

179 Jan. 29

STATE REGISTER



STATE OF MINNESOTA

RULES

PROPOSED RULES

SUPREME COURT

STATE CONTRACTS

OFFICIAL NOTICES

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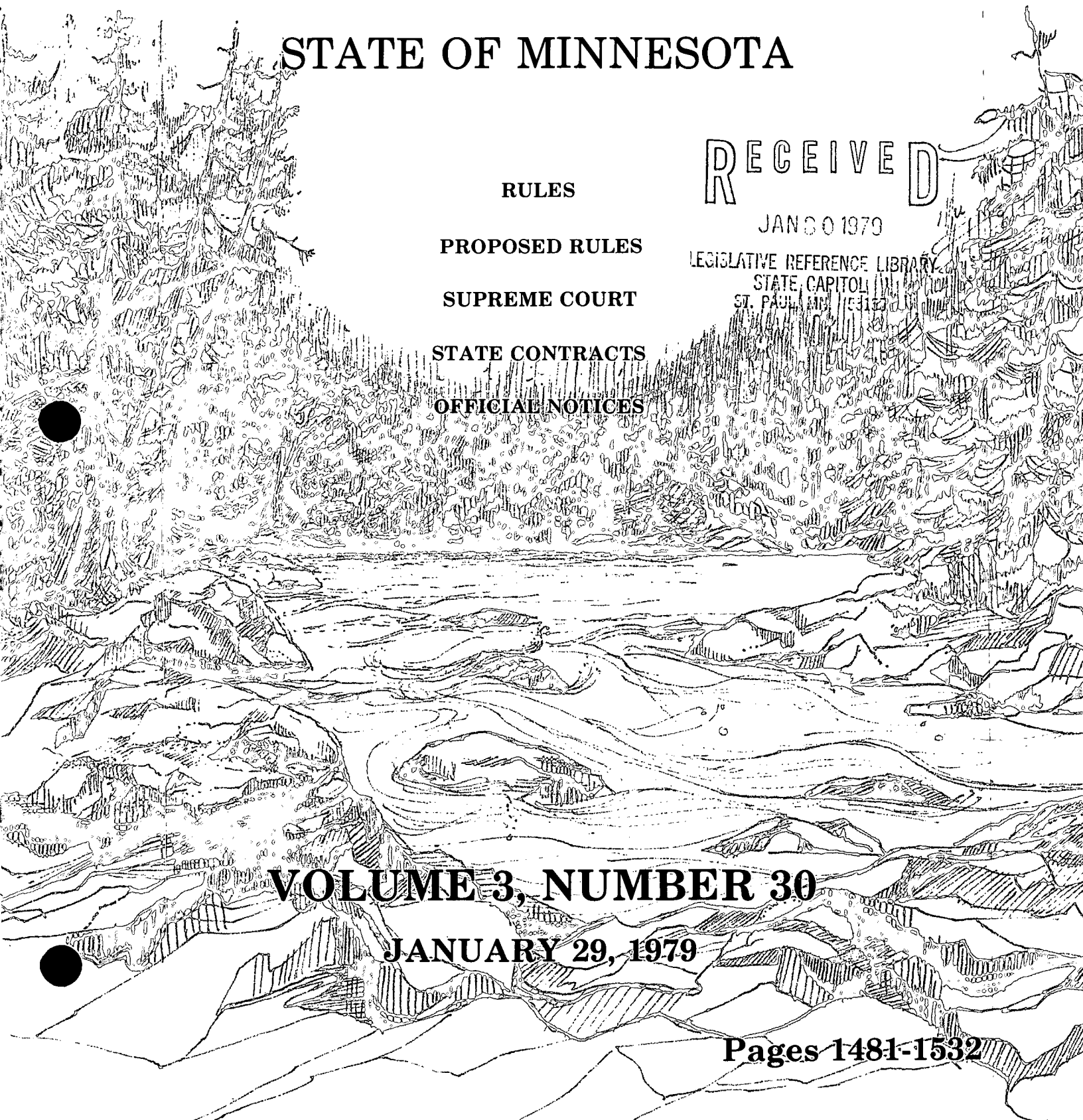
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STATE REGISTER

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			
31	Monday Jan 22	Monday Jan 29	Monday Feb 5
32	Monday Jan 29	Monday Feb 5	Monday Feb 12
33	Monday Feb 5	Monday Feb 12	Monday Feb 19
34	Monday Feb 12	Friday Feb 16	Monday Feb 26

*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.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

The *State Register* is published by the State of Minnesota, Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in August. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$110 per year, and \$85 per year for additional subscriptions, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota, Publication Number 326630. No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$2.25 per copy.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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MCAR AMENDMENTS AND ADDITIONS

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

TITLE 2 ADMINISTRATION

Part 1 Administration Department

Admin 80, 91 (adopted)	1485
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2 MCAR §§ 1.0001, 1.10001-1.10010, 1.2501-1.2508, 1.3001-1.3006, 1.3101-1.3109, 1.3201-1.3205, 1.3301-1.3306, 1.3501-1.3502, 1.4001, 1.4101, 1.4201, 1.4501-1.4505, 1.4601, 1.5001, 1.5101, 1.5201-1.5205, 1.5301, 1.5501-1.5504, 1.5601, 1.5701, 1.5801, 1.5901, 1.6501-1.6510, 1.6601, 1.6701-1.6704, 1.6801-1.6804 (adopted)	1485

TITLE 5 EDUCATION

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Part 2 Public Welfare Department

DPW 63 (adopted)	1500
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In 1857 St. Paul was a village of ten thousand people, and was larger than either Minneapolis or St. Anthony. There were no railroads, but sixty-two steamboats made more than a thousand landings at St. Paul that year, bringing new settlers, mail and supplies to Minnesota Territory. The domed building in the background of this photograph is the first territorial Capitol. (Courtesy of the Minnesota Historical Society)

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.

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."

Department of Administration

Adopted Rules and Amendments to the Existing Rules Pertaining to Several Units of the Department of Administration

The rules and amendments to existing rules proposed and published at *State Register*, Volume 2, Number 49, pp. 2187-2228, June 12, 1978, (2 S.R. 2187) are adopted as proposed, with the following amendments.

The Table of Contents is amended as follows:

Table of Contents

Chapter 1 General

Chapter 2 Reserved for Future Use

Chapter 3 State Building Code

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Chapter 4 Reserved for Future Use

Chapter 5 Intergovernmental Information Systems Advisory Council

Chapter 6-8 Reserved for Future Use

Chapter 9 Materials Management

Chapter 10 Central Motor Pool

Chapter 11 Plant Management

Chapter 12 Publications and General Services

Chapter 13 Real Estate Management

Chapter 14 ~~Records Management~~ Reserved for Future Use

Chapter 15 Telecommunications

Chapter 16 Procurement

Rules as Adopted

Chapter 5 Intergovernmental Information Systems Advisory Council

2 MCAR § 1.2501 Purpose and scope. Pursuant to Minn. Stat. §§ 16.90 and 16.911, these rules govern the application, solicitation, review, analysis, and final disposition of grant proposals received by the Intergovernmental Information Systems Advisory Council for possible funding of projects or programs under the auspices of the Commissioner and the Department of Administration relating to data processing and systems analysis proposals.

2 MCAR § 1.2507 Approval or disapproval of applications.

A. Council approval or disapproval of recommendations for funding shall be made by a majority vote of those members present at a regular meeting of the Council. The recommendations shall be based on a consideration of the following factors:

1. available funding;
2. potential technological advancements;
3. cost-benefit relationship;
4. transferability of anticipated technological advancements to other potential users;

5. applicant's experience and expertise in the field of data processing and systems analysis;

6. applicant's financial need.

B. Recommendations shall be forwarded to the Commissioner for his or her approval. The Commissioner's approval shall be contingent upon his or her consideration of the above factors, ~~availability of funds~~, and the determination that the proposal is consistent with state information systems priorities. The Commissioner shall notify the Council which shall in turn notify all applicants as to action taken on applications.

Chapter 9A Materials Management — Documents

2 MCAR § 1.3003 How to purchase available materials.

A. Over-the-counter sales. Any person may purchase any publication or map offered for sale from the section by paying the prescribed fee, plus sales tax, at the office of the Documents Section at the above-noted address during regular business hours.

B. Mail order instructions. Mail orders shall be sent to Documents Section, Room 140 Centennial Bldg., 658 Cedar St., St. Paul, Minnesota 55155. No forms are required.

1. Mail orders shall include a check or money order for the exact amount of purchase, including sales tax where applicable. If tax exemption is claimed, the tax exempt number shall be given.

2. Mail orders shall include the full title of the publication and code number, if possible.

3. Mail orders for lake maps shall include name of the lake and, where known, the code number. If the code number is unknown, the county, township, ~~and range and or~~ other specific information that will aid in locating the exact area shall be provided. All orders for fire plan maps shall be placed by listing township and range numbers of the area. A free index containing information including township and range numbers may be obtained from the Documents Section at the address contained in paragraph B above.

4. Mail orders shall include the full name and address, including the zip code, of the person to whom the order is to be sent.

C. Customer deposit. Payment received for publications or maps that are temporarily out of stock or in short supply shall be held in "Customer Deposit." The customer shall be notified of the customer deposit number, and the item(s) will be shipped when available. The customer may request a refund of the amount held for each customer in the customer

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deposit on receipt of the notification. Requests for refund or inquiries regarding customer deposits shall be made to the Documents Section at the address contained in paragraph B above.

4. Unused money in customer deposit shall be refunded at the end of each quarter of the fiscal year unless the customer requests it to be held for future use.

2 MCAR § 1.3004 Other services offered. Subscription services, photocopying, white printer reproductions, and other related services shall be offered to state agencies and the general public upon authorization by the commissioner.

Chapter 9B Federal Surplus Property

2 MCAR § 1.3101 Authority and scope.

A. The Federal Surplus Property Section of the Materials Management Division, Department of Administration, was created and operates pursuant to Minn. Stat. §§16.061-16.066 (1976). The Federal Surplus Property Section maintains a distribution center for federal surplus property made available by the federal government, or any department or agency thereof, for transfer to governmental or nonprofit organizations for any purpose authorized by federal and state law and in accordance with any rules and regulations promulgated thereunder.

2 MCAR § 1.3105 Terms and conditions on donable property.

A. The following general conditions, in conjunction with conditions imposed by the terms of an individual sale of items, are imposed by the State of Minnesota and are applicable to items with a unit acquisition cost of \$2,000 or more:

1. There shall be a period of utilization restriction which shall expire after the property has been used for the purpose for which acquired for a period of 4 years, except that all State of Minnesota agencies shall be required to manage federal surplus property in accordance with statewide inventory management programs.

2. From the date it receives the property, the donee shall not sell, trade, lease, lend, bail, cannibalize, encumber or otherwise dispose of such property or remove it permanently for use outside the state, without prior written approval of the FSP Activity, until expiration of all utilization restrictions.

3. If at any time from the date it receives the property

until expiration of utilization restrictions, any of the property is no longer suitable, useable, or further needed by the donee, the donee shall promptly notify, in writing, the FSP Activity and shall be directed, in writing, by the FSP Activity to return the property to the FSP Activity, release the property to another donee or another state agency, sell or otherwise dispose of the property.

4. In the event that any property acquired through the FSP Activity is sold, traded, leased, loaned, bailed, cannibalized, encumbered or otherwise disposed of contrary to state or federal law or regulation, relating but not limited to the General Services Administration special handling or use regulations, the donee shall pay the FSP Activity the proceeds of the disposal or the fair market value or the fair rental value of the property at the time of such disposal as determined by the FSP Activity. "Fair Market Value" and "Fair Rental Value" as used herein shall mean the value of obtaining a like item in the local industrial, retail, or other market.

5. The proceeds from any authorized sale or transfer shall be reimbursed pursuant to 2 MCAR § 1.3104; ~~4.3104~~; 2 MCAR § 1.3108 A.

B. The following conditions are imposed by the State of Minnesota, applicable to items with a unit acquisition cost of less than \$2,000:

1. Appropriate inventory controls shall be established by each donee to ensure optimum property utilization and control in conformance with federal and state law and rule.

2. Except as listed in 2.a., property with acquisition cost of less than \$2,000 which is no longer needed or suitable for use in the federal surplus program may be sold or junked by the donee possessing such property, consistent with any laws and internal policies and procedures governing such disposition. Donees shall be authorized to retain all revenues derived from such sale of surplus property, assuming that all aforementioned criteria have been met.

a. Consistent with federal statutory requirements, all property must be placed in use within one year and be used for one year after being placed in use. Donees in violation of this requirement shall return such property to the FSP Activity.

C. Failure to comply with all terms, conditions and provisions of state and federal law and regulation may subject donee to removal from FSP eligibility.

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Chapter 9C Office of the State Register

2 MCAR § 1.3203 Fees.

A. Fees for services shall be prescribed by the Commissioner of Administration and approved by the Commissioner of Finance unless otherwise authorized by law or rule and shall be based upon the following factors: cost of publication, storage, handling, postage and operating expenses of the Office of the State Register. Fees may differ for quantity purchases.

2 MCAR § 1.3204 Disclaimer of liability.

A. The Office of the State Register of the Department of Administration shall assume no responsibility for or liability arising from the contents of publications distributed, printed, or otherwise available under its auspices. Any conflict arising from contents shall be referred to the state agency from which the copy or information for the publication emanated.

2 MCAR § 1.3205 Errata listings.

A. Omission or other errors in copy shall be corrected by errata listings so identified in subsequent issues.

Chapter 9D State Surplus Property Sales

2 MCAR § 1.3301 Authority and scope.

A. Pursuant to Minn. Stat. §§ 16.02, 16.07, 16.08, 16.24 and 16.28, the State Surplus Property Sales Section, Division of Materials Management, Department of Administration, is responsible for managing a statewide surplus property sales program in order to ensure the effective ultimate disposition of all surplus personal property. These rules govern the disposition of all such obsolete, surplus and recyclable state property. Sales are conducted via public auction, sealed bid or negotiation, as set forth below.

2 MCAR § 1.3303 Auctions sales. Pursuant to Minn. Stat. § 16.07, subd. 10, surplus personal property may be sold by auction as follows:

A. Notification of auctions. Persons wishing to be notified of state public auction sales shall contact the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101, ~~(612) 296-6132~~, giving their name and complete address. All interested persons shall be placed on an auction mailing list and shall receive bulletins of all public auctions held by the state. State auctions shall also be advertised in news media at least seven (7) days prior to the sale. News media used may include the Minneapolis and St. Paul papers and/or local papers in the immediate vicinity of the sale.

B. Auction terms and requirements. The full amount of the bid price shall be paid at the time of the sale for each item selling for less than \$500.00. A minimum of ten percent (10%) of the bid price shall be paid at the time of the sale for each item selling for \$500.00 or more. All personal checks shall be accepted for the full amount or the ten percent (10%) down on the day of the sale. A successful bidder shall pay any balance due on a sale, including sales tax, within five (5) days from the date of the sale. Such balance due payments shall be in the form of cash, money order, certified check, or bank draft, made payable to the "Minnesota State Treasurer." Full payment shall be received prior to release of merchandise. Failure on the part of the purchaser to remit the balance due on the amount of the bid within five (5) days shall constitute forfeiture of the amount paid at the time of the sale.

C. Application for auctioneers. All Auctioneers interested in providing their services to the state shall submit their name and address to the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101, ~~(612) 296-6132~~. Sealed bid invitations for auctioneering services shall be mailed to all interested persons for each scheduled auction. Contracts for auctioneering services shall be awarded to a qualified, licensed Auctioneer based on the bid requirements and the lowest percentage fee of each sale's proceeds. In the event of tied commission fee bids, Auctioneer shall be chosen on the basis of a draw or by bid negotiation.

2 MCAR § 1.3304 Sealed bid sales. Pursuant to Minn. Stat. §§ 16.02, subd. 18; 16.07, subd. 2 and 4; 16.08 and 16.24, surplus personal property may be sold by sealed bid as follows:

A. Notification of sealed bid sales. Persons interested in bidding on the purchase of state surplus personal property shall contact the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101, ~~(612) 296-6132~~, giving their name and complete address. All interested persons shall be required to indicate the types of property they desire to purchase and shall then be placed on mailing lists by commodity group(s). Applicants shall be advised by sealed bid invitation of all applicable commodities for sale in their respective commodity groups.

B. Conditions for sealed bid sales. The estimated number or weight of the items listed for sale is for the general guidance of bidders and the state shall assume no responsibility for any variance therefrom. In accordance with the bid requirements, certified checks, cashier's checks, or money orders of successful bidders submitted with the bid may constitute liquidated damages for failure of bidder to enter into contract. Sealed bid sales shall be awarded to the highest responsible bidder.

C. Removal from mailing lists. Applicants on sealed bid

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mailing lists who have not bid for the purchase of state surplus property for a period of two or more years may be removed from all applicable mailing lists. Applicants shall be reinstated upon written request.

2 MCAR § 1.3305 Negotiated sales. Pursuant to Minn. Stat. § 16.07, subd. 4, surplus property sales estimated to be \$5,000 or less may be made either upon competitive bids or in the open market.

A. Notification of negotiated sales. Persons wishing to be notified of a proposed negotiated sale of specific state surplus personal property shall contact the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101; (612) 296-6132.

B. Conditions for negotiated sales. If the state is unable to secure sealed bids for the sale of property or it is deemed to be in the best interest of the state, sales may be negotiated with persons who have indicated an interest in the purchase of a specific commodity. So far as practicable, the sales shall be based on at least three competitive bids, shall be permanently recorded and awarded to the highest responsible bidder. The full amount of the purchase price shall be paid at the time of sale. All personal checks shall be accepted for the full amount of sale.

2 MCAR § 1.3306 Public employee purchase of state surplus property.

A. Pursuant to Minn. Stat. § 15.054 (1977 Supp.), employees of the state and its political subdivisions are permitted to purchase state surplus personal property including one motor vehicle within each 12 month period via public auction or sealed bid process.

B. Public employees directly involved in the sales process shall not be eligible to purchase state surplus personal property for which they have specific disposition responsibility.

Chapter 11 Plant Management

2 MCAR § 1.4001 Parking. Pursuant to Minn. Stat. § 16.72, subd. 2, this rule governs the parking of motor vehicles in parking facilities owned or operated by the State of Minnesota and under the control of the Commissioner of Administration.

A. Lots and facilities. Parking lots or facilities governed by these rules are located within the Capitol Complex, the City of St. Paul, and the City of Minneapolis, and include the following:

1. outdoor lots within the Capitol Complex; at the Economic Security Building, 309-2nd Avenue South, Minneapolis; 1246 University Avenue, St. Paul; and at the State Department of Health Building, 717 Delaware Avenue Southeast, Minneapolis;

2. indoor parking facilities located in the Department of Transportation Building in the Capitol Complex; the Economic Security Building, 390 North Robert Street; 1246 University Avenue, St. Paul; and the State Department of Health Building, 717 Delaware Avenue Southeast, Minneapolis;

3. ramp parking facilities located in the State Administration Building and adjacent to the Centennial Building, both in the Capitol Complex;

4. street parking facilities located on Aurora Street between Cedar Avenue and Park Avenue.

B. Prohibited parking. All parking of motor vehicles is prohibited across driveway entrances; upon sidewalks; along yellow painted curbing; within 15 feet of fire hydrants; within 20 feet of crosswalks or intersections; in stalls assigned to other persons; in driveways; and in restricted zones of lots, ramps, or other posted areas.

C. Application for parking. Applications for contract parking shall be made in writing to the Director of the Plant Management Division located at Room G-9, State Administration Building, St. Paul, Minnesota 55155. The application shall bear the written signature of the person applying and contain the following information: employing agency, telephone number at place of work, type of vehicle (compact or regular), motor vehicle license number, and all other relevant information requested by the Director. Additional information may be required, including the name of each passenger if carpooling, the employing agency of each passenger, and location if other than in the Capitol Complex. If a desired facility is requested, the facility shall be identified. The applicant shall not submit payment with the application.

D. Permits shall be granted to applicants in the following priority order:

1. applicants qualifying for a handicapped parking permit per 2 MCAR § 1.4001 H. or demonstrating special needs or circumstances arising from position, nature of work, and/or travel requirements;

2. applicants with riders with the applicant with the

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highest number of riders first, the applicant with the second highest number of riders second, etc.;

3. all other applicants on a first come-first served basis.

E. Stickers. All authorized parking contract recipients shall be issued a sticker of proper identifying color. Stickers shall be displayed on the reverse side of the rearview mirror.

F. Fees for parking shall be set by the Commissioner of Administration with the approval of the Commissioner of Finance and shall be based on consideration of, but not limited to, the following factors:

1. administrative overhead and operating cost;
2. surcharge required pursuant to Minn. Stat. § 16.72, subd. 7; and,
3. number of car pool passengers, if any.

G. Exemptions from parking surcharge.

1. Pursuant to Minn. Stat. § 16.72, subd. 7 (~~1977~~), as amended, the following are exempt from surcharge:

a. parking contract holders whose shift is other than the customary daytime work hours, including those individuals employed on rotating shifts;

b. parking contract holders whose work activity does not conform to the customary hours or patterns of work so as to preclude the opportunity to participate in a car pool.

2. Application. Any person wishing to apply for exemption from the surcharge shall apply in writing on the forms provided to the Division of Plant Management, Department of Administration.

3. Notice of approval or denial for the exemption of the surcharge shall be sent in writing to the applicant.

H. Handicapped. To receive a handicapped parking permit, a written application shall be submitted to the Director of the Plant Management Division at the above-noted address stating the circumstances and extent of the handicap. Certification of handicapped eligibility pursuant to Minn. Stat. § 169.345 shall be deemed sufficient showing to authorize vehicles bearing proper identification of such certification to use handicapped designated parking facilities in the Capitol Complex and other facilities. Upon receipt of an application from a noncertified person, the Director shall instruct the applicant to contact the nurse in the Transportation or Centennial Building for verification of the disability. A written recommendation from the nurse is required stating the estimated length of time required to accommodate the

disability. Handicapped parking shall be available on a first come-first served basis. Regular parking rates shall apply.

I. Special temporary permits. For departments or agencies having individuals or groups visiting the Capitol Complex for meetings or hearings, temporary reserved hooded meter parking may, if available, be obtained upon request to the Director of the Plant Management Division, for which a per day per unit fee shall be paid by the requesting organization. The amount of the fee shall be set by the Commissioner of Administration and approved by the Commissioner of Finance.

J. Violations. Pursuant to Minn. Stat. § 16.72, subs. 3 and 4, when any motor vehicle is parked in violation of these rules a traffic warning or summons ticket shall be issued to the vehicle or person(s) deemed as the violator(s).

K. Removal and impounding. Any vehicle parked upon any parking lot or facility owned or operated by the State, not in conformity with the aforementioned rules, state law, or local ordinances, may be declared a public nuisance and removed or impounded as set forth in Minn. Stat. § 16.72, subd. 3. The cost of such removal or impounding shall be a lien against the motor vehicle until paid.

L. Legislative parking resolutions. Pursuant to Minn. Stat. § 16.72, subd. 6, these rules shall not affect regulation of parking of certain vehicles as provided by resolution of the legislative bodies during legislative sessions.

2 MCAR § 1.4201 Permits for public rallies in the Capitol Complex. Pursuant to Minn. Stat. § 16.02, subs. 6 and 6a, the following rules governs the issuance of permits for public rallies in or on the Capitol Complex buildings and grounds. "Public rallies" for the purpose of this rule means parades, gatherings, solicitations, concerts, speeches or rotunda ceremonies, and other such related uses of the buildings, grounds, and state-owned streets in the Capitol Complex.

A. ~~These~~ This rules defines the permissible time, place, duration, and manner of the use of the Capitol Complex grounds, including the rotunda, sidewalks, Capitol Building steps and state-owned streets for public rallies, so as not to unreasonably interfere with the rights of others to the use of such public areas, to assure access to driveways and building entrances, to assure traffic movement in such a manner so as to not deprive the public and state employees of police and fire protection, and to assure the public of safe use and enjoyment of such public places.

1. Any person, firm, partnership, association, corporation, company, or organization shall secure a permit from the Director of Plant Management Division, Department of Administration, Room G-9, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, to con-

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duct a rally on the Capitol Complex grounds prior to announcing or conducting such public rally.

2. Any such person seeking a permit for a public rally shall submit, not less than seven (7) working days prior to the proposed date of the event, a written application identifying the person, firm, partnership, association, corporation, company or organization; mailing address, and telephone number; date; time; and name, address, and the telephone number of the contact person who shall be responsible for the public rally; and all other relevant information requested by the Director of the Plant Management Division. The Director, where compelling reasons are shown therefore, and if staff and time are available to make arrangements necessary to protect the public interest, shall have the authority to consider any application hereunder which is filed less than seven (7) working days before the date such rally is proposed to be conducted.

3. Proof of Workers Compensation and public liability insurance shall be submitted when required by Director.

4. Upon consideration of the request for the permit, and after written agreement is reached between the parties involved regarding security, police protection, liability for damages, and cleanup of the areas, the Director of Plant Management shall approve the permit application unless any of the following is found to exist:

a. The conduct of the rally will substantially interrupt the safe and orderly movement or other traffic contiguous to its route or location.

b. The conduct of the rally would require the diversion of so great a number of the security force of the Capitol to properly police the line of movement and areas contiguous thereto as to prevent normal security.

c. The concentration of persons, animals, and vehicles at assembly areas of the rally will unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.

d. The conduct of such rally will interfere with the movement of fire-fighting equipment enroute to a fire.

e. The rally is not scheduled to move from its point of origin and to its point of termination expeditiously and without unreasonable delays enroute.

f. The rally is to be held for the sole purpose of

advertising any product or goods or is designated to be held all or in part for private profit.

g. The rally will unreasonably disrupt the normal operations of state government and the public right of safe use or reasonable enjoyment of public spaces.

B. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The rally chairperson or other person heading or leading such activity shall be in possession of the permit during the conduct of the rally.

C. Whenever any rally is conducted in a manner substantially different from that indicated in the permit period application and the rules therefore, the permit shall be deemed to be automatically revoked and shall be forfeited.

D. No public rally in the Capitol Complex shall be undertaken unless a permit has been obtained as required above. Any person violating ~~these~~ this rules, or applicable state or local law, may be subject to prosecution under applicable law.

Chapter 12 Publications and General Services Division

2 MCAR § 1.4501 Purpose and scope. The procedures herein relate to the Commissioner of Administration's authority pursuant to Minn. Stat. §§ 16.61, 331.07, 331.08, and 331.09 ~~(1976)~~, providing in part for the certification of and computation of standard and adjusted line rates; ~~and Minn. Stat. § 16.02 subd. 16 (1976) relating to the Central Mail Room of the Department of Administration.~~

2 MCAR § 1.4502 Definition of a "standard line" for legal notices.

~~A-~~ The "standard line" shall be 6-point Times Roman with a lower case alphabet of 90 points set on a 6-point slug without spacing between the lines, and 11 picas in length, as required by Minn. Stat. § 331.07.

2 MCAR § 1.4504 Fees for publication of legal notices.

~~A-~~ Fees for publications are established by Minn. Stat. § 331.08 ~~(1976)~~ for a standard line for first insertion and subsequent insertions and for what is termed "price and one-half" or "double price" composition. The definition of "price and one-half" or "double price" composition is established by the State Printer and published in the pamphlet "Publication of Legal Advertising in Newspapers,"

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including approved forms and computation samples, as required by Minn. Stat. § 16.61.

~~2 MCAR § 1.4601 Handling federal mail.~~

~~A. The Central Mail Section handles registered, certified, first class and all other federal incoming and outgoing mail for all buildings located in and around the Capitol Complex according to federal law and regulations cited in Title 39 of the U.S. Code.~~

Chapter 13 Real Estate Management

2 MCAR § 1.5001 Property acquisition. Pursuant to Minn. Stat. ch. 16 and specific legislative enactments, this rule shall govern the state's acquisition of real property for the operation of state government.

A. Unless otherwise provided by law or by reorganization order issued pursuant to Minn. Stat. §§ 16.125 and 16.135, a state department or agency needing real property shall make a request in writing to the Department of Administration to acquire property, specify the property to be acquired, and indicate the source and sufficiency of funds needed for the acquisition.

B. Real Estate Management Division shall proceed with acquisition as follows:

1. The title to the property shall be examined by an attorney for the Division, whereupon a field title report shall be prepared by the Division. The field title report shall be based on information from the owner or a representative of the owner. The purpose and nature of the acquisition shall be explained to the owner at the time of the field title interview. Where there are occupied buildings involved, a relocation study shall be made to insure that displacees can be relocated without undue hardship.

2. A legal description of the property to be acquired shall be written. Where necessary, a written engineering assessment shall be obtained from the State Architect's Office.

3. The property to be acquired shall be appraised. Appraiser(s) shall be selected by the Director or the Assistant Director, and may be state employees or fee appraisers. Where fee appraisers are used, they shall be selected from a list of qualified fee appraisers, which list shall be maintained by the Division. The fee to be paid to the appraiser shall be as agreed upon between the appraiser and the Director or the Assistant Director.

4. The appraisal(s) shall be reviewed by members of the Division staff. Where the appraisal(s) are deemed satisfactory, the appraisal amount which is deemed to represent

value (and damages, where applicable) shall be certified by the Director or the Assistant Director.

5. Instruments appropriate for the acquisition shall be requested from the Attorney General's Office.

6. A direct purchase offer shall be submitted to the property owner. Where possible and practical, the offer shall be submitted in person. A detailed explanation of the state's acquisition policies and of the owner's options shall be made to the owner, especially including, where applicable, a full explanation of relocation benefits available to the owner.

7. If the owner accepts the offer, the property shall be purchased. The Division shall be responsible for proper execution of instruments, closing of transaction, recording of instruments, payment to owner, and removal of buildings, where applicable.

8. If the owner rejects the offer, and the legislature has directed by law that acquisition by eminent domain proceedings shall or may be pursued, the Division shall institute necessary proceedings to so acquire.

2 MCAR § 1.5202 Terms and conditions. Permits shall be granted upon permittee's agreement to and performance of the following terms and conditions:

A. Permittee shall indemnify and hold the State of Minnesota harmless for any claim, meritorious or otherwise, and for any causes of action regardless of their nature arising directly or indirectly out of any permittee's activities. The state shall not be liable for any damage to property of permittee or injury to permittee or invitees. ~~The state may require purchase by the permittee of a surety bond for these purposes.~~

B. If in the opinion of the Director or the Assistant Director the activity to be conducted may endanger life or property, permittee shall purchase liability insurance which protects all persons and their property from injury or damage. The amount of such liability insurance shall be no less than:

Minimum coverage per person per occurrence	\$100,000
Minimum coverage per occurrence	\$500,000

The State of Minnesota shall be designated as sole payee in the event of loss.

C. Permittee shall obey and conform to all federal, state and local laws, rules and ordinances.

D. Permittee shall cause no damage to any property by virtue of its activities. In the event of any damage to any state property, permittee shall immediately repair same. Failure to immediately make such repairs when advised to

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do so in writing by the Director or Assistant Director shall result in cancellation of permit.

E. Permittee shall conduct its activities in a manner so as not to adversely affect the environment and shall restore areas of activity to original conditions. Permittee shall remove all equipment relating to and debris resulting from permittee's activities from state land by the termination date of the permit.

F. Permittee shall limit its activities on state land to areas specified by the permit.

G. Unless otherwise specified, permits shall remain in effect for one year from effective date so long as conditions prescribed hereby and in the permit are met.

H. Permittee shall neither assign nor transfer any rights or obligations under the permit without the prior written consent of the Commissioner or his authorized designee.

I. Permittee shall not vary the permit without the prior written consent of the Commissioner or designee.

J. Receipt of permit shall not constitute an exclusive grant, and the state may issue similar or identical permits for the same or overlapping areas of land.

K. The permit may be cancelled by either party at any time, with or without cause, upon thirty (30) days' written notice to the other party.

L. Unless specifically excepted for cause in the permit, all permits shall be granted with the understanding that the lost or abandoned property which is recovered from state lands shall be turned over to the Department of Administration for disposition as provided by statute. The permittee's share of the proceeds shall be agreed upon between the permittee and the state prior to issuance of the permit. The state's share shall be deposited in the general revenue fund.

Chapter 14 Records Management

This chapter, having been withdrawn prior to public hearing, is deleted in its entirety.

Chapter 15 Telecommunications

2 MCAR § 1.6005 Fees and conditions.

A. Fees shall be established with the approval of the Commissioner of Finance and shall be based on TELPAK

cost to the Telecommunications Division and administrative overhead costs. Fees shall be changed as the above-noted cost factors change.

B. ~~In addition to the terms of individual leases~~ The following general terms shall apply to all leased TELPAK.

1. The Telecommunications Division or the user may terminate the sublease on thirty (30) days written notice to the other party.

2. The Telecommunications Division assumes no liability for any service interruptions or other damage suffered by lessee as a result of TELPAK use.

Chapter 3 State Building Code Division

2 MCAR § 1.10001 Purpose.

~~A. These rules govern responsibilities undertaken pursuant to Minn. Stat. §§ 16.83 through 16.867. They relate to administration and enforcement of the State Building Code and the requirements for certification and continuing education of municipal building officials.~~

2 MCAR § 1.10003 Code adoption and amendments.

A. Pursuant to Minn. Stat. § 16.85, the code is adopted and periodically updated to include current editions of national model codes in general use and existing statewide specialty codes and amendments thereto.

B. Pursuant to Minn. Stat. § 16.86, subd. 6, amendments to the code may be proposed and initiated by any interested person, by the Building Code Standards Committee, or by subcommittees thereof.

~~+ Proposed amendments shall be submitted in writing on a form provided by the Commissioner.~~

2 MCAR § 1.10004 Application for appeal.

A. Pursuant to Minn. Stat. § 16.863 any person aggrieved by the final determination of any municipality as to the application of the code may, within 30 working days of said decision, appeal to the Commissioner. The appeal shall be accompanied by a cashiers check, certified check, money order, or equivalent, payable in the amount of \$20 to the "Commissioner of Administration."

B. The request for appeal shall contain the following:

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1. name and address of applicant appealing the decision;
2. attorney representing applicant, if any;
3. municipality information, including name of municipality, building official, and the local appeal board composition and the chairman's name;
4. property description, including address of property involved;
5. description of structure, including occupancy, size, construction type;
6. a copy of the municipality's written decision;
7. specific nature of appeal, including but not limited to the following:
 - a. code section(s) which are applicable to the specific question;
 - b. code section(s) that may indirectly apply;
 - c. listing of issues involved;
8. any other relevant information requested in writing by the Commissioner.

C. The Commissioner shall arrange for the State Hearing Examiner's Office to conduct a hearing on said appeal pursuant to Minn. Stat. §§ 15.0418 through 15.0426.

D. Copies of all final determinations of the Commissioner shall be sent to the appellant and the municipality involved or the attorney representing the appellant or municipality.

2 MCAR § 1.10007 Education and training. Within limitations of personnel and funds the State Building Inspector shall provide training programs for municipal building officials, legislative bodies, administrative staff persons, design professionals, construction industry and the general public:

A. Information concerning training program availability may be obtained from the State Building Inspector by written or telephone inquiry.

2 MCAR § 1.10008 Building official certification. This rule establishes procedures for certification of building officials, establishes prerequisites for persons applying to be certified by examination, and establishes two classes of certification, and requires continuing education to maintain certification.

A. All building officials shall be certified in one of the following:

1. Class I certification shall permit building code administration limited to evaluation and inspection of one and two family dwellings and their accessory structures.

2. Class II certification shall permit building code administration including evaluation and inspection of all buildings and structures within the scope of the Code.

B. Before making application for Class I certification each individual shall meet the following prerequisites:

1. 3 years experience in any of the skilled construction trades; or

2. 3 years experience in complete design of 1 and 2 family dwellings and accessory buildings thereto; or

3. 2 years experience in municipal building construction inspection; or

4. 24 credits in Building Inspection Technology program in a community college system, plus one year experience in ~~subdivisions one, two, or three of this section~~ (B)(1), (B)(2), or (B)(3) of this rule. Building Inspection Technology courses must include courses in Field Inspection, Plan Review Non-structural, Plan Review Structural, Administration, Building Codes and Standards and Energy Conservation; or

5. International Conference of Building Officials certification in building inspection, plus one year experience in ~~one, two, or three of this Section~~ (B)(1), (B)(2), or (B)(3) of this rule; or

6. 2 years in post high school construction oriented architectural or engineering courses, plus one year experience in ~~one, two, or three of this Section~~ (B)(1), (B)(2), or (B)(3) of this rule.

C. Before making application for Class II certification, each individual shall meet the following prerequisites.

1. 5 years experience in one or a combination of the prerequisites described in ~~subdivisions one, two, or three of Section B~~ (B)(1), (B)(2), or (B)(3) of this rule; and two years of general construction supervision or building code administration experience which may be concurrent with the required five years experience; or

2. 24 credits in Building Inspection Technology program in a community college system, plus three years experience in one, or a combination of prerequisites described in ~~one, two or three of Section B~~ (B)(1), (B)(2), or (B)(3) of

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this rule, and two years of general construction supervision or building code administration experience which may be concurrent with the required three years experience; or

3. International Conference of Building Officials certification in building inspection; and 3 years experience in one or a combination of prerequisites described in ~~one, two or three of Section B~~ B.1., B.2., or B.3. of this rule; and two years of general construction supervision or building code administration experience which may be concurrent with the required three years experience; or

4. 2 years in a post high school course in construction or construction oriented, architectural or engineering courses plus three years experience in one, or a combination of prerequisites described in ~~one, two, or three of Section B~~ B.1., B.2., or B.3. of this rule, and two years of general construction supervision or building code administration community college system, plus one year experience in subdivisions one, two, or three of this section; Building Inspection Technology courses must include courses in Field Inspection, Plan Review Non-structural, Plan Review Structural, Administration, Building Codes and Standards and Energy Conservation; or

5. International Conference of Building Officials certification in building inspection, plus one year experience in one, two, or three of this section; or

6. 2 years in post high school construction oriented architectural or engineering courses, plus one year experience in one, two, or three of this section.

C. Before making application for Class II certification, each individual shall meet the following prerequisites:

1. 5 years experience in one or a combination of the prerequisites described in subdivisions one, two, or three of section B of this rule; and two years of general construction supervision or building code administration experience which may be concurrent with the required five years experience; or

2. 24 credits in Building Inspection Technology program in a community college system, plus three years experience in one, or a combination of prerequisites described in one, two, or three of section B of this rule, and two years of general construction supervision or building code administration experience which may be concurrent with the required three years experience; or

3. International Conference of Building Officials cer-

tification in building inspection; and 3 years experience in one or a combination of prerequisites described in one, two or three of section B of this rule; and two years of general construction supervision or building code administration experience which may be concurrent with the required three years experience; or

4. 2 years in a post high school course in construction, or construction oriented, architectural or engineering courses plus three years experience in one, or a combination of prerequisites described in one, two, or three of section B of this rule, and two years of general construction supervision or building code administration experience which may be concurrent with the required three years experience.

D. Each person seeking certification as a building official shall submit a completed application to the State Building Inspector with a \$20 fee payable to the State of Minnesota on application forms provided by the Commissioner.

1. The State Building Inspector shall review applications for compliance with prerequisites set forth in section B and C of this rule.

2. The State Building Inspector shall forward the application to the State Department of Personnel for testing examination if the prerequisites set forth in sections B and C of this rule are satisfied.

E. ~~The examination shall be both written and oral.~~ The written test examination shall be given by the State Department of Personnel pursuant to the rules of that department, as governed by and consistent with Minn. Stat. § 16.861, subd. 3 and the following:

1. If the applicant fails the ~~written test, examination,~~ or fails to appear, the applicant shall be permitted to retake the written portion examination or be scheduled for a second administration following 30 calendar days after test results notification.

2. If the applicant fails the ~~written portion examination~~ a second time, or fails to appear for a second scheduled administration, the applicant shall wait six months and then may resubmit application pursuant to section D of this rule.

F. ~~An applicant shall be permitted to take the oral examination after successfully passing the written test.~~

~~1. The State Building Inspector shall schedule an oral examination for the applicant.~~

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~~2. If the applicant fails to pass the oral examination, the applicant may apply to retake it. Such reapplication shall be made in writing to the State Building Inspector.~~

~~3. If the applicant fails to pass the oral examination after two opportunities, the applicant must wait six months before reapplying to take the written and oral examination.~~

~~4. A letter, stating reason for failure, shall be sent to applicants who fail the oral examination.~~

~~5. If the applicant successfully completes the total examination, a certificate of certification shall be issued.~~

~~G. Oral Examination Board. The Board for Oral Examination shall be comprised of four people selected by the Commissioner. The composition of the board shall be two certified building officials, a representative of a municipal administration staff, and a representative of the State Building Code Division staff.~~

H. and I. [These sections have been severed for further consideration by the agency based on the findings of the Office of the Attorney General.]

2 MCAR § 1.10010 Plan review function. Within the limitations of personnel and funds, or as required by law the State Building Inspector shall review plans, specifications, and related documents for compliance with the code.

A. Types of plan review include:

1. plans of buildings required to be submitted to any state agency include, but are not limited to:

- a. state-owned buildings;
- b. buildings licensed by state agencies;
- c. buildings financed in whole or in part by state funds;

2. manufactured buildings in which all elements of the total assembly cannot be visually inspected on site;

3. plans submitted by municipal inspection departments for review.

B. Content of plan review.

1. The plan review function, for structures in section A.1. and A.3. of this rule, applies to nonstructural code requirements. The structural portion of a plan shall be reviewed to determine that the professional engineer has considered the minimum loading requirements of the code, but shall not include review for accuracy of structural design and calculations.

2. The plan review function for section A.2. structures applies to all aspects of code application and shall be marked approved by the State Building Inspector.

C. For plan review the following material shall be submitted.

~~+~~ One set of plans, specifications, and other relevant documents necessary to evidence code compliance, together with a transmittal letter, shall be sent to the State Building Inspector, State Building Code Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101. Manufactured building submittals shall include two sets of plans, specifications, and other relevant documents.

D. The State Building Inspector shall review submittals and forward written comments on items not in compliance with the code. The letter shall be mailed to the following:

1. municipal building official;
2. designer of plans and specifications;
3. state agencies involved, if applicable.

E. The State Building Inspector may contract for plan review as required by this section with any municipality the State Building Inspector determines is properly staffed and qualified to perform the plan review function. No fees shall be paid by the State to any municipality performing said contract function. The municipality shall charge its standard plan review fee directly to the applicant for a building permit.

~~D.~~ F. Fees.

1. No fee shall be charged for the review of submittals listed in section A.1. of this rule.

2. Fees shall be charged for review of plans submitted as described in sections A.2. and A.3. of this rule.

3. Fees shall be as required in ~~State Building Code 11-~~

2 MCAR §§ 1.10107 and 1.10335.

SBC 335 Fees and applications. All fees shall be:

- A. in the form of checks or money orders;
- B. payable to Minnesota State Treasurer;
- C. addressed to:

State of Minnesota
Department of Administration
Building Code Division

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408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

D. Seal Fee, ~~ten~~ twenty dollars ~~(\$10.00)~~ (\$20.00) per Seal. ~~Replacement seals one dollar and fifty cents (\$1.50) per seal.~~

E. For all other work performed by the Building Code Division such as, but not limited to: the review of plans, specifications, and independent agency reports, inspection and quality control evaluation, a fee of fifteen dollars (\$15.00) per man hour shall be charged.

F. Travel expense shall be charged at the rates established for state employees by the Commissioner of Personnel.

Chapter 16 Procurement

2 MCAR § 1.6501 A. Scope: Pursuant to Minn. Stat. § Chapter 16, these rules govern the procurement of materials and services for the state under the competitive bidding requirements.

B. Definitions: Within 2 MCAR §§ 1.6501-1.6804, the following apply, unless clearly indicated otherwise by the context:

1. "Division of Procurement" means Division of Procurement, Department of Administration, Room 112, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

2. "Director" means Director of the Division of Procurement.

3. "Liquidated damages" means a specific sum of money, agreed to as part of a contract to be paid by one party to the other in the event of breach of contract in lieu of actual damages, unless otherwise provided by law.

4. "Material variance" means a variance in a bid from specifications or conditions which allows a bidder a substantial advantage or benefit not enjoyed by all other bidders.

5. "Newspaper of general circulation" means Finance and Commerce for general commodities and services and Construction Bulletin for construction projects, or an alternate approved by the Director.

6. "Responsible Bidder" means a bidder who

a. is a manufacturer of, regular dealer in, or an agent of a manufacturer of supplies of the general character to be furnished; or

b. is in the business of furnishing the services to be provided; and

c. is financially and otherwise able to perform the contract, as evidenced by integrity, ability, skill, experience, and performance of past contracts for the state or other purchasers; and

d. is otherwise qualified under law and rule, including incorporation or registration to do business in the State of Minnesota; and

e. is in compliance with all tax laws thereof.

2 MCAR § 1.6502 Method of bidding.

A. Any purchase estimated to exceed \$5,000.00 shall be purchased on sealed bids, notice of solicitation of bid to be inserted once in a newspaper of general circulation at least seven (7) days prior to the bid opening date. Bids shall also be solicited by sending bid invitations to all prospective bidders registered with the Division of Procurement pursuant to 2 MCAR § 1.6502 C., and by posting notice on a public bulletin board in the Division of Procurement Office at least five (5) days prior to the bid opening date.

B. Any purchase estimated to be \$5,000.00 or less may be made upon competitive bids or in the open market, but in either case will be based on three (3) competitive bids, so far as practicable. ~~Such solicitation shall also be posted as described in 2 MCAR § 1.6502 A.~~

C. A list of bidders shall be maintained by the Division of Procurement for various commodity classes. Any persons desiring to sell supplies to the state may file with the Director of Procurement a letter showing their business address, the commodities they desire to sell to the state, and proof of incorporation or registration to do business in the state. The firm name shall then be placed on the permanent bid list to receive invitations to bid. The name of a bidder who fails to respond to three (3) consecutive bid invitations shall be removed from the list of bidders upon written notice. The name of the bidder so removed shall be restored only by specific written request.

D. Submission of advertised bids.

1. Each invitation to bid shall include the following

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information and any other relevant information required by the nature of the individual bid, as called for in the bid specifications.

- a. Department, Division, and requisition number;
- b. name and address of using agency;
- c. date of issuance;
- d. time and place of delivery of bid;
- e. date, hour, and place for openings bids;
- f. security requirements, if any;
- g. quantity of supplies and/or services to be furnished;
- h. description of supplies and/or services to be furnished;
- i. place, method, and conditions of inspection or testing, if required;
- j. applicable general and special conditions.

2. General bid conditions. Bid conditions applicable to all state purchases shall be stated on the standard invitation to bid.

3. Special bid conditions. Bid conditions applicable to specific commodities or types of purchase shall be stated in the invitation to bid. Special conditions supersede general conditions, if conflicting.

4. Bids shall be completed, signed, and submitted by each bidder in accordance with the instructions contained in each invitation for bid. Telegraphic bids shall not be considered unless expressly permitted in the invitation to bid. Bids shall be delivered to the Division of Procurement at address shown on bid invitation.

5. In each instance, the bids shall be on the form provided, in a sealed bid envelope or an envelope clearly identified with the commodity, time and date of opening, and the name of bidder on the front of the envelope.

2 MCAR § 1.6506 Tie bids.

A. Tied low bids for less than \$500.00 shall be resolved by drawing lots among the tied low bidders, except as provided in 2 MCAR § 1.6506 C.

B. Except as provided in 2 MCAR § 1.6506 C., tied low bids for \$500.00 or more shall be referred to the Director or Assistant Director of Procurement for disposition. The Di-

rector of Procurement may enter into negotiation with tied low bidders when the Director deems such action to be in the best interest of the State.

C. Whenever a tie involves a Minnesota firm and one whose place of business is outside the State of Minnesota, ~~Minn. Stat. § 16.365 shall govern.~~ preference shall be given to the Minnesota firm.

2 MCAR § 1.6507 Contract Performance

A. The Director of Procurement or authorized agents of state departments shall place orders with successful bidders using official state purchase orders.

B. Upon award, shipment shall be made in accordance with delivery instructions in the invitation to bid.

C. All deliveries shall conform to specifications of the bid. Failure in this respect shall be cause for rejection of the goods.

D. Commodities that fail to comply with specifications, fail to conform to the vendor's sample, are not as provided on the purchase order, or arrive in an unsatisfactory condition shall be rejected except as provided in 2 MCAR § 1.6507 H.2.

E. Notice of rejection, based upon apparent deficiencies disclosed by ordinary methods of inspection, shall be given by the receiving agency to both vendor and the carrier (if FOB shipping point) within reasonable time after delivery, with a copy of this notice to the Division of Procurement. Revocation of acceptance for latent deficiencies that would make the items unsatisfactory for the purpose intended shall be given by the state within reasonable time after discovery. The contractor shall satisfactorily repair or replace such items within a reasonable period of time.

F. The state may require that the vendor permit inspection of the commodities prior to shipment at the factory, plant, or establishment where produced, manufactured, or stored. Unless provision for inspection is made in the invitation to bid, costs thereby incurred will be paid by the state.

G. The vendor shall forthwith remove at his expense any item rejected by the state. If the vendor fails to remove such an item, or to forthwith forward shipping instructions to the agency concerned, the state may sell the item and remit the proceeds of sale, less the expense involved, in accordance with law including but not limited to Minn. Stat. § 336.2-603.

H. If the needs of the state agency do not permit time to replace rejected merchandise, or if deliveries are not made within the time specified in the contract, the agency may:

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1. With the approval of the Director of Procurement, buy on the open market supplies of the nature required. The vendor shall be liable for all additional costs and expenses.

2. If it is determined that an item does not conform strictly to specification, but can be used satisfactorily, the Director of Procurement may adjust the price with written acquiescence of the vendor, and authorize the agency to keep and use such part of the order when such action is required to sustain continued operation.

I. The Director of Procurement may direct that a laboratory analysis or other tests be made to determine the acceptability of the delivered product(s) and to insure that product(s) meet specifications. In these instances, acceptance by the state shall not occur nor be deemed to have been made, and the discount time shall not begin, until testing is completed and affirmative results are obtained. Vendors shall be notified of unsatisfactory test results.

2 MCAR § 1.6510 Bidder errors.

A. Prior to the opening of sealed bids, any person may withdraw his bid by notifying the Director in writing of his desire to withdraw, by appearing in person at the Division of Procurement's Office and withdrawing the bid, or by telegraphic writing received by the Director requesting withdrawal of his bid.

B. Subsequent to the opening of sealed bids, a person may withdraw his bid only upon a showing that an obvious ~~unintentional, non-negligent~~ error exists in the bid. The showing and request for withdrawal must be made in writing to the Director within a reasonable time after the opening of the bids and prior to the state's detrimental reliance on the bid.

2 MCAR § 1.6701 Scope and purpose. ~~The following rules~~ 2 MCAR §§ 1.6701-1.6704 are promulgated pursuant to Minn. Stat. §§ 16.081-16.086 for the purpose of establishing procedures relating to the small business and small business owned by socially or economically disadvantaged persons set-aside program administered by the Procurement Division, Department of Administration, 50 Sherburne Avenue, St. Paul, Minnesota 55155. 2 MCAR §§ 1.6501-1.6601 shall also govern procurement under this program. In the event of irreconcilable conflict between the general procurement rules and rules relating specifically to the set-aside program, the rules of the set-aside program shall govern.

2 MCAR § 1.6704 General terms and conditions.

A. A business which, if offered an award, ~~but~~ finds that it cannot produce, supply or construct according to the bid terms and conditions shall, within seven (7) calendar days after receipt of notice as low bidder, notify the Division of Procurement in writing of the reasons therefor.

B. When the Commissioner of Administration finds that the low bidder is unable to perform, the Department of Economic Development shall be notified by the Division of Procurement in accordance with Minn. Stat. § 16.084, so that the ~~Deputy~~ Commissioner of Economic Development can assist the small business in attempting to remedy the causes of the inability to perform.

C. Failure to enter into the contract or to accept an offered award will not automatically disqualify a business from further bidding or negotiation.

D. The records of the Procurement Division shall show the reason(s) for such failure.

E. Failure to satisfactorily complete and meet the terms and conditions of a bid after an award has been made and accepted shall disqualify a business from further bidding or negotiation until assurance of ability to perform is provided, documenting the corrections made to assure performance of future contracts. Such assurances shall be given in writing to the Director, Procurement Division.

F. The Commissioner of Administration may divide bid invitations by dollar amounts, units of production, or duration of contract to facilitate awarding contracts to business in the set-aside program.

G. No contractor awarded a contract under the set-aside program shall subcontract fifty (50%) percent or more of the dollar value of the work under such contract. In construction contracts, the amount of specialty subcontracting shall be excluded in determining the total amount of permissible subcontracting.

2 MCAR § 1.6802. Any person, corporation, or other legal entity wishing to apply for partial indemnification shall contact the Division of Procurement, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155. The application for determination of eligibility shall include the following:

1. a current certified financial statement or equivalent approved by the Director;
2. reasons for requesting partial indemnification;

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3. a list of all bonding companies contacted;
4. copies of all denials of application(s) for bonding received from bonding companies or bonding agencies;
5. a summary of all other efforts undertaken to obtain bonding;
6. all other relevant information requested.

2 MCAR § 1.6803. Upon receipt of an application for determination of eligibility, the Commissioner shall make an eligibility determination and notify the applicant within a reasonable time. ~~A determination shall be made based upon consideration of the following factors:~~

- ~~a. good faith effort of contractor to obtain bonding from private bonding agencies or bonding companies;~~
- ~~b. qualification of the contractor to do business in the State of Minnesota under the laws of the State of Minnesota and the rules of the procuring agency(ies);~~

Department of Public Welfare Income Maintenance Bureau

Adopted Rule DPW 63 Governing the Work Equity Project

The rule published at *State Register*, Volume 2, Number 45, p. 2012-2026, May 15, 1978 (2 S.R. 2012), is adopted and printed in its entirety below; it is identical to its proposed form, except for the amendments indicated in the following text:

DPW 63 Administration of Work Equity Project.

A. Introduction.

1. This rule governs administration of the Work Equity Project (WEP) as authorized by Minn. Stat. § 256.736 (amended, 1977) and § 256D.04 (amended, 1977). WEP is a work and training demonstration project jointly administered by the Minnesota Department of Public Welfare (DPW), the Minnesota Department of Economic Security (DES), and the City of St. Paul, and funded through an initial grant of \$6.8 million by the United States Department of Labor (DOL) through the Comprehensive

Employment and Training Act (CETA) and the Work Incentive Program (WIN). The purpose of the project is to provide employment opportunities, training, and services in a uniform manner to applicants and recipients of General Assistance, Aid to Families with Dependent Children, and Food Stamps, and to provide a model for evaluation of certain national welfare reform proposals. The provisions of this rule are to be read in conjunction with Title IV of the Social Security Act, 42 U.S.C. § 601 et seq. (amended, 1977); the Food Stamp Act of 1964, 1977, 7 U.S.C. § 2011 et seq. (amended, 1977); the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. § 801 et seq. (amended, 1977); Titles 7, 29, and 45 of the Code of Federal Regulations; Minn. Stat. Chaps. 256, 256D, and § 268.10; and DPW 44, 55, and 202.

2. This rule is binding on DPW and DES, all county welfare and human services boards (hereinafter called local welfare agencies), and applicants and recipients as defined and outlined in this rule.

3. The Commissioner of DPW and the Commissioner of DES shall issue handbooks and informational materials to local welfare agencies, to local offices of the Department of Economic Security and the Prime Sponsors, and to people who are referred to WEP, to implement this rule in an orderly and uniform manner. For those participants whose primary language is not English, translation services shall be made available at all phases of an individual's participation in WEP.

B. Administration.

1. WEP is a pilot project designed to extend the scope and services available through the WIN program, the General Assistance Work Program, and Food Stamp work registration. In those counties selected by the Commissioner of DPW for participation in WEP, this rule shall be read in conjunction with DPW 44, 55, and 202; any irreconcilable differences shall be resolved in favor of this rule. In those counties not selected for participation in WEP, provisions of DPW 44, 55 and 202 shall apply without change.

2. WEP shall combine the efforts and resources of DPW, DES, and the City of St. Paul to provide appropriate employment or training for designated public assistance applicants and recipients and shall operate in conjunction with the St. Paul and Minnesota Balance of State Prime Sponsors designated pursuant to CETA.

3. Agreements between, among, or within DPW, DES, St. Paul CETA Prime Sponsor and the Balance of State CETA Prime Sponsor shall specify the obligations that they have for the administration of WEP. A representative of each agency shall be named to a Management Board which shall meet regularly to coordinate implementation and operation of WEP. All parties to the agreements shall

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have copies of the agreements on file, which are public documents available for examination during business hours.

4. WEP shall provide ~~all services traditional to WIN to its participants~~ all services available to WIN participants and shall increase the opportunities for training and jobs available through a work incentive program to additional numbers of public assistance recipients. WEP shall comply with all applicable federal statutory, regulatory, and administrative requirements of the WIN program unless specifically waived by the United States Departments of Labor or Health, Education and Welfare.

5. The Commissioner of DPW shall select the counties to participate in WEP, shall determine the date such participation shall begin and shall supervise WEP in the local welfare agencies in accordance with this Rule and with equitable standards for assistance and administration which shall be mandatory for all counties selected for participation in WEP.

6. No funds allocated to WEP shall be used for any political activity or to further the election or defeat of any candidate for public office; nor shall they be used to provide services, or for the employment or assignment of personnel in a manner supporting or resulting in the identification of programs conducted pursuant to the Social Security Act with:

a. Any partisan or non-partisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, or lobbying for any matter at public issue;

b. Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election;

c. Any voter registration activity.

7. The local welfare agencies shall be fully reimbursed for increased local expenditures resulting from operation of the Work Equity Project. DPW shall establish pre-WEP baseline data on county income maintenance, medical, social service, and administrative costs. Local welfare agencies ~~will~~ shall provide WEP with staff and other resources equivalent to the resources the agency would otherwise be required to allocate to other work and training programs and related services if the applicants and recipients had not been placed in WEP. WEP ~~will~~ shall reimburse counties for any additional costs incurred by the counties which are directly

attributable to WEP, in a manner to be agreed upon between DPW and DES.

In order to determine the reimbursement formulae, counties shall provide necessary information to DPW and shall enter GA and Food Stamp information on the DPW case information system, as required by the Commissioner of DPW.

Payments to or from WEP and the local welfare agencies shall be made on a quarterly basis.

8. Income maintenance funds which are not expended by local welfare agencies as a result of a recipient's participation in WEP shall be diverted to WEP, in accordance with internal management procedures to be established by DPW and DES. The reimbursement formulae, referred to in Section B. 7., above, shall be used to determine the amounts, if any, to be diverted to WEP.

Payments to or from WEP and the local welfare agencies shall be made on a quarterly basis.

9. WEP administration shall not deny any person his/her civil rights. The program shall give due regard to the privacy rights of applicants and/or recipients, in accordance with 45 CFR Part 205 and the Minnesota Data Privacy Act, Minn. Stat. § 15.162 et seq. (amended, 1978). No disclosure shall be made of personally identifiable data from records or from applicants or recipients except as permitted by law.

If any participant is requested to supply information to an outside evaluation group or individual evaluating, critiquing or monitoring WEP or its participants for the effect of WEP on its participants, or if an individual is requested to submit to any testing or interviewing by such group or individual, the participant shall be fully informed that participation is voluntary and shall be fully informed that refusal to participate in the evaluation shall not result in deregistration from WEP or disqualification from public assistance benefits. Prior to requesting information for this purpose, the evaluation group or individual shall obtain the participant's informed consent. The evaluation group or individual shall use the information acquired solely for the purposes explained to the participant at the time the consent was obtained, and as permitted by law.

10. Notwithstanding any provisions of this rule, administration of WEP is subject to changes in state or federal law. The Commissioner of DPW shall notify the local welfare agencies of changes affecting the participation of public

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assistance recipients in WEP. The Commissioner of DES shall notify the local offices of the Department of Economic Security and the Prime Sponsors of changes in WEP and related programs.

11. Operation of WEP is subject to approval by the ~~U.S.~~ United States Department of Health, Education, and Welfare (DHEW) for the participation of AFDC participants; the approval of the United States Department of Agriculture for the participation of Food Stamp recipients; and the approval of the entire project by the United States Department of Labor (DOL). Operation of WEP is also contingent upon sufficient funding from the DOL. The Prime Sponsors shall give prompt notice to each participant of the project's termination and shall make every reasonable effort to assist each participant to obtain substitute services.

12. Work Equity shall contract with, or obtain voluntary assistance from, outside agencies, groups, or individuals, to provide advocacy services at each WEP Center. With the consent of the participants, one or more advocates shall be present at each group orientation to inform participants of the availability of advocacy services. Literature or forms provided to participants which mention the WEP grievance and adjudication system shall state that participants are entitled to the assistance of an advocate.

C. Definitions.

1. AFDC (Aid to Families with Dependent Children): A program authorized by Title IV of the Social Security Act, 42 U.S.C. § 601 et seq. (amended, 1977), to provide financial assistance and social services to needy families with dependent children.

2. Applicant: A person who requests AFDC, GA, or Food Stamps from the local welfare agency, whose eligibility has not yet been determined.

3. Appraisal: The interview of a WEP participant by WEP Center staff including support service staff to determine employability potential, the need for support services, and to initiate an employability plan.

4. Certification: A written notice by the support service staff that necessary support services have been arranged or are available to enable a WEP participant to accept employment, training, or services; or that no such services are needed and that the individual is at that time ready for employment or training.

5. Classroom Training (CT): Vocational or other institutional training, including basic or remedial education, conducted in a non-worksite setting.

6. Commissioner of Economic Security: The Com-

missioner of the Minnesota Department of Economic Security or his/her designee.

7. Commissioner of Public Welfare: The Commissioner of the Minnesota Department of Public Welfare or his/her designee.

8. Community Work Project (CWP): A subsidized work component that fulfills a public service and provides an individual an opportunity to develop skills and basic work habits helpful in securing unsubsidized employment.

9. Complaints: (See Grievance)

10. Component: A structured, regularly scheduled program activity for certified WEP participants.

11. Deregistration: Termination of an individual's WEP registration.

12. DES: The Minnesota Department of Economic Security.

13. DHEW: The United States Department of Health, Education and Welfare.

14. DOL: The United States Department of Labor, specifically, its Employment and Training Administration.

15. DPW: The Minnesota Department of Public Welfare.

16. Employability Plan: A written plan for a WEP participant that sets forth that individual's occupational goal, and the employability and support services necessary for him/her to reach that goal.

17. Employability Services: Employment and training services provided by the WEP Center to improve the work skills of a participant and aid him/her to find employment.

18. Exempt: An AFDC, GA, or FS applicant or recipient who is not required to register for employment or training under the Work Equity Project as a condition of eligibility for welfare benefits.

19. Food Stamp Program: A program authorized by the Federal Food Stamp Act of 1964, 1977, 7 U.S.C. § 2011 et seq. (amended 1977), to provide assistance to needy families and individuals.

20. General Assistance (GA): A program authorized by Minn. Stat. ch. 256D to provide financial assistance to needy families and individuals.

21. General Assistance Medical Care (GAMC): A program authorized by Minn. Stat. ch. 256D to provide

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assistance to families and individuals in need of medical care.

22. **Grievance:** A written complaint initiated by a WEP participant. Grievances may include, but are not limited to, disputes over assignments where the participant is not refusing the assignments; alleged discrimination; and complaints about eligibility for or amounts of WEP allowances.

23. **Hearing Officer:** The hearing officer designated by DES to hear and decide ~~or make recommendations on~~ issues relating to grievances and sanctionable issues involving WEP participants.

24. **Incentive Payment:** A cash payment to an individual, who is participating in a non-wage WEP component. The incentive payment is to be an inducement to the participant to engage intensively in WEP activities as preparation for entering employment; it does not compensate or reimburse a participant for any costs that are incurred in connection with WEP participation.

25. **Income Maintenance Funds:** Amounts of AFDC or GA to meet basic living costs of eligible individuals in accordance with established standards of need.

26. **Income Maintenance Unit (IMU):** The unit of the local welfare agency which determines individual eligibility for AFDC, GA, or Food Stamps.

27. **Intensive Manpower Services (IMS):** Structured employment-related services; including job development and placement services offered to WEP participants so they may more readily obtain unsubsidized employment.

28. **Job Service (also known as State Employment Service):** A program within the Department of Economic Security, established in accordance with the provisions of the Wagner Peyser Act, 29 U.S.C. § 981 et seq. (amended, 1977).

29. **Management Board:** Representatives from the City of St. Paul CETA, Balance of State CETA, DES, DPW, and WEP responsible for the design and administration of WEP.

30. **Mandatory:** A person who is not exempt.

31. **Medical Assistance (MA):** A program authorized by Title XIX of the Social Security Act to provide assistance to needy families or individuals in need of medical care,

implemented in Minnesota by Minn. Stat. ~~Chapter ch.~~ 256B.

32. **Medical Verification:** A statement signed by a physician or licensed psychologist which attests to an individual's ability or inability to accept employment or participate in other WEP activity. Oral testimony presented in person by such physician or licensed or certified psychologist may also be accepted as medical verification.

33. **Non-Wage Component:** An activity, such as IMS, Employability Development Plan (EDP), and Classroom Training, wherein allowances and incentives are paid for suitable participation.

34. **On-the-Job Training (OJT):** Employment of a WEP participant during which he/she is provided with employment training at a work site under a contractual agreement between a public or private employer and the Prime Sponsor. The employer is reimbursed for the extraordinary costs of such training.

35. **Participant:** An AFDC, GA or Food Stamp applicant or recipient who has registered with WEP.

36. **Prime Sponsor:** A public agency (or private, non-profit corporation) which operates WEP within the jurisdiction(s) in which it is expressly authorized by the DOL to administer funds authorized pursuant to CETA Titles I and II.

37. **Public Service Employment (PSE):** Subsidized transitional employment with non-profit employers or public employers, funded by CETA.

38. **Recipient:** An individual who has been determined eligible to receive AFDC, GA or Food Stamps.

39. **Referring Agency:** The local welfare agency, or local Job Service office responsible for referring applicants and recipients to the WEP center.

40. **Sixty-Day Counseling:** Counseling and other services provided by the support service staff to certified WEP participants who have been determined to have refused to participate without good cause. Its purpose is to encourage such individuals to return to active WEP participation.

41. **Subsidized Employment:** Work in a job for which the individual's wages and benefits are directly federally subsidized.

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~~42.~~ Suitable Employment: Employment consistent with the participant's employability plan; meets the criteria stated in Section I of this rule.

~~42.~~ 43. Support Services: Those social services provided or arranged by support service staff necessary to enable an individual to engage in employment or other WEP activity.

~~43.~~ 44. Support Service Staff: Those counselors from local welfare agencies or WEP Center Offices who provide support services to WEP applicants or recipients.

~~44.~~ 45. Title XX Services: A program authorized by Title XX of the Social Security Act to provide social services to families and individuals in need.

~~45.~~ 46. Transfer: A period during which a participant is assigned to active participation in a program other than WEP as part of an approved WEP employability plan. Necessary employability and support services including incentive and transportation payments not provided under the assigned program shall be provided under WEP.

~~46.~~ 47. Unsubsidized Employment: Work in a job for which the wages and benefits are not subject to a direct federal subsidy for the individual.

~~47.~~ 48. Volunteer: An AFDC, GA, or Food Stamp applicant or recipient who, though exempt from WEP registration, volunteers for and registers for WEP.

~~48.~~ 49. Wage Component: An activity such as Public Service Employment (PSE), OJT and CWP, whereby a participant performs work for specified hours, and is paid wages and benefits.

50. Welfare Appeals Referee: The hearing officer designated by the welfare agency to hear and decide or make recommendations on issues relating to exemption or non-exemption for WEP registration or any program-related AFDC, GA or Food Stamp benefit reductions, suspensions or terminations which result from deregistration from WEP.

~~49.~~ 51. Welfare Benefits: Those payments or services other than those provided in this rule that are available to applicants and recipients of AFDC, GA, or Food Stamps.

~~51.~~ 52. WEP Center: A field office of a Prime Sponsor from which WEP services are administered.

~~52.~~ 53. WEP Center Staff: Prime Sponsor staff in a WEP Center, or satellite office thereof, part or all of whose time is compensated by WEP funds and staff from other agencies assigned to work in a WEP Center and performing WEP functions.

~~53.~~ 54. WIN: The Work Incentive Program for AFDC applicants and recipients, authorized by Title IV-C of the Social Security Act.

~~54.~~ 55. WIN Registrant: An AFDC applicant or recipient who has registered with the Work Incentive Program.

D. Participation of AFDC and GA applicants and recipients.

1. All AFDC and GA applicants and recipients eligible for WEP shall be informed of its availability by the local welfare agency and shall register for WEP unless exempt or otherwise excluded from registration by the Commissioner of Public Welfare because of program or budgetary constraints.

2. The local welfare agency shall determine exemptions. The following AFDC and GA applicants and recipients shall be exempt from WEP registration:

a. children under 16;

b. children age 16 through 18, and attending school full time;

c. persons who are ill (for purposes of this Section, D.2., "illness" shall be defined as an illness or injury which is medically diagnosed as preventing him/her from engaging in suitable work activities, and which is expected to last less than 90 days);

d. persons who are incapacitated (for purposes of this Section, D.2., "incapacity" shall be defined as an impairment which either by itself or in conjunction with age prevents him/her from engaging in suitable work activities, and which is expected to last more than 90 days; AFDC recipients whose WEP exemption is based on incapacity shall be referred to the Division of Vocational Rehabilitation in the Department of Economic Security);

e. persons over age 65;

f. persons who live so far away from their WEP Center or placement that more than 2 hours per day (by reasonably available public or private transportation) would be required to travel to and from work or training (exclusive of time necessary for transporting children to or from child care), unless such commuting time is normal to the community;

g. persons whose presence in the home is needed because of the illness or incapacity of another person in the household;

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h. AFDC caretaker of a child under age 6 or GA caretaker of a child under age 18 (only one such exemption is allowed per household);

i. the spouse of a WEP or WIN registrant;

j. persons receiving General Assistance who are working at least 30 hours per week, at a wage consistent with that paid in the community for similar work;

k. persons who are registered in WIN and are in a suitable employability development plan;

l. persons receiving General Assistance who have been referred to or applied for work training, work experience, or a similar program, if approved by the local agency and if the waiting period for acceptance into the program does not exceed 30 days.

3. All GA and AFDC recipients who are mandated to or volunteer to register with WEP shall be referred for registration to the local WEP office by the local welfare agency which shall ensure that transportation to and from such registration is available.

4. AFDC and GA recipients exempt from WEP registration may voluntarily register with WEP, unless the Commissioner of Public Welfare limits participation of volunteers because of program or budgetary constraints. ~~WEP may exclude from participation individual GA volunteers whose barriers to employment preclude them from obtaining gainful employment during the existence of WEP.~~

5. Treatment of Income for AFDC and GA WEP Participants.

a. WEP incentive payments of not more than \$30 per week shall be disregarded in determining the grant amount for WEP participants.

b. Reimbursement for actual cost of training-related expenses shall be disregarded as income for WEP participants.

c. Wages paid in Work Equity community work projects shall be considered as earned income.

d. All other income shall be handled in accordance with DPW 44 and DPW 55.

e. Receipt of earned income by WEP participants shall not cause ineligibility for public assistance benefits

(including Title XX services, Food Stamps and MA or GAMC), even though the household would be otherwise ineligible for a public assistance grant payment, until income from unsubsidized employment meets the need as computed in the existing applicable manner.

f. AFDC-Unemployed Fathers who are registered with WEP shall be exempt from the 100 hour-per-month employment limitation.

g. An amount paid to a participant for taking part in an outside evaluation, as described in Section B.9., shall not be counted in determining public assistance grant amount.

E. Participation of Food Stamp recipients.

1. Eligibility for the Food Stamp Program shall be determined by the local welfare agency according to applicable federal law. All Food Stamp applicants or recipients eligible for WEP shall be informed of the program's availability by the local welfare agency.

2. An individual receiving Food Stamps who is required to register with the Job Service in the Department of Economic Security shall be referred to WEP on a timely basis after 30 days of Job Service registration by the Job Service Office, unless WEP-exempt. An individual shall be considered WEP-exempt if he/she:

a. has gained employment of at least 30 hours per week; or

b. has been referred to and accepted in a work and training program sponsored by a public agency; or

c. has a job attachment as defined in Section E. 8-7. below.

~~WIN~~ WEP-exempt status shall be reviewed monthly thereafter by the Job Service and individuals who become non-exempt shall be referred to WEP on a timely basis.

3. Individuals referred to WEP shall be required to register with WEP and shall also:

a. Report to the local WEP office where he/she is registered, for an appraisal interview, upon reasonable request;

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b. Supply additional information regarding employment status or availability for work, if requested;

c. Interview for, accept bona fide offers of, and/or continue in suitable work to which he/she is referred by the local WEP office.

4. Food Stamp recipients exempt from WEP registration may voluntarily register with WEP, unless excluded from registration by the Commissioner of Public Welfare because of program or budgetary constraints, and shall be referred to the local WEP office by the local Job Service office.

5. Food Stamp recipients exempt from the Job Service registration may voluntarily register with WEP, unless excluded from registration by the Commissioner of Public Welfare because of program or budgetary constraints, and shall be referred directly to the local WEP office by the local welfare agency.

6. Food Stamp recipients exempt from WEP registration may voluntarily register with WEP, unless the Commissioner of Public Welfare limits participation of volunteers. WEP may exclude from participation individual volunteers whose barriers to employment preclude them from obtaining gainful employment during the existence of WEP.

7. ~~6.~~ A person who becomes ineligible for Food Stamps because of excess income attributable to his/her mandatory participation in WEP may continue in WEP until placed in permanent unsubsidized employment.

~~8.~~ 7. An individual with a job attachment shall be defined for purposes of this section as one who is on strike; lock-out; seasonal layoff; temporary layoff; has a bona fide job prospect with a definite starting date not to be later than 45 days from the date of registration with the Job Service; or is a member in good standing of a union which provides to its members free placement service and exposure to full employment. "Strike" shall be defined in accordance with Minn. Stat. § 179.01, subd. 8; "lock-out" shall be defined in accordance with Minn. Stat. § 179.01, subd. 9.

8. An amount paid to a participant for taking part in an outside evaluation described in Section B.9. shall not be counted in determining Food Stamp eligibility.

F. Exemption determination disputes.

1. The referring agency shall inform all applicants and recipients of AFDC, GA, and Food Stamps of their rights to contest determination of WEP non-exempt status in accordance with the provisions of this Rule. If a dispute arises between an individual and the referring agency regarding a determination of non-exempt status, the referring agency determination is binding on the individual. If, however, the

individual requests a hearing on the issue, as provided in this Rule, he/she shall be considered exempt until his/her status is determined. The referring agency determination is binding on the individual, unless the individual disagrees with the determination and requests a hearing on the issue. If such a request is made, he/she shall be considered exempt until his/her status is determined by the welfare appeals referee.

2. If an individual contests a determination of non-exemption on the basis of incapacity or illness, the allowable period for receipt of medical verification of such status will be thirty (30) days from the date that the client is notified of the determination. WEP shall arrange to cover the cost to the individual of obtaining the medical verification. If the individual is a WEP participant, and medical verification or other information is necessary and cannot be obtained within 30 days, the local welfare agency must notify WEP prior to the end of the initial 30-day period of any arrangements that have been made to obtain such information. An acceptable response can also be notification that the determination will be delayed, in which case WEP should not deregister the individual until and unless the referring office's determination necessitates deregistration.

3. If, after referral, WEP Center Staff believe an individual referred as "mandatory" should be exempt, WEP ~~should~~ shall register the individual and then state the reasons in writing to the referring office and request a review of the case.

a. The referring office ~~should~~ shall inform WEP in writing of its findings within 30 days of the request. The decision of the referring office is then binding on WEP.

b. If WEP receives no response from the referring office within 30 days of its request, it ~~should~~ shall contact the referring office to determine what action has been taken.

c. If no action has been taken, the individual ~~should~~ shall be deregistered as exempt at the end of the 30-day period. However, if an individual is deregistered and the referring office later determines that he/she is non-exempt, he/she shall be re-registered in order to ensure eligibility for welfare benefits.

4. The responsibilities of the agencies described in Sections F.1. and G.1. shall include providing information to the participant that he/she shall receive without cost medical evaluations necessary to determine whether an aspect of project participation is inappropriate for medical or health reasons. Brochures and posters containing such information shall be developed and used including those directed toward women who are or may be pregnant.

G. Registration procedures.

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1. WEP Center staff shall register all individuals referred by the respective IMU, Job Service or WIN offices within 3 working days of the day the individual appears for registration. Registration is not complete until all registration requirements are met. WEP Center staff shall:

1- a. Inform all participants about the WEP program and its requirements.

2- b. Work history: Obtain from each applicant a complete work history, complete the WEP registration forms and provide each participant with written proof of registration;

3- c. Job market information: Provide all participants, at the time of registration, with job market information and referral to available employment. All appropriate job market information available to WEP, including the Job Service Job Bank, shall be used to provide this information and facilitate such referrals;

4- d. Registration: Notify the referring office, within 3 working days of registration, that registration has been completed.

H. Appraisal and certification.

1. All Psychological, Psychiatric, family or mental health counseling and services, including associated testing, shall be voluntary. Participants using services or testing shall be fully informed of their scope, nature, and use and shall sign an agreement that acknowledges his/her voluntary use of the services. This provision applies to appraisal interviews described in this Section, employability plans described in Section H.4. following, Employability Development Planning in Section M.1. and Support Services in Section O.1.c.

1- 2. Appraisal sequence: All participants shall be appraised in the order in which they are registered. Notwithstanding the above, all AFDC-Unemployed Fathers must be appraised within 2 weeks of registration with WEP, and must be certified no later than 30 days after registration. All appraisals shall be completed prior to certification. Certification shall be completed within 30 days of registration.

2- 3. Appraisal interview: The appraisal interview shall be conducted by WEP Center staff, including support service staff, and is intended to assess the registrant's employability potential and need for supportive services. Whenever possible, individuals shall be appraised at the

time of registration. An employability plan for each participant shall be initiated at the appraisal interview.

3- 4. Employability plan: The employability plan shall contain an employment and training services section and a support services section, and shall be designed to lead to a definite unsubsidized job goal employment and ultimately to self support and shall contain a definite employment goal attainable in the shortest time period consistent with the participant's skills, needs, knowledge, ability, support services needs, project resources, and job market opportunities. The employability plan shall be developed jointly by the participant and WEP staff including support service staff. Final approval of the employability plan rests with WEP staff.

4- 5. Certification: Support service staff shall certify in writing that the necessary immediate and ~~on-going~~ ongoing support services have been provided or arranged, or that no such services are required for those individuals who have been selected for participation in WEP. Certification shall be completed within 30 days of registration. At any point during participation certification may be made for additional services.

5- Support Services: ~~An uncertified participant may be provided pre-appraisal and appraisal services by the WEP support service staff. The participant must be certified before receiving WEP support services, listed in Section "O" of this Rule. A WEP participant may be certified at any time during the registration period and additional certifications may be done, if necessary. After certification, a participant who is not employed may receive certified support services until successful completion of his/her EP. Upon entering employment (either unsubsidized or subsidized), WEP support services may be provided for up to 30 days after entering employment. These services may continue for a maximum of 90 days at the discretion of the support service staff. In an emergency such services may be provided for an additional 30 days beyond the 90 day maximum.~~

5- 6. Support services: Until a participant is certified, only pre-appraisal and appraisal services shall be provided by the WEP support service staff. The participant shall be certified before receiving WEP support services, listed in section "O" of this rule. A WEP participant shall be certified at any time that support services are needed, and additional certifications shall be done as needed. After certification a participant who is not employed shall receive certified support services until successful completion of his/her EP. Upon entering employment (either unsubsidized or subsidized), WEP support services shall be provided for a

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period of 30 days. Such services shall continue for 90 days if they are necessary for the participant to continue such employment. In an emergency, such services shall be provided for an additional 30 days beyond the 90 days if the same are necessary for the participant to continue such employment.

6- 7. Benefits and job referral: Welfare benefits shall not be denied by reason of the individual's referral to a job, to WEP, or solely by reason of an individual's participation therein.

I. Appropriate employment and training criteria.

1. Standards for employment and training assignments: Except as otherwise provided in this Rule, WEP participants shall accept assignment to employment or other WEP activity as determined appropriate by WEP Center staff or shall be subject to deregistration. The following standards must be met before participants shall be required to accept employment or training assignments, including OJT, PSE, classroom training and Community Work Projects:

a. Employability plan: An employment or training assignment must be within the scope of an individual's employability plan. This plan may be modified jointly by the participant and WEP staff including support service staff. ~~Final~~ Approval of the employability plan rests with WEP Center staff. If the participant disagrees with the decision, ~~she/he~~ he/she may initiate a grievance;

b. Performance capability: The job or training assignment must be related to the capability of the individual to perform the task on a regular basis. Any claim of adverse effect on physical or mental health shall be verified by a physician or a licensed or certified psychologist, and shall attest to the individual's ability or inability to accept employment or participation in other WEP activity. Pending verification the participant shall be assigned to the EDP component as defined in Section M. 1. below;

c. Commuting distance: The total daily commuting time from home to the assigned work or training site and return shall not normally exceed 2 hours, not including time required to transport a child/children to and from a child care facility. If a longer commuting distance and time is normal to the community, the round trip commuting time shall not exceed the norm for that community;

d. Child care standards: Required child care shall meet the standards specified by the Department of Public Welfare in Rules 2 and 3, shall be licensed as required and defined therein, and shall be available during the hours the individual is engaged in a WEP assignment plus any additional necessary commuting time;

e. Health and safety standards: The employment or training site to which the individual is assigned shall ~~not be in violation of~~ be in compliance with applicable federal, State and local health and safety laws, and regulations; ~~and standards;~~

f. Non-discrimination: No assignments shall be made which discriminate in terms of age, disability, sex, race, creed, color, national origin, or public assistance status. Employment and training assignments shall in no way contribute to discriminatory hiring practices;

g. Employability and support services: No individual shall be referred to employment or training unless employability and support services necessary for participation are available. The cessation or withdrawal of such necessary services while the individual is participating in an assignment shall constitute good cause for refusal to participate.

2. Other employment criteria: In addition to criteria in paragraph 1 of this section, appropriate employment criteria shall include the following:

a. Appropriate employment: Appropriate employment may be temporary, permanent, full-time, part-time or seasonal, if such employment meets the other employment standards of this section;

b. Prevailing wages: All participants in WEP employment components shall receive a wage which shall meet or exceed the statutory federal or State minimum wage, whichever is higher, and which is not less favorable than the wage normally paid for similar work by the employing agency or service;

c. Hours of work: The daily and weekly hours of work shall not exceed those customary to the occupation;

d. Exemption from employment: No individual shall be required to accept employment if:

(~~1~~) ~~The position offered is vacant due to a strike, lock-out, or other bona fide labor dispute;~~

(~~2~~) (1) The individual would be required to work for an employer contrary to the conditions of his/her existing membership in the union governing that occupation. However, employment not governed by the rules of a union in which ~~she/he~~ he/she has membership may be deemed appropriate.

(~~3~~) (2) The job offered would interrupt a program in progress under an approved WEP employability plan, or would impede return to his/her regular job. This does not, however, preclude temporary employment during the interval prior to an individual's return to his/her regular job.

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(4) (3) The individual would be required to join a union, or refrain from joining a bona fide labor union as a condition of being employed, unless union membership is a requirement of a collective bargaining agreement.

e. WEP shall not knowingly refer an individual to a position vacant due to strike, lock-out, or other bona fide labor dispute. If WEP should inadvertently make such a referral, no individual shall be required to accept such employment.

f. WEP shall not knowingly contract with any employer if full or partial displacement of currently employed, full-time or part-time workers will result. Full displacement occurs when an employed worker loses his/her job for reasons other than normal turnover or the job is altered so as to effect a reduction of pay. Partial displacement occurs when the use of WEP registrants leads to a reduction of non-overtime hours in a normal work-week of worker's presently employed in the same activity.

3. Other training criteria: In addition to criteria in paragraph 1 of this section, appropriate training criteria shall include the following:

a. The quality of the training must meet local employers' requirements so that individuals will be in a competitive position within the local labor market;

b. The training shall also be likely to lead to employment which will meet the appropriate employment criteria.

J. General benefits for program participants.

1. Worker's compensation: Each participant in an On-the-Job Training or Community Work Project program under WEP shall be assured of worker's compensation at the same level and to the same extent as other employees of the employer who are similarly employed or engaged and are covered by a State or industry worker's compensation statute. Whether provided through the State's compensation agency or a private insurance carrier, this coverage includes medical and accident insurance as well as income maintenance insurance.

2. Insurance: Where a participant is employed or engaged in a Community Work Project, On-the-Job Training, or classroom training, where others similarly employed or engaged are not covered by an applicable worker's compensation statute, the participant shall be provided with medical

and accident insurance coverage. Whether provided through the State's worker's compensation agency or a private insurance carrier, WEP shall provide such participants with medical and accident insurance coverage comparable to the medical and accident insurance provided under the applicable State worker's compensation statute. However, WEP shall not be required to provide these participants with the income maintenance insurance coverage in the statute.

3. Other fringe benefits: Each participant in an On-the-Job Training or Community Work Project program shall also be assured of health insurance, unemployment insurance (to the extent such benefits are allowable), coverage under collective bargaining agreements and other benefits at the same levels and to the same extent as other employees similarly employed, except that retirement benefits shall be limited pursuant to 29 CFR § 98.25 and Chapter 720, Minnesota Laws (1978), and to working conditions neither more nor less favorable than such other employees similarly employed. Nothing in this section shall be interpreted to require coverage for health insurance, unemployment insurance and similar benefits for participants, such as Community Work Project participants, where there is no employee of the employer performing the same or similar work in the employment situation. In determining whether the work is the same or similar to that of a person regularly employed, the WEP Center staff ~~will~~ shall take into consideration, but shall not be limited to, employment status, type of work performed, job classification and method of appointment to the position.

K. Allowances and incentives for WEP Participants.

1. Incentive payments: Individuals shall receive incentive payments at a rate of \$6 per day (maximum of \$30 per week) for each day in which they participate in a non-wage WEP component. No incentive pay shall be authorized for participation in the intake functions of registration, orientation, appraisal and initial employability planning, or while assigned exclusively to support services.

2. Transportation expenses:

a. ~~Will~~ Shall be paid to individuals for actual costs they incur because of their participation in non-salaried components such as classroom training, Intensive Manpower Service, or Employability Development Planning. Expenses are based on actual costs of public transportation or car pool payments, or 13¢ per mile for actual number of miles driven, not to exceed 100 miles per day (unless the participant can establish higher transportation costs that are both necessary and reasonable).

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b. Shall also be authorized for individuals placed in employment, OJT, PSE, or CWP. Payments for transportation expenses shall be continued for no more than 4 weeks or until these individuals receive their first full paychecks, or grant adjustments reflecting new work-related expenses, whichever occurs first.

3. WEP Center staff ~~will~~ shall determine the amount of subsistence allowances, in addition to incentive and transportation payments, to be paid to individuals for separate maintenance when they are in training facilities beyond normal daily commuting distance from their homes. These allowances shall be paid for each calendar day within the training period, including holidays and weekends, during which individuals are participating in such training, and are residing away from home.

4. Transportation expenses in amounts equivalent to two one-way trips shall be paid to individuals enrolled at training facilities located beyond normal commuting distance. These payments are to cover the initial trip to the training facility and for the final trip home at the completion or other termination of such training. The rate of reimbursement shall be based on actual costs of public transportation or car pool payments, or 13¢ per mile for actual number of miles driven.

5. WEP Center staff ~~will~~ shall determine and authorize allowances for non-recurring expenses which are required for employment or training ~~include, including, but are not~~ limited to, payments for auto repairs, auto insurance, special clothing, tools and equipment; participants shall not be required to reimburse WEP Center for any such allowances received.

6. Petty cash: WEP Center may establish petty cash funds to meet participants' small cash needs incidental to training, transportation, or referral to employment which cannot be met by other procedures; participants shall not be required to reimburse the WEP Center for any such funds received.

L. Relocation assistance.

WEP ~~may~~ shall assist a certified individual to relocate his/her place of residence when WEP staff determines such relocation is necessary in order to enable him/her to become permanently employed and self-supporting. Relocation of AFDC participants is subject to the approval of the Secretary of Labor or his/her designee. Such assistance shall be given only to an individual who concurs with the relocation and who has a bona fide job offer at the place of relocation at a wage rate which meets full need, as determined by the state in which the individual relocates. Assistance under this section shall not exceed the reasonable costs of transportation for the individual, dependents, and household belong-

ings, plus such relocation allowance as WEP determines reasonable.

M. The WEP components.

1. Employability Development Planning (EDP): The EDP component may include:

a. Orientation to services available in WEP or through referral to other resources;

b. In-depth assessments of those individuals who have problems which must be resolved before they can participate in other WEP components or activities;

c. Special WEP support services, such as help with money management, marital or emotional problems, for individuals who need such services in order to participate in WEP;

d. Those services arranged or provided for by the support service staff for those individuals whose barriers to employment are great and cannot be removed by normal WEP services.

2. Intensive Manpower Services (IMS):

a. The Intensive Manpower Services component provides employment services, which shall include vocational counseling, job development, exposure to labor market information, job placement, job-seeking skills training, and job finding clubs to assist the individual to obtain unsubsidized employment.

b. If unsubsidized employment is not available, the IMS component shall be used to develop opportunities for individuals in community work projects, ~~on the job training OJT and CETA public service employment PSE.~~ Subsidized employment is intended to provide an individual a work-related experience until such time as ~~she/he~~ he/she can be placed in a unsubsidized position.

c. Participation in IMS shall be limited to three weeks; if the participant has not completed the IMS portion of his/her employability plan so that the participant is not ready for placement in another WEP component, additional three week periods shall be authorized if approved by the WEP Center Staff supervisor.

3. Classroom Training (CT): Classroom training includes vocational, college or other institutional training, as well as basic or remedial education, conducted by a qualified instructor. ~~at a non-work site.~~ Classroom training shall be limited to one year and may be further limited by budgetary constraints. Classroom training shall lead to employment and self-sufficiency in the shortest time possible, consistent with the participant's employability plan.

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4. On-the-Job Training (OJT):

a. OJT is an employment opportunity which includes training. Under this component, a certified participant is hired by a private or public employer, who provides training subsidized under contract with WEP. Employers provide increased supervision and training for which they ~~will~~ shall be reimbursed by WEP for the extraordinary costs of such training and supervision.

b. An OJT participant is considered to be employed, insofar as employment affects AFDC, GA, or ~~FS~~ Food Stamp benefit determinations. However, an OJT participant shall remain an active participant, and shall not be deregistered from WEP.

5. Transfer: Certified individuals referred to and accepted by other eligible federal or state-funded employment or training programs, and who meet all eligibility requirements under those programs, shall be temporarily suspended from WEP, if it is appropriate to the employability plan. Such individuals shall normally be compensated in accordance with and through the provisions of those programs. However, when such compensation is not available or would be disadvantageous to the individual, the participant may choose to accept WEP benefits instead. Notwithstanding such transfer, support and job services which are not provided under the alternative program, but which are necessary to permit the individual to continue in the program, ~~will~~ shall be provided or arranged for by the support service staff.

6. Community Work Projects (CWP's):

a. CWP's provide participants with subsidized employment until they are able to move into other components or activities or into unsubsidized employment. CWP slots ~~will~~ shall be developed to meet the individual needs of the participants and shall meet the ~~definition of appropriate work.~~ employment criteria set forth in Section I of this rule.

b. CWP's shall not result in the displacement of currently employed workers, including partial displacement ~~such as a reduction in hours, work, wages, or employment benefits.~~ In addition, (see Section I.2.f. of this rule). CWPs shall be used to support positions for public service needs which have not been met, or to provide new public services in a unit of State or local government, a public agency or institution, or a private nonprofit organization.

c. When developing a CWP position, the WEP staff ~~must~~ shall determine if there is a collective bargaining

agreement between the employer and the employees, or their representatives. Where an agreement exists and is applicable to the establishment and the occupation, the CWP contract ~~must~~ shall not conflict with the agreement. A statement to this effect, signed by the employer ~~will~~ shall be made a part of or affixed to the WEP/CWP contract.

7. Public Service Employment (PSE): CETA PSE Title VI positions shall, to the extent possible, be available to WEP participants. Slots shall not be set aside for WEP participants by position or job; the Prime Sponsor shall accept referral of WEP participants for CETA Title VI vacancies. When participants are transferred to CETA Title VI positions, efforts shall be made to place individuals in jobs where they will have an opportunity to retain those positions as unsubsidized employment.

N. Employee status.

A WEP participant shall not by virtue of registration in WEP be deemed an employee of any public agency, and shall not be subject to the provisions of ~~laws~~ law relating to State or federal employees, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and State or federal employee benefits.

O. Support services.

1. Support services available to WEP registrants for the purpose of facilitating employability plans and self-support goals shall include:

a. Day care service (children): Personal care during the day (for less than 24 hours) in the child's own home or in a nurturing and protective setting to substitute for or supplement the child rearing provided by the child's parents or caretaker, as well as integral but subordinate medical service.

Child care shall be suitable for the individual child, and the caretaker shall be involved in the selection of the child care facility if more than one facility is available. If only one facility is available, the caretaker shall accept it, unless the caretaker can show that it is unsuitable for the child. Such child care arrangements shall be maintained until the caretaker is able to make other satisfactory arrangements. Child care arrangements ~~must comply~~ shall be in compliance with the standards as set forth in 45 CFR § 228.42.

b. Family planning: Services provided to enable individuals to voluntarily limit family size or plan time inter-

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vals between children. These are available to participants on a voluntary basis.

c. Counseling services: Professional services to assist individuals and families in coping with and resolving any personal or relationship concerns.

d. Health services (employment related): Arranging and facilitating access to and use of physical and mental health resources, to identify any physical or mental limitations which would restrict vocational options.

For GA and AFDC recipients, this medical examination is a Medical Assistance or General Assistance Medical Care expenditure and is not to be paid for under WEP.

e. Vocational rehabilitation services: Special employment assistance for individuals who are disabled for social, economic, or mental or physical health reasons (including such things as surgery, psychiatric treatment, prosthetic devices, speech or hearing therapy, visual services, dental care, etc.) to correct or modify a physical or mental condition which inhibits employment.

Vocational rehabilitation services ~~may~~ shall be provided with WEP funds only when not available through the Division of Vocational Rehabilitation in the Department of Economic Security, and when there is reasonable expectation that the services will lead to unsubsidized employment and the services can be provided within the constraints of the WEP program and budget.

2. The following support services ~~may~~ shall be arranged for or provided when determined necessary by the WEP Center staff to successful completion of an employability plan:

a. Homemaking service: Providing substitute care in the absence or disability of the caretaker, personal care for ill or disabled individuals, and instruction on effective home management, self-care and social skill methods.

b. Housing services: Assisting individuals to obtain, maintain, and improve housing, and/or to modify existing housing.

c. Legal services: Arranging for assistance in resolving noncriminal legal matters and the protection of legal rights.

d. Money management services: Arranging and providing assistance in developing effective budgets and managing indebtedness.

e. Transportation services: Arranging and providing

travel and escort to and from community resources and facilities.

P. WEP adjudication system.

1. General: All Work Equity participants shall have available to them an appropriate system for appealing agency actions within the Project. The particular system used will depend on the conditions under which the participants are registered in WEP; i.e., whether they are applicants for or recipients of AFDC, GA, or Food Stamps; and whether they are mandatory participants or volunteers.

2. Disputes involving WEP registrations: A welfare appeals referee shall conduct welfare hearings pursuant to the procedures prescribed in 45 CFR § 205.10, 7 CFR § 271.1, and Minn. Stat. § 256.045 (1976), in cases where applicants or participants contest the registration or exemption requirements, or any program-related AFDC, GA, or ~~FS~~ Food Stamp grant reductions, suspensions, or terminations which result from deregistration from WEP. These procedures are available to all AFDC, GA, or ~~FS~~ Food Stamp participants who are required to register with WEP as a condition of eligibility.

3. Issues to be decided under the WEP adjudication system: Grievances and sanctionable actions shall be resolved through the WEP adjudication system. Written records of all disputes shall be maintained by the WEP Center.

a. Grievances are written complaints which do not involve the threat of WEP sanctions. Such complaints may arise over questions of actions by the WEP Center staff or work site staff including:

- (1) Wages or allowances;
- (2) Hours of work or training;
- (3) Work or training assignments;
- (4) Disciplinary action; and/or,
- (5) Any disputes involving volunteers.

b. While adjudication is pending, the welfare grant amounts ~~will~~ shall be determined in relation to earnings the income actually available to the recipient.

c. Grievances shall be initially handled informally by the WEP Center Supervisor. Within 5 working days of receipt of written notice from the participant the matter will be reviewed and a decision issued. An individual who is not satisfied with the disposition of the grievance may request a hearing at the WEP Center. This hearing will be conducted

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according to the WEP adjudication process described in 4 C.F.R. ~~et seq.~~ Sections P. 4, 5, and 6 below.

~~b.~~ d. Grievances involving discrimination on the basis of race, religion, color, national origin, sex, or age shall be handled according to Equal Opportunity provisions established in 29 CFR Part 31, and 45 CFR Part 80, and to the extent applicable, in compliance with Title VI of the Civil Rights Act of 1964, and the regulations issued thereunder. This section is not intended to abridge the rights of WEP participants to seek redress for unlawful discrimination through other available administrative and judicial processes.

~~e.~~ e. Sanctionable actions are those for which a participant may be deregistered from WEP for failure or refusal to participate without good cause. All sanctionable issues, if appealed, shall be processed through the WEP adjudication system, described in this rule. They include:

(1) Failure or refusal without good cause to attend scheduled WEP appraisals or other interviews;

(2) Failure or refusal without good cause to accept appropriate child care as may be provided for the purpose of enabling the individual to participate in WEP;

(3) Failure or refusal without good cause to accept offers of, or referrals to appropriate employment or training;

(4) Quitting an appropriate job without good cause, or being fired from an appropriate job for cause;

(5) Failure or refusal without good cause to accept assignment to WEP components or to otherwise participate in WEP.

4. Initial conciliation efforts and WEP hearing:

a. If the WEP staff believes that a mandatory WEP participant has committed a sanctionable action, it shall make every effort toward an informal conciliatory resolution of the underlying reasons. The conciliation period shall not exceed 30 days, and may be terminated earlier if it appears no resolution is possible. When all such efforts are exhausted, WEP may issue a Notice of Intended Deregistration.

~~a.~~ b. When WEP determines that all informal, conciliatory measures have been exhausted, the Notice of Intended Deregistration shall be issued to the participant. The

Notice shall state that the participant has failed or refused to participate in required WEP activities without good cause, and is subject to deregistration. The Notice shall also inform the individual of his/her right to a fair hearing if the individual believes the proposed action is unwarranted. The Notice shall be accompanied by the forms required to file for a hearing and the instructions necessary to complete and file the forms. If the individual desires a hearing ~~she/he~~ he/she must request the same within 10 days of the date of mailing of the Notice.

~~b.~~ c. Such hearing ~~will~~ shall be held by a hearing officer of the Department of Economic Security in the manner prescribed by Minn. Stat. § 268.10, subd. 3 (1976); and if an AFDC registrant is involved, also in accordance with 29 CFR §§ 56.66-56.68.

The hearing officer ~~may~~ shall rule:

(1) That the individual has failed or refused to participate without good cause in WEP and that appropriate deregistration shall be initiated;

(2) That good cause has been shown for failure or refusal to participate and the individual should be retained in the program;

(3) That the request for a hearing is dismissed because:

(a) It was filed untimely without good cause;

(b) It has been withdrawn in writing;

(c) The individual failed to appear at the hearing without good cause; or

(d) Reasonable cause exists to believe that the request for a hearing has been abandoned or repeated requests for rescheduling are arbitrary and for the purpose of unduly delaying or avoiding a hearing;

(4) That the participant was appropriately or inappropriately assigned to a WEP activity by the WEP staff; or

(5) Render such other rulings as are appropriate to the issues in question.

d. DES shall mail copies of the hearing officer's decision to the participant, the WEP Center and WEP Central, the local welfare agency, the Department of Public

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Welfare and other interested parties to the hearing. Copies to the participant and his/her representative, if any, shall be accompanied by the forms required to file an appeal from an adverse decision, and the instructions necessary to complete the forms. Upon receipt of the decision, the local welfare agency shall notify the participant of the sanctions that may be imposed by the county, and the individual's right to appeal.

~~e.~~ e. If any party disagrees with the decision of the hearing officer and desires a review of said decision, ~~she/he~~ he/she must, within 10 days of the date of the decision, request a review of the decision. If the county agency or WEP requests review, notice must be given to the registrant at the same time as the request for review is filed. A request for review by any party shall not stay implementation of the hearing officer's decision.

5. Appeal process for AFDC registrants:

a. If the issues decided by the hearing officer involve an AFDC participant, the party who disagrees with the decision of the hearing officer may file the request for review with the Commissioner of Economic Security.

b. A hearing shall be held before the Commissioner of Economic Security or his duly-authorized representative, in the manner prescribed by Minn. Stat. § 268.10, subd. 5 (1976), and in accordance with 29 CFR § 56.64. The Department of Economic Security shall mail to all interested parties a notice of the filing ~~of~~ and a copy of the findings and the decisions of the Commissioner or his/her representative.

c. Any party may file an appeal from the decision of the Commissioner of Economic Security in either of two ways:

(1) With the National Review Panel of the U.S. Department of Labor, in accordance with the provisions of 29 CFR §§ 56.70-75 and 45 CFR §§ 224.70-75; or,

(2) With the Minnesota Supreme Court pursuant to Minn. Stat. § 256.736, subd. 4(4) (amended, 1977) and Minn. Stat. § 268.10, subd. 8 (1976).

6. Appeal process for GA and Food Stamp participants:

a. If the issues decided by the hearing officer involve a GA or Food Stamp participant, the party who disagrees with the decision of the hearing officer shall file the request for review with the Department of Public Welfare. Such a hearing shall be held in the manner prescribed by Minn. Stat. § 256.045, subd. 2 or subd. 3 ~~(1976)-~~ (amended, 1978).

b. Subsequent appeals may be made pursuant to Minn. Stat. § 256.045, 3 et. seq. ~~(1976)-~~ (amended, 1978).

7. Post-determination actions, counseling:

a. WEP benefits shall cease, protective or vendor payments shall be initiated, and a 60-day counseling period by WEP support service staff shall begin the fifth business day following:

~~a-~~ (1) The expiration of the prescribed time period for filing a request for a hearing and proposed deregistration from WEP, or the date on which the request for such hearing is withdrawn; or

~~b-~~ (2) The date of the DES hearing officer's decision that the registrant has failed or refused to participate in WEP without good cause; or

~~e-~~ (3) A decision by the appellate body, referred to in Section P. 5. or 6. supra, which reverses a decision favorable to a WEP registrant.

b. Counseling shall be provided by support service staff for a period of up to 60 days, unless:

(1) The individual is not a certified WEP participant, or

(2) The individual has already received such a counseling period during the current registration, and is therefore not eligible for further counseling and is to be deregistered.

c. The purpose of the counseling period is to encourage the individual to participate in WEP. Upon completion of the 60-day counseling period, if the WEP support service staff determines that the individual has continued to refuse to participate without good cause, ~~she/he~~ he/she ~~will~~ shall be deregistered and sanctions shall be initiated. Counseling may be terminated at any time during the 60-day period, when the WEP support service staff determines that counseling efforts are unsuccessful and the individual will not participate in WEP. The WEP support service staff shall notify WEP that 60-day counseling is unsuccessful, and WEP shall deregister the individual for failure or refusal to participate without good cause.

8. Post-determination actions: Sanctions.

a. A voluntary participant shall not have his/her welfare benefits terminated, reduced, or suspended because of failure or refusal to participate in WEP. However, all WEP benefits shall be terminated when the individual is deregistered for failure to participate. The volunteer may subsequently participate in WEP according to the provisions of Section P.9.

b. The following sanctions apply to a mandatory WEP participant who has been deregistered:

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(1) If the individual is the only dependent child in an AFDC family, assistance for the entire family is terminated;

(2) Any other individual shall have his/her portion of the GA or AFDC grant deleted. Assistance to the other family members will be provided through protective or vendor payments;

(3) Food Stamp benefits shall be terminated in accordance with procedures outlined in the Food Stamp Act.

9. Post-determination actions: Readmittance to WEP. If, during the 60-day counseling period, the WEP support service staff determines that a participant is progressing satisfactorily, ~~she/he~~ he/she shall be reassigned to an active WEP component. If the 60-day counseling period is unsuccessful, as determined by the WEP support service staff, and an individual is deregistered from WEP for failure to participate without good cause, ~~she/he~~ he/she must remain deregistered from WEP for 90 consecutive calendar days from the date the welfare grant was reduced or terminated. The individual must give evidence of willingness to participate before he/she may again register for WEP. The person's verbal agreement to cooperate is sufficient evidence of "willingness to participate." If an individual has failed to participate in WEP without good cause two or more times, ~~she/he~~ he/she must remain deregistered for six months from the date the welfare grant was adjusted. WEP need not register any recipient whose prior failure to participate was the result of criminal or other activities which presented a hazard to WEP staff or to other WEP participants.

Q. Deregistration.

1. All deregistrations shall be performed by WEP.
2. Deregistration is necessary when:

a. An individual is found to have failed or refused to participate in WEP without good cause;

b. An incorrect determination of non-exemption has been made;

c. An individual becomes exempt, and the local welfare agency informs WEP Center that ~~she/he~~ he/she does not wish to volunteer;

d. An individual becomes ineligible for welfare benefits, except where ~~she/he~~ he/she is participating in a WEP component or is employed and receiving WEP-funded support services.

3. The local welfare agency shall notify the WEP Center of any change which will affect a welfare recipient's welfare or exemption status in such a way as to warrant deregistration.

4. Volunteers who withdraw from WEP shall be deregistered without penalty.

5. Volunteers who are found to have refused to participate after receiving a Notice of Intended Deregistration, or who have requested a hearing on the matter and have received an adverse decision, shall be deregistered as exempt.

6. Persons who volunteer but for whom no suitable employment or training is available shall be deregistered as exempt.

R. Severability. The provisions of this rule shall be severable and if any phrase, clause, sentence or provision is declared illegal or of no effect, the validity of the remainder of this rule and the applicability thereof to any person or circumstances shall not be affected thereby.

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PROPOSED RULES

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.



The beaver is North America's largest rodent, averaging 40 to 50 pounds. Beaver ponds support a great variety of wildlife and control spring runoff, thus lessening the possibility of downstream flooding. But when beaver become too numerous their dams flood farmlands, roads and timber, and the animals may damage valuable fruit and shade trees. Minnesota trappers take 20,000 to 30,000 beaver a year. (Drawing by Dan Metz, courtesy of the Department of Natural Resources)

Department of Education Board of Education Proposed Rules Governing Library Grant Programs

Notice of Hearing

Notice is hereby given that a public hearing will be held in the above-entitled matter in Room 716, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, on March 2, 1979, commencing at 9:00 a.m. and continuing until all interested or affected persons have had an opportunity to participate.

All representatives of associations or other interested groups and all interested or affected persons will have an opportunity to be heard concerning the adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted by mail without personally appearing at the hearing to, Peter C. Erickson, Hearing Examiner, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8118. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested to save time and avoid duplication, that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered into and become part of the record. The conduct of the hearing will be governed by the rules of the Office of Hearing Examiners.

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

After the public hearing, written material may be submitted to the Hearing Examiner and recorded in the hearing record for five working days, or for a longer period not to exceed 20 calendar days if so ordered by the hearing examiner.

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

The Board proposes to adopt rules relating to the implementation of Laws of Minnesota 1978, Chapter 546, and to replace the temporary rules on the same subject which were published in Volume 3, *State Register* at pp. 240-244 and which expire on August 21, 1979. Notice: The proposed rules are subject to change as a result of the rule hearing process. The agency therefore strongly urges those

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who are potentially affected in any manner by the substance of the proposed rules to participate in the rule hearing process.

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to the Director, Office of Public Libraries and Interlibrary Cooperation, 301 Hanover Building, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

The Board's statutory authority to promulgate the proposed rules is contained in Laws of Minnesota 1978, ch. 546, § 7.

Under Minn. Stat. § 10A.01, subd. 11, as amended by Laws of Minnesota 1978, ch. 463, § 11, a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute:

"Lobbyist" means any individual:

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

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

"Lobbyist" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual whole engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents

while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in section 500.24, subdivision 1, who does not spend over \$250, excluding his own travel expenses, in any year in communicating with public officials.

Questions regarding only lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155; telephone (612) 296-5615.

December 18, 1978

Howard B. Casmey
Secretary

Rules as Proposed

Chapter Forty: Libraries (All New Material)

5 MCAR § 1.0800 Grant application and review procedures.

A. Who may apply. Regional library systems designated as eligible under provisions of Laws of 1978, ch. 546, § 5, subd. 3 may apply for establishment grants as specified in 5 MCAR § 1.0801 and for regional library basic system support grants as specified in 5 MCAR § 1.0802 and for special project grants as specified in 5 MCAR § 1.0803. County and city public libraries which are participating in the aforementioned regional library systems may also apply for special project grants as specified in 5 MCAR § 1.0803. The Minnesota Department of Corrections and the Minnesota Department of Welfare may apply for grants for institution library service and for library service for the blind and physically handicapped as specified in 5 MCAR § 1.0804.

B. Application forms. All applications for grants shall be made on application forms provided by the office of public libraries and interlibrary cooperation (OPLIC), division of special services, Minnesota Department of Education. Content of application form varies with each type of grant and is specified in 5 MCAR §§ 1.0801-1.0804.

C. Application dates. All grant applications shall be filed

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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on or before July 1 to be considered for funding during the succeeding state fiscal year provided that applications for establishment grants shall be filed by regional library systems either on or before July 1 or on or before January 1, to be considered for funding for the succeeding twelve-month period. Applications for special project grants shall be filed on a date established annually by the state board of education and published in the newsletter of OPLIC not less than 90 days before such date.

D. Assurances. Grant applicants shall sign a statement of assurance that:

1. Grant funds shall be used only for the purposes for which granted as specified in the approved grant application or approved by the director of OPLIC in an amendment to the original application filed under provisions of 5 MCAR § 1.0800, subd. 1.;

2. A narrative report indicating program or project results accomplished and a report of grant expenditures shall be filed with OPLIC on forms supplied by OPLIC no later than 90 days after the completion of the project or program, or the end of the state fiscal year, whichever is earlier provided that such period allowed shall not be less than 90 days;

3. If participation by a regional library system or a member local governmental unit is discontinued, ownership of the discontinuing system or unit's assets, including cash or the fair market value thereof if such assets cannot be transferred by the grantee, acquired during the last three years of participation from establishment grant and regional library basic system support grant funds, shall revert to the Minnesota state board of education for reassignment for library services elsewhere;

4. It will comply with the provisions of title VI of the civil rights act of 1964, (42 USC Sec. 2000d et seq.), its regulations and all other applicable federal and state laws and regulations.

E. Federal funds. The provisions of the library services and construction act, 20 USC 351 et seq. (1970), and its regulations shall apply to all projects and programs which are wholly or partially funded from grants received under the act.

F. Pertinent sections of Minnesota law. The activities and operations of applicants which are wholly or partially carried out with funds received through library grant programs shall be in accordance with relevant sections of Minnesota law.

G. Notification, review, and request for additional information. Applicants shall be notified of the receipt of their applications. The director of the Office of Public Libraries

and Interlibrary Cooperation shall review all applications for accuracy and completeness. Within 15 working days of receiving the application the director may request in writing the following additional information so that an applicant may more accurately or clearly describe the program or project for which grant funds are sought:

1. clarification of project or program objectives to better communicate functions or services to be performed;

2. clarification of proposed project or program implementation to better communicate how functions or services will be performed;

3. clarification of proposed project or program evaluation to better communicate evaluation methods to be used;

4. any other information which would strengthen or clarify the application.

If the additional information requested is not provided by the applicant within ten working days after the date of the request for additional information, the grant application shall be evaluated solely on the basis of the information it contains.

H. Grant awards. Grants shall be awarded by the State Board of Education for projects and programs in compliance with the law and these rules, subject to the availability of funds and such standards as are set forth for a grant program. All grant applicants shall be notified in writing within five working days of the action of the State Board of Education.

I. Amendments. If after a project or program has been funded, the grant recipient determines that modifications are necessary, the grant recipient shall file an amendment to the grant application. Budget modifications resulting in transfer from one budget category to one or more other budget categories of less than 20 percent of the total grant amount need not be filed as amendments. The grant amendment shall not change the purpose for which the grant was awarded. It shall, however, address at least one of the following:

1. modification of the scope or duration of the project or program, judged by the grant recipient to be necessary based on the amount of funds granted or knowledge acquired in operating the project or program;

2. modification of project or program objectives, steps in implementation or evaluation judged by the grant recipient to be necessary based on knowledge acquired in operating the project or program;

3. modification of the budget of the project or program, within limits of the amount of the grant and amount-

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ing to more than 20 percent of the total grant amount, judged by the recipient to be necessary to most economically and practically achieve project objectives.

All amendments shall be filed in writing with the information the recipient determines is necessary to accurately and completely explain the need for the amendment.

The director of the Office of Public Libraries and Interlibrary Cooperation shall review all amendments and shall use the following standards in determining whether an amendment is approved:

1. the basic purposes for which funds were granted are not altered by the modifications; and/or
2. the proposed modifications result in improved project or program efficiency in terms of cost savings for equipment, materials, time or personnel; and/or
3. the proposed modifications result in improved project or program effectiveness in terms of greater quantities or qualities of service provided; and/or
4. the proposed modifications improve the applicant's ability to achieve the objectives of the project or program.

Approval or disapproval of all amendments shall be communicated to a grant recipient within ten working days following OPLIC's receipt of the proposed amendment.

5 MCAR § 1.0801 Establishment grants.

A. Application. Regional library systems may apply for establishment grants to extend library service to additional counties as authorized in Laws of 1978, ch. 546, § 3, subd. 2. Applicants shall submit the following information:

1. name, address and telephone number of applicant;
2. name of contact person;
3. name of county joining regional library system;
4. a copy of the resolution adopted by the county board of commissioners in which they agree to provide minimum levels of local support as required by Laws of 1978, ch. 546, § 4;
5. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

6. proposed expenditures to be made from grant funds.

B. Establishment grant formula. The amount of the establishment grant to a regional library system for each additional county to extend services shall be \$1.00 per capita plus \$10.00 per square mile for the first year, and \$.50 per capita plus \$5.00 per square mile for the second year, reduced by the population and land area of any nonparticipating governmental units. The most recent United States census is used to determine the population and land area.

C. Counties joining regional library systems. When a county has ceased to participate in a regional library system and at a later date rejoins a regional library system, no establishment grant shall be made.

5 MCAR § 1.0802 Regional library basic system support grants.

A. Application. Regional library systems may apply for regional library basic system support grants authorized in Laws of 1978, ch. 546, § 3, subd. 3. Applicants shall submit the following information:

1. name, address and telephone number of applicant;
2. name of contact person;
3. names of participating governmental units and identification of nonparticipating governmental units within participating counties;
4. name, educational background and library work experience of the chief administrative officer;
5. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;
6. for purposes of determining compliance with Laws of 1978, ch. 546, § 5, provision for each participating governmental unit of the following financial information:
 - a. the amount provided by the governmental unit for public library service during the preceding fiscal year;
 - b. the amount provided by the governmental unit for public library service during the current fiscal year.
7. proposed expenditures to be made from grant funds.

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B. Criteria for eligibility. Regional library systems shall be designated as eligible by the state board of education provided they meet the criteria in Laws of 1978, ch. 546, § 5, and the following:

1. Employment of a chief administrative officer who has had at least two years of public library administrative experience and has received the master's degree in library science from a library education program accredited by the American Library Association.

2. Long range plan. Regional library systems shall provide to OPLIC by June 30 of each even-numbered year a long range plan which addresses the succeeding five years. Upon request by the regional library system, OPLIC staff shall provide consultation and advice on the content of the long range plan. The plan shall include narrative descriptions, goals and objectives which address the following:

a. service area; including steps to encourage participation of appropriate adjacent nonparticipating counties and cities.

b. funding; including cost projections to implement the first year of the plan.

c. personnel; including projections of numbers and qualifications needed to implement the plan.

d. collection development; including types and quantities, written materials selection policies of the applicant or of its members, a coordinated program of acquisition, identification and rectification of deficiencies, and sharing of resources.

e. programs of service; including minimum hours of operation of public service outlets and provision of bookmobile service.

f. physical facilities; including accessibility by the physically handicapped.

g. multitype library cooperation.

h. any other topics deemed appropriate by the regional library system.

C. Calculation of grant amounts. Regional library basic system support grants shall be calculated as specified in Laws of 1978, ch. 546, § 6 or in subsequent law. The most recent United States census shall be used in calculation of all per capita and land area amounts, reduced by the population and land area of any nonparticipating governmental units.

D. Audit. Regional library systems which receive regional library basic system support grants shall annually

submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the regional library system's fiscal year. The audit shall be performed by the staff of the state auditor's office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§ 6.64-6.71 (1976).

5 MCAR § 1.0803 Special project grants.

A. Application. Regional library systems and county and city public libraries which are participating in regional library systems may apply for special project grants as authorized by Laws of 1978, ch. 546, § 3, subd. 4.

B. Categories of emphasis. The advisory council to OPLIC, required in federal regulations, may select one or more categories of programs which are designated as eligible in the federal law and regulations as the highest priority for funding during a fiscal year. The categories so designated shall be published in the newsletter of OPLIC no less than 90 days prior to the application date and supplied to any potential applicant on request. Applications for projects or programs in the highest priority category shall be given extra consideration in the review process.

C. Regional library system review. County and city libraries which submit applications to OPLIC shall also submit a duplicate copy of the application to their regional library system for review and comment not less than 30 days prior to the application date. The regional library system may submit to OPLIC by the application date comments stating how the proposed project or program relates to the system long range plan and how the proposed project or program could benefit the system or its members.

D. Grants committee review. Applications for special project grants shall be reviewed by a grants committee of five persons appointed by the chairperson of the advisory council to the Office of Public Libraries and Interlibrary Cooperation. Special project grants shall be awarded on a competitive basis. Applications shall be evaluated in terms of:

1. relationship to categories of emphasis;
2. purposes for which grant funds are requested;
3. statement of project objectives and identification of results to be accomplished;
4. methodology for evaluating project results;
5. the project budget;
6. clear identification that the project activity would not or could not take place without a grant;

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7. evidence that the project is either:

- a. a one-time project of limited duration to accomplish an objective of long-term benefit; or
- b. a pilot for contemplated future operation with a specific plan for absorbing it into on-going operations;

8. the comments from the regional library system review, when received;

9. qualifications of project staff.

The grants committee shall report its recommendations for projects to be funded to the director of OPLIC.

E. Office of Public Libraries and Interlibrary Cooperation review. The director of OPLIC shall review all applications and the funding recommendations of the grants committee for special project grants using the same standards applied by the grants committee and shall report recommendations for projects to be funded to the State Board of Education.

F. State Board of Education action. The State Board of Education shall review the funding recommendations of the director of OPLIC and shall award grants using the same standards applied by the grants committee and subject to the availability of funds.

5 MCAR § 1.0804 Grants for institution library service and for library service for the blind and physically handicapped.

A. Application. The Minnesota Department of Corrections and the Minnesota Department of Welfare may apply annually for grants to improve library services for institutionalized persons and for the blind and physically handicapped as authorized by Laws of 1978, ch. 546, § 3, subd. 6, and by the library services and construction act,

20 USC 351 et seq. (1970). Applicants shall submit the following information:

1. name, address and telephone number;
2. name of contact person;
3. locations where program activities will be carried out;
4. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;
5. proposed expenditures to be made from grant funds;
6. dollar amounts provided for library services by the departments during the preceding fiscal year;
7. numbers of services provided and numbers of persons served during the preceding year.

B. Eligible costs for institution library service. Funds are granted for library services for residents of corrections and welfare institutions and shall not be expended for library services for institution staff.

C. Office of Public Libraries and Interlibrary Cooperation review. The director of OPLIC shall review applications received and shall make recommendations to the State Board of Education regarding grant amounts based on the applicants' ability to provide services according to the information in the application.

D. State Board of Education action. The State Board of Education shall review the funding recommendations of the director of OPLIC and shall award grants using the same information used by the director of OPLIC and subject to the availability of funds.

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SUPREME COURT

**Decisions Filed Friday,
January 19, 1979**

48228/225 Thomas C. Van Hoof, Appellant, vs. City of Burnsville, et al. Dakota County.

Municipal employees will be reinstated with back pay where reasons enumerated by city council for his discharge are inaccurate.

Reversed and remanded. Sheran, C. J. Took no part, Otis, J.

48169/422 State of Minnesota vs. Lawrence Neil Hagen, Appellant. Ramsey County.

Identification procedures are so suggestive as to compel suppression of eyewitness identification testimony if there is a substantial likelihood of irreparable misidentification.

Concurrent sentences constitute multiple sentences within the meaning of Minn. St. § 609.035.

Remanded for vacation of one of the sentences. Sheran, C. J.

48545/405 Soo Line Railroad Company vs. The Commissioner of Revenue, Relator. Tax Court.

Uncollected debts of a railroad may not be deducted from gross earnings for purposes of computing the gross earnings tax imposed by Minn. St. § 295.02.

Reversed. Scott, J.

48359/427 State of Minnesota vs. Curt Richard Simon, Appellant. Itasca County.

Where the state's evidence showed that LSD, a syringe, balance scale, and other items were found during a valid search of defendant's mobile home, the jury was free to disbelieve defendant's testimony that his cotenant put the LSD in his bedroom without his knowledge or permission.

Where a charge of possession of amphetamines arising out of the same conduct had been dismissed against the defendant, double jeopardy under Minn. St. § 609.035, the so-called single-behavior incident statute, has no application to a prosecution for possession of LSD because the statute applies only to a prior "conviction or acquittal" and not a pretrial dismissal of other offenses arising from the same conduct.

Affirmed. Per Curiam.

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.

Energy Agency Data and Analysis Division

Request for Proposals for a Computation of Energy Consumption in Crude Oil Transportation

The goal of this Request for Proposals is to estimate energy consumption on various pipeline routes into the Twin Cities. Crude oil is assumed to originate at eight production areas. Gravities and viscosities typical of oil at those sources will be used in the calculations. Table 1 defines the tanker routes that will be evaluated. Table 2 defines the pipeline or barge routes from the ports to the Twin Cities. Each port can receive more than one crude oil, so the energy consumption estimate for a particular port will vary depending on the amounts and types of crude handled. Proposer will include their estimate of the mix of crude oil that will be delivered to each port.

No attempt will be made to estimate crude oil costs, pipeline tariffs or tanker rates. The deliverable will be a document containing the estimate of the number of Btus/barrel of oil delivered to the Twin Cities along each of the transportation routes.

Table 1

Crude Oil Sources and Ports¹

Sources	United States Ports				
	Cherry Point	Port Angeles	LOOP	Kitimat	Texhoma
1 Alaska	X	X	X	X	X
2 Persian Gulf	X	X	X	X	X
3 North Sea	-	-	X	-	X
4 Venezuela	-	-	X	-	X
5 Mexico	-	-	X	-	X
6 Nigeria	X	X	X	X	X
7 Indonesia	X	X	X	X	X
8 Egypt	X	X	X	X	X

¹ Maximum Tanker Sizes:

Cherry Point	160,000 DWT
Port Angeles	Alaskan 160,000 DWT, other unlimited
LOOP	Alaskan 160,000 DWT to LR1, other unlimited
Kitimat	Alaskan 160,000 DWT, other unlimited
Texhoma	Alaskan 160,000 DWT to LR1, other LR2 max

Table 2

Ports and Routes to the Twin Cities

Ports	Routes
Cherry Point	Transmountain ¹ Interprovincial ² Minnesota ³
Port Angeles	Northern Tier ⁴ Minnesota
Kitimat	Kitimat ⁵ Interprovincial Minnesota
LOOP	Barge ⁶ Northern ⁷ Capline ⁸ Northern
Texhoma	Texhoma ⁹ Osage Williams

Segments to Compute

- 1 Transmountain @ 300,000 BPD
- 2 Interprovincial @ 1,500,000 BPD
- 3 Minnesota @ 175,000 BPD
- 4 Northern Tier @ 780,000 BPD

STATE CONTRACTS

- 5 Kitimat 30' @ 400,000 BPD
- 6 Barge to Wood River @ 100,000 BPD
- 7 Northern @ 175,000 BPD
- 8 Capline @ 1,000,000 BPD
- 9 Texhoma, Osage, Williams @ 90,000 BPD

Higher Education Coordinating Board

Notice of Request for Proposals to Conduct a Search for and Evaluation of Grant and Scholarship Data Processing Systems

The Board is currently evaluating its data processing requirements for state post-secondary student Grant and Scholarship programs for the future and will prepare an extensive report outlining needs and ranking them in order of importance. The contractor will conduct a search and thoroughly analyze possible alternative systems and services relative to the defined needs. A part of the process will be a comprehensive evaluation of the current system as it relates to the defined needs.

Proposals must be submitted to the Higher Education Coordinating Board no later than 4 p.m., February 9, 1979.

The estimated cost of the project will be under \$12,000 with the completion date being 2 months after project authorization.

Inquiries and formal expression of interest should be directed to:

Kenneth R. Ostberg, Director
Student Financial Assistance
Higher Education Coordinating Board
901 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
Phone: (612) 296-5715

Housing Finance Agency Home Improvement and Mortgage Loan Division

Earth Sheltered Park Manager's Residence, Wild River State Park

The Minnesota Housing Finance Agency announces that it intends to provide financing for the construction of an earth-sheltered park manager's residence at Wild River State Park as part of its Solar/Earth Sheltered Demonstration Housing Program.

Construction drawings have been prepared for the project and the agency is seeking general contractors who are interested in reviewing the drawings and submitting a bid for the project. Interested contractors should contact:

Mary Tingerthal
Minnesota Housing Finance Agency
333 Sibley St., Suite 200
St. Paul, MN 55101
(612) 296-8844

Contact should be made by no later than February 5, 1979.

Housing Finance Agency

Notice of Availability of Contract for Auditing Services

The Minnesota Housing Finance Agency intends to engage the services of a certified public accounting firm to audit its Section 8 Federal Housing Assistance Payments Program for the two-year period ending December 30, 1978.

The estimated fee range for this project is \$2,500 to \$4,000.

Proposals must be received in writing by the Agency no later than 12:00 noon, February 2, 1979. For detailed information, please contact:

Mr. Alan L. Hans
Director of Finance
Minnesota Housing Finance Agency
333 Sibley Street, Suite 200
St. Paul, Minnesota 55101
(612) 296-9806

OFFICIAL NOTICES



This horsecar carried passengers on Washington and Cedar avenues in Minneapolis in 1885. It was the forerunner of wood-burning and electric streetcars, which were later replaced by buses. (Courtesy of Minnesota Historical Society)

Energy Agency

Northern States Power Company Application for Recertification of the In-Service Date for Sherburne County Generating Unit No. 3

Notice of Postponement

Public hearings concerning the application of Northern States Power Company for recertification of the in-service date for Sherburne County Generating Unit No. 3 have been further postponed.

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.

The hearings will reconvene on February 12, 1979, 9:30 a.m., in Courtroom No. 2, Seventh Floor, Federal Building, St. Paul.

For further information, contact Arthur L. Adiarte, Energy Facility Analyst, Minnesota Energy Agency, 980 American Center Building, 150 E. Kellogg Blvd., St. Paul, MN 55101, telephone (612) 296-8279.

January 22, 1979

David L. Jacobson
Manager
Certificate of Need Program

Office of the Governor Notice of Appointment of Department Heads

Notice is hereby given of the following department head appointments made pursuant to Minn. Stat. § 15.06, subd. 2. The effective date of each appointment is listed below.

<u>Dept.</u>	<u>Name</u>	<u>Date</u>
Finance	Wayne Burggraaff	Feb. 12, 1979
Health	Dr. George Petterson	Jan. 22, 1979
Personnel	Barbara Sundquist	Jan. 17, 1979
Public Service	Roger Hanson	Jan. 29, 1979

Department of Labor and Industry Prevailing Wage Division

Notice of Prevailing Wage Rates for Highway Construction

Minn. Stat. § 177.44 requires the Commissioner of Labor and Industry to certify at least once a year, the prevailing wage rates for highway construction under contracts based on bids as provided for in Minn. Stat. § 161.32. Title 8, Minnesota Code of Agency Rules, Section 1.8010 (8 MCAR § 1.8010) requires notice of those certifications to be published in the *State Register*.

On January 22, 1979, the Commissioner certified wage rates for highway construction for 12 counties in Minnesota. Those counties are: Lac Qui Parle, Chippewa, Kandiyohi, Meeker, Yellow Medicine, Renville, McLeod, Lincoln, Lyon, Redwood, Pipestone and Murray.

A copy of the determined wage rates may be obtained by writing to the Department of Labor and Industry, Prevailing Wage Division, 444 Lafayette Road, St. Paul, Minnesota 55101.

A check or money order for \$5.00, payable to the Department of Labor and Industry, must accompany each request to cover the cost of copying and mailing.

R. Bruce Swanson
Deputy Commissioner

Department of Natural Resources

Notice of Change of Hearing Date for the Proposed Rules Concerning Dam Safety

Notice is hereby given of a change of date for the public hearing on proposed rules concerning dam safety, pursuant to Laws of 1978, ch. 779, published at *State Register*, Volume 3, Number 28, p. 1397, January 15, 1979. The hearing originally was scheduled for February 12, 1979, at 10:00 a.m. in the Weyerhaeuser Room of the Minnesota Historical Society, 690 Cedar St., St. Paul, MN. It has been re-scheduled for March 1, 1979 at 10:00 a.m. in the same location.

Department of Revenue Income Tax Division

Notice of Intent to Solicit Outside Opinions Regarding Rules of the Income Tax Division

The Income Tax Division of the Department of Revenue is beginning to examine its current rules governing individual, fiduciary, partnership, and corporate income taxes along with small business corporations and withholding with the intention of:

1. Identifying those existing rules which are no longer valid because of law changes and court decisions.
2. Establishing areas of priority for drafting new rules in the areas listed above along with property tax refunds.
3. Actual drafting of new rules.

The Department invites interested persons or groups to provide information, comments, and advice on the subject in writing or orally to Dale Busacker, Attorney, Income Tax Division, Department of Revenue, Centennial Office Building, St. Paul, Minnesota 55145 or (612) 296-3436.

It is anticipated that the income tax rules will be categorized and amended section by section.

Written statements will be made part of the public hearing record.

Office of the Secretary of State Administration Division

Open Appointment Process: Notice of Openings on State Agencies — Application Procedures

Pursuant to Laws of 1978, ch. 592, the legislature has implemented an Open Appointment process by which the public is informed of openings on state multi-member agen-

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cies (boards, commissions, councils) created by statute and having statewide jurisdiction.

Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN 55155, (612) 296-3266. Contact the Secretary of State for the Open Appointment Process information brochure and specific agency related information. Application deadline is Friday, February 16, 1979.

METROPOLITAN COUNCIL OF THE TWIN CITIES

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