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STATE REGISTER

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STATE OF MINNESOTA

RULES

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VOLUME 3, NUMBER 17

OCTOBER 30, 1978

Pages 857-900



STATE REGISTER

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Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 3			
18	Monday Oct 23	Monday Oct 30	Monday Nov 6
19	Monday Oct 30	Friday Nov 3	Monday Nov 13
20	Monday Nov 6	Monday Nov 13	Monday Nov 20
21	Monday Nov 13	Friday Nov 17	Monday Nov 27
22	Monday Nov 20	Monday Nov 27	Monday Dec 4

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

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MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in this issue of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here although they are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules in Volume 3 of the *State Register* will be published on a quarterly basis and at the end of the volume year.

TITLE 6 ENVIRONMENT

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WPC 34 (adopted) 866

TITLE 6 ENVIRONMENT

Part 4 Pollution Control Agency

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Part 1 Health Department

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Part 5 Nursing Board

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TITLE 11 PUBLIC SAFETY

Part 1 Public Safety Department

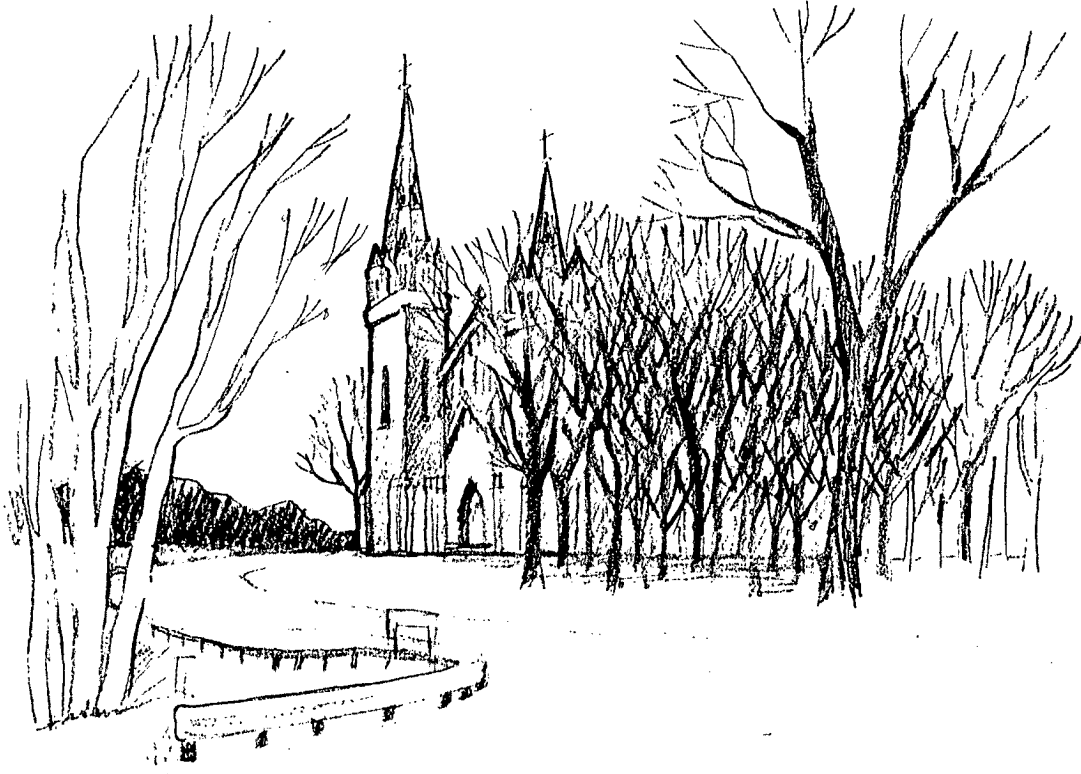
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Part 1 Transportation Department

14 MCAR §§ 1.4025-1.4028 (adopted) 871



St. John's Catholic Church in Dayton, Minnesota, near the northern tip of Hennepin County, was built in 1904. Still in use, the church stands at the original town site where the Crow and Mississippi rivers meet. Old-timers in Dayton like to say their town was "one vote away from the capitol," since it was proposed as the state capitol in the 1800s. (Drawing by Jolly Roberts)

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *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 as proposed and a citation to its previous *State Register* publication will be printed.

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

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Board of Nursing Adopted Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Endorsement

The rules published at *State Register*, Volume 2, Number 14, p. 755, October 11, 1977 (2 S.R. 755), are adopted and identical to their proposed form, with the following amendments:

7 MCAR § 5.1010 Qualifications.

C. Continuing education.

1. Before August 1, 1980, the registered nurse applying for licensure by interstate endorsement who has not been

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employed in nursing for five or more years immediately preceding application, except an applicant who graduated from an approved professional nursing program during the five years immediately preceding application, shall be required to submit evidence of competency in nursing before receiving a license in Minnesota. Such evidence, submitted on a ~~notarized form~~, an affidavit, may include any of the following which occurred within the five year period immediately prior to the application for a license: completion of a refresher course, attendance at no less than 15 clock hours of nursing-related continuing education courses, completion of an apprenticeship, participation in an orientation program at least one week in length conducted by an employer or potential employer or such other evidence as the Board may reasonably require.

7 MCAR § 5.1011 Application. The application forms and instructions for filing are provided by the Board.

A. 6. ~~A notarized evidence form~~ An affidavit attesting to the required continuing education participation.

7 MCAR § 5.1030 Introduction and definitions.

B. 4. "Continuing education participation period" means the 24 month interval of time immediately prior to the renewal ~~date~~ deadline during which a licensee must fulfill the requirements for registration renewal.

B. 6. "Instructor" means a presenter, preparer, or guide for a continuing education activity. Written programmed instruction comes within this definition.

7 MCAR § 5.1031 Registration renewal.

~~A. 8. a.~~ A. 2. Fifteen contact hours of acceptable continuing education activities shall be required for registration renewal between August 1, 1980, and July 31, 1982. Contact hours shall be accrued during the continuing education participation periods of June 1, 1978 through May 31, 1980 or June 1, 1979 through May 31, 1981.

~~A. 8. b.~~ A. 3. Thirty contact hours of acceptable continuing education activities shall be required for registration renewal on August 1, 1982, and thereafter. Contact hours shall be accrued during a continuing education participation period beginning June 1, 1980 or any June 1 thereafter.

~~A. 8. e.~~ A. 4. At least one of the acceptable continuing education activities required for registration renewal on or after August 1, 1986, shall require the licensee to show

evidence that he/she successfully demonstrated to the instructor skill in performing one or a portion of a professional nursing function as indicated in Minn. Stat. § 148.171 (3) (1976).

~~A. 4.~~ A. 5. The renewal fee shall be \$15 per renewal period, effective August 1, 1978.

~~A. 3.~~ A. 6. An acceptable application for registration renewal consisting of a completed, signed application form; a completed, ~~notarized~~ evidence form meeting requirements stated in these rules; and a renewal fee shall be postmarked on or before May 31, immediately preceding the licensee's next renewal period. Resubmission of ~~an acceptable a~~ previously incomplete or incorrect application form, evidence form and renewal fee postmarked on or before May 31, shall constitute timely submission.

~~A. 5.~~ A. 7. An applicant for registration renewal, except if in the nonpracticing status, shall pay a penalty fee of \$4 as well as the renewal fee for the current renewal period if the application, evidence form or renewal fee is postmarked after May 31, of the year in which it was due.

~~A. 7.~~ A. 8. In order for a continuing education activity to be acceptable to the Board for registration renewal, a licensee shall be able to substantiate that each of the criteria listed below has been met.

a. The content is related to one or more of the following components of professional nursing specified in Minn. Stat. § 148.171 (3) (1976):

(1) Independent nursing functions as listed below:

(a) providing a nursing assessment of the actual or potential health needs of individuals, families or communities;

(b) providing nursing care supportive to or restorative of life by functions such as:

(i) skilled ministrations of nursing care,

(ii) supervising nursing personnel,

(iii) teaching nursing personnel,

(iv) health teaching,

(v) health counseling,

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(vi) case finding,

(vii) referral to other health resources; and

(c) evaluating nursing functions; or

(2) Delegated medical functions.

b. The duration of the activity was at least one contact hour.

c. The objectives were written in measurable terms which describe what a licensee can expect to learn.

d. The instructor's qualification in the subject, such as education and experience, shall be stated in written form.

e. The method to be utilized by the learner to determine whether or not learning occurred was in written form. Acceptable methods may include but need not be limited to self-evaluation check lists or tests.

f. The continuing education activity was completed during the continuing education participation period immediately preceding the renewal date for which the licensee is seeking registration renewal.

g. ~~The continuing education activity submitted shall not have identical objectives to another continuing education activity submitted during the same continuing education participation period. Credit shall not be granted for identical continuing education activities submitted during any single continuing education participation period.~~

h. A written statement of participation provided by the instructor or a designee following completion of each acceptable continuing education activity was obtained. A fee receipt shall not be acceptable.

i. A grade indicating successful completion was obtained in an acceptable continuing education activity for which grades are granted.

~~A. 8. Continuing education requirements.~~

A. 9. (No change)

~~A. 2. A. 10.~~ A licensee shall submit true information. Falsification of any evidence for any registration renewal period and/or failure to comply with these rules for any two registration renewal periods shall constitute unethical conduct and provide grounds for suspension or revocation of a license.

~~A. 6. A. 11.~~ A licensee shall keep records documenting each acceptable continuing education activity submitted to

meet registration renewal requirements and obtain data from the acceptable continuing education activity as required in § 5.1031 B 8. The records shall be kept for two years following the end of the renewal period to which the activity is applied.

B. 5. Information to be provided by the licensee on an evidence form shall include:

a. identification of the licensee;

b. identification of the continuing education activities;

c. verification that the continuing education activities met all the criteria specified in 7 MCAR § 5.1031 A. and that the information contained on the form is true in every respect;

d. licensee's signature and date signed; ~~and.~~

~~e. notarization.~~

B. 6. If the application form, evidence form or renewal fee submitted by a licensee is incomplete, incorrect or in noncompliance with these rules, the licensee shall be notified as to the reason for rejection and all documents shall be returned to the licensee within 30 calendar days after receipt.

B. 7. If an individual is ~~licensed~~ granted a Minnesota license within six calendar months prior to the first day of the licensee's renewal period, the license fee shall serve as payment for the first renewal period.

B. 8. Following each renewal date the Board may select a sample of licensees applying for registration renewal and require substantiation of participation in acceptable continuing education activities. Selected licensees shall submit in writing the following data obtained from each continuing education activity; which verified the information on the evidence form:

~~a. continuing education activity materials received by the licensee which verify the information on the evidence form;~~

~~b. a. objective(s) of each continuing education activity;~~

~~e. b. verification received by the licensee of the number of contact hours and, for activities lasting four or more hours, a schedule listing time periods; for activities lasting four or more hours;~~

~~d. c. documentation of each instructor's qualifications; such as education and experience;~~

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~~e.~~ d. evidence that the licensee used a the mechanism which was provided to determine if learning occurred; Acceptable methods may include but need not be limited to self-evaluation checklists or tests;

~~f.~~ e. written verification received by the licensee of participation in each continuing education activity, signed provided by an instructor involved with the continuing education activity or ~~his/her~~ a designee;

~~g.~~ f. the specific professional nursing content area to which each continuing education activity is related;

~~h.~~ g. in 1986 and thereafter, proof of compliance with 7 MCAR § 5.1031 A. ~~8-e.~~ 4; and

~~i.~~ h. any additional documentation the Board deems necessary.

B. 9. If a licensee cannot demonstrate that he/she has sufficient hours of acceptable continuing education activities, the number of hours lacking to comply for that continuing education participation period shall be added to the contact hours required in the immediately succeeding period. This rule may be applied once for any one licensee.

B. 10. A licensee in noncompliance with 7 MCAR § 5.1031 A. ~~7, 2., 3., 4. and A- 8.~~ shall be subject to the conditions in 7 MCAR § 5.1031 B. 8. By this rule an audit shall be automatic for a nurse who has been found in an audit of the immediately preceding continuing education participation period to be in non-compliance with the rules.

~~B. 11. Rule 7 MCAR § 5.1031 B 9 may be applied once for any one licensee.~~

7 MCAR § 5.1032 Delinquent status.

D. Before August 1, 1980, the registered nurse holding a license which is in the delinquent status who applies for registration renewal shall:

3. submit evidence of competency in nursing before becoming actively re-registered if the license has been in the delinquent status for five or more years. Such evidence, ~~submitted on a notarized form,~~ may include any of the following which occurred within the five year period prior to the submission of an application for a current renewal certificate:

a. employment as a registered nurse in another U.S. jurisdiction or foreign country;

b. completion of no less than one week of a refresher course;

c. participation in no less than 15 contact hours of nursing-related educational offerings;

d. participation in an orientation program at least one week in length conducted by an employer or potential employer; or

e. such other similar evidence the licensee chooses to submit.

E. On August 1, 1980, and thereafter, each registered nurse holding a license which is in the delinquent status who applies for registration renewal shall:

3. submit ~~notarized~~ evidence of meeting all requirements specified in 7 MCAR § 5.1031. Participation in continuing education activities shall have occurred during the two years prior to the submission of the application for registration renewal.

7 MCAR § 5.1033 Nonpracticing status.

D. Before August 1, 1980, a registered nurse holding a license which is in nonpracticing status who applies for registration renewal shall:

3. submit evidence of competency in nursing before becoming actively re-registered if the licensee has been in nonpracticing status for five or more years. Such evidence, ~~submitted on a notarized form,~~ may include any of the following which occurred within the five-year period prior to the submission of an application for a current renewal certificate:

a. employment as a registered nurse in another U.S. jurisdiction or foreign country;

b. completion of no less than one week of a refresher course;

c. participation in no less than 15 contact hours of nursing-related educational offerings;

d. participation in an orientation program at least one week in length conducted by an employer or potential employer; or

e. such other similar evidence the licensee chooses to submit.

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E. On August 1, 1980, and thereafter, a registered nurse holding a license which is in nonpracticing status who applies for registration renewal shall:

3. submit ~~notarized~~ evidence of meeting all requirements specified in 7 MCAR § 5.1031. Participation in continuing education activities must have occurred during the 24 months prior to the submission of the application for registration renewal.

Pollution Control Agency Adopted Rule Regarding the Administration of the Construction Grants and Loan Program: Minn. Rule WPC 34

The rule proposed and published at *State Register*, Volume 2, Number 37, pp. 1737-1751, March 20, 1978 (2 S.R. 1737) is now adopted and is identical to the proposed form, with the following amendments:

Rule as Adopted

WPC 34 ~~Regulation~~ Rule for the administration of the Minnesota State Water Pollution Control Fund and grant funds allotted to Minnesota.

A. Purpose. This ~~regulation~~ rule is herein adopted and promulgated by the Minnesota Pollution Control Agency to implement the provisions of Minn. Stat. chs. 115 and 116 (1976 and 1977 Supp.) and to comply with the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* and guidelines and regulations pursuant thereto ~~or resulting therefrom~~ by the establishment of procedures relating to the federal construction grants and state construction grant and loan programs.

The promulgation of this ~~regulation~~ rule, in association with the Agency's enabling legislation, provides authority for the State of Minnesota, upon approval by the Regional Administrator of the United States Environmental Protection Agency, to certify applicants for Federal construction grants and subsequently, to the extent funds are available, provide state construction grants. The Minnesota Pollution Control Agency is the State agency designated by State law to administer this program. Except as specifically provided herein, this ~~regulation~~ rule shall apply with equal force to state financial assistance and Federal grant funds.

B. 5. "Need" means a determination that a new or up-graded disposal system is currently required, or will be required within a five-year period to comply with State Water

Pollution Control ~~Regulations~~; Rules; provided, the situation does not exist primarily due to inadequate operation and maintenance or primarily due to negligence on the part of any person.

B. 6. "~~FORM OF PROJECT~~" means the form of disposal system a municipality intends to construct.

"Category of project" means the part of the disposal system the municipality intends to construct.

B.10. "~~Outstate~~ Non-Metropolitan Area" means all counties of the state not in the metropolitan area.

B. 11. "Secondary Treatment" shall have the meaning ascribed to it in Minn. ~~Reg. Rule~~ WPC 14 or 15 or amendments thereto.

B. 13. "Primary Treatment" means any level of treatment of lesser quality than secondary treatment.

B. 14. "Scope of Project" means Step 1, Step 2, or Step 3 of disposal system construction or segments thereof."

B. 15. "Planning Loan" means a loan for Step 1 and/or Step 2 projects.

B. 16. "Construction Loan" means a loan for a Step 3 project.

B. 17. "Resident Inspection" means that the consulting engineer or his agent shall be present on-site, during the hours of construction for purposes of inspection. It does not mean the inspector has to be a resident of the community.

B. 19. "Contract" means a contract between a municipality and an engineer or a contractor for the planning, design, or construction of a disposal system, or part thereof, which will be paid for, in all or in part, by state construction grant funds.

B. 20. "Grantee" means the grantee of a state construction grant.

C. Severability. If any provision of this ~~regulation~~ rule or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions of the ~~regulation~~ rule or application of any other part of this ~~regulation~~ rule which can be given effect without application of the invalid provision. To this end, the provisions of all sections, subsections, or subdivisions herein and the various applications thereof are declared to be severable.

D. 2. Grants to reduce or eliminate the local contribution

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of a municipality meeting the criteria set forth in section E.9.b.4.

E.1.b. Grants may be awarded for a Step 1, Step 2, or Step 3 project or, as authorized by ~~statute~~ the Act, for a project which combines steps.

E.2.d.(2) Population affected. Priority points shall be assigned for each type of project based on the population of the municipality, or population of the municipalities served by such project as determined by the most recent ~~Federal~~ reliable census, as follows:

	<u>Point Rating</u>
(a) Municipal population under 250	2
(b) Municipal population from 251-500	4
(c) Municipal population from 501-750	6
(d) Municipal population from 751-1000	8
(e) Municipal population from 1001-1500	10
(f) Municipal population from 1501-3000	12
(g) Municipal population from 3001-5000	14
(h) Municipal population from 5001-10,000	16
(i) Municipal population from 10,001-20,000	20
(j) Municipal population from 20,001-50,000	25
(k) Municipal population from 50,001-450,000	35
(l) Municipal population in excess of 450,000	50

E.2.d.(3) List of segments. Pursuant to ~~Set~~ Section 303(e) of the Act and guidelines and regulations thereto relating to the state continuing planning process, all waters of the state shall be divided into segments and each segment classified as either water quality or effluent limited. The Director shall annually develop a list of segments, and after giving consideration to:

- (a) severity of pollution problems;
- (b) population;
- (c) need for preservation of high quality waters; and
- (d) national priorities as determined by the Administrator; priority points will be established in accordance with criteria approved by the Agency and the EPA.

The segment ranked number one shall be awarded priority rating equal to the total number (N) of segments with any subsequent segment receiving a priority rating of N + 1 minus the numerical ranking of the segment. Priority points shall be accordingly awarded to a municipality for the type of project located in a segment.

E.3.a. The Agency shall develop, and update whenever necessary, a Municipal Needs List listing all municipalities for which a need exists ~~or which desire to construct eligible projects which do not meet the enforceable requirements of the Act.~~

E.3.b.(2) Points awarded pursuant to the criteria set forth in section E.3.c. below.

The municipalities or projects shall be ranked on the Municipal Needs Lists List according to the number of points awarded to each.

E.3.c.(1) ~~Type~~ Category of project. Priority points shall be allocated on the basis of the single highest disposal system or part thereof, improvement to prevent, control, and abate the source of pollution as follows:

E.3.c.(1)(c) Provision of a new sewer system or portion thereof for a municipality, in existence on October 18, 1972 with sufficient existing or planned capacity to adequately treat such collected sewage or industrial waste. 10

E.3.c.(1)(d) Provision by a municipality of storm water disposal system, including sewer systems to separate existing combined sanitary and storm sewers or treatment works. 10

E.3.c.1.(g) Subsections (a), or (b), whichever is applicable ~~may~~ shall also include treatment works and/or any portion of sewer system improvements deemed necessary by the Director to insure the integrity and performance of a disposal system.

E.3.c.1.(i) In the case of a sanitary sewer system being tributary to sewerage facilities which are on the ~~project list~~ Municipal Project List for funding but which the EPA will not fund until an infiltration/inflow analysis, and where required, a sewer system evaluation survey has been performed, this sewer system project may shall be awarded by the Director an equal number of priority points as the project on the ~~project list~~ Municipal Project List.

E.3.c.(2) Financial aspects. Priority ~~points~~ points shall be awarded by summing up the applicable rating points for the project from Tables 1, 2, and 3 relative to per capita project cost, the ratio of municipal bonded debt to assessed evaluation adjusted assessed values of municipalities and per capita buying income.

TABLE 1
Per Capita Cost of Project

Per Capita Cost (\$)	Point Rating
0-40 0-280	1
41-80 281-400	3
81-120 401-600	5
121-160 601-800	7
161-200 801-1000	9

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201-240	1001-1300	11
241-280	1301-1600	13
over 280	1600	15

TABLE II
Ratio of Municipal Bonded Debt to Assessed Evaluation**
Adjusted Assessed Values of Municipality

Ratio × 100	Point Rating
0-3	3
4-9	5
10-15	7
16-21	9
22-27	11
28-33	13
over 33	15

TABLE III
Per Capita Buying Income***

Percent of Average	Point Rating
0-50	15
51-60	13
61-70	11
71-80	9
81-90	7
91-100	5
101-110	3
over 110	1

E.3.d. If a municipality or project is not included on the Municipal Needs List, ~~it~~ the municipality may petition the Agency for inclusion on the list. The municipality must document its need in the following manner:

E.3.d.(2) Unsewered communities: submission of data regarding: type of soil in unsewered area; depth to seasonally high water table; sizes of all lots in the area; and age and type of existing system.

Following submission of this data, the Director will review the material and determine if a need has been shown. If so, the municipality will be added ~~up~~ to the Municipal Needs ~~list~~ List, in the manner set forth above. If not, the municipality will be notified of the reasons for the decision of the Director.

E.3.e. If in the determination of the order of priority on the Municipal Needs List, two or more municipalities have the same total number of priority points, the municipality in accordance with section E.2.d.(1) that has the highest single beneficial water use seriously affected or to be preserved shall be ranked higher. If two or more municipalities have the same total number ~~of~~ of priority points and the same highest single beneficial water use seriously affected or to be preserved, the municipalities shall be ranked based on population as determined by the most recent federal census in descending order below the municipality with the largest population.

E.4.b.(1) Funds shall be allocated between the Metropolitan Area and the Outstate Area Non-Metropolitan Area in approximately the same ratio which the population of sewerred municipalities of the Metropolitan Area bears to the sewerred population of the Outstate Area Non-Metropolitan Area.

E.4.b.(2) Funds will be set aside for such classifications of projects and in such amounts as is required by the Act. Such classifications presently include:

(a) Treatment works utilizing innovative or alternative wastewater treatment processes and techniques for which an 85% federal grant ~~has been~~ may be tendered;

(b) Alternatives to conventional sewage treatment works for municipalities having a population of three thousand five hundred or less or for the highly dispersed sections of ~~larger~~ larger municipalities, as defined by the Administrator; and

(c) Construction of publicly owned treatment works for major sewer system rehabilitation, new collector sewers and appurtenances, new interceptors and appurtenances, and, correction of combined sewer overflows, if such projects are on the ~~state's~~ state's priority list Municipal Project List for that year and are otherwise eligible for funding in that fiscal year.

These classifications are presently ~~required~~ required by Sections 205 and 216 of the Act. Subsection E.4.b.(2) shall, therefore, be read in conjunction with the terms as defined in the Act and U.S. EPA regulations.

E.4.b.(3) The Agency ~~may~~ shall provide for an adequate mixture of Step 1, 2, and 3 projects so as to permit funding to proceed in an orderly fashion and to fully utilize all allocated funds.

E.4.b.(4) Federal grants allocated ~~Section (i)(1)~~ Section (i)(1) to Outstate Non-Metropolitan Area projects and for which there are not sufficient certifiable Outstate Non-Metropolitan projects by the end of the fiscal year for which those funds were ~~alloted~~ allotted ~~may~~ shall be ~~re-allocated~~ reallocated by the Agency to the Metropolitan Area. Any such federal grant funds which are reallocated to the Metropolitan Area shall be recoverable in total for allocation of outstate to Non-Metropolitan projects in later fiscal years in annual amounts deemed reasonable by the Director. Grant funds allocated to the Metropolitan Area which are unused are subject to similar provisions for reallocation to and recovery from outstate Non-Metropolitan projects.

E.4.c. A reserve project list ~~may~~ shall be developed by the Agency for the purpose of utilizing grant monies for-

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feited by any municipality pursuant to ~~section~~ sections E.8.b. and E.8.c.

E.4.d. The ~~project list~~ Municipal Project List may be modified, in accordance with EPA regulations, to give higher priority to Step 2 or combined Step 2 and 3 projects utilizing innovative or alternative wastewater treatment processes and techniques to the extent necessary to comply with the set asides required by the Act.

E.5.c. Items are not grant eligible unless the Director determines that they are essential to the efficient and effective operation of an otherwise grant eligible disposal system necessary to the cost effective functioning of an otherwise grant eligible disposal system.

E.6.a. The numerical rating points established in ~~sections E.2.d. and E.3.e.~~ sections E.2.d. and E.3.e. shall be subject to readjustment in value for any category or class prior to the mailing of the public notice established in ~~section E.7.e.~~ section E.7.e. if it is determined to be in the best interests of the state by resolution of the Agency. At least 30 days notice of such proposed readjustments shall be furnished by United States mail to all persons registered on the appropriate list maintained by the Secretary of State, and all persons wishing to do so shall be given an opportunity to present their views on the proposals to the Agency prior to final Agency action.

E.6.b.a. Notwithstanding any other provision in this ~~regulation rule~~ regulation rule including, but not limited to, sections E.2.d., E.3.c. and E.6.a., to the contrary, the Director may, as necessary to establish criteria for determining priority for applications for federal and state construction grants under the Act, and regulations and guidelines of the EPA promulgated pursuant thereto, and Minn. Stat. chs. 115 and 116, establish such criteria for determining priority upon a basis other than that provided herein, to the extent required to comply with the Act, and guidelines and regulations thereto or resulting therefrom.

E.7.b. A free copy of the proposed Municipal Needs List and the proposed Municipal Project List will be mailed to any interested person upon request.

E.8.c. A specific schedule for completing the particular step of the project will be contained in each grant offer tendered. The municipality's National Pollutant Discharge Elimination System (NPDES) permit may be modified, pursuant to Agency ~~regulation, rule,~~ regulation, rule, to include such schedule. Failure to comply with this schedule may cause forfeiture of grant monies for the step grant involved and the municipal-

ity may be required to complete the work for that step without grant monies.

Prior to the forfeiture of grant monies or the required completion of work without grant monies, pursuant to Section E.8.b. or c., the municipality shall have the right to a hearing, if it so requests.

E.8.d.(6) A resolution by the governing body of the municipality as to the methods for financing the construction of the collection system; and

E.8.e.(1) Any of the items listed in Section E.8.d. which were not previously submitted or which require updating;

(2) Resolution of the governing body of the municipality authorizing the application and designating the municipal official authorized to sign the application;

(3) If more than one municipality is involved, resolutions from the governing ~~body~~ bodies of all municipalities agreeing to cost sharing and agreeing to proceed to Step 3 when so instructed by the Agency;

(4) A design summary based on the plans and specifications to be submitted when the plans and specifications are complete; and

E.8.f.(2) Resolution of the governing body of the municipality authorizing the application and designating the municipal official authorized to sign the application;

E.8.f.(5) Executed engineering contract, including, unless otherwise approved by the Director, full-time qualified resident inspection by the consulting engineer or his agent during construction. After project initiation, reports are to be submitted outlining type of construction inspected and time; and

E.8.g. All construction grant application forms and attachments shall be submitted in triplicate to the Agency at the address specified by the Director. Unless adequately justified in writing, failure to submit all the necessary documents by the date specified ~~may~~ shall constitute grounds for rejection of the application. Substantial deficiencies in the application and/or supporting documents or failure to conform with applicable requirements such as those set forth in the current Agency water pollution control program plan or the applicable basin, regional, or area water quality management plan also ~~may~~ shall be grounds for rejection. Any

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application ~~may shall~~ be rejected at the discretion of the Agency if it does not include an engineering report acceptable to the Director, or does not include an adequate commitment for support of operation and maintenance of the project or is not consistent with applicable statutes, or does not contribute to the overall objective of effective water quality management; ~~or is not considered to be in the best interest of the state.~~

E.9.a. Certification. Accepted applications ~~Applications~~ of municipalities on the ~~municipal project list~~ Municipal Project List ~~may shall~~ be certified to the EPA for a grant. Such certification ~~may shall~~ in any fiscal year be withheld or withdrawn by the Director if the project is not or cannot be implemented according to an acceptable schedule or otherwise poses a substantial likelihood of causing a loss of federal funds to the State.

E.9.b.(2) In the case of a project for which the applicant has solicited and received ~~bids on construction~~ contracts which exceed the costs estimated in the application, the Director may, after consideration of available federal funds and in accordance with EPA regulations, recommend a grant increase. A reasonable amount shall be reserved by the Agency from each allotment of funds for such increases.

E.9.e.(3)(b) Installment payments at the fifty (50) percent level shall not be made until the applicant has in its employ for the operation of the project treatment works, a waste-water treatment works operator having a valid state certificate or one who is capable of obtaining such a certificate for operation of the designated class of treatment works within a reasonable period of time. State installment payments at the seventy-five (75) percent level, and beyond the seventy-five (75) percent level, shall be based on an assessment of; ~~including but not limited to;~~ the applicant's development of and progress towards completion of an acceptable manual for operation and maintenance of the disposal system; and the establishment of adequate pretreatment requirements and facilities. Final payment shall not be made until final inspection of the project by the Agency.

E.9.e.(3)(d) ~~Installment payments shall not be made on the cost of eligible parts of sewer systems unless adequate treatment works exist or are under construction; nor shall such payments be made for projects which upon completion of construction will not be reasonably usable useable or effective without construction of additional works.~~

E.9.g. Funds recovery. In addition to any other remedies, ~~The~~ the Agency may seek to recover any or all funds tendered or disbursed for a project which is as determined by the Director to be improperly designed, improperly constructed, or improperly operated and maintained. ~~In any of the above situations; the Agency, where deemed practical, may take whatever actions deemed appropriate by the Directors.~~

E.9.h. Contract assignment. The grantee shall retain the right to assign its contract with a contractor or engineer, and any or all rights, ~~duties and obligations~~ pursuant thereto, to the Agency.

E.9.k. Procedural Rules and appeals. All requests for hearing, appeals, and other procedural matters not specifically provided for herein shall be governed by the Agency Rules of Procedure, the Rules of the Office of Hearing Examiners and other applicable law.

F.1.a. The application form shall be of the type set forth below:

Minnesota Pollution Control Agency
Division of Water Quality

Application for Disposal System Planning and/or
To be filled in by the Construction Loan

State
Date Received _____
Project Number _____
Loan Request _____

Legal Name of Applicant _____

Address, Zip Code _____

Hereby Makes Application to the Pollution Control Agency of the State of Minnesota for a Loan of Funds for the Planning and/or Construction of:

Financial Aspects:

Estimated Project Cost	\$ _____
State Loan Funds	_____
Local Funds	_____
Other Funds	_____

Project Schedule:

Project Starting Date	_____
Time to Complete Project	_____

Name and Title of Representative Official _____
Signature of Representative Official Date _____

F.1.c.(1) The attachments of sections F.1.b.(1), (3) and (4) of this section and the items of section E.8.f. The Director for just cause may waive or defer the submission of any items required pursuant to section E.8.f. if such items are EPA requirements.

F.1.c.(2) Resolution of the governing body of the municipality obligating the municipality to repay the loan to the state treasurer in annual installments including both principal and interest, each in an amount sufficient to pay the principal amount within twenty (20) years or lesser time interval if found to be in the best interest of the state; ~~the amount of the annual payment will not justify the administrative expense of processing the payment, from user~~

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charges, taxes, special assessments, or other funds available to it.

F.1.d. The loan application form and attachments shall be submitted in duplicate to the Agency at the address specified by the Director. Substantial deficiencies in the application and supporting documents or failure to conform with applicable requirements such as those set forth in the current Agency water pollution control program plan or the applicable basin, regional or area water quality management plan ~~may~~ shall be grounds for rejection. Any construction loan application ~~may~~ shall be rejected at the discretion of the Agency if it does not include an engineering report acceptable to the Director, or does not include an adequate commitment for support of operation and maintenance of the project, or does not conform to the intent of the applicable statutes, or does not contribute to the overall objectives of effective water quality management, or is not considered to be in the best interests of the state.

F.1.e. Applications must be restricted to those projects or portions thereof for which service contracts or construction contracts can be awarded by June 1, ~~or other date as may be specified by the Director,~~ except in cases of advance approval by the Director of the state fiscal year in which the loan is applied for.

F.1.f. Applications ~~may be submitted at any time, unless otherwise specified by the Director.~~

F.2.a. The allocation of state funds shall be established in accordance with section E.4.b.(1) and priority rating points assignable to loan applications shall be established in accordance with section F.3. Funds allocable to loans shall be determined each fiscal year by the Agency on the basis of total availability and demand for ~~federal matching construction grants and construction grants and there shall not be set aside for loans more than five (5) percent of the total funds available in any fiscal year, unless the Agency by resolution determines that another percent level would be in the best interests of the state.~~ grants listed in Section D.1., 2., and 3.

F.2.d. Principal and interest, each in an amount sufficient to pay the principal amount within the loan period, shall be paid in equal annual installments to the state treasurer. Interest shall be calculated on the declining balance at a ~~rate not less than~~ the average annual interest rate on state bonds of issue from the proceeds of which the loan was made.

F.2.e. Priority ratings shall be established each fiscal

year for those loan applications filed on or before a ~~date to be set annually by the Director,~~ the end of the state fiscal year. Applications postmarked or hand delivered after that date ~~may~~ shall be rejected. ~~at the discretion of the Director.~~

F.2.f. Funds loaned to a municipality shall not be useable for the purpose of matching an offered federal grant where the same is ineligible under federal statutes or regulations.

F.3.a. The loan funds set aside in any fiscal year shall be allocated in the ratio of twenty-five (25) percent for planning and seventy-five (75) percent for construction, ~~unless the Agency by resolution determines that another ratio would be in the best interests of the state.~~

F.3.b.(2) Technological Feasibility. Priority points shall be assigned based on the planning needs completion of the planning studies as set forth below:

F.3.d. The numerical rating points established in subsection b. and e. of this section shall be subject to readjustment in value for any category or class prior to the deadline date for acceptance of applications established in section F.2.e. if it is determined to be in the best interests of the state by resolution of the Agency. At least thirty (30) days notice of such proposed readjustments shall be furnished to all persons registered on the appropriate list maintained by the Secretary of State, and all persons wishing to do so shall be given an opportunity to present their views on the proposals to the Agency prior to final Agency action.

Department of Transportation Adopted Rules Governing the Implementation of Public Transit Subsidy and Demonstration Grant Programs

Order and Notice of Rule Adoption

The above-entitled matter came on for hearing before Natalie Gaul, duly appointed Hearing Examiner, on April 19, 1978, at 9:30 A.M. in Room 81, State Office Building, Saint Paul, Minnesota, after proper Notice required by Minn. Stat. § 15.0412 (1977 Supp.) was served upon all

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persons, associations and other interested groups registered with the Secretary of State for that purpose.

Statement on Rule Correction

The rules were submitted to the Attorney General pursuant to Attny Gen 302 for review as to legality on the 22nd day of June, 1978, and returned to the Department of Transportation on the 14th day of July. Questions as to form and legality were raised by him dealing with:

- 1) Repetition of Statutory Language,
- 2) Incorporation by Reference,
- 3) Incorrect Citation,
- 4) Failure to Establish Complete, Statutory required Standards.

Upon the advice of the Attorney General the cited matters were corrected where mandatory or discretionary, with the exception that certain statutory language continues to be repeated within the rules (infra.).

Finding of Cruciality

An important goal in drafting these rules was to achieve clarity in the presentation of its ideas. During the drafting process it became evident that if several concepts were to be presented in a succinct manner, it would be necessary to choose among three alternatives:

- 1) Provide citations to certain sections in statute to incorporate substantive provisions — which is the accepted procedure — or,
- 2) Paraphrase needed sections, or,
- 3) Incorporate, verbatim, currently standing substantive language as it appears in statute.

It was decided that multiple statutory references could be burdensome for the reader and could lead to error. It was also felt that paraphrased language could produce unwanted ambiguity in the rules. Therefore, where necessary and in order to avoid ambiguity and to precisely and explicitly convey needed subject matter, the following sections of Minnesota Statutes have been quoted in whole or in part. I find that said quotations are crucial to the formulation and promulgation of these rules.

<u>Rule</u>	<u>Statute (1977 Supp.)</u>
14 MCAR § 1.4025	Minn. Stat. § .
B.3.	174.22, subd. 7
B.5. (2nd Sentence.)	174.24, subd. 3. (2nd sentence, (in part.)

B.6	174.22, subd. 2
B.9.	174.22, subd. 6 (in part.)
B.10.	174.22, subd. 8.
C.	174.23, subd. 2. (last sentence.)

14 MCAR § 1.4026	Minn. Stat. §
B.1.	174.24, subd. 2.
D.1.f.	174.24, subd. 3. (2nd sentence, in part.)
D.2.	174.24, subd. 3. (4th sentence, in part.)

14 MCAR § 1.4027	Minn. Stat. §
A.	174.25, subd. 1.
B.1.	174.25, subd. 1, (b).
B.2.	174.25, subd. 1, (a).
B.3.	174.25, subd. 1, (c).
C.	174.25, subd. 2.
E.	174.26, subd. 2. (in part.)

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules and reasonableness thereof;

Now, therefore, it is ordered that these rules identified as Public Transit Subsidy and Demonstration Grant Programs are adopted this 29th day of September 1978, pursuant to the authority vested in me by Minn. Stat. § 174.23, subd. 1 (1977 Supp.); which rules were published at *State Register*, Vol. 2, p. 1761, March 20, 1978 (2 S.R. 1761) and are identical to their proposed form, except for the following changes. My earlier order dated 13 June 1978 is hereby vacated.

September 29, 1978

Jim Harrington
Commissioner of Transportation

The rules proposed and published at *State Register*, Volume 2, Number 37, pp. 1761-1769, March 20, 1978 (2 S.R. 1761) are adopted and are identical to their proposed form, with the following amendments:

Rules as Adopted

14 MCAR § 1.4025 General provisions.

A. Authority. The Minnesota Department of Transportation is authorized to adopt rules necessary to carry out the Public Transit Subsidy Program, Paratransit Demonstration

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Program and the Regular Route Demonstration Program pursuant to Minnesota Statutes 1977, chapter 174 (1977 Supplement) and Minnesota Statutes 1976, Section 15.0412 (1976) as amended.

B. Definitions. The following terms as used in these Rules shall have the following meanings:

1. "Department" means the Department of Transportation.

2. "Demonstration assistance" means state financial assistance granted to an eligible recipient in accordance with the Paratransit Service Demonstration Grant Program or Regular Route Demonstration Program established pursuant to Minnesota Statutes sections ~~174, §§ 22 and 23~~ 174.25 and 174.26 (1977 Supplement).

3. "Public transit" or "transit" means general or specific transportation service provided to the public on a regular and continuing basis. "Public transit" or "transit" includes paratransit and regular route transit. For the purposes of these rules, this term does not include air or rail transit.

4. "Subsidy assistance" means state financial assistance granted to an eligible recipient in accordance with the Public Transit Subsidy Program established pursuant to Minnesota Statutes, section ~~174.21~~ 174.24 (1977 Supplement).

5. "Operating deficit" means the amount by which the total operating expenses incurred in the operating of the public transit system exceeds the amount of operating revenue derived therefrom and the amount of any social fare reimbursement pursuant to ~~Laws of 1977, ch. 172, & 21~~ Minnesota Statutes section 174.21, subd. 4 (1977 Supplement). Financial assistance received from the federal government for the operation of a public transit system shall be treated as revenue for the purpose of determining the operating deficit.

6. "Commuter van" has the meaning given it in Minnesota Statutes 1976, Section 221.011.

7. "~~Metropolitan Council~~" means the council established by ~~Minn. Stat. § 473.123~~ (1976).

7. "Development Region" has the meaning given to it by Minnesota Statutes, section 462.384.

8. ~~Metropolitan transit commission~~ means the commission established by ~~Minn. Stat. § 473.404~~ (1976).

~~9.~~ 8. "Paratransit" means the transportation of passengers by motor vehicle or other means of conveyance by persons operating on a regular and continuing basis and the transportation of passengers as its primary and predominant purpose and activity, but excluding regular route transit. "Paratransit" includes transportation by car pool and commuter van, point deviation and route deviation services, shared-ride taxi service, dial-a-ride service, and other similar services.

~~10.~~ 9. "Regular route transit" means transportation of passengers for hire by a motor vehicle or other means of conveyance by any person operating on a regular and continuing basis as a common carrier on fixed routes and schedules. "Regular route transit" does not include transportation of children to or from school or of passengers between a common carrier terminal station and a hotel or motel, transportation by common carrier railroad or common carrier railroads or by taxi, transportation furnished by a person solely for his or its employees or customers, or paratransit.

C. Program applications. The Program application procedure shall consist of a preliminary and final application. (See 14 MCAR sections 1.4026, 1.4027 and 1.4028 for other rules relating to final application.)

The preliminary application must be submitted to the Department and appropriate Regional Development Commission for review and approval for consistency with regional transportation plans and development guides prior to the department approving the application. The RDC as part of their review will insure that existing public or private transit service in the proposed service area has the opportunity to comment on the proposed project. The RDC in their review will indicate this has been accomplished. Any Regional Development Commission that has not adopted a transportation plan may review but may not approve or disapprove an application. The Regional Development Commission must transmit its comments to the department within ~~thirty~~ thirty ~~forty-five~~ days of the receipt of the application. The preliminary application must also be submitted to the local transit authority, commission or system for review and comment as to consistency with its approved transportation development program. That review must be submitted to the department and RDC within thirty days of receipt. No comment from the RDC, local transit authority, commission or system will constitute a positive comment from such commission, authority or system. After considering those comments and within sixty days of receipt of preliminary application, the department shall determine and notify the applicant of its eligibility to submit a final application.

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The final application must also be submitted to the RDC and transit authority, commission or system for comment. The department will allow any Regional Development Commission or Transit System to withdraw their approval or comment for any final application that deviates significantly from the preliminary application. Those comments must be submitted to the department within ~~10~~ 15 days of receipt. The Department will act upon the final application within 20 days of receipt.

Approval of applications shall be based on criteria in 14 MCAR sections 1.4026, 1.4027 and 1.4028.

D. Regulation of use of subsidy and demonstration assistance.

1. State audits. The financial records of the eligible recipient will be audited by the Department. A benchmark audit of the recipient's books shall be required at the beginning of the first contract period and prior to contract execution and fund encumbrance. Another audit shall be required at the end of the contract period to establish an approved total operating deficit. The Department shall conduct an interim audit of an approved total operating system that is sold during the contract period as of the effective date of the ownership transfer. Other audits may be made by the Department. The eligible recipient will be required to conduct an audit of the participating public transit system financial records.

2. Record keeping. The eligible recipient and participating public transit system shall maintain accounting and other records as required by the Department. These records will permit audit verification of all transit cost allocations claimed during the contract period.

3. Project evaluation. The Department shall use the management plan required pursuant to 14 MCAR § 1.4028 as a basis for monitoring and evaluating the performance of the participating public transit system during the contract period. Public transit policy management decisions made and actions taken during the contract period shall conform with the management plan. Any proposed deviation from the management plan shall be reported to the Department for approval prior to implementation. Failure to secure approval will jeopardize continued subsidy or demonstration assistance.

4. Third-party contracts. Private and public organizations may participate in projects by contract with the eligible recipient. Mn/DOT concurrence is required for the third party contract.

5. Penalties. When the eligible recipient fails to faithfully comply with the terms and conditions of the contract, the Department may terminate all or part of the subsidy or demonstration assistance awarded to the eligible recipient.

14 MCAR § 1.4026 Public transit subsidy program.

A. Purpose. The purpose of the Public Transit Subsidy Program is to supplement local effort in financing public transit systems in order to preserve and develop public transit and a balanced transportation system in the state.

B. Eligibility.

1. Eligible recipients. Any legislatively established public transit commission or authority, any county or statutory or home rule charter city providing financial assistance to public transit, any private operator of regular route transit, or any combination thereof is eligible to receive financial assistance through the public transit subsidy program.

2. Eligibility factors. A public transit system with a total operating deficit projected for the contract period shall be eligible for subsidy assistance. Deficits incurred prior to this period shall not be eligible for subsidy assistance. When a legislatively established public transit commission or authority is in existence, any application for the area under the jurisdiction of the commission or authority is in existence; ~~any application for the area under the jurisdiction of the commission or authority~~ must be submitted by that commission or authority, except any private operator of regular route transit in the metropolitan transit taxing district as defined in Minn. stat. § 473.446, subd. 2 may apply directly to the department.

C. Application for subsidy assistance.

1. General. The application for subsidy assistance shall be submitted in two stages: preliminary and final applications. The Department shall assist the applicant in the preparation of the final application upon request. Subsidy assistance may not be used to pay any costs incurred by the applicant in the preparation, submission or processing of applications.

2. Preliminary application. The preliminary application shall be submitted to ascertain the probable eligibility of the applicant, including projected total operating deficit and projected availability of state and local financial assistance. For a particular public transit system, only one preliminary application shall be submitted on behalf of all units participating in the system. The preliminary application shall be in the form and manner prescribed by the Department and shall contain the information required by the Department, including the following:

- a. The applicant's legal name;
- b. The official name of the public transit system for which the subsidy assistance would be used;

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c. The common carrier certificate number of public transit system prescribed by the Minnesota Public Service Commission;

d. The amount of subsidy assistance requested;

e. A narrative describing the transit service; and

f. A description of the transit costs allocation method.

g. The preliminary application shall be submitted to the Department and appropriate RDC as required in 14 MCAR § 1.4025C.

A preliminary application that contains all of the above information will be approved for submittal of a final application.

3. Final application. The final application shall be submitted to determine the subsidy assistance to be granted and basic elements in the agreement. It shall be submitted by an applicant who has received notice that, based on its preliminary application, it is an eligible recipient. It shall be submitted to the Department and appropriate RDC and include the elements specified in 14 MCAR § 1.4028. When the eligible recipient has submitted or anticipates submitting an application for assistance under the demonstration program 14 MCAR § 1.4027, during the contract period, that project must be identified in the application.

D. Determination of subsidy assistance.

1. Total operating deficit. In determining the total operating deficit of a public transit system, the following shall apply:

~~a. Transit costs as described in the Urban Mass Transit Administration's external manual;~~

~~b. a.~~ Generally accepted accounting principles and practices;

~~b.~~ Depreciation on capital equipment that was purchased with state or federal financial assistance shall be excluded in the computation of total operating expenses to the extent of the federal or state assistance;

~~c.~~ Subsidy assistance shall be considered on the basis of the total project deficit for the proposed contract period;

~~d.~~ A deficit incurred as the result of authorized increased services shall be considered in determining eligibility;

~~e.~~ An eligible recipient shall treat financial assistance received from any agency of the federal government for the operation of a public transit system as revenue for the purposes of determining its total operating deficit.

2. Factors in subsidy assistance. The Department shall review the application and determine the amount of subsidy assistance, if any, that shall be given to the eligible recipient.

The Department shall use the management plan required pursuant to 14 MCAR § 1.4028 as a basis for allocation of subsidy assistance to an eligible recipient. In the allocation of subsidy assistance, the Department shall consider population, transit ridership, relative need for public transit, new developments, and prior local assistance ~~and other factors~~. Subsidy assistance shall not exceed two-thirds of the total operating deficit of the public transit system, as approved by the Department. The eligible recipient shall establish to the satisfaction of the Department that at least one-third of the total operating deficit will be available from local sources during the contract period. When more than one unit contributes assistance to the operation of the public transit system, the share contributed by each shall be specified. In the Minneapolis-St. Paul Metropolitan transit taxing district as defined in Minn. Stat. § 473.446, subd. 2 private operators of transit service that are eligible recipients may receive a grant for up to 100% of their operating deficit.

E. Contract.

1. Content. The subsidy assistance contract shall be based upon the final application. It shall specify the amount of subsidy assistance that shall be awarded to the eligible recipient and shall be effective for a period of no more than one (1) year. It shall include the assurance of the eligible recipient that it will provide the required local share. For a particular public transit system, only one contract shall be executed on behalf of all units participating in the system.

2. Disbursement schedule. The contract shall specify a monthly or quarterly disbursement schedule at the pleasure of the recipient. Disbursements will reimburse the recipient based on the claimed operating deficit for the monthly or quarterly reporting period, but will not be allowed to exceed the estimate in the final application. At the end of seven months if it appears that the existing contract limit shall be

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insufficient the Department will, upon application, amend the contract.

As agreed to in the contract, a portion of the final payment of the transit subsidy shall be withheld pending a final audit of the public transit system's books by the Department at the termination of the contract. The final audit shall be used by the Department to verify the transit costs claimed during the contract period. When the supplemental assistance is more than two-thirds of the total operating deficit, the final payment shall be reduced accordingly. Any overpayment by the State shall be returned to the State Treasury at the request of the Department.

14 MCAR § 1.4027 Paratransit service and regular route demonstration grant program.

A. Paratransit purpose. The purpose of the Paratransit Service Demonstration Grant Program is to plan, promote, demonstrate, and evaluate the effectiveness, cost, and efficiency of paratransit as a means of accomplishing program objectives.

B. Paratransit objectives. The ~~primary~~ objectives of the Paratransit Service Demonstration Grant Program are:

1. To provide transportation services which improve the accessibility and productivity of regular route transit;
2. To provide transportation services in those areas inefficiently or inadequately served by regular route transit;
3. To provide transportation services for persons who because of age or incapacity are unable to drive a private automobile or use existing modes of public transit;
4. To show how existing single occupant auto drivers can be diverted to paratransit or other public transportation modes; and
5. To determine the most effective manner of providing paratransit services. A potential demonstration project shall be designed to meet directly one or more of these program objectives.

C. Eligible recipients. Any public or private agency, entity, or person is eligible to receive financial assistance through the Paratransit Service Demonstration Program.

D. Regular route program objective. The ~~primary~~ objective of the Regular Route Transit Demonstration Grant Program is to demonstrate improvements in the accessibility, quality, economic performance, or patronage of regular route transit service by the following means:

1. Expansion of existing routes and addition of new

routes in areas that previously have not been served or have been served inadequately by regular route transit;

2. Management and operations improvements without expanding existing routes or adding new routes.

A potential demonstration project shall be designed to meet program objectives by one of these two methods. Not less than 40 percent nor more than 60 percent of the total financial assistance available shall be granted to projects to demonstrate each method.

E. Eligible recipients. Any organization that qualifies under 14 MCAR § 1.4026 B.1. who operates, intends to operate, or assists in the operation of regular route transit services is eligible to receive financial assistance through the regular route demonstration program.

F. Eligible projects. An eligible project for Paratransit Service and Regular Route Demonstration Grant programs shall meet the following requirements:

1. It shall be designed to have potential for general applicability in other areas of the State;
2. It shall demonstrate the effect of improved public transit service; and
3. It shall meet one or more of the program objectives in 14 MCAR § 1.4027 B. ~~and~~ or D.

An application should include a request for funding an ongoing evaluation of the project.

G. Determination of demonstration assistance.

1. General. The application for demonstration assistance shall be submitted in two stages: preliminary and final applications. The Department shall assist the applicant in the preparation of application upon request. Demonstration assistance may not be used to pay any costs incurred by the applicant in the preparation, submission or processing of the applications.

2. Preliminary application. The preliminary application shall be submitted to ascertain the probable eligibility of the applicant, including projected availability of state and local financial assistance. For a particular public transit system, only one preliminary application shall be submitted on behalf of all units participating in the system. It shall be in narrative form and shall contain the following:

- a. Project objectives. A narrative describing the purpose of the proposed project shall include the manner in which it will meet one or more of the program objectives.

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b. Project description. The following must be discussed:

- (1) The content of the project;
- (2) The time schedule proposed for completion of the project;
- (3) The public transit service including identifying proposed service levels and daily hours of operation;
- (4) The compatibility of the project with any existing transit service;
- (5) The potential for continuation of the project beyond the demonstration phase;
- (6) A project budget, by categories of expenditures, including sources and amounts of non-state funding;
- (7) A description of the applicant's organization including the key personnel and their experience;
- (8) Identification of the market to be served, including the proposed daily and weekly patronage;
- (9) Transit cost allocation procedures.

A preliminary application that contains all of the above information will be approved for submittal of a final application.

The preliminary application shall be submitted to the Department and appropriate Regional Development Commission and transit systems as required in 14 MCAR § 1.4025 C. The department will assist in the planning of a system or the preparation of the applications if requested.

3. Final application. The final application shall be submitted to determine the demonstration assistance to be granted and the basic elements of the agreement. It may be submitted only by an applicant who has received notice that, based on its preliminary application, it is an eligible recipient. It shall be submitted to the Department and appropriate RDC in the form and manner prescribed by the Department and shall include the elements specified in 14 MCAR § 1.4028. When the eligible recipient has submitted or anticipates submitting an application for assistance under the Public Transit Subsidy Program, 14 MCAR § 1.4026, during the contract period, this shall be briefly discussed in the application.

4. Application evaluation. The criteria that shall be used by the Department to evaluate and approve proposed demonstration projects are:

- a. Potential for meeting one or more of the program objectives;
- b. Potential in demonstrating specific concepts that are applicable in other areas of the State;
- c. Degree of innovation incorporated;
- d. Compatibility and coordination with existing regular route and paratransit systems;
- e. Potential for integration with existing transit service;
- f. Evidence of local government and public support;
- g. Ability to continue a successful project beyond the demonstration phase;
- h. Efficiency in the use of energy resources to accomplish objectives, and
- i. Cost effectiveness of the project.

5. Project funding. The applicant is expected to share in the cost of a demonstration project. Demonstration assistance normally will not exceed 90 percent of the cost of approved demonstration projects. The Department reserves the authority to fund up to 100% of a project that it feels is unique and needs to be demonstrated but lacks the necessary local financial support. When in the Department's judgment, a proposed demonstration project has potential national significance, the Department may require the eligible recipient to submit an application to the Federal Government, in addition to the State application.

H. Contract.

1. Content. The demonstration contract shall be based upon the final application. It shall specify the amount of the demonstration assistance that shall be awarded to the eligible recipient and shall not exceed one year. It shall include the assurance of the eligible recipient that it will provide the required local share and carry out the management plan. For a particular public transit system, one contract shall be executed on behalf of all units participating in the system.

2. Disbursement schedule. The contract shall specify a

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disbursement schedule either monthly or quarterly at the pleasure of the recipient. Disbursements will reimburse the recipient based on the claimed deficit for the monthly or quarterly reporting period, but will not be allowed to exceed the estimate.

As agreed to in the contract a portion of the final payment of the demonstration assistance shall be withheld pending an audit of the transit system's books by the department at the termination of the contract. This final audit shall be used by the department to verify the transit costs claimed during the contract period. When the demonstration assistance is more than the approved limit of the total cost, the final payment shall be reduced accordingly. Any overpayment by the State shall be returned to the State Treasury at the request of the department.

14 MCAR § 1.4028 Final application for subsidy and demonstration assistance.

~~A. Final Application.~~ The final application for the subsidy program or for the demonstration program shall be a form as prescribed by the Department and shall contain the following:

~~1. A. Management plan.~~ The basic component of the final application shall be a management plan that details all of the planned and anticipated events that will affect the public transit system's operating revenue and expenses during the contract period.

~~a. 1. Purposes.~~ The essential purposes of a management plan are:

~~(1) a.~~ To document the maintenance or improvement of public transit services;

~~(2) b.~~ To identify and implement policies and practices to increase the efficiency of public transit operations; and

~~(3) c.~~ To insure that state assistance will be spent wisely.

~~b. 2. Content.~~ The final application shall include the following elements which may vary in detail with the size of the public transit system:

~~(1) a.~~ Ownership. The ownership of the participating transit system during the contract period shall be described.

~~(2) b.~~ Levels of service. The levels of service provided by the participating public transit system during the contract period shall be described.

~~(3) c.~~ Fares. The fare structures anticipated during the contract period shall be described.

~~(4) d.~~ Marketing. A proposed marketing program shall be described in general terms, including the costs benefits of the major elements. Elements of a marketing program shall include:

~~(a) (1)~~ Market research;

~~(b) (2)~~ Public information;

~~(c) (3)~~ Promotion;

~~(d) (4)~~ Advertising;

~~(e) (5)~~ Community relations; and

~~(f) (6)~~ Employee relations.

~~(5) e.~~ Capital improvements. Any actual or anticipated capital improvements in the participating public transit system during the contract period shall be described. Capital improvements include, but are not limited to: buses, fare-boxes, communications equipment; storage and maintenance facilities and equipment, passenger shelters, and bus-stop signs.

~~(6) f.~~ Non-capital improvements. Any anticipated non-capital improvements proposed in the participating public transit service area during the contract period shall be described. Non-capital improvements include, but are not limited to:

~~(1) (1)~~ Staggering work hours;

~~(2) (2)~~ Regulating supply and prices of off-street parking; and

~~(3) (3)~~ Increasing daytime parking rates on work-days.

~~(7) g.~~ Revenue contracts. Revenue producing contracts relating to the public transit services provided by or for the eligible recipient shall be described. A copy of the contract will be required as part of the final application.

The following types of contracts shall be discussed:

~~(a) (1)~~ Contracts with private and public schools, colleges and universities;

~~(b) (2)~~ Contracts with private and public organizations that guarantee a minimum revenue on regular or special route(s);

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~~(e)~~ (3) Contracts with private and public organizations that purchase rides for employees or patrons; and

~~(d)~~ (4) Advertising contracts.

~~(8)~~ h. Traffic improvements.

(1) Any traffic improvements made in the public transit service area during the contract period that will affect directly the speed and reliability of transit services shall be described. Examples of traffic improvements include:

(a) Use of exclusive or preferential streets, bus lanes, or expressway ramps;

(b) Control of traffic lights by buses;

(c) Provision of fringe parking spaces with express or improved bus service;

(d) Provision of bus turnouts; and

(e) Priority snow-plowing of transit routes.

(2) The discussion of each type of traffic improvement shall include the following:

(a) The date the traffic improvement is expected to be made; and

(b) The expected impact of the traffic improvement upon estimated public operating revenues and expenses.

~~(a)~~ i. Expenses contracts. Any contracts for services and goods relating to the public transit services provided by or for the eligible recipient and others shall be described.

The types of contracts to be discussed include:

~~(a)~~ (1) Contracts for management and consulting services;

~~(b)~~ (2) Contracts for storage and maintenance of buses;

~~(c)~~ (3) Contracts for the lease or purchase of tires and tubes;

~~(d)~~ (4) Contracts for fuel and lubricants;

~~(e)~~ (5) Contracts for liability and property insurance;

~~(f)~~ (6) Contracts, union and nonunion, with transit system employees.

A copy of each contract will be required as part of the final application.

~~(10)~~ j. Preventive maintenance. The participating public transit system's planned preventive maintenance program for the contract period shall be described. Elements of a preventive maintenance program typically include:

~~(a)~~ (1) Defect reporting by drivers;

~~(b)~~ (2) Daily fueling inspection;

~~(c)~~ (3) Mileage inspection; and

~~(d)~~ (4) Inventory controls.

~~2-~~ B. Organization. The local institutional or organizational structures established to carry out the management plan shall be described, including a description of the technical policy and decision-making organizations responsible for directing, controlling, reviewing, and implementing the management plan. The relationships between these various organizations shall be illustrated in a simple diagram following the narrative. In addition, the following questions shall be answered:

~~a-~~ 1. Who is directly responsible for the day-to-day management and operation of the transit system?

~~b-~~ 2. Who is directly responsible for negotiating wage contracts with the employees of the transit system?

~~c-~~ 3. Where more than one local unit of government participates in the program, who represents the applicant public body in negotiations with surrounding communities? Who represents the surrounding communities?

~~d-~~ 4. Who will represent the applicant public body in negotiating an assistance contract with the State, and how shall a contract be ratified by the applicant public body?

~~e-~~ 5. Who is responsible for filing reports for the transit system with the Minnesota Public Service Commission?

~~3-~~ C. Financial conditions. Financial data shall be reported in the form and manner prescribed by the Department. The cash accounting method shall be used to report financial data unless otherwise authorized by the department.

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~~a- 1.~~ For the transit subsidy program, this financial data shall contain the audited figures for a twelve (12) month period preceding the contract period and estimated figures for the contract period.

~~b- 2.~~ For the demonstration program, the financial data shall contain estimated figures. When the demonstration project is associated with an existing public transit system, the financial data shall include the audited figures for a twelve (12) month period preceding the contract period.

~~4- D.~~ Financial statement. A detailed breakdown of operating expenses shall be required. The projection of revenues and expenses should reflect the policies and practices outlined in the management plan.

~~5- E.~~ Operating statistics. The actual and anticipated operational characteristics of the public transit system in a twelve (12) month period preceding the contract period

and/or the contract period shall be described. This discussion shall include revenue passengers, monthly ridership, total operating miles, revenue hours, and other relevant information required by the Department.

~~6- F.~~ Sources of local funds. The sources and types of revenue that the eligible recipient and each participating unit will use to match the supplemental or demonstration assistance shall be identified.

~~7- G.~~ Fuel supplies. Existing and potential problems that the public transit system faces in obtaining adequate fuel supplies during the contract period shall be identified, including the status of contracts with fuel suppliers, the prospects for securing contracts for the contract period, the time between deliveries under normal and anticipated conditions, and any other pertinent facts.

The existing rules dated August 23, 1974 under Laws of 1974, ch. 534 are rescinded.

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Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new or amended rule. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.



Floyd B. Olson (1891-1936) was Minnesota's first Farmer-Labor Party governor. Born in Minneapolis of Norwegian-Swedish parents, he spent many years as an itinerant worker before entering law school and later being elected Hennepin County Attorney. He felt close to the working class, and was known as a formidable trial lawyer and skillful public speaker. Olson was elected governor in 1930, holding the office through the intraparty and economic struggles of the early Depression years. A supporter of President Roosevelt's New Deal, Olson was expected to run for the Senate in 1936, but died the summer before the election. (Drawing by Ric James)

Department of Health Manpower Division

Proposed Rules Relating to the Registration of Environmental Health Specialists/Sanitarians

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (Supp. 1977), in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Tuesday, November 30, 1978, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Steve Mihalchick, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8112, either before the hearing or within five (5) working days after the close of the hearing. The Hearing Examiner may keep the record open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

If adopted, the proposed rules would specify the administrative structure, the procedures and the requirements for the registration of those persons with training in environmental health who want to use the titles of Environmental Health Specialists/Sanitarians. In general the proposed rules specify:

1. A definition of an Environmental Health Specialist/Sanitarian that is the scope of practice;

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2. The requirements for initial registration;
3. The requirements for renewal of registration;
4. The fee schedule for initial and renewal registration;
5. The process and procedures for disciplinary actions; and
6. The membership and responsibilities of the Environmental Health Specialist/Sanitarian Advisory Council.

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to the Minnesota Department of Health, c/o Colleen Coghlan, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

The statutory authority of the Commissioner of Health to promulgate and adopt these rules is contained in Minn. Stat. §§ 214.001, 214.13, and 214.14 (1976).

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the state Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Laws of 1978, ch. 463, § 11 as any individual:

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

(b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials.

(Emphasis added.)

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record

has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness may be obtained from the Office of Hearing Examiner at a minimal charge.

October 13, 1978

Warren R. Lawson, M.D.
Commissioner of Health

Rules as Proposed (All new material)

Chapter 30 Human Services Occupations

Part II

7 MCAR §§ 1.546-1.550 Registration of Environmental Health Specialists/Sanitarians.

7 MCAR § 1.546 Purpose and definitions.

A. Purpose. The purpose of 7 MCAR §§ 1.546-1.550 is to establish the administrative structure, the procedures and the requirements for the registration of those persons who are qualified to present themselves as Environmental Health Specialists/Sanitarians.

B. Definitions. For the purposes of 7 MCAR §§ 1.546-1.550, the words, terms and phrases listed below in this subdivision shall have the meaning stated herein, unless the language and context clearly indicates that a different meaning is intended.

1. "Acceptable continuing education activity" means a learning experience in which a registrant has participated, evidence of which he/she submits to the Council as part of the application for registration renewal, and which meets the requirements stated in these rules.

2. "Applicant" means a person who applies pursuant to these rules, either initially or on a renewal basis, to be registered as an Environmental Health Specialist or Sanitarian.

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3. "Commissioner" means Commissioner of Health.

4. "Contact hour" means an instructional session of fifty consecutive minutes excluding coffee breaks, registration, meals (with or without speaker) or other social activities.

5. "Council" means Environmental Health Specialists' Advisory Council as referenced in 7 MCAR § 1.548.

6. "Environmental Health Specialist/Sanitarian" means a person registered pursuant to these rules to plan, organize, manage, implement, and evaluate one or more program areas comprising the field of environmental health. Environmental program areas include but not limited to: food, beverage and lodging sanitation; housing; refuse disposal; water supply sanitation; rodent, insect and vermin control; accident prevention; swimming pool and public bathing facility sanitation; radiation safety; air and water quality, noise pollution, and institutional and industrial hygiene. Implementation includes community education, investigation, consultation, review of construction plans, collection of samples and interpretation of laboratory data, enforcement actions, review and recommendation of policy and/or regulation.

7. "Registration" or "registered" means that an applicant has been found by the Commissioner to meet the qualifications specified in these rules to protect environmental health. Only persons so registered are permitted to use the designated titles of "Environmental Health Specialist" or "sanitarian" or the initials "R.S."

8. "Registration Examination" means the examination approved by the Commissioner and administered by the Commissioner or his designated agent. For approval the examination must meet the following criteria:

a. The examination has been validated by a content validity study which consists of data showing that the examination covers a representative sample of the job tasks, work behaviors or performance skills to be performed on the job for which the applicant is to be evaluated; and/or performance skills to be performed on the job for which the applicant is to be evaluated; and/or

b. The examination has been validated by a criterion related validity study which consists of empirical data demonstrating that the selection procedure is predictive of, or significantly correlated with, job performance and which has a validity coefficient significant at the .05 level of significance; and

c. Validity studies are based upon a review of information about the job for which the examination is to be used, which shall include but is not limited to an analysis of job tasks, work behaviors, or performance skills that are relevant to the job; and

d. Job tasks, work behaviors, or performance skills used as a basis for test developments and validity studies must include but are not limited to the knowledge areas in the definition of Environmental Health Specialist/Sanitarian as outlined in 7 MCAR § 1.546 B.6.; and

e. The examination has been determined to be reliable utilizing the parallel forms or internal consistency methods of estimating reliability and the reliability coefficient is no less than .70; and

f. The examination is revised or a new form is issued when technical advances in the field indicate the examination should be up-dated to acknowledge related changes in the scope of practice.

The Commissioner may adopt for use at his discretion any standardized national test which meets these criteria.

7 MCAR § 1.547 Registration requirements; career progression; disciplinary actions.

A. Initial registration.

1. All applicants for initial registration shall submit an application on a form to be prepared by the Commissioner and fees as prescribed in 7 MCAR § 1.547 C. The information requested by the Commissioner on the application shall be such so as to permit a complete evaluation of each applicant to determine whether the applicant meets the requirements for registration as specified in these rules and any applicable statutes. The Commissioner may request an applicant to submit additional information as may be necessary to determine the applicant's qualifications. In order to be registered, an applicant shall provide:

a. Evidence of receiving a baccalaureate or post-baccalaureate degree in environmental health, sanitary science, sanitary engineering or other related environmental health field which includes at least 30 semester or 45 quarter hour credits in the physical or biological sciences; and

b. Evidence of at least one year of supervised employment in one or more of the program areas listed in 7 MCAR § 1.546 B.6. definition of "Environmental Health Specialist/Sanitarian." Supervision shall be provided by an

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Environmental Health Specialist or a Sanitarian or a licensed health professional, or an engineer or other professional with a graduate degree in one of the physical or biological sciences.

c. Evidence of passing the registration examination.

2. For a period of six months following the effective date of the rules, an applicant may be registered without having received a baccalaureate or higher degree as provided in 7 MCAR § 1.547 A.1. if the applicant:

a. Submits evidence of experience in one or more of the program areas listed in 7 MCAR 1.546 B.6. definition of an "Environmental Health Specialist" for at least the five years immediately preceding his/her application;

b. Submits a statement of satisfactory employment by the employer or supervisor which indicates that the applicant has performed competently in one or more of the program areas listed in the definition of Environmental Health Specialist/Sanitarian;

c. Submits evidence of having passed a civil service or other qualifying exam for a job classification of "Environmental Health Specialist" or "Sanitarian" or inspector or public health officer or engineer or other similar job title or of having successfully completed the registration exam.

3. No applicant shall make more than two attempts within the same calendar year to successfully complete the registration examination.

4. Persons who have attained a registration or license outside of Minnesota may be entitled to registration in Minnesota if they can provide evidence of meeting the requirements set forth in 7 MCAR § 1.547 A.1. a., b. and c.

B. Renewal registration.

1. An applicant's registration shall expire biennially on his/her birthday unless it is renewed. Each applicant shall be required to renew his/her registration every two years except that following the initial registration date, an applicant shall renew his/her registration no less than 24 months and no more than 36 months if he/she is registered for the first time on a date other than his/her birthday. Every applicant shall submit a completed registration renewal application, on a form provided by the Commissioner together with the renewal fee for the biennium or part thereof. The information requested by the Commissioner on the registration renewal application shall be such so as to permit a complete evaluation of each application to determine whether the applicant meets the requirements for registration renewal as specified in these rules and any applicable statutes. The Commissioner or his agent may request an applicant to

submit additional information as may be necessary to determine the applicant's qualifications for renewal. Applications submitted after the applicant's birthday must be accompanied by the late fee of \$10.00 together with all other information required by this rule.

2. For registration renewal, each registrant shall submit evidence of successful completion of 24 contact hours of acceptable continuing education activities the content of which is related to one or more of the environmental program areas contained in 7 MCAR § 1.546 B.6.

3. A continued education activity must meet the following criteria in order for credit to be given:

a. It must have a specific, written objective(s) which describe expected outcomes for the participant;

b. It must be presented by knowledgeable person(s) who have reviewed the development in the subject being covered in the program within the last two years. His/her qualifications must be documented by one of the following:

- (1) Specialized training in the subject matter;
- (2) Experience in teaching the subject matter;
- (3) Experience in working in the subject areas.

c. It must last at least one contact hour.

d. It must have stated in written form what mechanism was utilized to demonstrate whether or not learning did occur. The mechanism may include, but is not limited to, a successfully completed written test or a performance component.

e. It must utilize a mechanism to validate participation. This may include, but is not limited to, earned credits and/or verification of attendance. Program sponsors shall maintain attendance sheets for three years.

4. The Council shall review the submitted evidence and decide if the evidence demonstrates that the registrant has complied with the renewal requirements set forth in 7 MCAR § 1.547 B.2. and 3. If the Council decides that the evidence demonstrates that the registrant has so complied, the Council will recommend to the Commissioner that the registrant's continuing education activities should be accepted. If the Council decides that the evidence does not demonstrate that the registrant has complied with 7 MCAR § 1.547 B.2. and 3., the Council will so inform the applicant who will then have an opportunity to submit additional evidence to the Council. The Council shall review the original and any additional evidence, decide if it demonstrates that the registrant has complied with 7 MCAR § 1.547 B.2. and 3., and recommend to the Commissioner that the regis-

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trant's continuing education activities should or should not be accepted. The Commissioner will then make the final decision regarding the acceptability of the registrant's continuing education activities.

5. Applicants who have permitted their registrations to expire for more than two years may regain their registration when they successfully complete the registration examination, complete continuing education requirements, and submit the required renewal forms and fees.

C. Application Fees. Fees to be submitted with initial or renewal applications shall be as follows:

1. Initial application fee: \$30.00 plus examination fees.

2. Biennial renewal application fee: \$30.00

3. Penalty for late submission of renewal application: \$10.00, if not renewed by designated renewal date.

D. Disciplinary actions.

1. Upon receipt of a complaint or other communication, whether oral or written, which alleges or implies the existence of a ground for denial or registration or disciplinary action as specified in 7 MCAR § 1.542 E.2., the Commissioner or Council may initiate an investigation. In so doing, the Council may request the registrant to appear before them to determine the merits of the situation in question. In each case the Council shall make a recommendation to the Commissioner as to whether proceedings under the Administrative Procedure Act would be appropriate and should be initiated.

2. The Commissioner may refuse to grant or renew a registration, suspend or revoke a registration, or use any reasonable lesser remedy against a registrant for any of the following reasons:

a. Submission of false or misleading information or credentials in order to obtain or renew registration; or

b. Failure to meet the requirements for initial or renewal registration; or

c. Incompetency; negligence or inappropriate conduct in the performance of environmental health duties or related functions.

3. Disciplinary actions shall comply with the provi-

sions of the Administrative Procedure Act, Minn. Stat. ch. 15 (1976, as amended).

4. Upon revocation or suspension, the registrant shall return to the Commissioner his/her registration and current renewal certificates.

5. A registrant who has had his/her registration revoked shall not be entitled to apply for re-registration until at least one year following the effective date of the revocation or such longer period of time specified by the Commissioner.

6. A suspended registration may be reinstated upon fulfillment of the terms of suspension; provided, however, that all requirements of the rules for registration renewal, if applicable, shall be met prior to reinstatement.

7 MCAR § 1.548 The Environmental Health Specialist/Sanitarian Advisory Council.

A. Membership. The Council shall consist of seven members appointed by the Commissioner, as follows:

1. Two public members as defined in Minn. Stat. § 214.02 (1976, as amended);

2. One educator or a representative from a regulated industry for which Environmental Health Specialists/Sanitarians are charged with enforcement of the regulation;

3. Four Environmental Health Specialists/Sanitarians representative of county, municipal and state agencies which reflect the distribution of Environmental Health Specialists/Sanitarians among these employers at the time of appointment.

b. Organization, duties and responsibilities.

1. The Council shall be organized and administered under the provisions of Minn. Stat. § 15.059 (1976, as amended) and the Commissioner's policies relating to advisory councils.

2. The Council shall:

a. Advise the Commissioner regarding Environmental Health Specialist/Sanitarian registration standards;

b. Advise the Commissioner on enforcement of the Environmental Health Specialist/Sanitarian rules;

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c. Provide for the dissemination of information regarding Environmental Health Specialist/Sanitarian registration standards;

d. Review applications and recommend applicants for registration or registration renewal.

7 MCAR §§ 1.549-1.550 Reserved for future use.

Pollution Control Agency Water Quality Division

Proposed Rule Governing Preparation of the Behind Schedule and Substandard Wastewater Treatment Project List

Notice of Hearing

Notice is hereby given that rule hearings in the above-entitled matter will be held in the Minnesota Pollution Control Agency ("Agency") Board Room, 1935 County Road B2, Roseville, Minnesota, on Monday, December 4, 1978, commencing at 9:00 a.m., reconvening on December 5, 1978, at 7:30 p.m. in Meeting Room #1, County Service Building (Courthouse), Brainerd, Minnesota, reconvening on December 6, 1978, at 7:30 p.m. in Blue Earth County Emergency Services Operation Center, Lower Level, Regional Law Enforcement Center, 710 South Front Street, Mankato, Minnesota, and continuing on subsequent days until all persons have had an opportunity to be heard. The Agency will present its witnesses and evidence in support of the adoption of the above-captioned rule primarily at the hearing in Roseville, Minnesota.

All interested or affected persons will have an opportunity to participate at the rule hearings. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Howard Kaibel, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8107, either before or after the hearings until the record is closed. The record will remain open for five working days after the rule hearings end, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. In the interest of efficiency, it is suggested that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

NOTICE: The proposed rule is subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rule to participate in the rule hearing process.

The proposed rule, if adopted, will establish standards and procedures to be used by the Agency to implement Laws of 1978, ch. 614, which requires the Agency to adopt lists of engineers and contractors who are responsible for substandard or behind schedule wastewater treatment projects. In addition, the proposed rule will establish procedures to be used by interested engineers or contractors who may wish to challenge the inclusion of their names on the list.

The Agency's authority to promulgate the proposed rule is contained in Minn. Stat. § 115.03, subd. 1(a) (1976).

Copies of the proposed rule are now available and one free copy may be obtained by writing to Mr. Larry Christensen, Division of Water Quality, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

NOTICE: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the rule for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearings. After the hearings, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearings, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minn. Stat. ch. 10A (1976) as amended by Laws of 1978, ch. 463, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250.00 per

PROPOSED RULES

year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

October 12, 1978

Sandra S. Gardebring

Rule as Proposed

WPC 39 Criteria for compilation of list specifying Behind Schedule or Substandard Wastewater Treatment Projects for publication in the State Register.

A. Purpose. This rule is herein adopted and promulgated to implement the provisions of Laws of 1978, ch. 614, by establishing procedures for compilation of the "Behind Schedule or Substandard Wastewater Treatment Project List".

B. Severability. If any provision of this rule or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions of the rule or application of any other part of this rule which can be given effect without application of the invalid provision. To this end, the provisions of all sections, subsections, or subdivisions herein and the various applications thereof are declared to be severable.

C. Definitions.

1. Agency. "Agency" means the Minnesota Pollution Control Agency as constituted pursuant to Minn. Stat. § 116.02, sub. 1.

2. Budget period. "Budget period" means the latest date listed in the most recent Agency permit or EPA Grant Agreement or Amendment by which the current project step is to be completed.

3. Contracting engineer. "Contracting engineer" means any firm or individual hired by the consultant engineer to do some portion of the project.

4. Days. "Days" means calendar days.

5. Due date. "Due date" means that date 90 days previous to the end of the Budget Period.

6. January Board meeting. "January Board meeting" means the regularly scheduled Board meeting in January.

7. List. "List" means the Behind Schedule or Substandard Project List.

8. List Year. "List Year" means the calendar year previous to the year in which the list is published.

9. March Board meeting. "March Board meeting" means the regularly scheduled Board meeting in March.

10. Principal consulting engineer. "Principal consulting engineer" means that firm or individual hired by the Municipality or Sanitary District as the primary consultant for the project.

11. Principal contractor. "Principal contractor" means any firm or individual hired by the Municipality or Sanitary District to construct the wastewater treatment project.

12. Project. "Project" means an existing or future wastewater treatment facility including planning, design, and construction phases of the facility.

13. Review. "Review" means the examination, by Agency staff engineers, of materials submitted by principal consulting engineers or contracting engineers.

14. Step. "Step" means a portion of the project funded as a distinct unit and given a specific time limitation.

D. Applicability. The list shall include those projects which are found to be behind schedule or substandard during the list year subject to the conditions listed below:

1. Behind schedule. Projects shall be included in the list if they are more than 90 days behind schedule, according to criteria set forth in section F. of this rule at any point during the list year even if the entire behind schedule period does not fall within the year.

2. Substandard. Projects shall be included in the list if they are substandard at any point during the list year unless final grant payment or final acceptance by the Municipality or Sanitary District, whichever is later occurred more than two calendar years prior to January of the list year.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **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."

PROPOSED RULES

E. Contents of list. The list shall be organized alphabetically by the name of the contractor or engineer. Following the name of the contractor or engineer will be the name and address for the project or projects with the following information for each project listed:

1. Nature of deficiency or number of days behind schedule.
2. Short description of the overall project.
3. Nature and cost, if known, of any necessary remedial action.

F. Selection criteria. The following criteria shall be used as a basis for compiling a list of Behind Schedule or Substandard Wastewater Treatment Projects:

1. "Behind Schedule" criteria.

a. The due date for submittal of required materials, (i.e. Facilities Plan for step 1 and Plans and Specifications for step 2), or completion of construction is 90 days prior to the end of the budget period. The number of days behind schedule shall be computed as the number of days past the due date which are attributable to factors within the reasonable control of the contractor or engineer. Factors which are not within the reasonable control of the contractor or engineer include:

- (1) Incidents affecting the contractor or engineer such as fire or flood.
- (2) Natural causes affecting the availability of information such as precipitation or temperature.
- (3) Delays by parties not responsible to the contractor or engineer such as the Municipality or a governmental agency.
- (4) Need for additional work not included in the original scope of the project.

b. The determination of whether factors resulting in delay are within the reasonable control of contractors or engineers shall be made by the Agency subject to the rights of the contractors and engineers set out in subd. G.

c. The computation of behind schedule days shall be cumulative within a project step in that noncontiguous periods of delay shall be added and the total used to determine whether a project is placed on the list. For example, a project which falls 60 days behind schedule, receives a time extension with a new due date, and falls 45 days behind the new schedule, would have delayed the current step by 105 days and would be placed on the list.

d. Requests by Municipalities for extensions of the budget period which are received after the due date shall be processed; however, if the date extension is either denied or approved more than 90 days past the due date, the project shall be included in the list with a notation showing that an extension was requested and the action taken on such request.

e. Submitted materials determined by the staff to be incomplete shall be returned to the consultant engineer for further work and this shall not be considered a reasonable basis for a time extension request.

2. Substandard criteria.

a. A project shall be considered substandard if, when operated and maintained as recommended by the engineer and/or equipment manufacturer, it does not perform in a manner conforming with that defined by subject grant agreements and state issued permits. A project may be substandard due to either failure of design or failure of workmanship.

(1) Failure of design.

A project shall be considered a failure of design if it is substandard due to errors within the reasonable control of the principal consulting engineer and contracting engineer in any or all of the following:

- (a) Wastewater treatment alternative selection.
- (b) Wastewater treatment alternative specification.
- (c) Construction inspection.
- (d) Provision of an approved Operation and Maintenance Manual.

(2) Failure of workmanship.

A project shall be considered a failure of workmanship if it is substandard to the extent that any or all of the following are not provided by the principal contractor in accordance with construction plans and specifications:

- (a) Workmanship.
- (b) Materials.
- (c) Equipment.

b. The Agency, its officers, employees and agents review and comment upon engineering reports and plans solely for the limited purpose of determining whether there is reasonable assurance that the treatment system, when

PROPOSED RULES

constructed, will comply with the rules and criteria of the Agency. Therefore, engineers or contractors will not be held harmless from the substandard portions described above simply based on the review and approval of the Agency, its officers, employees and/or agents.

G. Procedures. At the regularly scheduled meeting of the Agency in January of each year, the Agency shall consider the list of engineers and contractors responsible for substandard and behind schedule projects. At the regularly scheduled meeting of the Agency in March of each year, the Agency shall issue an order incorporating a list of engineers and contractors responsible for behind schedule and substandard projects. The following procedures shall be used by the Agency in development and publication of the list:

1. Notification. Engineers or contractors shall be notified in writing on an individual basis of the Agency's intention to place them on the list at least 30 days prior to the January Board meeting.

2. Opportunity to respond. Engineers or contractors who have been notified of the Agency's intention to place them on the list shall have the right to petition to have their names removed from consideration. This right may be exercised in any of the following ways:

a. A written response contesting the Agency's decision to consider listing the engineer or contractor and setting forth the reasons therefore may be made up to 15 days prior to the January Board meeting.

b. A meeting with the Agency staff may be requested at any time up to 15 days prior to the January Board meeting.

c. A request may be made to appear before the Agency at the January, February or March Board meeting.

3. List approval. If, prior to or during the March Board meeting, the engineer or contractor can demonstrate one of the following, the name of that engineer or contractor shall not be incorporated into the list:

a. The project is not more than 90 days behind schedule within the meaning of subd. F.1.

b. The project is not substandard within the meaning of subd. F.2.

The list shall be presented to the Agency for approval at the March Board meeting and an order incorporating such list shall be issued.

4. Publication. The list shall be published in the *State Register* pursuant to statutory requirements.

5. Appeal procedure. Any person adversely affected by the Agency's order incorporating the list may appeal the order pursuant to Minn. Stat. § 15.0424.

Department of Public Safety State Patrol Division

Proposed Rules Regarding Standards for Safe Operating Condition of Passenger Automobile Tires

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room 14, State Office Building, Wabasha Street between Aurora and Fuller, St. Paul, Minnesota on November 30, 1978, commencing at 9:00 a.m., and continuing until all persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above.

All interested or affected persons or representatives of groups or organizations will have an opportunity to participate, by submitting either oral or written data, statement, or arguments. Written materials may be submitted by mail to George Beck, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, either before the hearing or within 5 working days after the close of the hearing (or within 20 days if so ordered by the hearing examiner).

The Commissioner proposes to adopt rules relating to physical appearance, tread wear and depth of tread constituting unsafe and unlawful passenger automobile tires. The rules incorporate all provisions of Minn. Stat. § 169.723 (1976) as required by Minn. Stat. § 169.722 (1976).

The Department's authority to promulgate the proposed rules is contained in Minn. Stat. § 169.722 (1976). One free copy of the proposed rules is available and may be obtained by writing to Department of Public Safety, 211 Transportation Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **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."

PROPOSED RULES

Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Department of Public Safety and at the Office of Hearing Examiners. The Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the department at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Edward G. Novak
Commissioner of Public Safety

Rules as Proposed (All new material)

Chapter 19 Standards for Safe Operating Condition of Passenger Automobile Tires

11 MCAR § 1.0166 Purpose and authority.

A. Purpose. The purpose of these rules is to establish minimum standards for the safe operating conditions of tires in use on passenger automobiles, station wagons and other highway-use motor vehicles using passenger automobile-type tires.

B. Authority. These rules are promulgated pursuant to

the authority granted by Minn. Stat. § 169.722 (1976).

11 MCAR § 1.0167 Definitions. For the purposes of these rules, the following terms shall have the meanings ascribed to them:

- A. Bead. The part of the tire which is shaped to fit the wheel rim.
- B. Cord. The strands forming the plies in the tires.
- C. Groove. The space between two adjacent tread ribs.
- D. Ply. A layer of rubber-coated parallel cords.
- E. Sidewall. That portion of the tire between tread and bead.
- F. Tie bar. A transverse rubber rib manufactured into some tire treads to give lateral stability to tread ribs.
- G. Tread. That portion of the outer surface of the tire that is designed to come into contact with the road surface.
- H. Tread design depth. The distance, measured near the centerline of the tire, from the base of the tread design to the top of the tread.
- I. Tread rib. The tread section running circumferentially around the tire.
- J. Tread wear indicator. Material molded during the manufacturing process into the bottom of tread grooves and designed to visibly disrupt the tread pattern when the tread design depth has worn to a depth of 2/32 of an inch.

11 MCAR § 1.0168 Unsafe tires. A tire is unsafe and unlawful if one or more of the following conditions exist:

- A. There is any part of the ply or cord exposed.
- B. There is any bump, bulge or separation of the sidewall, tread or ply.
- C. There is a tread design depth of less than 2/32 of an inch measured in the tread groove nearest the center of the tread at three (3) locations spaced approximately equally around the circumference of the tire, exclusive of tie bars or for those tires with tread wear indicators.
- D. It is worn to the level of the tread wear indicators in any two tread grooves at three locations.
- E. It is marked "not for highway use," or "for racing purposes only," or "unsafe for highway use;" or any simi-

PROPOSED RULES

lar marking indicating the tire is not designed for highway use.

F. The tread or sidewall has cracks, cuts, or snags deep enough to expose the body cords.

G. It has been regrooved or recut below the original tread design depth, except certain taxi cab tires which have additional undertread rubber and are specifically identified as such by use of the word "Regroovable" molded on or into each sidewall of the tire.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **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."

STATE CONTRACTS



Trick-or-treaters may be frightened by black cats this Halloween, but the wolf has an even more demonic reputation. Belief in werewolves — people who turn into wolves at night and devour humans — flourished in the Middle Ages. Mexican tradition says the wolf possesses the "Evil Eye." In Norman folklore a large black wolf lurks in graveyards at night. When it approaches someone, it stands on its hind legs and disappears howling. This wolf is believed to be the ghost of the first Duke of Normandy, whose soul cannot rest until the Day of Judgement. (Drawing by Ken Haag, courtesy of Department of Natural Resources)

Department of Corrections Correctional Industry Division

Notice of Availability of Contract for Consultant Services

The Correctional Industry Division of the Minnesota Department of Corrections requires consulting services covering a wide range of expertise on a short-notice basis.

As specific problems arise relating to engineering, marketing, production, standard setting, etc., the Industry man-

Pursuant to the provisions of Laws of 1978, ch. 480, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

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.

agement wishes to contract with an agency which in turn will provide the required services. Listed below are a range of needed services projected for the period of November 20, 1978 through December 30, 1979:

1. Provide technical assistance as required by the Department's private industry program staff by the selection and recruitment of technicians, and other specialists.
2. Conduct research and development of markets.
3. Provide assistance to Department staff in bidding and estimating techniques.
4. Development of prototypes.
5. Provide assistance with production standard settings.
6. Temporary transportation and delivery of products.
7. Repair and adjustment of products.
8. Setup and preparation for special production equipment and OSHA requirements.
9. Assist in connecting the Department of Corrections Industries with other companies and agencies for the purpose of subcontract work and testing products.
10. Monitor private industry progress and suggest alternative approaches in dealing with companies and agencies.

Reimbursement: All coordinating, administrative and supportive services will be provided directly by the consulting company in which case the limit of remuneration is \$16.88 per hour per individual employee of the consulting firm. Where the consulting company subcontracts the work out to other individuals or companies the rate reimbursed

STATE CONTRACTS

will be actual not to exceed \$16.88 per hour individual subcontractor.

It is expected that the consultant company will actually make contacts, payments to subcontractors, do bookkeeping and submit invoices, and provide proof of services rendered at the end of each month.

The limit of this consulting contract will be \$15,000 for the 13 month period.

Please send proposals and direct questions to:

Stanley F. Wood
Director of Private Industry
Minnesota Department of Corrections
430 Metro Square, St. Paul, MN 55101
(612) 296-3529

Final submission date is November 10, 1978.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, 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 Vocational Rehabilitation Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules to Govern Services to Persons with Severe Disabilities Through Long-term Sheltered Workshops

Notice is hereby given that the Division of Vocational Rehabilitation has begun consideration of proposed amendments to rules relating to the above subject.

Persons or groups interested in or affected by these proposed rules are requested to participate. Statements of information and comment may be made orally or in writing. Written statements and comments should be addressed to:

Department of Economic Security
Division of Vocational Rehabilitation
Third Floor — Space Center
444 Lafayette Road
St. Paul, MN 55101

October 20, 1978

Marvin Spears
Director, Office of Rehabilitation Facilities
Division of Vocational Rehabilitation



The Least Chipmunk is found throughout Minnesota in forests, semi-open broken country, and sometimes around old buildings and sawmills. It can be distinguished from other varieties by its small size — seven to nine inches — and its stripe pattern: three dark and two light stripes on the sides of the face, and five dark and four light stripes down the back and sides. The chipmunk eats seeds, nuts, berries and insects. When offered food it will become fairly tame, and may make regular visits to campsites for crumbs. (Courtesy of Department of Natural Resources)

Ethical Practices Board Finding of Fact in the Matter of the Complaint by Dave Jennings Against the Fausch for Representative Volunteer Committee

Approved October 16, 1978

Summary of Finding

The Ethical Practices Board finds there is no probable cause to believe that Fausch For Representative Volunteer Committee, Jan Schnittger, Treasurer, materially failed to report campaign expenditures or outstanding unpaid bills; however, the Board requests the treasurer to file an amended report reflecting those technical errors acknowledged in Jan Schnittger's letter, dated October 6, 1978.

The full text of the finding is available upon request from the office of the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, (612) - 296-5148.

OFFICIAL NOTICES

Finding of Fact in the Matter of a Complaint Against Rosalie E. Wahl Volunteer Committee by Robert W. Mattson, Sr.

Approved October 16, 1978

Summary of Finding

The Board has no probable cause to believe that a violation of the Ethics In Government Act has occurred and dismisses the complaint. In the opinion of the Board Justice Rosalie E. Wahl designated the Rosalie E. Wahl Volunteer Committee her sole principal campaign committee on May 23, 1978, and the Rosalie E. Wahl Volunteer Committee reported and disclosed cash contributions and in kind donations as well as campaign expenditures from the Citizens Volunteer Committee For Rosalie E. Wahl and Minnesota Lawyers Volunteer Committee To Retain Incumbent Justices of the Supreme Court as required by Minn. Stat. § 10A.20, subd. 3. Additionally, the Board believes the political committees supporting Justice Rosalie E. Wahl are not principal campaign committees of Justice Wahl, but these are properly political committees as defined by Minn. Stat. § 10A.01, subd. 15. In the opinion of the Board such political committees have properly filed reports reflecting their activities.

The full text of the finding is available upon request from the office of the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, (612) - 296-5148.

Advisory Opinion #56

Approved by the Ethical Practices Board on October 16, 1978

Issued to:

Representative Arne Carlson
Minnesota House of Representatives
319 State Office Building
St. Paul, Minnesota 55155

Re: Mileage Expense Reimbursement To A Candidate

Summary

56. A candidate who is reimbursed for gasoline expenses by his principal campaign committee must report those as campaign expenses; however, a candidate who pays for gasoline expenses from personal funds is giving donations

in kind which, if valued at \$20 or less, is neither reported nor recorded. Commencing after the 1978 election year candidates shall utilize the lowest rate that the State of Minnesota reimburses employees for use of their personal vehicles.

The full text of the opinion is available upon request from the office of the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, (612) 296-5148.

Ethical Practices Board Meeting Notice

**Room 51 State Office Building
Monday, October 30, 1978
1:30 p.m.**

Agenda

1. Minutes, October 16, 1978
2. Chairperson's Report
3. Legal Counsel's Report
4. Wage and Salary Review Committee
5. Advisory Opinion Request — Minnesota State Bar Association
6. Annual Report
7. Socialist Workers' Party Exemption
8. Executive Director's Report
 - a. Financial Report
 - b. Delinquent Committees and Lobbyists
 - c. Legal Update
9. Other Business
10. Executive Session — Pursuant to Minn. Stat. § 10A.02, subd. 11.

Department of Health Emergency Medical Services Section

Notice of Filing of Application for License by Tri-County Emergency Medical Services, Inc., to Operate An Emergency/Nonemergency Land Ambulance Service Based in Greenbush, Minnesota

On September 5, 1978, Tri-County Emergency Medical Services, Inc., filed application with Warren R. Lawson,

OFFICIAL NOTICES

M.D., Commissioner of Health, for a license to operate a (an) emergency/nonemergency land ambulance service with a base of operation in Greenbush, Minnesota. This notice is made pursuant to Minn. Stat. § 144.802 (Supp. 1977). Please be advised that subd. 2 of the statute states, in part: The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo. Any objections to this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977) may be made in writing to Warren R. Lawson, M.D., within the time period outlined by statute.

Department of Transportation Notice of Application and of Opportunity for Hearing Regarding Petition of Chicago and North Western Transportation Company for Authority to Retire and Remove ICC Track No. 3 Located at Stewartville, Minnesota

Notice is hereby given that the Chicago and North Western Transportation Company, with offices at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has

filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 (1977 Supp.) and § 218.041, subd. 3 (10) (1977 Supp.) to retire and remove I.C.C. Track No. 3 located at Stewartville, Minnesota.

The petition recites among other matters that:

“The subject track is no longer needed for rail transportation service, and constitutes a continuing and burdensome maintenance expense. The track is not used at the present time, and there is no present prospect that the subject track will be needed in the future. There are no shippers, patrons or members of the public who might have any interest in the retention of the tracks or facilities, or who have used the same to any substantial degree within the past several years.”

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before November 20, 1978. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a PARTY to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to Minn. Reg. HE 210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

October 23, 1978

Jim Harrington
Commissioner of Transportation

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

Suite 415, Hamm Building
408 St. Peter Street
St. Paul, Minnesota 55102
(612) 296-8239

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I