

1978 July 24

STATE REGISTER

STATE OF MINNESOTA

EXECUTIVE ORDERS

RULES

PROPOSED RULES

STATE CONTRACTS

OFFICIAL NOTICES

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JULY 24, 1978

Pages 73-112

STATE REGISTER

Printing Schedule for Agencies

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			
4	Monday July 17	Monday July 24	Monday July 31
5	Monday July 24	Monday July 31	Monday Aug 7
6	Monday July 31	Monday Aug 7	Monday Aug 14
7	Monday Aug 7	Monday Aug 14	Monday Aug 21
8	Monday Aug 14	Monday Aug 21	Monday Aug 28

*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.

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EXECUTIVE ORDERS

Emergency Executive Order No. 175

Providing for Assistance to Officials of Norman County, Minnesota

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, hereby issue this Executive Order:

Whereas, the Sheriff of Norman County has requested assistance in the search of missing persons as a result of a tornado; and,

Whereas, conditions of the area in which persons were lost precluded an effective search within available resources of the Sheriff of Norman County;

Now, therefore, I order:

1. The Adjutant General of Minnesota to order to active duty on or after July 5, 1978, in the service of the state, such elements of the military forces of the state as required, and for such period of time necessary to successfully complete a search for the missing persons.

2. Cost of subsistence, transportation and fuel, and pay and allowances of said individuals will be defrayed from the general fund of the state as provided for by Minn. Stat. § 192.49, subd. 1 (1976) and § 192.51 (1976); and Minn. Stat. § 192.52 (1977 Supp.).

This order is effective retroactive to July 5, 1978, and shall be in force until such time as the need for emergency assistance has been alleviated.

In testimony whereof, I hereunto set my hand on this 10th day of July, 1978.



EXECUTIVE ORDERS

Emergency Executive Order No. 176 Providing for Assistance to Officials of Hastings, Minnesota

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, hereby issue this Executive Order:

Whereas, the Chief of Police of Hastings has requested assistance in evacuation of citizens from flooded areas of Hastings; and,

Whereas, flood conditions are such as to present hazards to citizens;

Now, therefore, I order:

1. The Adjutant General of Minnesota to order to active duty on or after July 2, 1978, in the service of the state, such elements of the military forces of the state as required, and for such period of time necessary to insure the safety of our citizens.

2. Cost of subsistence, transportation and fuel, and pay and allowances of said individuals will be defrayed from the general fund of the state as provided for by Minn. Stat. § 192.49, subd. 1, and § 192.51 (1976); and Minn. Stat. § 192.52 (1977 Supp.).

This order is effective retroactive to July 2, 1978, and shall be in force until such time as the need for emergency assistance has been alleviated.

In testimony whereof, I hereunto set my hand on this 10th day of July, 1978.



EXECUTIVE ORDERS

Emergency Executive Order No. 177

Providing for Assistance to Officials of Olmsted County, Minnesota

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, hereby issue this Executive Order:

Whereas, the Sheriff of Olmsted County has requested assistance in evacuation of citizens and security in flooded areas; and,

Whereas, flood conditions are such as to present hazards to citizens;

Now, therefore, I order:

1. The Adjutant General of Minnesota to order to active duty on or after July 6, 1978, in the service of the state, such elements of the military forces of the state as required, and for such period of time necessary to insure the safety of our citizens.

2. Cost of subsistence, transportation and fuel, and pay and allowances of said individuals will be defrayed from the general fund of the state as provided for by Minn. Stat. § 192.49, subd. 1, and § 192.51 (1976); and Minn. Stat. § 192.52 (1977 Supp.).

This order is effective retroactive to July 6, 1978, and shall be in force until such time as the need for emergency assistance has been alleviated.

In testimony whereof, I hereunto set my hand on this 10th day of July 1978.



EXECUTIVE ORDERS

Executive Order No. 178

Creating the Governor's Advisory Committee on the Northeast Minnesota Economic Protection Fund

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, including but not limited to Minn. Stat. § 15.0593 (1977 Supp.), do hereby issue this Executive Order:

Whereas, the economy of northeastern Minnesota affects that of the entire state; and,

Whereas, as recognized by Minn. Stat. (1977 Supp.) including but not limited to §§ 298.291 to 298.294, the stability of said economy must be protected and promoted; and,

Whereas, the future of the taconite area of Minnesota requires that long-range development goals be established;

Now, therefore, I order:

1. The establishment of the Governor's Advisory Committee on the Northeast Minnesota Economic Protection Fund, to address the economic issues.

a. The committee shall consist of appropriate representation from the area and three ex-officio members representing the Department of Revenue, the Pollution Control Agency, and the Department of Economic Development.

b. The members, excluding the ex-officio members, shall be appointed by the Governor. The ex-officio members shall be designated by their respective agencies.

c. Terms of the members shall be one year.

d. The chairperson shall be appointed by the Governor.

e. Expenses and per diem shall not be paid.

2. Assessment by the committee of the desirability of preparation of a comprehensive, long-range economic plan for northeastern Minnesota; and if appropriate, recommendation to the Governor of a means of financing such a plan, whether from the Economic Protection Fund or from other sources.

3. Assessment by the committee of alternative structures for governance of the Economic Protection Fund, with appropriate recommendations to the Governor.

4. Recommendations and advice to the Governor on other alternative development objectives relating to the economy of northeastern Minnesota.

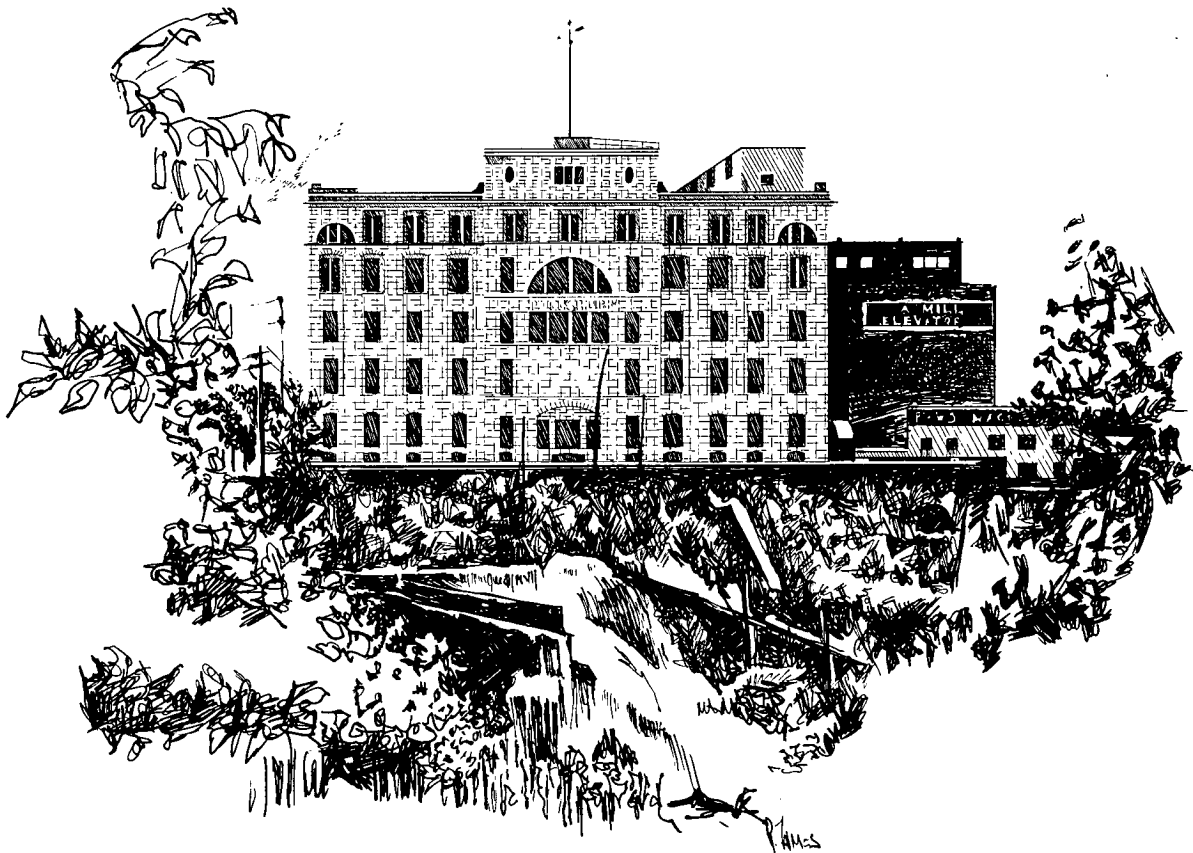
5. Pursuant to Minn. Stat. §§ 4.04 and 7.09 *et seq.*, respectively, the committee may receive federal and private funds.

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Pursuant to Minn. Stat. § 4.035 (1977 Supp.), this order shall be effective 15 days after its publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Minn. Stat. § 4.035 or § 15.0593 (1977 Supp.).

In testimony whereof, I hereunto set my hand on this 12th day of July, 1978.

A handwritten signature in cursive script, reading "Rudy Perpich". The signature is written in black ink and is positioned to the right of the text "In testimony whereof, I hereunto set my hand on this 12th day of July, 1978."



Once billed as "Pillsbury's Ninth Wonder of the World," the Pillsbury Company's "A" Mill opened at St. Anthony Falls in 1881. Built at a cost of \$500,000, the six-story sandstone building was composed of two units. Wheat flowed into East "A" and West "A" to be ground by two sets of machinery operated by two groups of workers. Power generated by two 55 Victor Water Wheels created a 4,000 barrels per day capacity, making the "A" Mill the largest and most modern flour mill in the world at that time.

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.

Department of Commerce Insurance Division Adopted Rules Governing Automobile Accident Reparations Arbitration

The rules published at *State Register*, Volume 2, Number 5, p. 177, August 8, 1977 (2 S.R. 177), are adopted and are identical to their proposed form, which the following amendments:

Rules as Adopted

INS 180 Authority. The rules and regulations hereinafter set forth are promulgated under the authority of Minn. Stat. § 65B.53, subd. 4 (1976).

INS 182 General.

A. These rules shall be considered applicable to con-

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controversies arising out of accidents, insured events, or losses involving a commercial vehicle under the jurisdiction of the ~~MNFAAA~~ MNFAIA, § 65B.53 (1976) giving subrogation or direct action recovery rights to reparation obligors for payments or benefits paid to insureds or third parties under such statute.

C. These rules are applicable to controversies involving reparation obligors as that term is defined in Minn. Stat. § 65B.53, subd. 9 (1974). The interest of other parties may not be arbitrated under these rules. The fact that such parties may be insureds of reparation obligors does not alter this prohibition.

D. The monetary limits and extent of a reparation obligor's claim shall be governed by Minn. Stat. § 65B.53, subd. 1 (1974).

E. Where a claim or companion claim under these rules is also under the compulsory jurisdiction ~~of~~ of other industry agreements sponsored by the Committee on Insurance Arbitration, the jurisdiction of these rules is primary.

L. Where reparation obligors are also signatory to other industry arbitration programs sponsored by the Committee on Insurance Arbitration and the claim ~~or companion claims~~ are is within the compulsory jurisdiction of these other agreements the signatory companies waive their rights to proceed separately under the other programs ~~and must.~~ Reparation obligors may, by mutual agreement, include all claims arising out of the same accident or insured event for disposition by an arbitration panel under these rules, provided, however, that hearing of a matter pending before an arbitration panel under these rules will be deferred because of pending claims or suits arising out of the same accident, occurrence or insured event, unless the involved companies waive such deferment in writing.

INS 184 Jurisdiction.

A. Compulsory arbitration under these rules applies to controversies arising out of accidents, insured events or occurrences within this state involving commercial vehicles. Controversies arising from accidents, insured events or occurrences involving commercial vehicles outside this state can be submitted with the consent of the controverting reparation obligors.

B. Compulsory arbitration under these rules applies where the determination of subrogation rights under the MNFAIA necessarily involves a decision by the arbitrators

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of a question of excess and primary coverage between or among the reparation obligors.

INS 186 Procedure.

E. The procedure set out in the preceding paragraphs of this section is also applicable to counterclaims for damages ~~known, or in the exercise of reasonable diligence should have been known to respondent~~ which may be submitted for arbitration pursuant to Rule 182 L. The "Arbitration Notice" should clearly indicate that it is submitted as a counterclaim and the original arbitration case to which it pertains shall be plainly identified. ~~Unless a counterclaim is filed by a respondent and heard with the original arbitration case, the respondent reparation obligor with the counterclaim is thereafter precluded from pursuing its claim against the adverse reparation obligor.~~

INS 187 Hearings.

J. Documentary evidence submitted by controverting parties shall be left with the arbitrators for their scrutiny and consideration while ~~reading~~ reaching a decision.

INS 188 Decisions.

B. A decision of an arbitration panel on issues of fact or law is final and binding.

1. Upon motion to District Court, a decision may be vacated upon any of the following grounds:

a. That it was procured by corruption, fraud, or other undue means;

b. That there was partiality or corruption on the part of the arbitrators, or any one of them;

c. That the arbitrators were guilty of misconduct in refusing postponement, in refusing to hear evidence material to the controversy, or in other matters whereby the rights of the party were prejudiced;

d. That they exceeded their powers, or executed them so imperfectly that a mutual, final, and definite decision was not made;

e. That the decision is contrary to law and evidence.

2. Upon motion to District Court, a decision may be modified or corrected in the following cases:

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."

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a. Where there is a miscalculation of figures, or an evident mistake in the description of any person or thing referred to therein;

b. Where the arbitrators have decided upon a matter not submitted to them; or not offsetting the merits of the decision upon any matter submitted;

c. Where the award is imperfect in a matter of form which does not affect the merits, and where, if it had been a verdict, such defect could have been amended or disregarded by the court.

However, the provisions of Article B., Subsection 1. and 2. do not preclude a local committee's chairman is not precluded from correcting a clerical typographical or jurisdictional error on the part of a local committee's staff, provided it is called to the local committee's attention in writing by one of the arbitrating reparation obligors within 30 days after publication of the decision; or if recognized by the local committee without notice from the arbitrating reparation obligors within 30 days after publication of the decision; provided further, that the correction be made in either event within 60 days after publication of the decision.

Office of Hearing Examiners Adopted Rules Relating to Procedures for Rulemaking and Contested Case Hearings

The rules published at *State Register*, Volume 2, Number 9, pp. 382-393, September 6, 1977 (2 S.R. 382) are adopted and are identical to their proposed form, with the following amendments:

HE 102 C. 6. A statement advising interested persons that lobbyists must register with the State Ethical Practices Board, which statement shall contain the statutory definition of a lobbyist and indicate that questions should be directed to the board, giving the address and telephone number thereof.

HE 102 C. 7. A statement that written material may be submitted and recorded in the hearing record for five working days after the public hearing ends, or for a longer period not to exceed 20 calendar days if ordered by the Hearing Examiner.

HE 102 C. 8. A separate paragraph which shall read as follows:

Notice: All persons have the right to be notified. Any person may request notification of the date on which the Hear-

ing 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. All persons have the right to be informed. 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 or by written request sent to the Hearing Examiner prior to the close of the record. 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).

HE 102 C. 10. A statement which fulfills the requirements of If required by Minn. Stat. § 15.0412, subd. 7, a statement relating to the expenditure of public monies by local public bodies.

HE 102 D. A statement by the agency of the number of persons expected to attend the hearing and the estimated length of time that will be necessary for the agency to present its evidence at the hearing; a statement by the agency that the facility where the hearing is to be conducted is free of mobility barriers in accordance with Executive Order No. 148; and a statement by the agency of what additional notice, if any, has been given pursuant to HE 103.

Within ten days of receipt of the aforementioned documents, the Chief Hearing Examiner shall appoint a Hearing Examiner to preside at the hearing and the Hearing Examiner shall advise the agency as to the location at which and time during which a hearing should be held so as to allow for participation by all affected interests. Failure of the agency to comply with the advice of the Hearing Examiner may result in a finding that the agency has failed to fulfill all relevant, substantive and procedural requirements of law or rule.

HE 103 Notice. The Notice of Hearing shall be given pursuant to the provisions of Minn. Stat. § 15.0412, subd. 4, and in addition thereto, the agency should, within reason, attempt to give notice to all other persons or associations known to it to be persons who will be affected by the proposed rule/rules.

HE 104 Statement of need and reasonableness. Each agency desiring to adopt rules shall prepare a Statement of Need and Reasonableness which shall be prefiled pursuant to HE 105. The Statement of Need and Reasonableness shall be a document containing, at the minimum, a summary of all of the evidence and argument which will be anticipated to be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules, including citations to any statutes or case law to be relied upon, citations to any economic,

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scientific or other manuals or treatises to be utilized at the hearing, and a list of any expert witnesses to be called to testify on behalf of the agency, together with a brief summary of the expert opinion to be elicited. The statement need not contain evidence and argument in rebuttal of evidence and argument presented by the public.

The statement shall be prepared with sufficient specificity so that interested persons will be able to fully prepare any testimony or evidence in favor of or in opposition to the rule/rules as proposed. Presentation of evidence or testimony (other than bona fide rebuttal) not summarized in the Statement of Need and Reasonableness may result in the Hearing Examiner, upon proper motion made at the hearing by any interested person, recessing the hearing to a future date in order to allow all interested persons an opportunity to prepare testimony or evidence in opposition to such newly-presented evidence or testimony, which recessing shall be for a period not to exceed 25 calendar days, unless the 25th day is a Saturday, Sunday, or legal holiday, in which case, the next succeeding working day shall be the maximum date for the resumed hearing.

If the agency so desires, the Statement of Need and Reasonableness may contain the verbatim affirmative presentation by the agency which may then be either read at the hearing or, if all persons appearing at the hearing have had an opportunity to review the statement, may be introduced as an exhibit into the record as though read. In such instance, agency personnel or other persons ~~preparing the~~ thoroughly familiar with the rules and the agency's statement shall be available at the hearing for questioning by the Hearing Examiner and other interested persons.

HE 105 H. The names of agency personnel who will represent the agency at the hearing together with the names of any other witnesses ~~who may appear on behalf of the agency~~ solicited by the agency to appear on its behalf.

HE 106 A. All persons intending to present evidence or questions, other than agency personnel previously disclosed to the Hearing Examiner under HE 103, shall register with the Hearing Examiner prior to the presentation of evidence or questions by writing their names, addresses, telephone numbers and the names of any individuals or associations that the persons represent in connection with the hearing, on a register to be provided by the Hearing Examiner. The Hearing Examiner shall keep a second register which registers shall also include a section where persons may indicate their desire to be informed of the date on which the Hearing Examiner's Report will be available and the date on which the agency submits the record to the Attorney General.

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HE 107 The record. The record shall be closed upon the last date for receipt of written statements. The record in each hearing shall include all of the documents enumerated in HE 105, all written comments or other evidence received prior to, during or subsequent to the hearing but prior to the close of the record, and a tape recording of the hearing itself unless the Chief Hearing Examiner has determined that the use of a reporter is more appropriate. In the event a transcript of the proceedings has been prepared, it shall be part of the record, and copies will be available to persons requesting them at a reasonable charge. The charge shall be set by the Chief Hearing Examiner, and all monies received for transcripts shall be payable to the State Treasury and shall be deposited in the Office of Hearing Examiners' account in the State Treasury. The agency and any other person so requesting of the Hearing Examiner shall be notified of the date of the completion of the transcript.

HE 108 Incorporation by reference. When an agency desires approval of the Chief Hearing Examiner to incorporate certain materials by reference in its rule, such approval must be obtained prior to the publication of the proposed rules in the *State Register*. The agency shall submit its request in writing and shall include with the request, the materials sought to be incorporated and shall further indicate to the Chief Hearing Examiner where the materials are conveniently available for viewing, copying and acquisition by interested persons. The Chief Hearing Examiner shall have ten working days to approve or disapprove the request. ~~The agency shall maintain a copy of the incorporated materials as long as the adopted rule is in effect.~~

HE 109 Report of the Hearing Examiner. Subsequent to the close of the record and the completion of the transcript of the hearing, the Hearing Examiner shall make his report pursuant to Minn. Stat. § 15.052, subd. 3, and shall file the original of said report together with the complete record of the proceedings with the agency. Both the agency, if authorized by statute, and the Office of Hearing Examiners shall make a copy of said report available to any interested person upon request at a reasonable charge.

HE 110 Submission of rule to Chief Hearing Examiner. The agency shall, if it proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner, for review pursuant to Minn. Stat. § 15.052, subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall com-

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plete his review and submit his report to the agency on the issues of substantial changes in the rule and compliance with § 15.0412, subd. 4, within ten calendar days. The agency will be responsible for filing the rules with the Attorney General.

HE 111 Reconvened hearings. Should the Chief Hearing Examiner find, after a review of the record, that the proposed final rule is substantially different from the rule which was proposed at the public hearing, or should the Chief Hearing Examiner find that the agency failed to meet the requirements of Minn. Stat. ~~Ch. 45~~ § 15.0412, subd. 4, or these rules, then the Chief Hearing Examiner shall forthwith notify the agency and the Attorney General of said finding. The agency shall then either withdraw the proposed final rule or reconvene the rule hearing. The reconvening of the rule hearing shall comply with all statutory and regulatory requirements as if a new rule hearing were being held. In determining whether the proposed final rule is substantially different, the Chief Hearing Examiner shall consider the degree to which it:

- A. affects classes of persons not represented at the previous hearing; or
- B. goes to a new subject matter of significant substantive effect; or
- C. makes a major substantive change that was not raised by the original Notice of Hearing in such a way as to invite reaction at the hearing; or
- D. results in a rule fundamentally different from that contained in the Notice of Hearing.

HE 112 Effective date. These rules shall be effective for all rule proceedings initiated ~~after December 31, 1977~~ five working days after publication of these rules in the State Register.

HE 202 B. Party. Party means each person named as a party by the agency in the Notice of and Order for Hearing or persons granted permission to intervene pursuant to HE 210. The term "party" shall include the agency, except when the agency participates in the contested case in a neutral or quasi-judicial capacity only.

HE 203 A. Request for assignment. Any agency desiring to order a contested case hearing shall first file with the Chief Hearing Examiner a request for assignment of a Hearing Examiner together with the Notice of and Order for Hearing proposed to be issued which shall include a proposed time, date and place for the hearing. ~~The request shall include a statement by the agency that the facility where the hearing is to be conducted is free of mobility barriers in accordance with Executive Order No. 148.~~

HE 203 C. Duties. Consistent with law the Hearing Examiner shall perform the following duties:

1. Grant or deny a demand for a more definite statement of charges.
2. Grant or deny requests for discovery or for the taking of depositions.
3. Receive and act upon requests for subpoenas where appropriate.
4. Hear and rule on motions.
5. Preside at the contested case hearing.
6. Administer oaths and affirmations.
7. Grant or deny continuances.
8. Examine witnesses ~~and call witnesses~~ where he deems it necessary to make a complete record.
9. Prepare findings of fact, conclusions and recommendations.
10. Make preliminary, interlocutory or other orders as he deems appropriate.
11. Do all things necessary and proper to the performance of the foregoing.
12. In his discretion, perform such other duties as may be delegated to him by the agency ordering the hearing.

HE 204 Commencement of a contested case. A contested case is commenced, subsequent to the assignment of a Hearing Examiner, by the issuance service of a Notice of and Order for Hearing by the agency.

A. The Notice and Order. Unless otherwise provided by law, a Notice of and Order for Hearing, which shall be a single document, shall be served upon all parties and shall contain, among other things, the following:

1. The time, date and place for the hearing.
2. Name and address and telephone number of the Hearing Examiner.
3. A citation to the agency's statutory authority to hold the hearing and to take the action proposed.
4. A statement of the allegations or issues to be determined together with a citation to the relevant statutes or rules.

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5. Notification of the right of the parties to be represented by legal counsel, by a person of their choice, or by themselves or by a person other than an attorney, if that person possesses special qualifications pertinent to the subject matter of the hearing if not otherwise prohibited as the unauthorized practice of law.

6. A citation to these rules and to any applicable procedural rules of the agency.

7. A statement advising the parties of the name of the agency official or member of the Attorney General's staff to be contacted to discuss informal disposition pursuant to HE 207 or discovery pursuant to HE 214.

8. In cases wherein the agency is a party, a statement advising the parties that a Notice of Appearance must be filed with the Hearing Examiner within 20 days of the date of service of the Notice of and Order for Hearing if a party intends to appear at the hearing unless the hearing date is less than 20 days from the commencement issuance of the contested case Notice of and Order for Hearing.

9. A statement advising the existing parties that failure to appear at the hearing may result in the allegations of the Notice of and Order for Hearing being taken as true, or the issues set out being deemed proved, and a statement which explains the possible results of the allegations being taken as true or the issues proved.

B. Service. Unless otherwise provided by law, the Notice of and Order for Hearing shall be served not less than 30 days prior to the hearing, provided, however, that A a shorter time may be allowed, if not contrary to statutory requirements, where it can be shown to the Chief Hearing Examiner that a shorter time is required in the public interest and that no interested person will be adversely affected.

C. Publication. Where the agency participates in the hearing in a neutral or quasi-judicial capacity, the Notice of and Order for Hearing shall be published as required by law or as ordered by the agency and copies of the Notice of and Order for Hearing may be mailed by the agency to persons known to have a direct interest.

D. Amendments. At any time prior to the close of the hearing the agency may file and serve an amended Notice of and Order for Hearing, provided that, should the amended Notice and Order raise new issues or allegations, the parties shall have a reasonable time to prepare to meet the new issues or allegations if requested.

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D E. Alternatives. With the prior written concurrence of the Chief Hearing Examiner, an agency may substitute other documents and procedures for the Notice of and Order for Hearing provided that the documents and procedures inform actual and potential parties of the information contained in HE 204 A. 1.-9. above.

HE 205 Notice of appearance. Each party intending to appear at ~~the~~ a contested case hearing wherein the agency is a party shall file with the Hearing Examiner a Notice of Appearance which shall advise the Hearing Examiner of the party's intent to appear and shall indicate the title of the case, the agency ordering the hearing, the party's current address and telephone number and the name, office address, and telephone number of the party's attorney. The Notice of Appearance shall be filed with the Hearing Examiner within 20 days of the date of service of the Notice of and Order for Hearing, except that, where the hearing date is less than 20 days from the commencement of the contested case, the Notice of Appearance shall not be necessary. The failure to file a Notice may, in the discretion of the Hearing Examiner, result in a continuance of the hearing if the party failing to file appears at the hearing. The form shall be included with the Notice of and Order for Hearing in all applicable cases.

HE 206 Right to counsel. Any party may be represented by legal counsel throughout the proceedings in a contested case before an agency, by a person of their choice, or by themselves or by a person other than an attorney, if that person possesses special qualifications pertinent to the subject matter of the hearing if not otherwise prohibited as the unauthorized practice of law.

HE 209 A. Computation of time. In computing any period of time prescribed by these rules or the procedural rules of any agency, the day of the last act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

HE 209 B. Additional time after service by mail. Whenever a party has the right or is required to do some act or take some action within a prescribed period after the service of a notice or other paper upon him, or whenever such service is required to be made within a prescribed period before a specified event, and the notice or paper is

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served by mail, three days shall be added to the prescribed period. In the event an agency chooses to utilize the Central Mailing Section, Publications Division, Department of Administration, four days shall be added to the prescribed period.

HE 210 Intervention.

A. Petition. Any person desiring to intervene in a contested case as a party shall submit a timely petition to intervene to the Hearing Examiner and shall serve the petition upon all existing parties and the agency ~~if the agency is not a party~~. Timeliness will be determined by the Hearing Examiner in each case based on circumstances at the time of filing. The petition shall show how the petitioner's legal rights, duties, or privileges may be determined or affected by the contested case, and shall set forth the grounds and purposes for which intervention is sought and shall indicate petitioner's statutory right to intervene if one should exist. The agency may, with the consent of the Chief Hearing Examiner, and where good reason appears therefor, specify in the Notice of and Order for Hearing (if one is used) the final date upon which a petition for intervention may be submitted to the Hearing Examiner.

B. Objection. Any party may object to the petition for intervention by filing a Notice of Objection with the Hearing Examiner within 7 days of service of the petition. The Notice shall state the party's reasons for objection and shall be served upon all parties, ~~and the person petitioning to intervene and the agency if the agency is not a party.~~

C. Order. The Hearing Examiner shall allow intervention upon a proper showing pursuant to HE 210 A. unless the Hearing Examiner finds that the petitioner's interest is adequately represented by one or more parties participating in the case. ~~In the event the Hearing Examiner finds that one or more petitions are similar, he may allow the petitions to be consolidated as one, allowing all such petitioners to intervene but only as one party.~~

D. Agency in a neutral capacity. Where the agency participates in the hearing in a neutral or quasi-judicial capacity, the agency staff, or a portion of the agency staff, may petition to intervene under the rule.

E. Participation by the public. The Hearing Examiner may, in the absence of a petition to intervene, nevertheless hear the testimony, ~~with or without benefit of oath~~, and receive exhibits from any person at the hearing, or allow a person to note his appearance, or allow a person to question witnesses, but no person shall become, or be deemed to have become, a party by reason of such participation. Persons allowed to participate as above offering testimony or exhibits may be questioned by parties to the proceeding.

HE 211 Consolidation.

A. Authority. Whenever, before hearing on any contested case, the Chief Hearing Examiner, either on his own motion or on the motion of the Hearing Examiner assigned to the case, or upon petition by any party, determines (a) that separate contested cases present substantially the same issues of fact and law; (b) that a holding in one case would affect the rights of parties in another case; and (c) the consolidation would not substantially prejudice any party, the Chief Hearing Examiner may order such cases consolidated for a single hearing on the merits. Notwithstanding the requirements of this rule, the parties may stipulate and agree to such consolidation.

B. Notice of order. Following an order for consolidation the Hearing Examiner shall forthwith serve on all parties a copy of the order for consolidation. The order shall contain, among other things:

1. A description of the cases for consolidation.
2. The reasons for consolidation.
3. Notification of a consolidated prehearing conference if one has been requested.

C. Objection to consolidation.

1. Petition for severance. Any party may object to consolidation by filing with the Hearing Examiner, and serving upon all parties and the agency ~~if it is not a party~~, at least 7 days prior to the hearing in the case, a petition for severance from consolidation, setting forth petitioner's name and address, the title of his case prior to consolidation, and the reasons for his petition.

HE 212 Disqualification. The Hearing Examiner shall withdraw from participation in a contested case at any time if he deems himself disqualified for any reason. Upon the filing in good faith by a party of an affidavit of prejudice the Chief Hearing Examiner shall, ~~absent objection from another party, reassign the case to another Hearing Examiner. Any party may object to the affidavit of prejudice. In such instance, the Chief Hearing Examiner shall determine the matter as a part of the record. All affidavits of prejudice and objections thereto shall be served on all parties and the agency if the agency is not a party, and shall state with specificity the reasons for the affidavit or the objections thereto.~~

~~In the event another affidavit of prejudice is filed by any party, the Chief Hearing Examiner shall determine the matter as a part of the record provided the affidavit shall be filed no later than 45 days prior to the date set for hearing.~~

HE 213 B. Motions. Any application to the Hearing

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Examiner for an order shall be by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. Motions provided in these rules ~~are motions requiring~~ require a written notice to all parties and to the agency ~~if the agency is not a party, and may require a hearing before the order can be issued to be served five days prior to their submission to the Hearing Examiner, except where impractical.~~ The Hearing Examiner may, at his discretion, require a hearing before an order on the motion will be issued. All orders on such motions, other than those made during the course of a hearing, shall be in writing.

HE 214 C. Motion to Hearing Examiner. Upon the motion of a party, the Hearing Examiner may order discovery of any other relevant material or information, provided that privileged work product (e.g. that of attorneys, investigators, etc.) shall not be discoverable. The Hearing Examiner shall also recognize all other privileged information or communications which are recognized at law. Upon proper motion made to the Hearing Examiner, any other means of discovery available pursuant to the Rules of Civil Procedure for the District Courts of the State of Minnesota may be allowed provided that such requests can be shown to be needed for the proper presentation of a party's case, ~~and are not for purpose of delay, and that the issues or amounts in controversy are significant enough to warrant extensive discovery.~~ Upon the failure of a party to reasonably comply with an order of the Hearing Examiner made pursuant to this rule, the Hearing Examiner may make a further order as follows:

1. An order that the subject matter of the order for discovery or any other relevant facts shall be taken as established for the purposes of the case in accordance with the claim of the party requesting the order.

2. An order refusing to allow the party failing to comply to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence.

D. Proprietary information. ~~Nothing in these rules shall require the revealing of proprietary information or trade secrets.~~ When a party is asked to reveal such information, material which it considers to be proprietary information or trade secrets, he shall bring the matter to the attention of the Hearing Examiner, who shall make such protective orders as are reasonable and necessary or as otherwise provided by law.

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HE 216 Subpoenas. ~~Following the commencement of a contested case pursuant to these rules, only subpoenas issued by the Chief Hearing Examiner shall be used during the course of the administrative proceeding.~~ Requests for subpoenas for the attendance of witnesses or the production of documents shall be made in writing to the Hearing Examiner, ~~and copies served upon all parties and the agency if the agency is not a party,~~ and shall contain a brief statement demonstrating the potential relevance of the testimony or evidence sought and shall identify any documents sought with specificity, and shall name all persons to be subpoenaed.

HE 217 The hearing.

B. Witnesses. Any party may be a witness or may present witnesses on his behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation ~~subject only to the provisions of HE 210 E. Testimony offered not subject to oath or affirmation shall be given such weight as the Hearing Examiner deems appropriate.~~ At the request of a party or upon his own motion the Hearing Examiner may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

C. Rules of evidence.

7. Offer of Proof. ~~If an objection to a question propounded to a witness is sustained, the examining person may make a specific offer of what he expects to prove by the answer of the witness. Upon request, the Examiner shall take the evidence in full, unless it clearly appears that the evidence is not admissible on any ground or that the witness is privileged.~~

D. The record.

3. The transcript. The verbatim record shall be transcribed if requested by any person or in the discretion of the Chief Hearing Examiner. If a transcription is made, the Chief Hearing Examiner shall require the requesting person and other persons who request copies of the transcript from him to pay a reasonable charge therefor. The charge shall be set by the Chief Hearing Examiner and all monies received for transcripts shall be payable to the State Treasurer and shall be deposited in the State Office of Hearing Examiners' account in the State Treasury.

F. Motions to the agency. No motions shall be made directly to or be decided by the agency subsequent to the assignment of a Hearing Examiner and prior to the comple-

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tion and filing of the Hearing Examiner's report unless the motion is certified to the agency by the Hearing Examiner. Uncertified motions shall be made to the Hearing Examiner and considered by the agency in its consideration of the record as a whole subsequent to the filing of the Hearing Examiner's report.

Any party may request that a motion decided adversely to that party by the Hearing Examiner before or during the course of the hearing be certified by the Hearing Examiner to the agency. ~~Such request must be made at the time the Hearing Examiner rules on the motion.~~ In deciding what motions should be certified, the Examiner shall consider the following:

1. whether the motion involves a controlling question of law as to which there is substantial ground for a difference of opinion; ~~and~~ or

2. whether a final determination by the agency on the motion would materially advance the ultimate termination of the hearing; or

3. whether or not the delay between the ruling and the motion to certify would adversely affect the prevailing party; or

4. whether to wait until after the hearing would render the matter moot and impossible for the agency to reverse or for a reversal to have any meaning; or

5. whether it is necessary to promote the development of the full record and avoid remanding.

G. Hearing procedure.

2. a. (1) All parties may present evidence and argument with respect to the issues and cross-examine witnesses. ~~At the discretion of the Hearing Examiner, a party, by its attorney or by any representative of that party, or by any combination of such persons, may cross examine each witness, provided that only one person shall cross examine each witness on behalf of a party on any one subject matter of testimony.~~ At the request of the party or the attorney for the party whose witness is being cross-examined, the Hearing Examiner may make such rulings as are necessary to prevent repetitive or irrelevant questioning and to expedite the cross-examination to the extent consistent with disclosure of all relevant testimony and information.

h. The record of the hearing shall be closed upon receipt of the final written memorandum, transcript, if any, or late filed exhibits (if requested by the Examiner), whichever occurs latest.

HE 218 B. Hearing Examiner's report. Following the close of the record the Hearing Examiner shall make his report pursuant to Minn. Stat. § 15.052, subd. 3, and, upon completion, a copy of said report shall be served upon all parties by ~~regular~~ First Class mail or by depositing it with Central Mailing Section, Publications Division, Department of Administration.

HE 222 Effective date. These rules shall be effective for all contested cases commenced ~~after December 31, 1977~~ five working days after publication of these rules in the State Register.

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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.

Department of Labor and Industry Occupational Safety and Health Division Proposed MOSH Codes Relating to Construction

Notice of Hearing

Please take notice, that E. I. Malone, Commissioner, Minnesota Department of Labor and Industry, has determined a need for revisions or additions to the Minnesota Occupational Safety and Health Codes (MOSHC) which are part of the Rules and Regulations of the Department of Labor and Industry. These revisions or additions have been prepared and recommended by the Governor's Occupational Safety and Health Advisory Council which is a twelve-member board equally representing management, labor, the general public, and safety specialists. Therefore, the following codes are proposed for promulgation pursuant to Minn. Stat. § 182.655 (1976). These codes will be inserted in Chapter Six: Construction and therefore will apply to Construction sites but not to General Industry.

Existing MOSHC 73 covers Paint Spraying-Building Interior on construction sites. Part (a) has to do with non-flammable paints and Part (b) has to do with flammable paints. In order to clarify this standard, it is necessary to add



The Red or Norway Pine (*P. resinosa*), named for a small village in Maine, grows to a mature height of 80 feet and is abundant in the forests of Minnesota. Prized for its beauty and ornamental uses, it has light, open branching and a straight trunk covered with reddish brown bark.

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a statement indicating that Parts (a) and (b) both apply to flammable paints. The proposed change is shown below:

(b) Flammable Paints. In addition to meeting the requirements of (a) above, where flammable paints are being applied: MOSHC 79, 80 and 81 shall be added to Chapter Six: Construction.

MOSHC 79 Walking-working surfaces.

A. Labeling floor or wall opening covers.

1. In those instances where floor or wall opening covers are used, they shall be labeled, "Floor Opening — Do Not Remove," or "Wall Opening — Do Not Remove" as applicable with lettering at least 2 inches in height and such covers shall be secured against accidental displacement.

B. Tripping and impaling hazards.

1. Where employees are exposed to tripping or impaling hazards caused by projecting conduit ends, reinforcing rods, pipe ends, or similar objects, these hazards shall be barricaded, guarded, or otherwise covered.

C. Construction stairways.

1. In addition to the requirements of 29 CFR 1926.501, semi-finished permanent stairways or temporary stairways to a second floor are to be in place before supports or structure to the sixth floor are raised. Similarly, the supports or structure on multi-floored buildings shall never be more than 5 floors ahead of stairways.

2. On steel frame buildings, stairways shall extend to the uppermost floor that has been planked or decked. Ladders for access purposes may be used only above that point.

3. A second means of egress remote from the prime means of egress shall be provided, for emergency use, when any multi-floored structure reaches the 30-foot level or the fourth floor.

4. Ladders which meet the requirements of 29 CFR 1926.450 may be used as a second means of egress.

D. Multi-stage suspension scaffolds.

1. Multi-stage suspension scaffolds shall meet the requirements of 29 CFR 1926.451(i) with the exception of 1926.451(i)(8).

2. In addition, the following requirements shall be met:

a. All multi-stage suspension scaffolds shall be equipped with at least one additional emergency support cable and automatic locking device at each end of the platform capable of supporting the work platform in the event one or both of the main suspension cables should fail.

b. The two additional emergency support cables required in a. above shall provide the required strength for a safety factor of six times the platform's intended load, including support for scaffold platforms, materials, tools, and employees working on the scaffold.

c. Employees shall tie off with a lanyard to the scaffold system in lieu of a lifeline to the building. The section of scaffold system or cable used by employees for attachment of lanyard, when tying off to the scaffold in lieu of a lifeline as required above, shall be capable of supporting at least six (6) times the intended load.

MOSHC 80 Demolition operations. The cutting or removal of reinforcing steel or cables that are suspending debris, or the removal of columns or studs that support debris, shall not take place in close proximity to any area where employees are working unless the area has been isolated by a protective enclosure separating the work area from falling or sliding debris.

MOSHC 81 Personal protective equipment.

A. High visibility vests and other high visibility equipment.

1. Employees exposed to vehicular traffic when the work area is on the driving lanes or on the shoulders or berms, or on the median adjacent to streets, highways, or roadways shall be provided with and required to wear warning vests or other high visibility garments. For work during the hours of darkness this protective equipment must be made of or marked with reflectorized material.

2. Where permanent or semi-permanent barricades are installed to protect employees from vehicular traffic, high visibility vests or other high visibility equipment are not required.

Complete copies of the specific standards with revisions and additions as described above are available by writing: Deputy Commissioner, Minnesota Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101.

Interested persons are hereby afforded a period of 30 days to submit written data or comments on the rules proposed. Any interested person may file with the commissioner written objections to the proposed rules stating the grounds

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therefor and such persons may request a public hearing on such objections.

Proposed MOSHC Rules Relating to Elevators

Notice of Hearing

Please take notice, that E. I. Malone, Commissioner, Minnesota Department of Labor and Industry, has determined a need for revisions or additions to the Minnesota Occupational Safety and Health Codes (MOSHC) which are part of the Rules and Regulations of the Department of Labor and Industry. These revisions or additions are necessary to include all supplements in the overall elevator standard (ANSI A17.1-1971) and to make it feasible to install powered platform manlifts in certain locations. Therefore, the following codes are proposed for promulgation pursuant to Minn. Stat. § 182.655 (1976). The modifications are described below:

Existing MOSHC 103 adopted ANSI A17.1-1971, American National Standards Institute Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, including supplement A17.1a-1972 and A17.1b-1973. Supplements were also made in 1974, 1975 and 1976. This change will adopt those recent supplements to stay current with the accepted safety standards for elevators. Therefore, a change in MOSHC 103, as shown by the underlined material below, is proposed:

MOSHC 103 Elevators, dumbwaiters, escalators and moving walks.

A. Applicable standards. The eighth edition of the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1-1971, including supplements A17.1a-1972, A17.1b-1973, A17.1c-1974, A17.1d-1975, A17.1e-1975, A17.1f-1975, and A17.1g-1976 as amended, is hereby incorporated by reference and made a part of these Minnesota Department of Labor and Industry Occupational Safety and Health Rules.

Existing MOSHC 122 describes requirements for powered platform manlifts in Minnesota. It requires such installations to meet all the requirements of powered passenger elevators with several exceptions. It is necessary to provide further exceptions to allow the installation of powered platform manlifts in grain elevators, power plants, bridge tow-

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ers and similar structures. The entire MOSHC 122, with amendments, is shown below. The new additions are included as sub-sections D. through O.

MOSHC 122 Powered platform manlifts. Powered platform manlifts may be installed providing they meet all the requirements of power passenger elevators with the following exceptions:

A. Hoistway doors. Landing openings shall be protected with hoistway doors or gates in conformance with the ANSI A17.1 freight elevator requirements.

B. Hoistway door interlocks. Interlocks or electromechanical locks shall be provided in accordance with freight elevator requirements.

C. Rule exception. An exception in paragraph (2) of Rule 110.1-ANSI A17.1 is acceptable providing the following requirements are met:

1. Emergency escape hatch on top of the car can be opened from the inside of the car.

2. A manual reset type switch is provided on the emergency escape hatch.

3. Steel ladder located totally within the hoistway shall be provided the full length of the manlift travel.

D. Hoistway enclosures shall extend to a height of at least 10 feet and shall be of noncombustible material supported and braced so as to deflect not more than 1-inch when subjected to a force of 100 lbs. applied horizontally at any point.

1. Unperforated metal enclosures shall be equal to or stronger than No. 18 U.S. gauge sheet metal.

2. Open work enclosures shall reject a ball 1-inch in diameter and shall be either wire grill at least No. 13 steel wire gauge or expanded metal at least No. 13 U.S. gauge.

3. When hoistway enclosure does not extend full length of travel, the car gate or door shall be provided with a mechanical lock which will allow the gate or door to be opened only in the landing zone.

E. Hoistway doors. Single section swing hoistway doors are allowed.

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F. Hoistway venting. Hoistway venting is not required.

G. Pipes in hoistway. Grain spouts and electrical conduit may be installed in the hoistway provided there is ample clearance to car and counterweights (steam, hot water, air and flammable or toxic gas pipes are not allowed).

H. Pit ladders. Pit ladders are not required in pits less than 4 feet in depth.

I. Car size. The inside net platform area shall not exceed 9 square feet and the rated load shall not exceed 650 lbs.

J. Car door. Car gate or door shall meet either freight or passenger elevator requirements.

K. Alarm bell. An alarm bell located in an occupied area shall be provided in addition to the bell mounted on the car. (Voice communications to a 24-hour service is not required.)

L. Emergency controls. Rule 211.3 of ANSI-A17.1 supplement b-1973 does not apply.

M. Emergency power. Emergency power supply is not required.

N. Machine access. Safe access to the machine may be provided by means of a permanently installed fixed ladder.

O. Machine platform. A work platform with standard guardrails and toe boards may be provided in lieu of a totally enclosed machine room.

Complete copies of the specific standards with revisions and additions as described above are available by writing: Deputy Commissioner, Minnesota Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101.

Interested persons are hereby afforded a period of 30 days to submit written data or comments on the rules proposed. Any interested person may file with the commissioner written objections to the proposed rules stating the grounds therefor and such persons may request a public hearing on such objections.

Proposed MOSHC Rules Relating to General Industry

Notice of Hearing

Please take notice, that E. I. Malone, Commissioner, Minnesota Department of Labor and Industry, has deter-

mined a need for revisions or additions to the Minnesota Occupational Safety and Health Codes (MOSHC) which are part of the Rules and Regulations of the Department of Labor and Industry. These revisions or additions have been prepared and recommended by the Governor's Occupational Safety and Health Advisory Council which is a twelve-member board equally representing management, labor, the general public, and safety specialists. Therefore, the following codes are proposed for promulgation pursuant to Minn. Stat. § 182.655 (1976). These codes apply to General Industry locations but not to Construction sites. MOSHC 10 and MOSHC 11 shall be added to Chapter Two: Personal Protective Equipment.

MOSHC 10 Head protection, hair. Employees working in areas where there is danger of scalp injury if the employee's hair should become entangled in moving machinery parts shall be protected by having their hair contained or secured in a shop cap, snood, or similar device.

MOSHC 11 Personal protective equipment.

A. High visibility vests and other high visibility equipment.

1. Employees (other than police and fire protection personnel covered by paragraph 2. of this section) exposed to vehicular traffic on the right-of-way of any street, highway or roadway, or on the berm or medians adjacent to street, highway, or roadway, shall be provided with and shall be required to wear red or orange high visibility warning vests or other garments.

For all night-time operations, outside garments shall be reflectorized.

2. Law enforcement and fire protection personnel shall be provided with, and be required to wear, high visibility, reflectorized outer garments at any time such personnel are engaged in vehicular traffic control or are otherwise exposed to any hazards presented by vehicular traffic.

MOSHC 20 shall be added to Chapter Three: Walking, Working Surfaces.

MOSHC 20 Storage racks. No employee shall be required or permitted to work on an elevated platform or rack intended primarily for the storage of materials unless such storage area has been provided with the safeguards specified in 29 CFR 1910.23(c)(1). Existing MOSHC 71 Ships Ladders and MOSHC 72 Ships Ladders (Special) from Chapter Six: Construction will be renumbered as MOSHC 21 and MOSHC 22 and included in Chapter Three: Walking, Working Surfaces. This change is intended to allow these standards to apply to General Industry locations.

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MOSHC 21 Ships ladders.

A. General.

1. Employers shall replace fixed and portable ladders with ships ladders whenever possible.
2. The angle of rise of ships ladders shall be between 50 and 60 degrees measured from the horizontal.
3. Soffits. Where ladders are located one above the other, soffits shall be enclosed except where solid treads and risers are provided.
4. Tread height. The height between treads shall be 8 to 12 inches.
5. Tread surfaces other than steel grating shall be provided with skid resistance.
6. Tread size. Treads shall be flat steps with minimum of 6 inches in width and at least 24 inches long.
7. Handrails shall be provided on both sides of ladders and shall be placed to run parallel with stringers and be positioned 12 to 14 inches measured vertically, from the stringers.
8. Handrail diameter. Handrail diameters shall be 1¼ to 1½ inches O.D.
9. Entrances. When ships ladders serve door entrances, handrails shall continue to the door.
10. Stringers. Ladder stringers shall be at least six inches in depth and permanently attached at terminations.

MOSHC 22 Ships ladders (special).

A. Ships ladders shall be provided in all buildings where mechanical equipment is located on the roof in order to make all equipment accessible to maintenance and inspection personnel.

1. Ships ladders shall be placed at an angle between 50 and 60 degrees measured from the horizontal.
2. The opening in ceilings and building roofs shall have a minimum area of nine square feet and a minimum width of two feet.
3. No ships ladders shall be located in or pass through

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elevator shafts, elevator penthouses, or elevator machine rooms.

4. Inside a penthouse handrails shall continue through ceiling and roof openings to a distance of 36 inches. A guardrail and intermediate rail shall be provided on all open sides with a substantial chain guard on the entrance side.

A new Chapter Ten: Maintenance and Repair, including MOSHC 130, 131, 132, 133, 134 and 135 shall be included.

MOSHC 130 Scope. This section applies to building and in-plant maintenance and repair necessary to maintain buildings and equipment in safe operating condition. It is not intended to cover construction of new buildings or equipment.

MOSHC 131 General.

A. Building maintenance.

1. Buildings shall be maintained so as to assure that no loose parts or equipment including bricks, mortar, glass, wood, or cement parts can fall in passage or work areas occupied by employees.

2. Catwalks, platforms, walkways and stairways shall be maintained in a condition free from the hazards associated with ice, snow, overhanging ice or snow, holes, loose members or badly deteriorated or corroded members.

MOSHC 132 Blocking and cribbing machinery.

A. Heavy machinery, equipment or parts thereof which are suspended or held aloft by slings, cables, chains, jacks or hoists shall be blocked or cribbed to prevent falling or shifting before employees are permitted to work under or between the members of the equipment.

B. Elevated bulldozer and scraper blades, power crane booms, end loader buckets, dump truck boxes and similar equipment shall be fully lowered or adequately blocked or cribbed before being serviced or repaired.

MOSHC 133 Lockout devices.

A. Any main electrical power disconnect means which controls a source of power or material flow shall be locked

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out with a lockout device whenever employees are maintaining, cleaning, adjusting or servicing machinery or equipment, if such work is not in clear sight of the employee. A "Do Not Start" tag as described in 29 CFR 1910.145(f)(3) shall be affixed to any and all operating controls.

B. All pneumatic, hydraulic, and other fluid lines shall be bled, drained, or purged to eliminate pressure, contents or both and the line valve holding back any substance in lines which are bled, drained, or purged shall also be locked out.

C. Mechanisms under spring tension or compression shall be blocked, clamped, secured in position, or the compression or tension totally relieved before being worked on by an employee.

D. Suspended mechanisms or parts that normally cycle through a lower position shall be lowered to the lowest position, be clamped, blocked, or otherwise secured in position before being worked on by an employee.

E. Where more than one employee is engaged in working on machinery or equipment, each employee shall affix their individual lockout device or lock to the disconnect switch or power supply.

MOSHC 134 Lubrication of moving machinery. Machinery or equipment shall be shut down during manual lubrication unless lubrication fittings are safeguarded.

MOSHC 135 Wire rope clips.

A. Wire rope clips attached with U-bolts shall have the U-bolts on the dead or short end of the rope.

B. Clips shall be made of drop forged steel. When a newly installed rope has been in service for one hour, all nuts on the clip bolts shall be retightened.

C. Spacing and number of clips shall be in accordance with the table below:

<u>Rope Diameter Inches</u>	<u>Number of Clips Drop Forged</u>	<u>Minimum Spacing (inches)</u>
<u>½</u>	<u>3</u>	<u>3</u>
<u>5/8</u>	<u>3</u>	<u>3¾</u>
<u>¾</u>	<u>4</u>	<u>4½</u>
<u>7/8</u>	<u>4</u>	<u>5¼</u>
<u>1</u>	<u>5</u>	<u>6</u>
<u>1 1/8</u>	<u>6</u>	<u>6¾</u>
<u>1 ¼</u>	<u>6</u>	<u>7½</u>
<u>1 3/8</u>	<u>7</u>	<u>8¼</u>
<u>1 ½</u>	<u>7</u>	<u>9</u>

A new Chapter Eleven: Vehicles, including MOSHC 160, 161 and 162 shall be included.

MOSHC 160 Motorized self-propelled vehicles.

A. Scope.

1. This section applies to:

a. all motorized, self-propelled vehicles used off the highway including industrial type trucks, crawler equipment and rubber-tired vehicles;

b. emergency vehicles including trucks, snow plows, road maintenance vehicles and related equipment; and

c. service trucks including garbage compactors.

2. This section shall not apply to vehicles with less than a 20 HP motor.

B. General requirements for motorized self-propelled vehicles.

1. Motorized, self-propelled vehicles shall meet the requirements of 29 CFR 1926.600, 1926.601, and 1926.602.

C. Transportation of employees.

1. Vehicles being used to transport employees shall be equipped with a seating arrangement securely anchored, a rear end gate, a guardrail and steps or a ladder for mounting and dismounting.

2. Under no circumstances shall any employee be allowed to ride in a standing position or with arms or legs outside of the truck body, or seated on the side fenders, cabs, cabshields, rear of truck or on the load unless such a position is dictated by a job assignment.

3. No explosives, flammable materials (excepting normal fuel supply), or toxic substances shall be transported in the passenger carrying area of vehicles carrying employees.

4. No vehicle transporting employees shall be moved until the driver has ascertained that all employees are seated and required guardrails and end gates are in place and doors closed.

5. No employee shall be allowed to get on or off any vehicle while it is in motion.

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D. Vehicle inspection.

1. Section 29 CFR 1926.601(b)(14) shall apply to all vehicles covered in 29 CFR 1926.602.

MOSHC 161 Powered industrial truck operations.

A. All industrial trucks designed and constructed for use on solid hard level surfaces shall be restricted to such operations.

1. All solid hard level surfaces must be free of cracks, irregularities or holes that could upset the balance of the industrial truck.

2. When a fork truck operator is positioning a load in an area which is not fully visible to the fork truck operator, the operator shall be assisted by a designated person who shall direct the safe placing of the load by using predetermined signals.

MOSHC 162 Grease racks, hoists and pits.

A. Vehicles shall not be supported on jacks or held suspended by ropes, chains, or cables but shall be supported by adequate blocking or cribbing or set on supports designed for that purpose.

B. Employees shall not be allowed to stand directly in front of self-propelled vehicles while directing the vehicle onto the hoist or pit, or to work in front of a moving vehicle unless a crib or barricade, adequate to stop the vehicle, is between the employee and the moving vehicle. The crib or barricade shall not in itself create any additional hazards to the employees.

C. A space of 2 feet or more shall be provided as working clearance between the sides of a vehicle on a floor hoist and any wall surface.

D. On automotive hoists, an automatic mechanical device having a safety factor of 3 based on the manufacturer's rated load capacity shall be provided to hold the lift in the fully extended position at the manufacturer's rated load capacity.

A new Chapter Thirteen: Machine Guarding, including MOSHC 170 and 171, shall be included.

MOSHC 170 Pneumatic Power Tools. All pneumatically

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driven nailers, staplers, and other fastening equipment provided with automatic fastener feed shall have a safety device on the muzzle which is designed to prevent the tool from ejecting fasteners unless the muzzle is in contact with the work surface.

MOSHC 171 Machines with revolving parts.

A. Scope.

1. The provisions of this section shall apply to extractors, mixers, mullers, and centrifuges.

2. Nothing in this section shall apply to equipment used in research laboratories or equipment with less than 1/4 HP driving motors.

3. Nothing in this section shall apply to any machine which must be hand-fed where the feed opening is protected either by a guarded hopper or automatic feed system which prevents the operator from reaching into the point of operation.

B. Each machine shall be fully guarded with a cover, hatch or grate with an interlocking device that will prevent the cover, hatch, or grate from being opened while the rotating parts are in motion, and will also prevent the power operation of the machine while the cover, hatch, or grating is not fully closed and secured.

C. Each machine shall be effectively secured in position on the floor or foundation so as to eliminate unnecessary vibrations.

D. The manufacturer's recommended speeds shall be stamped on the machine, and located where it is readily visible in letters not less than one-quarter inch in height. The maximum permissible speed shall be given in revolutions per minute (RPM).

Complete copies of the specific standards with revisions and additions as described above are available by writing: Deputy Commissioner, Minnesota Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101.

Interested persons are hereby afforded a period of 30 days to submit written data or comments on the rules proposed. Any interested person may file with the commis-

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sioner written objections to the proposed rules stating the grounds therefor and such persons may request a public hearing on such objections.

Department of Public Welfare Medical Assistance Division Proposed Temporary Rule Governing Reimbursement of Transportation Costs under the Medical Assistance Program

Request for Public Comment

Notice is hereby given that the following amendment to 12 MCAR § 2.047 (Rule DPW 47), governing administration of the Medical Assistance Program, is proposed for adoption as a temporary rule as authorized by Minn. Stat. § 15.0412, subd. 5 (1977), pending completion of a full hearing and adoption of a permanent rule. Comments from interested and affected persons are requested. Comments must be received at the address given below within 20 days of the date of this publication to be considered. The temporary rule may be revised on the basis of comments received.

Comments on the proposed rule should be sent to:

Robert G. Randle, Director
Medical Assistance Program
Department of Public Welfare
P.O. Box 43170
690 North Robert Street
St. Paul, Minnesota 55164

Rule as Proposed

12 MCAR § 2.047 E.2.r. Other medical care. The MA program shall pay for other necessary medical and/or remedial care as follows:

~~(1) Transportation only when furnished by an enrolled medical provider licensed by the Minnesota Department of Health (See, D.7., *supra*.)~~

~~(a) The following services rendered by medical transportation providers are not covered under the MA program:~~

~~(i) Any routine service determined by the local welfare agency not to be medically necessary;~~

~~(ii) Ambulance service in cases where another means of transportation would have sufficed.~~

(1) Transportation costs.

(a) For purposes of E.2.r.(1), the following definitions apply:

(i) Emergency medical care: unscheduled medical care provided to a victim of an accident, injury or acute illness when immediately necessary to save the victim's life or to prevent long lasting damage to the victim's health.

(ii) Non-emergency medical care: medical care that is not emergency medical care as defined in E.2.r.(1)(a)(i) *supra*. This category includes but is not limited to: all medical care that is routine, anticipated, planned in advance, habitual, provided according to a predetermined schedule of visits.

(iii) Ambulatory person: an individual who is physically and mentally capable of utilizing a mode of transportation other than an ambulance service, e.g., taxicabs, buses, and private autos or vans, to obtain medical care.

(iv) Non-ambulatory person: an individual having obvious physical or diagnosed mental disabilities which prevent him from utilizing certain modes of transportation other than ambulance services to obtain medical care. Such disability may be temporary or permanent. An individual may be physically or mentally incapable of utilizing one mode of transportation other than an ambulance service yet be capable of utilizing another mode of non-ambulance service. For example, an individual may be incapable of riding an ordinary bus yet be capable of riding a bus specially equipped to accommodate wheel chairs.

(v) Ambulance services: emergency and non-emergency transportation provided by an operator which is licensed by the State Board of Health to provide ambulance service.

(vi) Loaded miles: mileage travelled when the MA-eligible recipient occupies the ambulance.

(b) The MA program shall pay reasonable transportation costs incurred by ambulatory and non-ambulatory eligible recipients for obtaining emergency medical care at the nearest facility or physician capable of providing the necessary medical care. The transportation

PROPOSED RULES

provider must indicate on the invoice submitted for payment the nature of the accident, injury or acute illness which justified the need for emergency transportation service. The MA program shall only pay the cost of transportation to the nearest appropriate facility or physician.

(c) MA program funds may be used to pay nonemergency transportation costs incurred by ambulatory eligible recipients as follows: The local welfare agency shall pay these costs and shall then request reimbursement from the State Agency through the MA program abstract. Such abstract shall identify by name each provider of non-emergency transportation services paid by the local welfare agency during that month, and the names and MA numbers of each eligible recipient on whose behalf such payment was made. Nonemergency transportation costs incurred by ambulatory eligible recipients are reimbursable only in the following circumstances:

(i) if transportation services are provided by a provider other than an ambulance service;

(ii) if the recipient is transported to obtain necessary medical care from a provider eligible for reimbursement under the MA program; and

(iii) if the provider submits his request for reimbursement to the local welfare agency.

(d) The MA program shall pay nonemergency transportation costs incurred by nonambulatory eligible recipients only as follows:

(i) if services are to be provided by a licensed ambulance service, the following conditions must exist;

(aa) the recipient shall be determined by the local welfare agency to be eligible for such transportation and shall be provided evidence of such eligibility to present to the ambulance service;

(bb) the point of destination shall be a provider who at the time performs services which are reimbursable under the MA program;

(cc) the ambulance service shall report the points of origin and destination on the invoice submitted to the state agency; and

12 MCAR § 2.047 E.2.r.

(dd) the ambulance service shall maintain on file a written statement signed by the medical provider at the point of destination, on the medical provider's letterhead or prescription form, which shall indicate that the recipient was transported to obtain medical services from the medical provider. Written statements shall be collected by the ambulance service driver at the point of destination of each non-emergency trip for which MA payment is claimed.

(ii) if services are to be provided by a provider other than an ambulance service, the local welfare agency shall request reimbursement from the state agency through the MA program abstract. Such abstract shall identify by name each provider of nonemergency transportation services paid by the local welfare agency during that month, and the names and MA numbers of each eligible recipient on whose behalf such payment was made. Nonemergency transportation services provided by a provider other than an ambulance service are reimbursable only in the following circumstances:

(aa) prior approval shall be obtained from the local welfare agency to utilize this particular mode of non-emergency transportation;

(bb) the recipient shall present evidence of such prior approval to the transportation provider in advance of obtaining the service;

(cc) the provider shall submit his request for reimbursement to the local welfare agency which approved the service; and

(dd) the point of destination shall be a medical provider eligible for reimbursement under the MA program.

(e) The following transportation costs shall not be reimbursable under the MA program:

(i) any service requiring prior approval by the local welfare agency if such prior approval is not requested or is denied. Such services which require prior approval include but are not limited to:

(aa) nonemergency transportation by ambulance service of an ambulatory recipient; and

(bb) transportation to any destination

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PROPOSED RULES

12 MCAR § 2.047 E.2.r.

other than a medical provider eligible for reimbursement under the MA program;

(ii) emergency transportation beyond the nearest facility or physician capable of providing the necessary care;

(iii) transportation by ambulance service to a pharmacy;

(iv) charges by ambulance service for any itemized services not included in the base rate, including but not limited to:

(aa) waiting time,

(bb) night/weekend/holiday charge.

(cc) sterilization of vehicle or equipment,

(dd) first aid items,

(ee) transportation of corpse,

(ff) unloaded miles,

(gg) oxygen,

(hh) nurse or extra attendant,

(ii) backboard,

(jj) restraint,

(kk) cervical collar,

(ll) sandbags,

(mm) stretchers,

(nn) luggage,

(oo) airport,

(pp) stairs, and/or

(qq) cleaning uniform.

(v) transportation charges by a hospital-based ambulance service if billed on the inpatient or out-

patient hospital invoice. Such hospital-based ambulance service must be billed on the medical transportation invoice.

(f) Billing and Reimbursement.

(i) Licensed ambulance services shall be reimbursed as follows:

(aa) emergency transportation: maximum of \$70 base rate, maximum of \$1.50 per loaded mile, not payment for additional services;

(bb) nonemergency transportation.

(I) The maximum base rate and maximum mileage charge reimbursed by the MA program shall depend on the number of persons sharing the trip. These maximum payments are as follows:

(A) one person: \$20 base rate, \$1.00 per loaded mile in excess of 20 miles.

(B) two people: \$17.50 base rate, 50 cents per mile in excess of 20 miles.

(C) three people: \$15 base rate, 50 cents per mile in excess of 20 miles.

(D) four people: \$12.50 base rate, 50 cents per mile in excess of 20 miles.

(E) five or more people: \$10 base rate, 50 cents per mile in excess of 20 miles.

(II) The MA program shall pay only the base rate charge for trips under 20 loaded miles in each direction.

(III) Within the seven county Twin City area MA payment for mileage charges for trips beyond 20 loaded miles in each direction is available only if the following circumstances are documented:

(A) the recipient's physician has referred the recipient for necessary medical care by the medical provider at the point of destination. The invoice submitted to the state agency by the ambulance service must have attached a copy of the referring physician's signed, written referral.

(IV) Outside the seven county Twin City area MA payment for trips beyond 40 loaded miles in each direction is available only if the following circumstances are documented:

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(A) the recipient's physician has referred the recipient for necessary medical care by the medical provider at the point of destination. The invoice submitted to the state agency by the ambulance service must have attached a copy of the referring physician's signed, written referral; or

(B) the recipient is located more than 40 miles from the nearest available medical provider and the ambulance service documents to the state agency that the recipient was transported to the nearest appropriate medical provider.

(cc) Reimbursement shall be limited to the base rate charges and allowable mileage charges.

(dd) Providers shall bill the MA program according to the provider's usual and customary charge for the service provided, even if the usual and customary charge is less than or exceeds the maximum rates established by this rule. In no case, however, shall MA reimbursement exceed the maximum rates established.

(ee) Providers shall keep records which clearly indicate the number of persons who shared each trip. Such records shall be available for review and audit by DPW in accordance with D.4.C. *supra*.

(ff) Providers shall indicate on each in-

12 MCAR § 2.047 E.2.r.

voice submitted for payment the number of persons sharing the trip.

(gg) Providers shall indicate on each invoice submitted for payment the reason for this trip by using "reason codes" provided by the department. Providers shall also code each invoice as emergency or non-emergency according to instructions issued by the department.

(ii) Transportation services provided by providers other than licensed ambulance services shall be reimbursed as follows:

(aa) providers of public transportation such as buses and taxicabs shall be paid the approved local rate charged all passengers using that service;

(bb) transportation provided by an individual other than the recipient or his responsible relative shall be reimbursed at the rate of 13¢ per mile;

(cc) transportation costs incurred by the recipient or his responsible relative with the approval of the local welfare agency shall be reimbursed at 13¢ per mile from the local welfare agency MA administrative account, in accordance with D. 11 *supra*.

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STATE CONTRACTS

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.

Department of Corrections Training Unit — Central Office

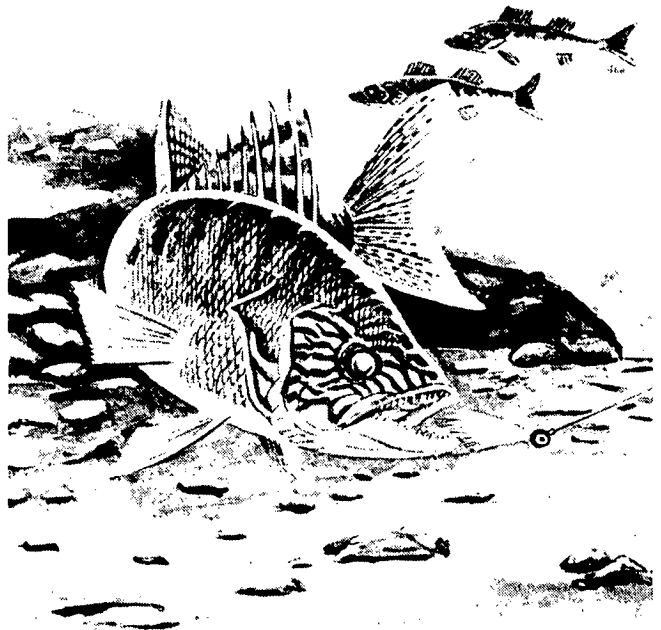
Notice of Availability of Contract to Provide Consultation and Technical Assistance in the Area of Staff Development

The contract is to provide unit team and management development assistance at the Minnesota State Prison and State Reformatory for Men. The contractor will develop the services to be provided in concert with the chief administrator of the respective institution. The sessions will be with individual organizational units on an ongoing and follow-up basis. The training is to be individualized and original in nature after assessing the needs of the specific institution and/or unit involved. The target population are managers and their teams. The limited annual cost of this project is \$21,000. The payment is \$150.00 a day plus travel expenses and per diem.

For further information contact:

Julie Chamberlin
Department of Corrections
404 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101
(612) 296-3520

The final submission date is August 4, 1978.



Known as the Walleye (*Stizostedion vitreum*), the largest member of the perch family is the most sought after fish in Minnesota. The Department of Natural Resources annually stocks over 50% of the state's lakes with 150 to 200 million Walleye. A much anticipated event among anglers, Walleye season begins around May 15 and runs through February 15.

Environmental Quality Board Power Plant Siting Division

Notice of Extension of Deadline for Submittal of Proposals for "Transmission Line Network Analysis for the 1979 Inventory of Large Electric Power Generating Plant Study Areas"

Notice of the above-captioned Request for Proposals was published in the June 19, 1978 issue of the *State Register* stating a July 10, 1978 deadline for the submittal of proposals. The deadline for the submittal of proposals is hereby extended to August 7, 1978. The estimated amount of the contract is \$30,000.

Direct inquiries to:

Environmental Quality Board
Power Plant Siting Staff
Capitol Square Building, Room 100

STATE CONTRACTS

550 Cedar Street
St. Paul, Minnesota 55101
Attn: Will Kaul, Contract Manager
(612) 296-2888

Department of Health Maternal and Child Health Section

Notice of Request for Proposals to Implement and Operate a Women, Infants and Children Program Data System

The Minnesota Department of Health is requesting proposals from interested agencies and persons to implement and operate a Women, Infants and Children (WIC) Program data system which will provide:

— a mechanism for delivery of food instruments to local projects;

— a financial management system which collects fiscal data on the food delivery system and provides for the timely completion of required financial reports;

— a management information system which collects, processes and stores program data, some of which will be provided to the department on tapes for evaluation tables.

Interested persons may obtain a Request For Proposal and further instructions by submitting a written request to:

Ronald Campbell, MD
Section of Maternal and Child Health
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, Minnesota 55440

Final submission date for completed proposals is August 14, 1978.

Department of Health Personal Health Services — Chronic Disease Section

Notice of Request for Proposals for Model Public Health Systems for Patients on Long-Term Hypertensive Drug Therapy

A Request for Proposals (RFP) was issued by the Chronic Disease Section, Department of Health, on July 24, 1978

for the purpose of establishing two alternative model public health systems which Community Health Service Agencies can use to effectively retain patients on long-term hypertensive drug therapy. These models would reduce morbidity and mortality from hypertension by identifying why patients spontaneously terminate their drug therapy, and implement services that successfully return dropouts to treatment. As many as two grants, not to exceed \$25,000 each, may be awarded to develop and carry out these models. Proposals must be received prior to 4:30 p.m. August 23, 1978. Persons or organizations wishing to receive this RFP should contact Eric Warren, Chronic Disease Section, Minnesota Department of Health, 717 SE Delaware Street, Minneapolis, Minnesota 55440, (612) 296-5216.

Higher Education Coordinating Board

Notice of Availability of Contract for Auditing Services

Notice is hereby given that the Minnesota Higher Education Coordinating Board intends to engage the service of a certified public accounting firm to examine and report upon the financial statements of the State Student Loan Program for the fiscal year ended June 30, 1978. The audit must comply with generally accepted auditing standards which encompass the AICPA's industry's audit guide, "Audits of State and Local Governmental Units." The estimated amount of the contract is \$9,000. Proposals should be solicited no later than August 1, 1978.

Any inquiries should be addressed to:

Mr. Arlon Haupt
Minnesota Higher Education Coordinating Board
Suite 400, Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-9685

Department of Public Service

Notice of Request for Proposals for Heat Pump Study

The Department of Public Service is requesting proposals for a study of the economic feasibility of heat pumps as an

STATE CONTRACTS

alternative or supplement to conventional heating and cooling systems in Minnesota residences.

The study will review two aspects of heat pump use which include: the cost and benefits for the individual energy consumer; and the impacts on utility load demand. The first portion will consist of a life-cycle cost comparison of the various systems which can be used to heat and/or cool residences in Minnesota. It will discuss the major design criteria which have an impact on heat pump utilization and will describe those conditions under which heat pumps can be economically feasible. The second portion will result in an analysis of the impact that widespread adoption of heat pump would have on utility base and peak load demand.

The study will be used as a guide to the development of state and utility company policy regarding heat pumps.

The department estimates the cost of the study to be \$45,000.

Copies of the Request for Proposal can be obtained by contacting Penny McCarran, Department of Public Service, 7th Floor, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, or by telephone at (612) 296-0419. Proposals should be submitted to Mr. Lawrence Anderson, Director, Department of Public Service, by August 21, 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 Commerce Insurance Division

Notice of Intent to Solicit Outside Information and Opinion Regarding the Adoption of Rules Relating to Minimum Anticipated Loss Ratio Requirements for Accident and Health Insurance Policies

Notice is hereby given that the Department of Commerce, Insurance Division, shall solicit outside information and opinions in preparation for the adoption of rules relating to minimum anticipated loss ratios for Accident and Health Insurance policies pursuant to Minn. Stat. § 62A.02, subd. 3 (1976), as amended by Laws of 1977, ch. 1030.

All interested persons are hereby afforded the opportunity to submit relevant data or views on the subject either in written form or orally. Responses should be directed to:

John T. Ingrassia
Supervisor, Life & Health Section
Insurance Division
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101
Telephone: (612) 296-2202

Thomas L. O'Malley
Assistant Commissioner of Insurance

July 5, 1978



Minnesota issues more deer stamps for hunting (over 250,000 annually) than any other state. The whitetail (*Odocoileus virginianus*), a source of food, shelter, ornament and clothing for American Indians and white settlers, was nearly exterminated through years of slaughter, but herds now total around 800,000 head in Minnesota.

Ethical Practices Board Notice of Public Finance Estimates

The Ethical Practices Board has issued estimates of public financing from the state income tax checkoff which will be available to candidates for legislative and constitutional office who are seeking election in 1978.

Copies of the amounts available for every office by district and party are available in the office of the Ethical Practices Board.

In the offices of filing officers, copies are available only of those districts for which candidates file.

Public financing is available to candidates who file voluntary agreements by September 1 with the Ethical Practices Board. Public Finance Agreements bind the candidate to an overall campaign expenditure limit and aggregate contribution limit.

Contribution and expenditure limits* for 1978 are as follows:

Governor/Lt. Governor (jointly)	\$600,000
Attorney General	\$100,000
Secretary of State	\$ 50,000
State Treasurer	\$ 50,000
State Auditor	\$ 50,000
State Representative	\$ 7,500

*Expenditure limits may be increased by 20% if the candidate wins the primary election by less than twice the number of votes cast for the closest opponent.

**Housing Finance Agency
Notice of Intent to Solicit Outside
Opinion for Rules Governing
Housing Programs for Urban
American Indians**

Notice is hereby given that the Minnesota Housing Finance Agency is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing housing programs for urban Native Americans. These rules are authorized by Laws of 1978, ch. 670.

To facilitate the gathering of information, informational meetings will be held at various locations throughout the state. The third such meeting will be held in Minneapolis, Minnesota, at the Minneapolis Regional Native American Center, 1530 Franklin Avenue East, Minneapolis, Minnesota, on July 24, 1978 at 7:30 p.m. Any interested persons may submit data or reviews on this subject in writing or orally at this meeting.

Written material may also be submitted to:

May Hutchinson
Minnesota Housing Finance Agency
200 Nalpak Building
333 Sibley Street
St. Paul, MN 55101

Any written material received shall become a part of the hearing record in the event rules governing the subject matter are promulgated.

James J. Solem
Executive Director

**Department of Public
Welfare
Merit System
Notice of Intent to Solicit Outside
Opinion Concerning Merit System
Rules**

Notice is hereby given that the Minnesota Department of Public Welfare (DPW) is considering proposed amendments to their classification plan.

If adopted, these amendments will create new position

classifications in the Merit System. The jurisdiction of the Merit System includes most county welfare agencies and most human services boards.

The proposed rules are:

DPW 129A Employment Guidance Counselor Technician

DPW 128 HH Dietitian

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Ralph W. Corey, Supervisor
Minnesota Merit System
Fourth Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3996.

All statements of information and comment must be received by July 31, 1978. Any written material received by the department shall become part of the hearing record.

Under the provisions of Minn. Stat. § 10A.01, subd. 11 (1974), any individual representing persons or associations attempting to influence administrative action, such as the promulgation of these proposed rules and amendments, must register with the Ethical Practices Board as a lobbyist within five days of the commencement of such activity by the individual. The Ethical Practices Board is located at Room 401, State Office Building, St. Paul, Minnesota 55155.

**Energy Agency
Contested Case Hearing Regarding
Northern Tier Pipeline Company's
Application for a Certificate of
Need for a 40-inch Oil Pipeline
Facility**

Order for Hearing and Notice Thereof

It is hereby ordered and notice is hereby given, that a contested case hearing concerning the above-entitled matter will commence at 1:00 p.m. on September 11, 1978, in the Community Room at the Northwest Regional Corrections and

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Law Enforcement Center, 600 Bruce Street, Crookston, Minnesota. The hearing will continue at times and places to be specified by the Hearing Examiner. A prehearing conference will be held at 1:00 p.m. on August 3, 1978, in the District Court Courtroom, Polk County Courthouse, Crookston, Minnesota.

The hearing will be held before Allan W. Klein, Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-5938, an independent hearing examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to represent themselves or to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. §§ 15.0411 through 15.052 and procedural rules HE 201-222 and EA 500-520. Where the procedural rules conflict, the Hearing Examiner's Rules, HE 201-222, supersede the agency's rules, EA 500-520. Questions concerning the issues raised in this order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Dwight S. Wagenius, 720 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101, telephone (612) 296-8278.

The purpose of the hearing is to determine whether Northern Tier Pipeline Company (hereinafter the "applicant") has justified the need for the facility proposed in its application filed pursuant to Minn. Stat. § 116H.13 and Energy Agency rules EA 1001-1091. The application is for the construction of approximately 75 miles of a 40-inch crude oil pipeline from a point in Polk County approximately 5 miles south of East Grand Forks on the Minnesota-North Dakota border, to Clearbrook, Minnesota, together with the necessary pumping and crude oil delivery facilities. This Minnesota segment is the most easterly portion of a proposed 1557-mile pipeline connecting tanker unloading and onshore storage facilities at Port Angeles, Washington, with the Lakehead and Minnesota Pipelines at Clearbrook and with intermediate connections to several existing crude oil pipelines.

The hearing will address, among other things, the accuracy of the applicant's forecast of demand for the type of energy that will be supplied by the proposed facility, and alternative ways of meeting the demand. Determination must be made whether the consequences of granting the certificate of need outweigh the consequences of denying it, considering socioeconomic and environmental factors. In addition, a certificate of need cannot be granted if it has been demonstrated on the record that the proposed facility will fail to comply with relevant policies, rules and regulations of other state agencies, federal agencies, and local governments which have been considered during the hearing process.

Any person wishing to become a party to the proceeding must file a Notice of Intervention or a Petition to Intervene with

the Hearing Examiner pursuant to procedural rules EA 506 and HE 210(a). The Notice or Petition must be received by the Hearing Examiner on or before August 21, 1978, and a copy must be served on the Energy Agency (at 980 American Center Building, 160 East Kellogg Boulevard, Saint Paul, Minnesota 55101), on the applicant (at 2400 First National Bank Building, Minneapolis, Minnesota 55402, c/o Robert O. Flotten), and on known parties at time of intervention. Early intervention is strongly encouraged. Parties must file a Notice of Appearance at least ten (10) days prior to the hearing. (The Notice of Appearance is not a substitute for a Petition to Intervene.)

Any person who wishes to give testimony, present other evidence or exhibits, or note his appearance at the hearing may do so, pursuant to procedural rules HE 210(e), without having attained party status by intervention. Registration forms for such appearances will be available at the hearing. The times specified for receipt of testimony from persons not parties to the proceeding are Tuesday, September 12, 1978, 1-5 p.m. and 7-11 p.m.

All persons are advised that no factual information or evidence, except tax returns and tax reports, which is not part of the hearing record shall be considered by the Hearing Examiner or by the Director in the determination of the above-entitled matter. Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

The procedural rules cited above are available for review at the Office of Hearing Examiners (HE 201-222) and at the offices of the Energy Agency (EA 500-520). The applicant's application for a certificate of need and the substantive rules applicable to this matter, EA 1001-1091, are also available for review at the offices of the Energy Agency and at libraries designated as Minnesota Environmental Quality Board distribution points. The latter are: Polk County Library, Crookston; the Bemidji Public Library; the Minnesota Valley Regional Library, Mankato; the Rochester Public Library; the Saint Paul Public Library; and the Environmental Conservation Library, Minneapolis. (The testimony of the parties, if prefiled, will also be available at the agency and the libraries.) All rules may be purchased from the Documents Section, Department of Administration, 140 Centennial Building, Saint Paul, Minnesota 55155, telephone (612) 296-2874. The cited procedural rules provide generally for the procedural rights and obligations of the parties including the right to advance notice of witnesses and evidence, the right to present evidence and cross-examine witnesses, the right to purchase a record or transcript, the right to object to petitions for intervention, the obligation to meet certain time limits, the obligation to file proposed findings and conclusions, and the right to file comments on and exceptions to the findings and recommendations of the Hearing Examiner.

Parties are entitled to issuance of subpoenas to compel

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witnesses to attend and produce documents and other evidence. Requests for subpoenas must be made of the Hearing Examiner in writing, pursuant to rule HE 216.

If persons have good reason for requesting a delay in the hearing, the request must be made in writing to the Hearing

Examiner at least 5 days prior to the hearing. A copy of the request must be served on the Agency and any other parties.

John P. Millhone
Director

July 13, 1978

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