>
(5) chromium VI	18540-29-9	0.7
(5) (6) manganese	7439-96-5	0.8

E. (1,000) is a factor used to convert the units of concentration from milligrams per liter to micrograms per liter. There are 1,000 micrograms per milligram.

F. (2) is the standard amount of water ingested by an adult expressed in liters per day.

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

Subp. 4. **Equation for possible human carcinogens.** The equation for determining the health risk limit for a possible human carcinogen that has an RfD is:

$$\text{HRL} = \frac{(\text{RfD})(70)(\text{RSC})(1,000)}{(2)(\text{UF})}$$

Where:

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A. HRL, (70), (RSC), (2), and (1,000) have the meanings given in subpart 2.

B. The UF for possible carcinogens not listed in item C is ten.

C. The UF for 1,1,1,2-tetrachloroethane (CAS RN 630-20-6) is three.

D. If a possible human carcinogen has a slope factor but no RfD, then the health risk limit must be determined using the method in part 4717.7300.

4717.7500 TABLE OF HEALTH RISK LIMITS.

Subpart 1. **Generally.** This part contains the table of the health risk limits. For each substance or chemical listed in a subpart, the information required by part 4717.7400 shall be specified in the manner required by this subpart.

CAS RN	RfD*, ++ (milligrams per kilogram per day)	Slope factor++* (the inverse of milligrams per kilogram per day)	Health Risk Limit (micrograms per liter)
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[For text of subps 2 and 3, see M.R.]

Subp. 3a. Alachlor. Alachlor: 15972-60-8 = 0.08 4

[For text of subp 4, see M.R.]

Subp. 4a. Allyl chloride (3 chloropropene). Allyl chloride (3 chloropropene): 107-05-1 0.05 (C) = 30

[For text of subps 5 to 23, see M.R.]

Subp. 23a. Chloramben. Chloramben: 133-90-4 0.015 = 100

[For text of subps 24 to 26, see M.R.]

Subp. 26a. Chlorothalonil. Chlorothalonil: 1897-45-6 = 0.011 30

Subp. 26b. Chromium III. Chromium III: 16065-83-1 1 = 20.000

[For text of subps 27 to 34, see M.R.]

Subp. 34a. 1,4-Dichlorobenzene (para). 1,4-Dichlorobenzene (para): 106-46-7 = 0.024 10

[For text of subps 35 to 39, see M.R.]

Subp. 39a. 1,1-Dichloroethane. 1,1-Dichloroethane: 75-34-3 0.1 (C) = 70

[For text of subp 40, see M.R.]

Subp. 40a. 1,2-Dichloroethylene (cis). 1,2-Dichloroethylene (cis): 156-59-2 0.01 = 70

[For text of subps 41 to 45, see M.R.]

Subp. 45a. 1,2-Dichloropropane. 1,2-Dichloropropane: 78-87-5 = 0.068 5

Subp. 45b. 1,3-Dichloropropene. 1,3-Dichloropropene: 542-75-6 = 0.18 2

[For text of subps 46 to 48, see M.R.]

Subp. 48a. Dimethylphthalate. Dimethylphthalate: 131-11-3 10 = 70.000

[For text of subp 49, see M.R.]

Subp. 49a. Disulfoton. Disulfoton: 298-04-4 0.00004 = 0.3

[For text of subps 50 to 52, see M.R.]

Subp. 52a. Ethylene glycol. Ethylene glycol: 107-21-1 2 = 10.000

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

Subp. 54a. Formaldehyde. Formaldehyde: 50-00-0 0.2 = 1.000

[For text of subps 55 to 58, see M.R.]

Subp. 58a. Hexane (n-hexane). Hexane (n-hexane): 110-54-3 0.06 = 400

[For text of subps 59 to 61, see M.R.]

Subp. 61a. Methanol. Methanol: 67-56-1 0.5 = 3.000

[For text of subp 62, see M.R.]

Subp. 62a. Methyl ethyl ketone (MEK, 2-butanone). Methyl ethyl ketone (MEK, 2-butanone): 78-93-3 0.6 = 4.000

Subp. 62b. Methyl isobutyl ketone (MIBK). Methyl isobutyl ketone (MIBK): 108-10-1 0.05 = 300

[For text of subps 63 and 64, see M.R.]

Subp. 64a. 4-Methylphenol (p-cresol). 4-Methylphenol (p-cresol): 106-44-5 0.005 (C) = 3

[For text of subps 65 and 66, see M.R.]

Subp. 66a. Naphthalene. Naphthalene: 91-20-3 0.04 = 300

[For text of subps 67 to 72, see M.R.]

Subp. 72a. Polychlorinated biphenyls (PCBs). Polychlorinated biphenyls (PCBs): 1336-36-3 = 7.7 .04

[For text of subps 73 to 77, see M.R.]

Subp. 77a. Simazine. Simazine: 122-34-9 0.005 = 30

Subp. 77b. Styrene. Styrene: 100-42-5 = 0.03 10

[For text of subp 78, see M.R.]

Subp. 78a. 1,1,2,2-Tetrachloroethane. 1,1,2,2-Tetrachloroethane: 79-34-5 = 0.2 (C) 2

Subp. 78b. 1,1,2,2-Tetrachloroethylene. 1,1,2,2-Tetrachloroethylene: 127-18-4 = 0.051 7

Subp. 78c. Thallium salts. Thallium salts: 7440-28-0 0.00008 = 0.6

Subp. 78d. Tin. Tin: 7440-31-5 0.6 = 4.000

[For text of subps 79 and 80, see M.R.]

Subp. 80a. 1,1,1-Trichloroethane. 1,1,1-Trichloroethane: 71-55-6 0.09 = 600

[For text of subp 81, see M.R.]

Subp. 81a. 1,1,2-Trichloroethylene (TCE). 1,1,2-Trichloroethylene (TCE): 79-01-6 = 0.011 30

[For text of subps 82 to 88, see M.R.]

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Subp. 88a. Vanadium. Vanadium: 7440-62-2 0.007 = 50

Subp. 88b. Vinyl chloride. Vinyl chloride: 75-01-4 = 1.9 0.20
[For text of subp 89, see M.R.]

Subp. 89a. Zinc. Zinc: 7440-66-6 0.3 = 2.000

Subp. 90. Reference doses and slope factors. For purposes of this part:

* Substances or chemicals that have a RfD or slope factor annotated with a (C) are classified by the United States Environmental Protection Agency as possible human carcinogens; and

++ The reference doses and slope factors are current as of February 1993.

4717.7650 TOXIC ENDPOINTS.

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

Subp. 3a. Alachlor. Alachlor, 15972-60-8, cancer.

[For text of subp 4, see M.R.]

Subp. 4a. Allyl chloride (3 chloropropene). Allyl chloride (3 chloropropene), 107-05-1, nervous system.

Subp. 4b. Atrazine. Atrazine, 1912-24-9, cardiovascular system.

[For text of subps 5 to 18, see M.R.]

Subp. 18a. Chloramben. Chloramben, 133-90-4, liver.

[For text of subps 19 to 21, see M.R.]

Subp. 21a. Chlorothalonil. Chlorothalonil, 1897-45-6, cancer.

[For text of subps 22 to 26, see M.R.]

Subp. 26a. 1,4-Dichlorobenzene (para). 1,4-Dichlorobenzene (para), 106-46-7, cancer.

[For text of subps 27 to 30, see M.R.]

Subp. 30a. 1,1-Dichloroethane. 1,1-Dichloroethane, 75-34-3, kidney.

[For text of subps 31 and 32, see M.R.]

Subp. 32a. 1,2-Dichloroethylene (cis). 1,2-Dichloroethylene (cis), 156-59-2, hematologic system.

[For text of subps 33 to 35, see M.R.]

Subp. 35a. 1,2-Dichloropropane. 1,2-Dichloropropane, 78-87-5, cancer.

Subp. 35b. 1,3-Dichloropropene. 1,3-Dichloropropene, 542-75-6, cancer.

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

Subp. 37a. Dimethylphthalate. Dimethylphthalate, 131-11-3, kidney.

[For text of subp 38, see M.R.]

Subp. 38a. Disulfoton. Disulfoton, 298-04-4, nervous system.

[For text of subps 39 and 40, see M.R.]

Subp. 40a. Ethylene glycol. Ethylene glycol, 107-21-1, kidney.

[For text of subps 41 and 42, see M.R.]

Subp. 42a. Formaldehyde. Formaldehyde, 50-00-0, stomach.

[For text of subps 43 to 46, see M.R.]

Subp. 46a. Hexane (n-hexane). Hexane (n-hexane), 110-54-3, nervous system.

[For text of subps 47 to 49, see M.R.]

Subp. 49a. Methanol. Methanol, 67-56-1, liver, nervous system.

[For text of subp 50, see M.R.]

Subp. 50a. Methyl ethyl ketone (MEK,2-butanone). Methyl ethyl ketone (MEK,2-butanone), 78-93-3, developmental effects.

Subp. 50b. Methyl isobutyl ketone (MIBK). Methyl isobutyl ketone (MIBK), 108-10-1, kidney, liver.

[For text of subps 51 to 55, see M.R.]

Subp. 55a. Nitrite. Nitrite, 14797-65-0, hematologic system.

[For text of subps 56 to 59, see M.R.]

Subp. 59a. Polychlorinated biphenyls (PCBs). Polychlorinated biphenyls (PCBs), 1336-36-3, cancer.

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

Subp. 60a. Simazine. Simazine, 122-34-9, hematologic system.

Subp. 60b. Styrene. Styrene, 100-42-5, cancer.

[For text of subp 61, see M.R.]

Subp. 61a. 1,1,2,2-Tetrachloroethane. 1,1,2,2-Tetrachloroethane, 79-34-5, cancer.

Subp. 61b. 1,1,2,2-Tetrachloroethylene. 1,1,2,2-Tetrachloroethylene, 127-18-4, cancer.

Subp. 61c. Thallium salts. Thallium salts, 7440-28-0, liver.

Subp. 61d. Tin. Tin, 7440-31-5, kidney, liver.

[For text of subps 62 and 63, see M.R.]

Subp. 63a. 1,1,1-Trichloroethane. 1,1,1-Trichloroethane, 71-55-6, liver.

[For text of subp 64, see M.R.]

Subp. 64a. 1,1,2-Trichloroethylene (TCE). 1,1,2-Trichloroethylene (TCE), 79-01-6, cancer.

[For text of subps 65 to 68, see M.R.]

Subp. 68a. Vinyl chloride. Vinyl chloride, 75-01-4, cancer.

[For text of subp 69, see M.R.]

4717.7800 REVISION OF PARTS 4717.7500 and 4717.7650.

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

Subp. 2. **Revising a health risk limit or toxic endpoint.** The department shall revise a health risk limit for a chemical or substance specified in part 4717.7500 or a toxic endpoint specified in part 4717.7650 under the procedures described in subpart 5 if:

A. the RfD or slope factor listed in part 4717.7500 is revised and listed ~~on IRIS by the United States Environmental Protection Agency~~;

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

D. the classification of a substance or chemical is changed from carcinogen to systemic toxicant and the RfD for the substance or chemical is listed ~~on IRIS by the United States Environmental Protection Agency~~;

E. the classification of a substance or chemical is changed from systemic toxicant to carcinogen and the slope factor for the substance or chemical is listed ~~on IRIS by the United States Environmental Protection Agency~~;

[For text of items F and G, see M.R.]

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

Subp. 4. **Adding a health risk limit or toxic endpoint.** The commissioner shall add to part 4717.7500 a substance or chemical, the health risk limit for that substance or chemical, and the information specified in part 4717.7400 or add to part 4717.7650 a substance or chemical, CAS RN, and toxic endpoint when a substance or chemical is detected in Minnesota groundwater and the RfD or slope factor for the substance or chemical is listed ~~on IRIS by the United States Environmental Protection Agency~~. The new health risk limit shall be calculated or the new toxic endpoint shall be specified according to the methods in parts 4717.7100 to 4717.7700 and the procedures described in subpart 5.

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

REPEALER. Minnesota Rules, part 4717.7150, subpart 5, is repealed.

Housing Finance Agency

Proposed Permanent Rules Relating to Affordable Rental Investment Fund Program

Notice of Intent to Adopt a Rule Without a Public Hearing

The Minnesota Housing Finance Agency intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedures Act, *Minnesota Statutes*, sections 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 public hearing on the rule must be submitted to:

Judie VanDerBosch
Minnesota Housing Finance Agency
400 Sibley Street, Suite 300
St. Paul, MN 55101-1998
(612) 296-9793

Subject of Rule and Statutory Authority. The proposed rule is about the Affordable Rental Investment Fund Program. The statutory authority to adopt this rule is *Minnesota Statutes* 462A.06, subd. 4 and 11. You have until 4:30 PM, September 8, 1994, to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 PM, on September 8, 1994. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Modifications. The proposed rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the agency and may not result in a substantial change in the proposed rule. 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 rule and identifies the data and information relied upon to support the proposed rule.

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

K.G. Hadley
Commissioner

Rules as Proposed (all new material)

4900.3500 SCOPE.

Parts 4900.3500 to 4900.3550 govern the implementation of the Affordable Rental Investment Fund program authorized under *Minnesota Statutes*, section 462A.21, subdivision 8b.

4900.3510 DEFINITIONS.

Subpart 1. **Application.** The definitions in this part apply in parts 4900.3500 to 4900.3550.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency created by *Minnesota Statutes*, chapter 462A.

Subp. 3. **Affordable rental housing.** "Affordable rental housing" means a development that includes at least four assisted units.

Subp. 4. **Affordable rental investment fund program.** "Affordable Rental Investment Fund program" means a loan program authorized by *Minnesota Statutes*, section 462A.21, subdivision 8b, to acquire, rehabilitate, or newly construct affordable rental housing.

Subp. 5. **Area median income.** "Area median income" means the greater of the county median income or the Minnesota non-metropolitan median income as each is provided annually to the agency by a notice from the United States Department of Housing and Urban Development.

Subp. 6. **Assisted unit.** "Assisted unit" means a unit of rental housing affordable to low-income households, as provided in part 4900.3540, in a development for which a loan has been made from the Affordable Rental Investment Fund program.

Subp. 7. **Development.** "Development" means the affordable rental housing to be acquired, rehabilitated, or newly constructed by the applicant as described in the application.

4900.3520 ELIGIBLE APPLICANTS.

Subpart 1. **Property interest.** An applicant for the Affordable Rental Investment Fund program loan must, at the time of application, possess one of the following interests in the real property that is the site of the development:

- A. a fee title;
- B. a fee title subject to a mortgage or other lien securing a debt capable of prepayment or, at the the option of the agency, subordination; or
- C. a mutually binding contract or option for the purchase of fee title.

Subp. 2. **Eligible entities.** To be eligible to receive a loan from the Affordable Rental Investment Fund program, an applicant must be:

- A. a Minnesota nonprofit entity as defined in part 4900.0010, subpart 21, including, but not limited to, a housing and redevelopment authority established under *Minnesota Statutes*, sections 469.001 to 469.047;
- B. a town, or a home rule charter or statutory city, in Minnesota;
- C. a cooperative housing corporation as defined in part 4900.0010, subpart 8;
- D. a limited dividend entity as defined in part 4900.0010, subpart 14; or
- E. a for profit entity, but only for the purposes set out in *Minnesota Statutes*, section 462A.21, subdivision 8b.

4900.3530 ELIGIBLE APPLICATIONS.

The applicant must submit an application in the form and at the time prescribed by the agency. At a minimum, the application must include pertinent details on the following:

- A. information describing the site of development, including the location, present use and zoning, surrounding land uses, and physical characteristics of the site that might affect construction;
- B. a description of the development, including the building type, the size and number of dwelling units, and the characteristics of the development that make it appropriate for residency by households;
- C. information with respect to the market for the development, including reports of market surveys or analyses and documentation of need for the development;
- D. a description of the acquisition, rehabilitation, or new construction to be completed, including a schedule of the proposed uses of any requested loan funds and the amounts proposed to be allocated to each use;
- E. a budget for the development showing all development costs, operating costs, sources of financing sought or secured, proposed rent schedule, and any other sources of income; and
- F. a timetable for completion of the development.

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4900.3540 REQUIRED OCCUPANCY.

The assisted units in the development funded in whole or part with loans from the Affordable Rental Investment Fund program must be occupied by households whose adjusted income at the time of initial occupancy does not exceed 60 percent of the area median income. The household income ceiling for assisted units may be less than 60 percent of area median income to the extent required by other nonagency funding sources used in conjunction with this program, such as foundations and federal agencies.

4900.3550 SELECTION CRITERIA.

The agency shall use the criteria in this part to determine whether an applicant will get a loan from the Affordable Rental Investment Fund program:

- A. the need, documented by the applicant, for the development in the proposed geographic area;
- B. the ability and capacity of the applicant to proceed expeditiously with the development;
- C. the applicant's prior experience in developing, owning, and operating similar development;
- D. the cost-reasonableness and quality of the development;
- E. the geographic distribution of loan funds, to the extent that loan funds can be used to assist developments throughout the state;
- F. the relationship of the proposed development to public facilities, sources of employment, and services, including public transportation, health, education, and recreation facilities;
- G. the extent to which other programs are available to assist the development;
- H. the extent to which the loan funds are combined with other sources of funding to make the development economically feasible and rents affordable for low-income families and individuals;
- I. the extent to which existing units of rental housing are available to low-income households; and
- J. the extent to which the development encourages or maintains economic integration.

Labor and Industry

Proposed Permanent Rules Relating to OSHA; Incorporation by Reference

Notice of Intent to Adopt Rules by Reference

NOTICE IS HEREBY GIVEN that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) proposes to adopt the following revisions to the Department of Labor and Industry, Occupational Safety and Health Rules, as authorized under *Minnesota Statutes* 182.655 (1992). This notice proposes the adoption by reference of Occupational Safety and Health Standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration (Federal OSHA).

All interested or affected persons have 30 days from the date this notice is published in the *State Register* to submit, in writing, data and views on the proposed amendments to the rule. Comments in support of or in opposition to the proposed amendments are encouraged. Each comment should identify the portion of the proposed amendment addressed, the reason for the comment, and any proposed change.

Any person may file with the Commissioner written objections to the proposed amendments stating the grounds for those objections and may request a public hearing. A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. Requests for hearing must include the name and address of the person submitting the request, define the reasons for the request, and discuss any proposed changes. If a public hearing is required, the Department will proceed according to the provisions of *Minnesota Statutes* § 182.655 and *Minnesota Rules* 5210.0010 to 5210.0100.

Written comments or requests for a public hearing should be sent to: Occupational Safety and Health Division, Department of Labor and Industry, 443 Lafayette Road, St. Paul, Minnesota 55155-4307. A complete copy of the standards proposed for adoption is available by writing to this address or by calling (612) 296-2116 or (612) 297-3254.

John B. Lennes, Jr.
Commissioner

Summary of Changes

The following is a brief summary of the proposed changes. Persons interested in reviewing the complete *Federal Register* notices referenced below may obtain copies from the above address.

A) "Grain Handling Facilities, Final Decision Statement." On April 1, 1994, Federal OSHA announced its determination that the existing record for grain handling facilities is sufficient to support a conclusion regarding whether the 1/8-inch action level house-keeping provision should be extended beyond priority areas. Based on that record, Federal OSHA decided not to extend the 1/8-inch action level provision beyond priority areas. A complete discussion of the background of the standard, the adequacy of the current record, and the basis for this decision was published in the April 1, 1994, edition of the *Federal Register*.

By this notice, Minnesota OSHA announces its intention to adopt the Federal OSHA decision and not extend the 1/8-inch action level provision of 1910.272, "Grain Handling Facilities," beyond priority areas.

B) "Personal Protective Equipment; Final Rule." On April 6, 1994, Federal OSHA published revisions to portions of the general industry safety standards addressing personal protective equipment (PPE). The revised standards include those containing general requirements for all PPE (1910.132) and standards that set design, selection, and use requirements for specific types of PPE (eye, face, head, foot and hand).

The revised standards update requirements to reflect the current technology and improvements in personal protective equipment and add provisions for assessing hazards and employee training. The new standards will also improve worker acceptance of wearing personal protective equipment by permitting better and more comfortable designs not permitted by current standards, and by providing information on selecting appropriate equipment for a particular work activity.

Under revised 1910.132, employers must assess the workplace to determine if hazards are present, or likely to be present, which necessitate the use of PPE. If such hazards are present, or likely to be present, the employer must select, and have each affected employee use, the types of PPE that will protect against the identified hazard. PPE must be properly fitted. The employer must verify the hazard assessment in writing. The use of damaged or defective PPE is prohibited.

Employers must provide training to each employee required to use PPE. Training will include when PPE is necessary; what PPE is necessary; how to wear PPE; and the proper care, maintenance, useful life, and disposal of the PPE. Employers must certify in writing that the employee has received and understands the training.

[Note: On July 6, 1994, Federal OSHA administratively stayed the effective date of paragraphs (d) and (f), which include the provisions for hazard assessment and training, until October 5, 1994.]

The general requirements of section 1910.132 apply to 1910.133, "Eye and Face Protection," 1910.135, "Head Protection," 1910.136, "Foot Protection" and 1910.138, "Hand Protection." Section 1910.132 does not affect 1910.134 "Respiratory Protection" or 1910.137 "Electrical Protective Devices," which will be updated as part of separate, future rulemaking actions.

Specific requirements for eye and face protection, head protection, foot protection, and hand protection are included in 1910.133, 1910.135, 1910.136, and 1910.138 respectively.

Eye and face protection provisions (1910.133) require employees to use appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acid or caustic liquids, chemical gases or vapors, or potentially injurious light radiation. Requirements for side protection, prescription lenses, filter lenses, and identification of the manufacturer are spelled out. Protective eye and face devices purchased after the effective date of the standard must comply with ANSI Z87.1-1989 or be demonstrated to be equally effective; devices purchased before the effective date must comply with ANSI Z87.1-1968 or be equally effective.

Head protection provisions (1910.135) require employees to wear protective helmets when working in areas where there is a potential for injury to the head from falling objects. Protective helmets designed to reduce electrical shock hazards shall be worn by each affected employee when near exposed electrical conductors which could contact the head. Protective helmets purchased after the effective date of the standard must comply with ANSI Z89.1-1986 or be equally effective; helmets purchased before the effective date must comply with ANSI Z89.1-1969 or be equally effective.

The foot protection provisions (1910.136) require employees to wear protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, and where employees' feet are exposed to elec-

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Proposed Rules

trical hazards. Protective footwear purchased after the effective date of the standard must comply with ANSI Z41-1991 or be equally effective; protective footwear purchased before that date must comply with ANSI Z41.1-1967 or be equally effective.

The hand protection provisions (1910.138) require employers to select and require the use of appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns and harmful temperature extremes. Employers shall base the selection of the appropriate hand protection on evaluation of the performance characteristics of the hand protection relative to the tasks to be performed, conditions present, duration of use and the hazards and potential hazards identified.

By this notice, Minnesota OSHA proposes to adopt the revisions to the personal protective equipment standards as published in the *Federal Register* on April 6, 1994. The effective date of the revised standards in Minnesota will be five days after publication of the adoption notice in the *State Register*, with the exception of 1910.132(d) and (f) which will become effective on October 5, 1994, in accordance with the Federal OSHA administrative stay.

C) "Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment; Final Rule; Stay of Enforcement and Correction." On January 31, 1994, Federal OSHA issued a new standard addressing the work practices to be used during the operation and maintenance of electric power generation, transmission, and distribution facilities. In that document, Federal OSHA also revised the electrical protective equipment requirements contained in the General Industry Standards. On June 30, 1994, Federal OSHA published a notice which stays the enforcement of some of the requirements contained in the electric power generation standard, corrects language in the preamble explaining the standard, and corrects several errors in the standards. Minnesota OSHA adopted the electric power generation standard on July 25, 1994.

The Edison Electric Institute (EEI) petitioned Federal OSHA to delay the effective date of certain requirements of the new standard until January 31, 1995, when the training requirements of 1910.269(a)(2) become effective. EEI said that several provisions require the purchase of equipment that is not in sufficient supply for the entire universe of affected employers; EEI also contended that other provisions require the modification of equipment or installations and that employers will need more than the time given in the standard. It asserted that some requirements entail significant departure from normal company practice and that detailed training is required to implement these requirements. After reviewing EEI's documentation, Federal OSHA agreed to stay the enforcement of several paragraphs as follows:

Enforcement Stayed Until February 1, 1996:

1910.269(v)(11)(xii) requires sources of ignition to be eliminated or controlled so as to prevent the ignition of combustible atmospheres associated with coal-handling operations. EEI argued that extensive modifications will be necessary at many older power plants and that these changes will take up to two years to put into place.

Enforcement Stayed Until November 1, 1994:

- 1910.269 (b)(1)(ii) Training in cardio-pulmonary resuscitation for employees at fixed work locations
- 1910.269(d) Control of hazardous energy sources (generation installations). [The stay does not apply to paragraphs (d)(2)(i) and (d)(2)(iii)]
- 1910.269(e)(2) Enclosed space training.
- 1910.269(e)(3) Rescue equipment for enclosed spaces.
- 1910.269(j)(2)(iii) Cleaning, repair, and testing of live-line tools.
- 1910.269(l)(6)(iii) Clothing worn by employees working on or near exposed energized parts.
- 1910.269(m) De-energizing transmission and distribution installations for the protection of employees.
- 1910.269(n)(3) Equipotential zone for protective grounding.
- 1910.269(n)(4)(ii) Impedance of protective grounding devices.
- 1910.269(n)(6) Order of connection of grounds. [Stay affects only lines and equipment operating at 600 volts or less.]
- 1910.269(n)(7) Order of removal of grounds. [Stay affects only lines and equipment operating at 600 volts or less.]
- 1910.269(n)(8) Additional precautions for protective grounding.
- 1910.269(o) High-voltage and high-power testing and test facilities. [The stay does not apply to paragraph (o)(2)(i)]
- 1910.269(r)(1)(vi) Line-clearance tree trimming during and after storms and other emergencies.
- 1910.269(u)(1) Access and working space for electric equipment in substations.
- 1910.269(u)(4) Guarding of rooms containing electric supply equipment in substations.
- 1910.269(u)(5) Guarding of energized parts in substations.

All other provisions of 1910.269, with the exception of 1910.269(a)(2), which becomes effective on January 31, 1995, are in effect.

By this notice, Minnesota OSHA proposes to adopt the corrections and stays of enforcement for the sections of 1910.269 described above and published in the *Federal Register* on June 30, 1994. The electric power generation standard became effective in Minnesota on July 30, 1994, with the exception of paragraph (a)(2) which is effective on January 31, 1995. Enforcement of the stayed paragraphs described in this notice will be delayed until the dates noted.

Rules as Proposed

5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.

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

Subp. 2. **Part 1910.** Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the *Federal Register* on October 24, 1978, and corrected in Volume 43, No. 216 on November 7, 1978, which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes made prior to May 31, 1993:

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

Q. *Federal Register*, Volume 59:

(1) *Federal Register*, Vol. 59, No. 20, dated January 31, 1994, "Electric Power Generation, Transmission and Distribution; Electrical Protective Equipment."

(2) *Federal Register*, Vol. 59, No. 63, dated April 1, 1994, "Grain Handling Facilities; Final Decision Statement."

(3) *Federal Register*, Vol. 59, No. 66, dated April 6, 1994, "Personal Protective Equipment for General Industry; Final Rule."

(4) *Federal Register*, Vol. 59, No. 125, dated June 30, 1994, "Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment; Final Rule—Stay of Enforcement of Certain Provisions and Correction."

[For text of subs 3 to 7, see M.R.]

Attention Builders, Architects, Designers, Property Owners...

Accessible and Usable Buildings and Facilities CABO/ANSI, A117.1

Just released by the Council of American Building Officials, this 2 publication set includes UBC Chapter 31 and appendix. Specifications in this standard (ANSI - American National Standards Institute) are to make buildings and facilities accessible to individuals with disabilities -- both new buildings and existing structures. These standards are applicable to doorways, routes, seating and other elements of building design. Includes diagrams and floor plans. The two books (total of 96 pp) are bound and three-hole drilled for ease of use. **19-2 SR \$35.00**



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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 Trade and Economic Development

Adopted Permanent Rules Relating to the Urban Challenge Grant Program

The rules proposed and published at *State Register*, Volume 18, Number 46, pages 2428-2431, May 16, 1994 (18 SR 2428), are adopted with the following modifications:

Rules as Adopted

4355.0300 BUSINESS LOANS BY NONPROFIT CORPORATIONS.

Subp. 5. **Disapproval of applications.** In cases where the corporation fails to demonstrate that it has ~~or can reasonably be expected to develop the capacities required by~~ met the requirements in Minnesota Statutes, section 116M.18, subdivision 2, the board must disapprove the application. The commissioner shall inform the corporation of the board's decision, in writing, stating the reasons for the denial.

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Emergency Rules

Proposed Emergency Rules

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

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

Adopted Emergency Rules

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

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

Continued/Extended Emergency Rules

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

Higher Education Coordinating Board

Proposed Emergency Amendments to Permanent Rules Relating to Child Care Grant Program

Notice of Intent to Adopt an Emergency Rule

The Minnesota Higher Education Coordinating Board intends to adopt an emergency rule following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.29 to 14.36. You may submit written comments on the proposed emergency rule within 25 days.

Agency Contact Person. Comments or questions on the rule must be submitted to:
 Mary Lou Dresbach
 Minnesota Higher Education Coordinating Board
 400 Capitol Square Building
 550 Cedar Street
 St. Paul, MN 55101
 (612) 296-3974

Subject of Emergency Rule and Statutory Authority. The proposed emergency rule is about Child Care Grants. The statutory authority to adopt this emergency rule is *Minnesota Statutes* 136A.04, Subd. 1(8) and *Minnesota Statutes* 14.29, Subdivision 1. A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed. A free copy of the proposed emergency rule is available upon request from the agency contact person listed above.

Comments. You have until 4:30 PM, September 2, 1994 to submit written data and views on the proposed emergency rule or any part or subpart of the emergency rule. Your comment must be in writing and received by the agency contact person by the due date.

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

Expenditure of Public Money by Local Public Bodies. *Minnesota Statutes*, section 14.11, subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules. These rules will not impact the spending of local public bodies. The rules relate to financial aid assistance to post-secondary students for child care costs related to the care of their eligible dependent children.

Impact on Agriculture Lands. *Minnesota Statutes*, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

Emergency Rules

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

Effective Period for Emergency Rule. The emergency rule will take effect five working days after approval by the attorney general and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with *Minnesota Statutes*, section 14.35.

David R. Powers
Executive Director

Dated: 28 July 1994

Rules as Proposed

4830.7100 DEFINITIONS.

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

Subp. 2a. Eligible child. "Eligible child" means a child who is 12 years of age or younger, or 14 years of age or younger who is disabled as defined in Minnesota Statutes, section 120.03, and who is receiving or will receive care on a regular basis from a provider of child care services as those terms are defined in Minnesota Statutes, section 256H.01, subdivisions 2 and 12.

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. Eligible student. "Eligible student" means a student who:

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

C. is not receiving tuition reciprocity;

D. is not a recipient of aid to families with dependent children (AFDC);

~~D. E.~~ has not earned a baccalaureate degree and or has not been enrolled full time in any postsecondary institution fewer more than eight semesters, 12 quarters, or the equivalent;

~~E. F.~~ is pursuing a nonsectarian program or course of study that applies to an undergraduate degree, diploma, or certificate;

~~F. G.~~ is enrolled at least half time in an eligible institution for the term for which an award is received;

~~G. H.~~ is in good academic standing and making satisfactory academic progress, as defined by the institution according to federal requirements;

~~H. I.~~ reports any changes to data reported on the child care application within ten days of the change; and

J. is not in default, or if in default, has made satisfactory arrangements to repay the loan with the holder of the note.

Subp. 5a. Family income and family size. "Family income and family size" means the income and family size used to determine an award from the state grant program under parts 4830.0200 to 4830.0700.

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

Subp. 7. Institution's share. "Institution's share" means the number of students in an eligible institution who have applied for the state scholarship and grant program under parts 4830.0200 to 4830.0700 for the most ~~current~~ recent academic year available and who have reported dependent children.

4830.7200 ELIGIBLE INSTITUTIONS.

Institutions eligible for child care grants are Minnesota public postsecondary institutions and ~~Minnesota private, residential colleges or universities~~ baccalaureate degree granting two-year or four-year liberal arts colleges or universities or Minnesota nonprofit two-year vocational technical schools granting associate degrees that have signed a child care program agreement with the board.

4830.7300 STUDENT PRIORITY.

~~Beginning July 1, 1990,~~ A student who has received an award from the program in the immediately preceding academic year and who has had continuing enrollment at that institution since the time that the non-AFDC child care award was given must be given a child care award for the next academic year if the student remains eligible and funds are available. A student shall apply for a continuation of funds by ~~June 1 of the preceding academic year~~ the deadline date established by the school or lose priority ranking for

the funds over students who did not apply for a continuation of funds by ~~June 1~~ the established deadline and eligible students applying for a child care grant for the first time.

4830.7400 APPLICATION AND DISTRIBUTION OF FUNDS FOR GRANTS.

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

Subp. 2. **Yearly allocation to institutions.** ~~After the 1989-1990 academic year,~~ Funds shall be allocated to each eligible institution according to the following formula:

- A. the institution's share divided by the sum of participating institutions' shares;
- B. multiplied by the current fiscal year's appropriation for child care grants; ~~and~~
- C. multiplied by the percent of funds for child care grants actually used by the institution during the prior academic year.

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

Subp. 4. **Administrative expense.** By July 1 of each year, the board shall set the percentage of awarded child care grant funds that may be used for administration of the child care program by the board and the institution. The percent of funds taken for the administration of the non-AFDC child care program shall be based on the amount of funds disbursed to students for that fiscal year.

[For text of subs 5 to 7, see M.R.]

Subp. 8. [See repealer.]

4830.7500 AMOUNT AND TERM OF GRANTS.

Subpart 1. [See repealer.]

Subp. 2. **Amount.** The amount of a grant must ~~cover~~ be based on:

- A. the cost of child care for all children 12 years old or younger, or 14 years old or younger if the child is handicapped as defined in *Minnesota Statutes*, section 120.03;
- B. ~~the total number of eligible hours for which child care is needed; and~~
- C. ~~the provider's charge up to a maximum rate established each year by the board based on rate information received from the Department of Human Services in each county where services are being provided;~~
- D. the student's enrollment status;
- E. the age of the children; and
- F. the award chart prepared by the board.

The institution shall determine the amount of child care needed for the eligible hours of education as defined in part 4830.7100, subpart 4, and the number of eligible hours of employment as defined in part 4830.7100, subpart 3, for each academic term and then subtract the amount of student copayment for each month of child care according to charts provided by the board.

The amount of the grant must not exceed 60 hours per child per week and must not cover hours during which a parent or legal guardian is capable and available to care for the children.

If, after an award is made, a student presents information to the institution that would increase the student's child care award, the award must be increased if program funds are available.

The institution shall estimate the amount of child care needed for the academic year and summer terms, as applicable, for no more than 40 hours per week per eligible child and add that cost to the institution's normal student budget used to calculate the student's financial need. The non-AFDC child care grant and other forms of financial aid may be used to pay for the child care if the expense is not covered by other funds.

Subp. 2a. **Academic year award.** The amount of the grant per eligible child for the academic year must be the amount shown on the non-AFDC child care award chart, divided by the number of terms in the academic year, then divided by 15 and multiplied by the number of credits for which the student is enrolled, up to 15 credits.

Subp. 2b. **Summer terms award.** Students attending summer school may receive an additional grant award per eligible child up to one-third of the academic year award shown on the non-AFDC child care award chart for quarter-based schools and up to one-half the academic year award shown on the chart for semester-based schools.

Subp. 3. [See repealer.]

Subp. 3a. **Award amount.** The maximum grant per eligible child for the academic year must not exceed the calculated amount in subpart 2a plus the amount in subpart 2b, or the child care cost incurred annually by an eligible student, whichever is less.

Emergency Rules

CHILD CARE GRANTS PER ELIGIBLE CHILD

<u>Total Income</u> <u>less than</u>	<u>Family</u> <u>Size</u> <u>2</u>	<u>Family</u> <u>Size</u> <u>3</u>	<u>Family</u> <u>Size</u> <u>4</u>	<u>Family</u> <u>Size</u> <u>5</u>
\$10,000	\$1,500	\$1,500	\$1,500	\$1,500
\$13,000	\$1,500	\$1,500	\$1,500	\$1,500
\$16,000	\$1,200	\$1,500	\$1,500	\$1,500
\$19,000	\$900	\$1,200	\$1,500	\$1,500
\$22,000	\$600	\$900	\$1,200	\$1,500
\$25,000	\$300	\$600	\$900	\$1,500
\$28,000	\$0	\$300	\$600	\$1,500
\$31,000	\$0	\$0	\$300	\$1,200
\$34,000	\$0	\$0	\$0	\$900
\$37,000	\$0	\$0	\$0	\$600
\$40,000	\$0	\$0	\$0	\$300
\$43,000	\$0	\$0	\$0	\$0
\$46,000	\$0	\$0	\$0	\$0
\$49,000+	\$0	\$0	\$0	\$0

<u>Total Income</u> <u>less than</u>	<u>Family</u> <u>Size</u> <u>6</u>	<u>Family</u> <u>Size</u> <u>7</u>	<u>Family</u> <u>Size</u> <u>8</u>	<u>Family</u> <u>Size</u> <u>9</u>	<u>Family</u> <u>Size</u> <u>9+</u>
\$10,000	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
\$13,000	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
\$16,000	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
\$19,000	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
\$22,000	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
\$25,000	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
\$28,000	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
\$31,000	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
\$34,000	\$1,200	\$1,200	\$1,500	\$1,500	\$1,500
\$37,000	\$1,200	\$1,200	\$1,200	\$1,500	\$1,500
\$40,000	\$900	\$900	\$1,200	\$1,200	\$1,200
\$43,000	\$600	\$600	\$900	\$900	\$1,200
\$46,000	\$300	\$300	\$600	\$600	\$900
\$49,000+	\$0	\$0	\$300	\$300	\$600

4830.7600 PAYMENT.

Child care payments shall be made each academic term to the student or to the child care provider, as determined by the institution. Institutions may make payments more frequently.

4830.7710 PROCEDURES FOR DENIAL OR TERMINATION OF A CHILD CARE AWARD.

Subpart 1. **Applicability.** Students meeting the eligibility requirements in part 4830.7100, subpart 5, but denied a child care grant award due to an institution's lack of program funds, shall be placed at the student's request on the institution's waiting list pending the availability of program funds. Subpart 2 and part 4830.7720 are not applicable to students who are denied child care grant awards due to lack of program funds.

Subp. 2. **Procedures.** A school must follow the procedures in items A to D when denying or terminating a child care grant award, except in cases where the denial is due to lack of program funds:

A. The school shall notify a student, in writing, of denial or termination of a child care grant award. The notice must state the reason or reasons the assistance is being denied or terminated. The notice shall inform the student of the right to contest the adverse action and the procedure for doing so. Except for cases of suspected fraud when a child care grant is terminated, the notice must be mailed to the student's last known address, or hand delivered to the recipient at least 14 calendar days before terminating assistance.

Emergency Rules

In cases of suspected fraud, the termination notice must be mailed or hand delivered at least five working days before the effective date of the termination.

B. Failure of a child care grant recipient to provide required information or documentation, to report changes required under part 4830.7100, subpart 5, or to pay the family copayment fee or the provider charge if the state share of the subsidy is paid directly to the family, is just cause for terminating assistance.

C. Child care assistance payments shall be terminated pending the result of the appeal process in part 4830.7720. If the appeal results in the continuation of child care payments to the student, payments covering the period from termination to the appeal decision to continue child care payments shall be made retroactively to the extent allocated funds are available.

D. Termination. When terminating a student's non-AFDC child care award, a school must follow its normal procedures used to terminate other financial aid programs. If the child care grant award is made by vendor payment, the school shall inform the child care provider of the notice of termination pending the results of the appeal process.

4830.7720 APPEAL PROCESS.

Subpart 1. **Appeal request.** An applicant or recipient of a child care subsidy adversely affected by a school's action may file a written request for an appeal with the school.

Subp. 2. [See repealer.]

Subp. 3. **Appeal process.** Students must follow the normal appeal process established by the school to handle complaints about financial aid program decisions. ~~The school's appeal process must be completed within two weeks of the student's filing a written request for an appeal with the school.~~ If the student is not satisfied with the result of the appeal, the student may ask the school to forward the results to the executive director of the Minnesota Higher Education Coordinating Board for review. ~~The school must forward the results of the appeal and documentation provided by the student at the appeal to the executive director within two weeks of the school's appeal decision.~~ The executive director shall review the decision and accompanying documentation, and shall make a decision according to *Minnesota Statutes*, section 136A.125, and parts 4830.7000 to 4830.7900. The student and school shall be advised in writing of the executive director's decision. The executive director's decision is final.

4830.7800 REFUNDS.

If a recipient fails to enroll or reduces enrollment, the institution school must refund the unused portion of the award. If the executive director determines that a school has fraudulently handled grant money, the refund of the unused portion of the award is immediately due, and the board may institute a civil action for recovery if necessary. Refunds to the board are determined as follows:

A. calculate the percentage that the child care grant award represents of the student's total financial aid package for the applicable term; excluding funds received from federal Title IV programs. United States Code, title 20, chapter 28, sections 1070 to 1099c-1; and

B. calculate the total tuition refund amount using the institution's refund policy or the federal pro rata refund calculation;

C. subtract the federal aid programs' refund amount from item B to determine the remaining tuition refund amount; and

D. multiplied multiply the percentage in item A by the amount determined to be refunded to the student under the institution's refund policy. The result yields calculated in item C to determine the amount to be refunded to the program fund non-AFDC child care program.

Refunded awards are money to the non-AFDC child care program is available for reassignment awards to other qualified applicants eligible students.

4830.7900 REPORTS OF DATA.

Institutions must:

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

C. upon the request of the board, report information about students who receive awards, students who are on the waiting list, and students who were denied awards, including the institution's methods of prioritizing applicants if insufficient funds are available; and

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

EFFECT OF EMERGENCY AMENDMENTS. After the emergency amendments expire as provided in Minnesota Statutes, section 14.35, the permanent rules as they read prior to those amendments shall again be in effect, except as they may be subsequently amended, and all rules that were repealed shall be revived.

REPEALER. Minnesota Rules, parts 4830.7100, subparts 3 and 4; 4830.7400, subpart 8; 4830.7500, subparts 1 and 3; 4830.7700; and 4830.7720, subpart 2, are repealed.

Revenue Notices

Withdrawn Rules

Department of Transportation

Division of State Aid for Local Transportation

Notice of Withdrawal of Proposed Rules Governing Requirements for Subcontracting to Targeted Group Businesses on State-Aid Contracts

NOTICE IS HEREBY GIVEN that the proposed rules relating to targeted group business subcontracting requirements for state-aid funded construction projects, as published in the *State Register* on January 3, 1994, pages 1589 to 1592 (18 S.R. 1589), are withdrawn.

Dated: 19 July 1994

James N. Denn, Commissioner
Department of Transportation

Revenue Notices

The Department of Revenue began issuing revenue notices in July of 1991. Revenue notices are statements of policy made by the department that provide interpretation, detail, or supplementary information concerning a particular statute, rule, or departmental practice. The authority to issue revenue notices is found in *Minnesota Statutes* §270.0604.

Department of Revenue

Revenue Notice #94-17: Corporate Franchise Tax; Foreign Operating Corporation (FOC) Factors

ISSUE: Whether a corporation which does not have both a property and payroll factor can qualify as a Foreign Operating Corporation (FOC) under *Minnesota Statutes*, section 290.01, subdivision. 6(b).

A corporation cannot qualify as an FOC without both a property and payroll factor.

The statute in question requires that a corporation have the following characteristics to qualify as an FOC. It must:

1. Be a domestic corporation;
2. Be a member of a unitary group, one of whose members is subject to Minnesota taxation, and;
3. Either;
 - A. "The average of the percentage of its property and payrolls assigned to locations inside the United States and the District of Columbia, excluding the Commonwealth of Puerto Rico and possessions of the United States, as determined under 290.191 or 290.20 is 20 percent or less", or;
 - B. The corporation is an Internal Revenue Code section 936 corporation.

The statute requires that two factors be averaged. Two factors cannot be averaged when only one is present. As the statute cannot require a mathematical impossibility, a corporation with only payroll or property, not both, cannot qualify as an FOC. A person claiming an exclusion from the general rule of taxation cannot strain the language of the statute to force the exclusion's application.

As a starting point in any analysis of a tax statute, it is necessary to determine the nature of the statutory provision in question.

Minnesota Statutes, section 290.01, subdivision 6(b) provides for an exception from taxation to a corporation generally included as an entity subject to tax. Language relating to exceptions must be strictly construed in favor of the general application of the tax. In such an instance taxation is presumed, and the taxpayer must show by clear and express statutory language that it is entitled to the exclusion. Unclear or imprecise language cannot be interpreted to support a position excluding income or persons from taxation if they have previously generally been defined as taxable. Ambiguity as to legislative intent does not fulfill the taxpayer's burden of persuasion, for any ambiguity as to the deduction, exemption or other exclusion from the general rule of taxation must be resolved in favor of taxation.

Dated: 8 August 1994

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 Economic Security

Division of Rehabilitation Services

Notice of Solicitation of Outside Information or Opinions Regarding Amendment of Rules Governing Extended Employment Program and Formation of Advisory Stakeholder Task Force

NOTICE IS HEREBY GIVEN that the State Department of Economic Security's Division of Rehabilitation Services (DRS) is seeking information or opinions from sources outside the department in preparing to propose substantive amendments to the rules governing the Extended Employment program, *Minnesota Rules*, parts 3300.1950 to 3300.3050. The department is authorized to adopt, amend, suspend or repeal rules governing the Extended Employment program by *Minnesota Statutes* 268A.03(m) and by *Minnesota Statutes* 268A.09, subdivision 5, which authorizes the commissioner to adopt rules for the Extended Employment Program.

The purpose of the review and revision of the rules governing the Extended Employment Program is to improve the programmatic and administrative effectiveness of the Extended Employment Program in providing employment assistance to Minnesotans with severe disabilities who require ongoing support services to secure and retain employment.

Summary of issues. While the rule governing the Extended Employment Program, in its entirety, will be subject to review and revision, key issues include: 1) the clarity of the program's employment mission in terms of program purpose, performance factors and outcomes; and the employment status of Extended Employment Program workers with Extended Employment Program service providers; 2) the performance factors utilized in program funding and evaluation; 3) program allocation, audit, and reconciliation; 4) consideration of specific eligibility criteria for entrance and closure from the program; 5) the status of the work activity program; and 6) the status of self-employment or home-based employment in the Extended Employment Program.

DRS plans to promulgate rule changes to be effective 7/1/95. Because of the substantive nature of potential revisions to the rule, a public hearing will be scheduled at the time changes to the rule are proposed.

Advisory Task Force. DRS will convene a time-limited stakeholder task force comprised of Extended Employment Program workers, Extended Employment program providers, parents and advocates, and other governmental agencies to provide advice to the agency on issues involved in the rules promulgation. DRS proposes to convene the task force in September 1994. The task force's work is expected to be completed by the end of June 1995.

Persons or organizations wishing to provide opinions or information on the Extended Employment Program rules should contact:

Official Notices

David Sherwood-Gabrielson, Director
Extended Employment Program, DRS
390 North Robert Street, 1st Floor
St. Paul, Minnesota 55101

Phone: (612) 296-9150 FAX: (612) 297-5159
TDD: (612) 296-3900

Persons or organizations wanting information on the Extended Employment Program stakeholder task force should contact:

Carolyn Moe, Secretary
Extended Employment Program, DRS
390 North Robert Street, 1st Floor
St. Paul, Minnesota 55101

Phone: (612) 296-5628 FAX: (612) 297-5159
TDD: (612) 296-3900

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

Dated: 1 August 1994

R. Jane Brown, Commissioner
Department of Jobs and Training

Department of Health

Office of Rural Health and Primary Care

Notice of Creation of a List of Integrated Service Network, Community Integrated Service Network and Health Care Cooperative Consultants Qualified to Provide Consulting Services to Developing Health Care Networks and/or Health Care Cooperatives

The Minnesota Department of Health Office of Rural Health and Primary Care is currently preparing a technical assistance manual to assist in the development of Integrated Service Networks, Community Integrated Service Networks and Health Care Cooperatives. A list of consultants qualified to provide health care network development consultant services is planned for inclusion in the manual. In order to receive an application for inclusion on the consultant's list contact:

Kristen Gloege
Minnesota Department of Health
Office of Rural Health and Primary Care
717 Delaware Street, Southeast
P.O. Box 9441
Minneapolis, MN 55440-9441
(612) 623-5369

For more information, address questions to the above address or telephone number. Deadline for application requests is 4:30 p.m. on August 17, 1994.

Department of Human Services

Dental Providers List of Services No Longer Requiring Prior Authorization

The dental prior authorization area is undergoing a number of changes effective August 9, 1994. The following services will no longer require Prior Authorization as of August 9, 1994, for recipients of Minnesota Health Care Programs (Medical Assistance, General Assistance Medical Care, and MinnesotaCare).

DELETED from Prior Authorization August 9, 1994

Out Patient Hospitalization for dental treatment

D9999

**** **Inpatient hospitalization** will continue to require prior authorization either by phone or by using the ADA form when the service is provided by a dentist. Use code D9999 and provide medical documentation and information.

Periodontics

Periodontal scaling with gingival inflammation D4345

Endodontics

Root Canal Therapy D3330

Retreatment anterior D3346

Retreatment bicuspid D3347

Retreatment molar D3348

Extractions

Surgical extraction erupted tooth D7210

Surgical extraction soft tissue D7220

Surgical extraction partially boney D7230

Prosthodontics

Interim complete denture (upper) D5810

Interim complete denture (lower) D5811

Interim partial denture (upper) D5820

Interim partial denture (lower) D5821

Immediate upper dentures D5130

Immediate lower dentures D5140

Dentures that are lost, broken, stolen D5110*
or are an initial placement do not need PA. D5120*

Dentures that are over five years old and cannot
be relined, rebased also do not need PA.

*Replacement requests for complete dentures(D5110 and D5120) for any reason that are **under five** years old will require a **paper prior authorization request** with a detailed explanation of the need for a replacement. If this is the **second** replacement a **paper prior authorization request** will be necessary. The EVS system will tell you when the recipient had their last denture made or if there has been more than one. The number for the EVS system is 282-5354 or 1-800-657-3613.

Only **inpatient hospitalization** will be done on the phone.

Department of Human Services

Department of Health

Department of Public Safety

Notice of Intent to Solicit Outside Information or Opinions Regarding Proposed Merit System Rules Governing the Compensation Plan and Salary Adjustments and Increases

NOTICE IS HEREBY GIVEN that the State Departments of Human Services, Health, and Public Safety are seeking information or opinions from sources outside the agencies in preparing to propose amendments to the Merit System rules governing the compensation plan and salary adjustments and increases. The amendments to the rules are authorized by *Minnesota Statutes*, sections 256.012, 144.071 and 12.22, subd. 3, which permit the Merit System to establish rules to provide local and county appointing authorities with an effective system of personnel administration based on merit principles. The amendments would provide for salary adjustments for incumbents and adjustments to the various salary ranges in the Merit System compensation plan.

Official Notices

During the course of the rule development process the following issues may be considered: the size of the adjustments granted in other jurisdictions in relation to the proposed Merit System adjustment and the cost to local appointing authorities.

The Departments will not form an advisory task force to aid in the development of the rule.

It is anticipated that the rule adoption process will take approximately six months.

The State Departments of Human Services, Health and Public Safety request 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:

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

Oral statements will be received during regular business hours over the telephone at (612) 296-3996 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the Minnesota Merit System shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 29 July 1994

Betty Carlson
Merit System Supervisor

Department of Labor and Industry

Labor Standards Division

Notice of Prevailing Wage Certifications for Commercial Construction Projects

Effective August 8, 1994 prevailing wage rates were determined and certified for commercial construction projects in the following counties:

Benton: Sauk Rapids Middle School Remodeling-Sauk Rapids.

Blue Earth: Mn/DOT Mankato Headquarters Elevator/Lobby & Radio ESS Shop Addition.

Cass: Ah Gwah Ching Center Asbestos Removal In Power House & Hot Room-Ah Gwah Ching.

Clay: Moorhead State University Center For The Arts 1994 Partial Reroofing-Moorhead; Moorhead National Guard Armory M-Coft Pad Site Preparation-Moorhead.

Crow Wing: Brainerd High School Physical Education Addition-Brainerd.

Dakota: U of M Resident Exterior Painting Buildings TC192 & TC42-Rosemount.

Hennepin: Eden Prairie Public Schools Energy Management System-Eden Prairie.

Itasca: Grand Rapids National Guard Armory Install 3-Phase Electrical Outlet-Grand Rapids.

Koochiching: Holler Elementary Underground Storage Tank Removal & Installation-International Falls.

Ottertail: Waste Water Treatment Facility Improvements Phase II-Fergus Falls.

Pine: Pine City National Guard Armory Install 3-Phase Electrical Outlet & National Guard Armory M-Coft Pad Site Preparation-Pine City.

Ramsey: U of M Green Hall Artwork Project-St. Paul Campus.

St. Louis: Hibbing National Guard Armory & Hibbing OMS Shop Install 3-Phase Electrical Outlet-Hibbing; Duluth National Guard Armory Install 3-Phase Electrical Outlet-Duluth; Chisholm National Guard Armory Install 3-Phase Electrical Outlet-Chisholm.

Copies of the certified wage rates for these projects may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306. The 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

Department of Natural Resources

Bureau of Information and Education

Notice of Solicitation of Outside Information or Opinions Regarding the Proposed Rules Governing the Carriage of Personal Flotation Devices Aboard Watercraft

NOTICE IS HEREBY GIVEN that the Minnesota Department of Natural Resources is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing the carriage of personal flotation devices (life-saving devices) aboard watercraft.

Subject of Rules and Statutory Authority. Specifically, the proposed rules will cover the number and type of personal flotation devices that must be carried aboard watercraft. This is a result of: 1) a change in the federal regulations by the United States Coast Guard (USCG), and 2) the desire to bring Minnesota's rules in conformity with those of the five bordering states. One of the primary impacts of the proposed rules would be the elimination of the USCG Type IV throwable device (boat cushion) as a primary lifesaving device on watercraft. In order to lessen the impact, a tentative effective date of May 1, 1996 is being considered.

The adoption of the rules is authorized by *Minnesota Statutes*, sections 86B.211 (6) and 86B.501, subdivision 1, which permit the agency to promulgate rules for the carriage of personal flotation devices.

Small Business Considerations. Outside opinion is also being solicited as to any effect the rules might have on small businesses, as defined under *Minnesota Statutes*, section 14.115, subdivision 1. The rules may have an impact on small businesses, such as: 1) resorts, canoe outfitters and businesses which rent watercraft and will need to replace these devices and 2) marinas, marine dealers, and other retailers which sell personal flotation devices. The impact of this proposed rule change should be reduced with the May 1, 1996 effective date. Some of these businesses will also be affected by the upcoming change in federal regulations on those bodies of water subject to jurisdiction by the Coast Guard.

Comments and Agency Contact Person. The Minnesota Department of Natural Resources 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:

Kim Elverum
Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4046

Oral statements will be received during regular business hours over the telephone at (612) 296-0905 and in person at the above address.

A copy of this notice will be mailed to all parties who have registered their name with the Department for the purposes of notice of rulemaking activity. The Department does not intend to establish an advisory task force on this issue. If no hearing is requested, the rulemaking process is expected to be completed during November, 1994.

All statements of information and opinions shall be accepted throughout the rulemaking process until the rules are either adopted or withdrawn. All written material received by the Department of Natural Resources shall become part of the rulemaking record to be submitted to the attorney general or the administrative law judge in the event the rules are adopted.

Dated: 29 July 1994

Rodney W. Sando, Commissioner
Department of Natural Resources

Regional Transit Board

Notice of Public Hearing on Proposed 1995 Budget

The Regional Transit Board (RTB) will hold a public hearing on its proposed 1995 budget on Monday, August 15, 1994, at 5:00 p.m. The hearing will be held in the board Chambers on the first floor of Mears Park Centre, 230 E. 5th Street, downtown St. Paul. Interested persons are encouraged to attend this hearing and offer public comment. Sign language interpreters will be provided. Please call Mary Fitzgerald, board secretary, at 229-2700 (or 229-2715 TTY) if you wish to speak at the public hearing. People may also sign up at the hearing. Copies of the proposed budget may be obtained or examined by contacting the Regional Transit Board offices, 7th floor, Mears Park Centre, 230 E. 5th Street, St. Paul, MN 55101, telephone 292-8789 or 229-2715 TTY.

Sally Evert
Chair

Department of Transportation

Goal for Disadvantaged Business Enterprises for Federal Fiscal Year 1995

The Minnesota Department of Transportation (Mn/DOT) has established a goal of 11% for Disadvantaged Business Enterprises (DBEs) for all modes of transportation for federal fiscal year 1995 (October 1, 1994 through September 30, 1995).

The Intermodal Surface Transportation and Efficiency Act (ISTEA) continues to require that women business owners be presumed to be socially and economically disadvantaged and are included in the DBE goal.

The department's DBE plan is available for public inspection during normal business hours (8:00 a.m. to 4:00 p.m.) at Mn/DOT Central Office, Room 207 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, for 30 days following the date of this notice. The comments are for information purposes only.

Please respond to: The Minnesota Department of Transportation
EEO Contract Management Office
395 John Ireland Boulevard
Mail Stop 170 Transportation Building
St. Paul, Minnesota 55155

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

Available through Minnesota's Bookstore. Use the handy order form on the back of the State Register to order.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

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 Human Services

Chemical Dependency Program Division

Request for Proposals for Treatment Services for Chemically Dependent Pregnant Women and Women with Children

The Chemical Dependency Program Division of the Minnesota Department of Human Services (hereinafter, CDPD) is soliciting proposals through a competitive bidding process for initiation or expansion of services to increase positive treatment outcomes for chemically dependent pregnant women and women with children, \$300,000.00 is available for two to three agencies. Eligible applicants are licensed alcohol and drug treatment programs run by non-profit or for profit organizations knowledgeable in the areas of chemical dependency, child development, parenting skills and housing, who are willing to develop or expand a project for recovering substance abusing pregnant women and women in alcohol and drug treatment where their children (ages 0-12) can be with them and that are connected with services that provide pre/postnatal care. Proposals may be submitted for: The development or expansion of residential or non-residential chemical dependency treatment services for pregnant women and women with children. Programs in Western and Southern Minnesota and half-way houses are especially encouraged to apply.

This Request for Proposals is contingent on the availability of funds. Projects are expected to begin October 1, 1994. The State reserves the right to reject any and all proposals and to apply the funds to another purpose. The State will not reimburse for the costs of proposal preparation or participation in proposal consideration procedures. Eight copies of the proposal must be received by CDPD no later than 4:20 p.m., Thursday, August 25, 1994, or have a legible postmark date no later than August 24, 1994. Proposals must follow the CDPD proposal format. Grant application forms and copies of the RFP are available upon request from the Chemical Dependency Program Division (296-3991). Proposals should be sent to:

Sheila Vadnais, Grants Assistant
Chemical Dependency Program Division
Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155-3823

Requests for information concerning program issues should be addressed to Pamela Young, Women's Planner (612/296-4589), and budget/fund usage questions should be addressed to Mike Zeman (297-1863). Training on how to complete application materials will be provided at the Minnesota Department of Human Services, 444 Lafayette Rd, St. Paul, MN, August 8, 1994. Please call Pamela Young at 296-4589, if you wish to attend this training.

Urban Initiative Board

Notice of Request for Proposals for Non Profit Organizations to be Certified to Receive Urban Challenge Grants

The Urban Initiative Board is accepting applications from non profit organizations in the Twin Cities area who are seeking to be selected to receive funds under the "Urban Challenge Grant Program." The Board received a \$6 million state appropriation to provide funds to non profit corporations, who will use the funds for loans to racial and ethnic minorities and others creating jobs in low income areas (*Minnesota Statutes* 116M).

Applicants have until 4:30 p.m. on September 16, 1994 to submit applications to the Board at the address below. If mailed, applications must be received by that date and time.

A full copy of the Request for Proposals can be obtained by writing or calling the contact person identified below. Copies of the statute are also available, as are copies of the administrative rules promulgated pursuant to the statute (*Minnesota Rules* parts 4355.0100-4355.0500).

Professional, Technical & Consulting Contracts

For additional information, please contact:

Mark Lofthus
Urban Initiative Board
c/o Department of Trade and Economic Development
500 Metro Square
121 7th Place East
St. Paul, MN 55101-2146
Telephone: (612) 296-9090

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 Administration

State Designer Selection Board

Request for Proposal for a Technical College System Project

To Minnesota Registered Design Professionals:

The State Designer Selection Board has been requested to select a designer for a Technical College System project. Design firms who wish to be considered for these projects should deliver proposals on or before 4:00 p.m., August 30, 1994, to:

George Iwan
Executive Secretary, State Designer Selection Board
Room G-10, Administration Building
St. Paul, Minnesota 55155-3000

The proposal must conform to the following:

- 1) Ten (10) copies of the proposal will be required.
- 2) All data must be on 8 1/2" x 11" sheets, soft bound.
- 3) The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.
- 4) **Mandatory Proposal contents in sequence:**
 - a) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc. If the response is from a joint venture, this information must be provided for firms comprising the joint venture.
 - b) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. Identify roles that such persons played in projects which are relevant to the project at hand. **NOTE NEW REQUIREMENT:** The proposal *must* contain a statement indicating whether or not the consultants listed have been contacted and have agreed to be a part of the design team.
 - c) A commitment to enter the work promptly, if selected, by engaging the consultants, and assigning the persons named 4b above along with adequate staff to meet the requirements of work.
 - d) A list of State and University of Minnesota current and past projects and studies awarded to the prime firm(s) submitting this proposal during the four (4) years immediately preceding the date of this request for proposal. The prime firm(s) shall list and total all fees associated with these projects and studies whether or not the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid directly to engineers or other specialty consultants employed

Professional, Technical & Consulting Contracts

on the projects and studies listed pursuant to the above. **NOTE:** Please call for a copy of the acceptable format for providing this information.

e) A section containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described. It must be noted if the personnel were, at the time of the work, employed by other than their present firms.

The proposal shall consist of no more than twenty (20) faces. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

5) Statutory Proposal Requirements:

In accordance with the provisions of *Minnesota Statutes*, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted.

The proposal will not be accepted unless it includes one of the following:

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
- b) A statement certifying that the firm has a current certificate of compliance issued by the Commissioner of Human Rights; or
- c) A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months; or
- d) A statement certifying that the firm has an application pending for a certificate of compliance.

6) Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:

- a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded; or
- b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures, their schedule for the project herein described or the fee format form may be referred to George Iwan at (612) 296-4656.

7) Project - 17-94

Remodeling and Addition

St. Cloud Technical College

The State Board of Technical Colleges intends to retain an architectural/engineering Design firm to provide consulting services to complete the planning, design, bidding and construction for the St. Cloud Technical College Remodeling and Addition. The Project includes building improvements generally following a portion of Phase 1 of the Campus Master Plan dated June 1992. The Project will consist of the following:

- A. Remodeling of approximately 36,400 GSF to address the following functional areas:
 - 1. Provide new larger classrooms (about 48 students) including interactive television instructional technology systems to link to other higher education campuses.
 - 2. Consolidate spaces for some programs and provide faculty office clusters.
 - 3. Provide space for the Center for Innovation and Economic Development.
 - 4. Expand the Media Center faculty resources work area.
 - 5. Remodel and improve spaces for registration, business services, placement, financial aid, administrative affairs, student affairs and the campus store.
- B. A building addition of approximately 3,600 GSF of infill space between existing building wings to address some of the above functional needs.

The selected Designer shall provide a comprehensive scope of services including Pre-design Planning, Schematic Design, Design Development, Construction Documents, Bidding and Construction Administration Phases. The Design Team shall provide all

Professional, Technical & Consulting Contracts

architectural and engineering discipline services required. The Design Team shall verify the exact scope of all proposed remodeling components related to the Campus Master Plan and shall complete all necessary space planning and programming verification work during the Pre-design Planning Phase.

The selected Designer and support firms shall demonstrate experience in successfully completing higher education remodeling projects of a similar size, type and complexity. The Project will require discussions with and synthesizing input from campus users. A project team will be developed with the Designer as the key organization responsible for consolidation of all data into an acceptable and cost responsive design solution. The Owner may retain additional specialty consultants to assist in the Project work.

This Project work has been funded for \$1,561,000 for the entire Project including all costs for administration, project support, site investigations, testing services, design fees, reimbursables, construction, contingencies and all related Project expenses. The Designer fee for Schematic Design through Construction Administration Phases shall be fixed at a maximum of 8% of the amount budgeted by the State for construction. A Designer additional services fee will be negotiated for all Pre-design Planning Phase work. The State will require the Designer to provide copies of their contracts with each of their sub-consultants.

Additional Project information is available upon request. Questions concerning this Project may be referred to:

Mr. Robert Larson, Vice President
St. Cloud Technical College
1540 Northway Dr., St. Cloud, MN 56303
(612) 654-5098

Ms. Glenda Moyers, Facilities Director
State Board of Technical Colleges
550 Cedar St., Suite 100, St. Paul, MN 55101
(612) 296-9444

Maureen Steele Bellows, Chair
State Designers Selection Board

Department of Human Services

Health Care Program Division

Notice of Availability of Contract for Health Care Consultant

The Department of Human Services is seeking the services of a qualified consultant with expertise in the development, implementation and evaluation of publicly funded child health care programs. The purpose of the contract will be to assess the state and county administration of the Child and Teen Checkups Program for effectiveness, recommend necessary changes, provide recommendations during the implementation of the suggested changes and evaluate program results.

Qualifications required are academic preparation in a health care or related profession, with emphasis in child health and/or child development; knowledge of the federal, state and county system of public funding of Medical Assistance; a minimum of two years experience in a staff position working with a child health program, preferably in management or supervision. A basic knowledge of the strategic planning process and personal computer database development is desired. The performance of these tasks will involve significant travel throughout the state.

One contract will be awarded by the Department. The contract will be effective through June 30, 1995 with an option of a one year renewal to June 30, 1996 or a two year renewal to June 30, 1997.

The Department reserves the right to reject all applicants and/or not to contract.

Interested persons should direct inquiries or submit resumes by August 22, 1994 to:

Mary Bruns
Health Care Management
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3829
Telephone: (612) 296-6040
Fax: (612) 297-3230

Department of Transportation

Engineering Services Division

Notice of Solicitation of Qualification and Interest Statements for Development of a High Probability Predictive Model for Identifying Archaeological Sites

The Minnesota Department of Transportation is seeking Qualification and Interest (Q&I) statements from consultants interested in the development of a high probability predictive model for identifying archaeological site locations within the state.

This type of modeling has never been developed as a planning tool in Minnesota. The final product will provide state agencies, counties, cities, townships, and all others who engage in archaeological cultural resource management (CRM), with cost-effective predictive methodologies, and enhanced CRM database, site location predictive modeling, etc. that are both efficient and reliable. The results of this study are also intended to provide the State Historic Preservation Office, and the Office of the Minnesota State Archaeologist with a better basis for long-range planning decisions regarding the effective management of the State's archaeological resources.

This is anticipated to be about a four million dollar project lasting approximately three years.

Interested consultants may submit Q&I Statements as outlined below.

Responses shall be limited to those items detailed below.

1. Restatement of your understanding of this project. Briefly describe your firm's approach to this project.
2. Identify personnel who will conduct the project and detail their training, work experience and percentage of involvement. (Note: No change in personnel assigned to the project will be permitted without the approval of the State Project Manager). Use federal form 255 if available.
3. Give name, address, and phone number of a contact person for this project.
4. Outline the firm's background with this type of work. Use federal form 254, if available.
5. Identify the level of the Department's involvement you anticipate for this project as well as other services to be provided.
6. Affirmative action compliance as described below. Indicate if your firm is:

Certified by the Department of Human Rights for Affirmative Action as follows:

In accordance with the provisions of *Minnesota Statutes*, 1990 supplement, section 363.073; for all contracts estimated to be *in excess of \$50,000*, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the commissioner of Human Rights before a proposal may be accepted.

Your Q&I Statement will not be accepted unless it includes one of the following:

- 1) A copy of your firm's current Certificate of Compliance issued by the Commissioner of Human Rights; or
 - 2) A letter from Human Rights certifying that your firm has a current Certificate of Compliance.
 - 3) A notarized letter certifying that your firm has not had more than 20 full-time employees at any time during the previous 12 months.
7. Indicate if your firm is:
Certified as a Disadvantaged Business Enterprise (DBE).
Qualified as a Targeted Group Business (TGB) - *Minnesota Statutes*, 16B.19.

Prospective responders who may have questions regarding this request for Q&I Statements may call or write:

Mr. G. Joseph Hudak, SOPA, ASCA
Sr. Transportation Planner-Archaeologist
Minnesota Department of Transportation
395 John Ireland Boulevard, Room, Mail Stop 675
St. Paul, Minnesota 55155
Phone: (612) 296-6116

Please note that other department personnel are not allowed to discuss the project with responders before the submittal deadline.

All Q&I Statements must be sent to and received by:

Mr. Gabriel S. Bodoczy, P.E.
Consultant Agreements Unit
Minnesota Department of Transportation

Non-State Public Bids and Contracts

395 John Ireland Boulevard, Room 320, Mail Stop 680
St. Paul, Minnesota 55155
Attention: Linda Moline
Fax: (612) 282-5127
Phone: (612) 296-3051

Qualification and Interest Statements must be received at the above address no later than 2:00 P.M. on Thursday, September 1, 1994. No time extensions will be granted.

Late Q&I Statements will not be accepted. Submit 6 copies of the Q&I Statement. Q&I Statements are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. Each copy of the Q&I Statement must be signed, in ink, by an authorized member of the firm. Terms of the Q&I Statement must be valid for the length of the project.

Firms will be short listed from this solicitation. Selected firm will be requested to submit technical proposals.

The successful responder will be required to submit acceptable evidence of compliance with worker's compensation insurance coverage requirements prior to execution of the contract.

All Q&I Statements received by the deadline will be evaluated by representatives of the Department of Transportation. In some instances, an interview will be part of the evaluation process. Factors upon which Q&I Statements will be judged include, but are not limited to, the following:

- Expressed understanding of the project objectives.
- Qualifications of the firm and personnel. Experience of project personnel will be given greater weight than that of the firm.

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

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 and Contracts

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

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

Regional Transit Board

Request for Proposal for Contract Services

The Regional Transit Board (RTB) wishes to retain a contractor to develop a transit education curriculum to be used in 5th through 8th grade classrooms throughout the Twin Cities.

The contractor must provide a curriculum kit, which will include a teacher's guide outlining lesson plans for at least 8 class periods; a 10-minute videotape to be used in conjunction with the lesson plans; additional materials such as planing maps and pollution experiment supplies; packaging of the kit; and materials for teacher training sessions in how to use the curriculum. The contractor will also coordinate the field testing of the curriculum.

Proposals must be received by 5:00 pm, August 30, 1994. A copy of the Request for Proposal is available upon request. Inquiries and requests should be directed to:

Suzanne Hanson, Public Information Manager
Regional Transit Board
230 East 5th Street
St. Paul, Minnesota 55101
Phone: (612) 229-2720



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Summarizes and maps future labor force trends for the state and counties. Statewide labor force projections are provided by age, sex and race. County projections are broken down by age and sex. (1994)
Stock No. 7-22 \$5.00

A Changing Population New!

Benefit from the research conducted by Minnesota Planning regarding the changing demographics of our state. Learn about projected growth of the state's minority population, the dramatic effect of the aging of the baby boom generation and the anticipated milestone Minnesota will pass in 2020 when the state's population should reach 5 million. 18pp. (1993)
Stock No. 7-19 \$5.00

More Future Projections ...

Transition Into the 21st Century New!

The '92 Energy Policy and Conservation Report by the Minnesota Department of Public Service outlines a sustainable future energy policy. Identifies five specific quantifiable goals for the future and strategies by which to achieve these goals. The results of achieving these goals are also presented, as is a discussion of the current status and future outlook for all of our major energy sources. 112pp. (Public Svc., 1992)
Stock No. 10-6 \$12.95

Minnesota's Changing Counties New!

New county population projections, based upon a 10 year study by the State Demographer's Office, are presented in this publication. This report contains a description of population trends with 15 maps and 106 tables projecting populations for Minnesota's 87 counties, its regions, metropolitan and non-metropolitan areas. Learn which counties will be most affected by aging trends, which are projected to have the largest gain, and much more. 124pp. (1993) Stock No. 7-20 \$19.95

Minnesota Milestones: New!

A Report Card for the Future

Documents long range goals for Minnesota developed following statewide community meetings. Outlines a vision for the future with 20 broad goals and 79 milestones to measure our progress toward reaching these goals. 69pp. (MN Planning, 1992)
Stock No. 10-22 \$6.95

Strategic Plan for Locating State Agencies New!

The final report and recommendations of a Steering Committee assigned the task of developing a long-range plan for locating state agency office sites is now available. Months of planning workshops, questionnaires and research led to this plan which concentrates agency development in St. Paul, near the capitol and consolidation of regional sites throughout the state. Includes diagrams and sketches for proposed building sites, a review of transportation and infrastructure concerns, and much more. 97pp. Spiral bound.
Stock No. 10-13 \$35.00

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117 University, St Paul, Minnesota 55155 (located 1/2 block west of the State Capitol)
612/297-3000 (Metro area) 1-800-657-3757 (Toll Free)

TDD (Telecommunications Device for the Deaf): 612/282-5077 1-800-657-3706 (Toll Free)
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