



# STATE REGISTER

STATE OF MINNESOTA

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RULES

PROPOSED RULES

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VOLUME 3, NUMBER 43

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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
<b>SCHEDULE FOR VOLUME 3</b>			
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45	Monday Apr 30	Monday May 7	Monday May 14
46	Monday May 7	Monday May 14	Monday May 21
47	Monday May 14	Monday May 21	Monday May 28

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

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

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The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption as proposed and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which

has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

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

## Department of Commerce Insurance Division

### Adopted Rules Relating to the Comprehensive Health Insurance Act, Minn. Stat. ch. 62E

The proposed rules published at *State Register*, Volume 3, Number 12, pp. 611-647, on September 25, 1978, (3 S.R. 611-647) are hereby adopted with the following amendments:

**4 MCAR § 1.3200 Authority, scope and purpose.** These rules are promulgated pursuant to Minn. Stat. § 62E.09(i) relating to qualified comprehensive health insurance plans and the operations of the Minnesota Comprehensive Health Association in particular, and Minn. Stat. §§ 15.0411 to 15.052, as amended, relating generally to the promulgation of administrative rules and regulations. These rules and all future changes herein apply to all insurers, (including non-profit health service plan corporations), self-insurers, fraternal, health maintenance organizations and other organizations which are at the time of adoption of these rules, or at any time in the future, licensed or authorized to do business in this state and thereby are subject to the provisions of the Minnesota comprehensive health insurance act of 1976, as amended. These rules are promulgated to carry out the act, as amended, and to facilitate its full and uniform implementation, and enforcement, and application to all persons affected thereby.

**4 MCAR § 1.3201 Definitions.** All terms used herein which are defined in Minn. Stat. ch. 62E shall have the meanings attributed to them therein. For the purpose of Minn. Stat. ch. 62E and these rules regulations, the terms defined herein shall have the meanings given to them.

C. Actuarial equivalence. Actuarial equivalent. "Actuar-

ial equivalent" or "an actuarially equivalent benefit" means a benefit, the expected value of which when substituted for another benefit or benefits in a plan of health coverage will be the same as the benefit or benefits for which it was substituted, and which will result in the plan of health coverage after substitution of the actuarially equivalent benefit, being the actuarial equivalence of the original plan of health coverage. "Actuarial equivalence" shall be recognized for two plans where, employing the same set of assumptions for the same population, the expected value of benefits provided by the plans is equal. Expected value of benefits shall ~~will~~ be measured by the probability of the claim for each benefit multiplied by the average expected amount of each of those benefits.

N. Dental care. "Dental care" means those services which a person licensed to practice dentistry may provide as defined in Minn. Stat. § ~~405.05~~ 150A.05, subd. 1.

EEE. Total cost of self-insurance. "Total cost of self-insurance" includes any direct and indirect administrative expenses incurred which are related to the operation of a plan of self-insurance, plus the sum of any payment made to or on behalf of Minnesota residents for costs or charges for health benefits by an employer which is a self-insurer under a plan of health coverage, regardless of the amount incurred or relationship of the cost to an insured or partially insured plan of health coverage, which is not counted as premium by an insurer, except to the extent of such payments made for coverage of the types described in clauses 1 through 8 of Minn. Stat. § 62E.02, subd. 11.

FFF. Usual and customary charge. "Usual and customary charge" for the purpose of the state plan means the normal charge, in absence of insurance, of the provider for a service or ~~article supply~~, but not more than the prevailing charge in the area for a like service or ~~article supply~~. A "like service" is of the same nature and duration, requires the same skill and is performed by a provider of similar training and experience. A "like ~~article supply~~" is one which is identical or substantially equivalent. "Area" means

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the municipality (or, in the case of a large city, a subdivision thereof) in which the service or article supply is actually provided or such greater area as is necessary to obtain a representative cross-section of charges for a like service or article supply.

### 4 MCAR § 1.3206 Certification of qualified plans.

B. Certification by the commissioner. An accident and health insurance policy or plan is deemed certified as a qualified plan or qualified medicare supplement plan for the purposes of Minn. Stat. § 62E.05 if it meets the requirements of these rules regulations and other relevant laws of this state upon the expiration of 90 days after receipt of the request for certification by the commissioner, unless earlier rejected or certified by the commissioner. In the event the commissioner rejects such request, he shall give written notice of the grounds for rejection to the person submitting the plan, and the insurer, fraternal or employer has the same rights in the event of such rejection as provided in Minn. Stat. § 62A.02.

**4 MCAR § 1.3208 Revision of actuarial equivalence tables.** The commissioner shall periodically, no less frequently than biennially, review the actuarial equivalence tables set forth in Appendix I of these rules, and shall require that the relative point values set forth therein be actuarially updated when required to more accurately reflect changes in the relative values of benefits (including copayments). Any revision of relative point values which the commissioner shall make shall be promulgated pursuant to the rulemaking requirements of the Administrative Procedures Act (Minn. Stat. ch. 15) published in the State Register, together with justification therefor, and shall take effect upon publication. Following revision of the actuarial equivalence tables pursuant to this section, recertification of existing plans of health coverage may be required subject to the provisions set forth in 4 MCAR §§ 1.3202, 1.3203, and 1.3206.

**4 MCAR § 1.3226 MCHA — organization and approval.** The Association shall operate pursuant to the provisions of Minn. Stat. ch. 62E, with all the powers of a corporation formed under Minn. Stat. ch. 317, except that if the provisions of the two chapters conflict, ch. 62E shall govern.

C. Operating rules. The board is authorized to adopt and to amend from time to time reasonable operating rules which are not inconsistent with the act and these rules regulations for the management and operation of the Association, ~~and~~ Upon submission to and approval by the commissioner, these operating rules shall become effective.

### 4 MCAR § 1.3227 MCHA — board of directors.

B. Election. The board shall be elected by members at the annual meeting of the Association in accordance with

the by-laws of the Association, to the extent that such by-laws are consistent with the provisions of Minn. Stat. chs. 317 and 62E, and in accordance with the provisions relating to voting rights as outlined in 4 MCAR § 1.3228.

1. Prior to the election, the Association may submit the names of proposed board members to the commissioner for approval, ~~which may be granted according to criteria as determined by the commissioner.~~

2. After the annual meeting, the results of the election shall be certified and submitted to the commissioner for formal approval, pursuant to criteria set forth in Minn. Stat. § 62E.10, subd. 2.

### 4 MCAR § 1.3228 MCHA — determination of members' voting rights.

C. Voting procedures. Members are entitled to vote in person, by proxy, or by mail as determined by the board.

1. When a member elects to vote in person at a members' meeting, the representative casting the vote shall present credentials as may be required pursuant to the by-laws or operating rules of the Association. ~~by the board.~~

2. When a member elects to vote by proxy, the proxy statement, as approved by the board and by the commissioner, shall be returned on or before the date indicated in the meeting notice sent to the members.

3. Voting by mail may be permitted as authorized by the by-laws or operating rules of the Association, and the board, ~~provided that the meeting notice to members shall~~ so indicates.

### 4 MCAR § 1.3230 MCHA — minimum benefits of Comprehensive Health Insurance Plans.

C. 4. Coverage may not be subject to a maximum lifetime benefit of less than \$100,000.00, or the unused portion of the maximum lifetime benefit under any policy or contract of the state plan under which the person was previously covered, whichever is less.

### 4 MCAR § 1.3232 MCHA — solicitation, application and enrollment of eligible persons in the state plan.

A. Open enrollment. The state plan shall be open for enrollment by eligible persons at all times.

1. "Eligible person" means a resident of Minnesota who submits or on whose behalf is submitted a complete certificate of eligibility and enrollment form to the Association or its writing carrier and who is not already covered by another state plan policy or contract.

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a. A complete certificate of eligibility and enrollment form may, ~~at the discretion of the Association,~~ provide:

(1) name, address, age, sex, and length of time as a resident of Minnesota,

(2) name, address, and age of eligible dependents, if any, if they are to be insured;

(a) "eligible dependent" means the insured person's spouse who has not reached age 65 or unmarried child, excluding:

(i) a legally separated spouse;

(ii) a child who is nineteen years old or older unless that child is a student or disabled child;

(iii) a spouse or child who has applied for an individual state plan policy or contract pursuant to any conversion privilege granted to such eligible dependent under the insured person's state plan policy or contract, and

(iv) a spouse or child on active duty in any military, naval or air force of any country.

(3) Evidence of rejection, or a requirement of a restrictive rider or pre-existing conditions limitation on a qualified plan the effect of which is to substantially reduce coverage from that received by a person who is considered a standard risk, by at least two Association members within six months of the date of application. "Substantially reduce coverage from that received by a person who is considered a standard risk" includes any restriction on coverage as a result of an illness, condition, or risk which the Association deems substantial, any increase in rates for an applicant based on an illness, condition or risk, which the Association deems substantial; and any pre-existing conditions limitation which the Association deems substantial.

b. Before a person is determined to be an eligible person, the board may ~~in its discretion~~ require that any items listed in 4 MCAR § 1.3232 A.1.a. or, if acting pursuant to provisions of the Association's operating rules, other necessary information deemed necessary by the board be submitted to the Association or its writing carrier and may also investigate the authenticity of information submitted as a part of the certificate of eligibility.

c. If a covered person, upon reaching age 65, wishes to purchase a state plan qualified medicare supplement plan, the requirement that the person obtain two rejections from members of the Association within the preceding six months may be waived by the board if acting pursuant to provisions of the Association's operating rules.

d. A person who is age 65 or older shall be eligible for coverage only under the state plan's qualified medicare supplement plan and when an insured person under a qualified plan reaches age 65, the board may, if acting pursuant to provisions of the Association's operating rules. ~~in its discretion.~~

e. An applicant or any person proposed to be covered under the state plan who has previously been covered by a state plan policy or contract and who has exhausted the maximum lifetime benefit under the state plan shall not be an eligible person for coverage under the state plan, ~~and if such person has exhausted \$100,000.00 of the maximum lifetime benefit under the state plan such person shall not be an eligible person for coverage under a qualified medicare supplement plan or contract of the state plan,~~ provided that an applicant for a qualified medicare supplement policy or contract of the state plan who has previously been covered under the state plan shall be eligible for a maximum benefit under the qualified medicare supplement policy or contract of \$100,000.00, or the unused portion of the maximum lifetime benefit under any policy or contract of the state plan under which the person was previously covered, whichever is less.

f. When a covered person under the state plan no longer meets one or more of the requirements for eligibility for coverage under the state plan, the board may, if acting pursuant to the Association's operating rules, ~~in its discretion,~~ terminate or refuse to renew coverage under the state plan.

B. Association's response. Within 30 days of receipt of a complete certificate of eligibility and enrollment form application pursuant to 4 MCAR § 1.3232 A.1.a. and b., the Association or the writing carrier shall accept the certificate of eligibility or shall reject the certificate of eligibility for failure to meet the eligibility requirements.

1. If the Association or its writing carrier accepts the certificate of eligibility, it shall forward a notice of acceptance, billing information and a policy or contract (or certificate) which shall evidence coverage under the state plan.

a. Such policy or contract (or certificate) of coverage shall include but not be limited to:

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(1) a statement that the person is covered under the state plan from the effective date contained therein.

(2) specification of the type of state plan under which the person is covered.

(3) a statement that the plan is provided by the Association,

(4) a description of the benefits provided by the plan, conditions for eligibility, and exclusions and limitations of coverage, and

b. When the state plan premium is received by the Association for its writing carrier for the first billing period (and accepted in accordance with 4 MCAR § 1.3232 B.), the coverage shall be effective retroactive to the date of receipt by the Association or its writing carrier of the completed certificate of eligibility pursuant to 4 MCAR § 1.3232 A.1.a. and b. unless otherwise requested by the insured person and approved by the board.

2. If the Association does not accept the certificate of eligibility, the applicant shall be informed of the reason for the rejection and shall have the opportunity to submit additional information to substantiate eligibility for coverage under the state plan and to request reconsideration of the decision. The board ~~may~~ shall establish a review mechanism for reviewing requests for reconsideration of rejected certificates of eligibility. The Association shall give notice of a final determination of ineligibility to the applicant stating the reasons therefor and advising the applicant of the right to appeal to the commissioner within a reasonable period of time.

C. Appeal to commissioner. Any applicant or covered person who is determined by the Association to be ineligible for coverage under the state plan may appeal such determination to the commissioner within a reasonable period of time. Upon receipt of an appeal from a determination of ineligibility, the commissioner may, in his discretion, affirm, reverse, or modify the determination of the Association.

D. Solicitation of eligible persons. The Association shall develop a plan for use by the Association, upon approval by the commissioner, to publicize the existence of the state plan, the eligibility requirements and procedures for enrollment, and to maintain public awareness of and participation in the state plan.

1. The Association shall ~~may~~ prepare and make available ~~distribute~~ certificate of eligibility forms and enrollment instruction forms to insurance solicitors, agents and brokers, and to the general public in Minnesota.

2. The Association shall require the writing carrier to

pay a referral fee of \$25.00 for any certificate of eligibility accepted by the Association or its writing carrier. The referral fee shall be paid to the licensed agent whose signature appears as the agent on the accepted certificate of eligibility. The referral fee shall be paid from the premium received for the state plan.

### 4 MCAR § 1.3233 MCHA — selection, approval and operations of writing carrier(s).

#### A. Selection and approval of a writing carrier(s).

1. The Association may select a writing carrier or writing carriers on the basis of criteria for selection which shall include but not be limited to:

a. The member's proven ability to handle large group accident and health insurance cases,

b. The efficiency of the member's claim paying capacity,

c. An estimate of total charges for administering the plan, and

d. Other criteria developed by the Association and set forth in its operating rules. ~~or the commissioner.~~

#### B. Operations of the writing carrier.

4. The writing carrier shall exercise reasonable efforts to advise covered persons, ~~W~~within 15 working days of receipt by the writing carrier of a properly completed and executed proof of loss, the covered person shall, to the extent possible, be advised whether the submitted claim was accepted or rejected by the writing carrier, unless sooner already settled.

b. Direct and indirect operating and administrative expenses incurred in the performance of its services, ~~and~~ or

## Department of Health

### Adopted Rules Relating to the Registration of Emergency Medical Technicians

The rules published at *State Register*, Volume 2, Number 48, pp. 2159-2163, June 5, 1978 (2 S.R. 2159) are adopted with the following amendments:



# RULES

## Rules as Adopted

### Chapter 30: Human Service Occupations

#### Part II

#### 7 MCAR §§ 1.541-1.545 Registration of Emergency Medical Technicians

##### 7 MCAR § 1.541 Purpose and definitions.

A. Purpose. The purpose of 7 MCAR §§ 1.541-1.545 is to establish the administrative structure, the procedures and the requirements for the registration of those persons with basic emergency care training as emergency medical technicians.

B. Definitions. For the purposes of Rules 7 MCAR §§ 1.541-1.545, the words, terms and phrases listed below in this subdivision shall have the meaning stated herein, unless the language and context clearly indicates that a different meaning is intended.

1. "Applicant" means a person who applies, pursuant to these rules, either initially or on a renewal basis, to be registered as an emergency medical technician.

2. "Basic emergency care" means care given at the scene of a medical emergency, during transport to a medical care facility and/or until responsibility can be transferred to appropriate personnel. Such care may include (but not be limited to) recognizing a life-threatening situation, providing cardiopulmonary resuscitation, monitoring vital signs, controlling hemorrhage, clearing airway passages, treating shock, immobilizing fractures, dressing and bandaging wounds, assisting in childbirth, caring for burn or poison victims, diabetic or epileptic persons, managing unruly and disturbed persons, lifting and moving victims properly, extricating victims, providing safe transport and using such other skills which may be necessary to reduce the seriousness of an emergency situation.

3. "Basic Emergency Care Course" means the course that is at least 81 hours of instruction in at least the following areas: (a) procedures and skills currently accepted and necessary to perform basic emergency care; (b) equipment currently used in providing basic emergency care; (c) current legal requirements for emergency care.

4. "Continuing education in basic emergency care" means at least 24 clock hours of formal review of basic emergency care skills and instruction and examination in

new knowledge and skills in basic emergency care techniques skills, equipment, communication procedures and legal requirements. The formal review, and instruction, and examination must cover at least the following skill areas;

a. setting up, adjusting and closing down oxygen equipment;

b. use of suction equipment, artificial airways, and bag mask resuscitator;

c. determination of blood pressure;

d. bandaging the head, eye and extremity;

e. performance of cardiopulmonary resuscitation — one and two rescuers;

f. performance of an examination of life-threatening problems and a systematic check of injuries;

g. splinting a fracture of the upper and lower extremity;

h. lifting and moving patients from bed-height surfaces and positioning them on a stretcher;

i. immobilization of neck and torso of a sitting patient on a short backboard;

j. moving a patient with a suspected cervical spine injury from the floor and immobilizing him/her on a long backboard.

5. "Commissioner" means the Commissioner of Health.

6. "Council" means the Emergency Medical Technicians Advisory Council defined in 7 MCAR § 1.543.

7. "Emergency Medical Technician" means a person registered pursuant to these rules to provide basic emergency care.

8. "EMT" means an emergency medical technician.

9. "~~Full-time~~ Ambulance driver or attendant, police, fire or rescue squad member," means a person who ~~has been employed to provide~~ basic emergency care for an ambulance service licensed by the State of Minnesota. ~~for a minimum of 1,560 hours in a year, excluding vacation, sick leave, holidays and other leave.~~

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10. "National Registry of Emergency Medical Technicians" means the private national accrediting organization in Columbus, Ohio which establishes voluntary standards, training and examinations for qualifying ambulance personnel.

11. "Registration" or "registered" means that an applicant has been found to meet the qualifications specified in these rules for providing basic emergency care. Only persons so registered are permitted to use the designated title of "emergency medical technician" or "EMT".

~~12. "Part-time ambulance driver or attendant" means a person who has been employed to provide basic emergency care for an ambulance service licensed by the State of Minnesota for less than 1,560 hours a year but more than 520 hours.~~

~~13. "Volunteer ambulance driver or attendant" means a person who provides emergency medical services for a licensed ambulance service without the expectation of remuneration and who does not depend in any way upon the provision of these services for the person's livelihood.~~

7 MCAR § 1.542 Registration requirements: Career progression: Disciplinary actions.

## A. Initial registration.

1. All applicants for initial registration shall submit an application on a form provided by the Commissioner and fees as prescribed in ~~(MHD, 542)~~ 7 MCAR § 1.542.

The information required by the Commissioner on the application shall be so as to permit a complete evaluation of each applicant to determine whether the applicant meets the requirement for registration as specified in these rules and any applicable statutes. To clarify incomplete or ambiguous information presented in the application, the Commissioner may require an applicant to submit additional information as may be necessary to determine the applicant's qualifications. In order to be registered, an applicant, except as specified in ~~(MHD, 542(A) (2) and (3)), 7 MCAR § 1.542. A.2. and 3.~~ shall:

a. Be at least 18 years old;

b. Possess a high school diploma or its equivalent;

~~b. e-~~ Have successfully completed the basic emergency care course; and

~~c. d-~~ Have passed the written examination administered by the National Registry of Emergency Medical Technicians or its agent.

~~d. e-~~ Have passed a practical examination on basic

emergency care administered by the Commissioner or an agent of the Commissioner.

2. An applicant need not have successfully completed a basic emergency care course if the applicant:

a. Holds a current Advanced Red Cross First Aid card; and

b. Has successfully completed continuing education in basic emergency care; and

c. Has served as an ~~full-time or volunteer~~ ambulance driver or attendant, fire, police, or rescue squad member for one year immediately prior to submission of the application; and

d. ~~Have~~ Has passed the written examination administered by the National Registry of Emergency Medical Technicians or its agent; and

e. ~~Have~~ Has passed a practical examination on basic emergency care administered by the Commissioner or an agent of the Commissioner.

3. Applicants who are or have been licensed or registered in a state other than Minnesota may be registered pursuant to these rules without having met the criteria of 7 MCAR § 1.542 A.1. and A.2. if they are listed as of the time of submitting their application with they had met the standards of the National Registry of Emergency Medical Technicians as those standards existed on July 6, 1978.

4. An applicant shall not make more than two attempts within the same calendar year in any 12 month period to successfully complete either the written examination of the National Registry of Emergency Medical Technicians or the practical examination of the Commissioner.

## B. Renewal registration.

1. An applicant's registration shall expire biennially on his/her birthday unless it is renewed; the anniversary date of the initial registration.

Each applicant shall be required to renew his/her registration every two years ~~except that following the initial registration date, an applicant shall renew his/her registration no less than 24 months and not more than 36 months if he/she is registered on a date other than his/her birthday.~~ Every applicant shall submit a registration renewal application, on a form provided by the Commissioner, together with a renewal fee for the biennium or part thereof. The information requested by the Commissioner on the registration renewal application shall be such so as to permit a complete evaluation of each applicant to determine whether

# RULES

the applicant meets the requirements for registration renewal as specified in these rules and any applicable statutes. To clarify incomplete or ambiguous information presented in the renewal application, the Commissioner or his agent may request an applicant to submit additional information as may be necessary to determine the applicant's qualifications for renewal. Applications submitted after the applicant's ~~birthday~~ anniversary date of the initial registration must be accompanied by the late fee together with all other information required by this rule.

2. For registration renewal each registrant shall submit evidence of successful completion of 24 clock hours of continuing education in basic emergency care.

3. Applicants who have permitted their registrations to expire for more than ~~90 days~~ one calendar year may regain registration when they:

a. Successfully complete a 24 clock hours of continuing education in basic emergency care course; or

b. ~~Be listed as of the time of submitting their applications with the~~ Have met the standards of the National Registry of Emergency Medical Technicians, as those standards existed on July 6, 1978, and

c. ~~Have been employed~~ served as a full-time or volunteer ambulance driver or attendant, fire, police or rescue squad member for one year immediately prior to submission of the renewal application.

Applicants who cannot meet the requirements set forth above in 7 MCAR § 1.542 B.3. must meet requirements of 7 MCAR § 1.542 A. for initial registration application.

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

1. Initial application fee: ~~\$30.00~~ \$11.00.

2. Renewal application fee: ~~\$30.00~~ \$11.00 or \$2.00 if registrant is a volunteer ambulance driver or attendant, police, fire, or rescue squad member who provides services without the expectation of remuneration and does not depend in any way upon the provision of these services for his or her livelihood.

3. Penalty fee for submission of renewal application after registration date: \$10.00.

D. Denial of registration; disciplinary actions.

1. Upon receipt of a complaint or other communication, whether oral or written, which alleges or implies the existence of a ground for denial of registration or disciplinary action as specified in ~~(MHD 542)(B)(2),~~ 7 MCAR § 1.542.D.2. the Commissioner or Council may initiate an investigation. In so doing, the Council may request the registrant to appear before it to determine the merits of the situation in question. Prior to any disciplinary action, a written complaint will be obtained from a complaining party. In each case, the Council shall make a recommendation to the Commissioner as to whether proceedings under the Administrative Procedures Act would be appropriate and should be initiated.

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

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

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

c. Incompetency, or inappropriate conduct in the performance of basic emergency care services or related functions.

3. Disciplinary actions shall comply with the provisions of the Administrative Procedure Act, Minn. Stat. ch. 15 (1976, as amended).

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

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

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

**7 MCAR § 1.543 The Emergency Medical Technicians Advisory Council.**

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

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

2. One EMT representative of salaried full-time ambulance personnel, fire, police or rescue squad members, who provides emergency care services for at least 1,560 hours per year for remuneration.

3. One EMT representative of volunteer or part-time ambulance personnel, fire, police or rescue squad members, who provides emergency care services for less than 1,560 hours a year with or without remuneration.

4. Two physicians who are knowledgeable in the national, regional and local development in the area of EMT training. One shall be from a metropolitan hospital and the other from an out-state hospital.

5. One full-time registered nurse employed in an emergency department of a hospital.

At least one of those persons referenced in 7 MCAR § 1.543 A.4. and 5. shall be actively involved in the education of EMT's.

B. Organization, duties and responsibilities.

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

2. The Council shall:

a. Advise the Commissioner regarding EMT registration rules;

b. Advise the Commissioner on the enforcement of the EMT rules;

c. Provide for the dissemination of information regarding EMT registration standards; and

d. Assess the qualifications of each applicant before recommending credentialing to the Commissioner.

e. Such other duties as directed by the Commissioner not inconsistent with these rules.

**7 MCAR §§ 1.544-1.545 Reserved for future use.**

\*The Commissioner's policies concern only internal management which do not directly affect the rights of or procedures available to the public and are therefore not subject to rulemaking.

## Department of Health

### Adopted Rules Relating to Registration of Environmental Health Specialists/Sanitaricians

The rules published at *State Register*, Volume 3, Number 17, pp. 882-886, October 30, 1978 (3 S.R. 882-886) are adopted with the following amendments:

#### Rules as Adopted

##### Chapter 30: Human Service Occupations

##### Part II

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

##### 7 MCAR § 1.546 Purposes and definitions.

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

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

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

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

3. "Commissioner" means Commissioner of Health.

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

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

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

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

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

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

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

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

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

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

f. The examination is revised or a new form is issued when technical advances in the field indicate the examination should be updated to acknowledge related changes in the ~~scope of practice~~. definition of Environmental Health Specialist/Sanitarian as outlined in 7 MCAR § 1.546 B.6.

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

## 7 MCAR § 1.547 Registration requirements; career progression; disciplinary action.

### A. Initial registration.

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

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

b. Evidence of at least one year of supervised employment in one or more of the program areas listed in 7 MCAR § 1.546 B.6. definition of "Environmental Health Specialist/Sanitarian." Supervision shall be provided by an Environmental Health Specialist or a Sanitarian or a ~~licensed health professional, or an Engineer or other professional with a graduate degree in one of the physical or biological sciences.~~ other person whom the Commissioner deems has equivalent environmental health background.

c. Evidence of passing the registration examination.

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

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

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

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

3. No applicant shall make more than two attempts within ~~the same calendar year~~ any 12 month period to successfully complete the registration examination.

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

### B. Renewal registration.

1. An applicant's registration shall expire biennially on his/her birthday unless it is renewed. Each applicant shall be required to renew his/her registration every two years except that following the initial registration date, an applicant shall renew his/her registration no less than 24 months and no more than 36 months if he/she is registered for the first time on a date other than his/her birthday. Every applicant shall submit a completed registration renewal application, on a form provided by the Commissioner together with the renewal fee for the biennium or part thereof. The information requested by the Commissioner on the registration renewal application shall be such so as to permit a complete evaluation of each application to determine whether the applicant meets the requirements for registration renewal as specified in these rules and any applicable statutes. To clarify incomplete or ambiguous information presented in the application, the Commissioner or his agent may request an applicant to submit additional information as may be necessary to determine the applicant's qualifications for renewal. Applications submitted after the applicant's birthday must be accompanied by the late fee of \$10.00 together with all other information required by this rule.

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

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

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

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

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

c. It must last at least one contact hour.

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

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

4. The Council shall review the submitted evidence and decide if the evidence demonstrates that the registrant has complied with the renewal requirements set forth in 7 MCAR § 1.547 B.2. and 3. If the Council decides that the evidence demonstrates that the registrant has so complied, the Council will recommend to the Commissioner that the registrant's continuing education activities should be accepted.

If the Council decides that the evidence does not demonstrate that the registrant has complied with 7 MCAR § 1.547 B.2. and 3., the Council will so inform the applicant who will then have an opportunity to submit additional evidence, decide if it demonstrates that the registrant has complied with 7 MCAR § 1.547 B.2. and 3., and recommend to the Commissioner that the registrant's continuing education activities should or should not be accepted. The Commissioner will then make the final decision regarding the acceptability of the registrant's continuing education activities.

5. Applicants who have permitted their registrations to expire for more than two years may regain their registration when they successfully complete the registration examination.

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tion, complete continuing education requirements, and submit the required renewal forms and fees.

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

1. Initial application fee: \$30.00 plus examination fees.
2. Biennial renewal application fee: \$30.00.
3. Penalty for late submission of renewal application: \$10.00, if not renewed by designated renewal date.

D. Disciplinary actions.

1. Upon receipt of a complaint or other communication, whether oral or written, which alleges or implies the existence of a ground for denial of registration or disciplinary action as specified in 7 MCAR § ~~1.542 E.2.~~, 1.547 D.2., the Commissioner or Council may initiate an investigation.

Prior to any disciplinary action a written complaint shall be obtained from a complaining party. In so doing, the Council may request the registrant to appear before them to determine the merits of the situation in question. In each case, the Council shall make a recommendation to the Commissioner as to whether proceedings under the Administrative Procedure Act would be appropriate and should be initiated.

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

- a. Submission of false or misleading information or credentials in order to obtain or renew registration; or
- b. Failure to meet the requirements for initial or renewal registration; or
- c. Incompetency; negligence or inappropriate conduct in the performance of environmental health duties or related functions.

3. Disciplinary actions shall comply with the provisions of the Administrative Procedure Act, Minn. Stat. ch. 15 (1976, as amended).

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

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

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

## 7 MCAR § 1.548 The Environmental Health Specialists/Sanitarian Advisory Council

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

1. Two public members as defined in Minn. Stat. § 214.02 (1976, as amended);
2. One ~~educator~~ or a representative from a regulated industry for which Environmental Health Specialists/Sanitaricians are charged with enforcement of the regulation;
3. Four Environmental Health Specialists/Sanitaricians representative of county, municipal and state agencies which reflect the distribution of Environmental Health Specialists/Sanitaricians among these employers at the time of appointment.

B. Organization, duties and responsibilities.

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

2. The Council shall:

- a. Advise the Commissioner regarding Environmental Health Specialist/Sanitarian registration standards;
- b. Advise the Commissioner on enforcement of the Environmental Health Specialist/Sanitarian rules;
- c. Provide for the dissemination of information regarding Environmental Health Specialist/Sanitarian registration standards;
- d. Review applications and recommend applicants for registration or registration renewal.

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

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# PROPOSED RULES

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Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. 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.

## Calendar

### Public Hearings on Proposed Agency Rules May 7-11, 1979

Date	Agency and Rule Matter	Time and Place
May 10	Housing Finance Agency Income Limits, Residential Preference for Multi-unit Developments and Home Improvement Grants for Mobile Homes Hearing Examiner: Seymour Crump	9:00 a.m., Conference Rm. A, Capitol Square Bldg., 550 Cedar St., St. Paul, MN
May 11	Energy Agency Filing Fees for Applications for Certificates of Need for Large Electric Generating Facilities and Large High Voltage Transmission Lines Hearing Examiner: Allan W. Klein	9:30 a.m., Rm. D, Veterans Service Bldg., 20 W. 12th St. and Columbus Ave., St. Paul, MN

a.m., and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Ms. Natalie L. Gaull, Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within 5 working days after the close of the hearing. The Hearing Examiner may extend the time for receipt of written comments for a period not to exceed twenty (20) calendar days from the date of the hearing.

The proposed rules will provide procedures for a disclosure program, establish training courses for energy evaluators, outline requirements for certification of energy evaluators, and will further provide provisions regarding conflict of interest, non-endorsement, disclaimer, continuing education, certification fees, and bonding requirements of energy evaluators.

The proposed rules are subject to change as a result of the rules hearing process. The agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rules to participate in the rules hearing process.

Copies of the proposed rules will be available at the door on the date of the hearing and one free copy can now be obtained by writing to the Building Code Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 116H.129, subs. 5, 6 and 7 (1978).

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 the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Any person may request notification of the date on which

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## Department of Administration Building Code Division Proposed Rules for Training and Certification of Evaluators for Energy Disclosure Program

### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Conference Room, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota on June 1, 1979, commencing at 9:30



## PROPOSED RULES

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 persons 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).

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11 (1978) 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 must register with the State Ethical Practices Board as a lobbyist within five days of the commencement of such activity by the individual. The statute provides certain exceptions. Questions should be directed to the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Adoption of the proposed rules by the agency will not require the expenditure of public monies by local public bodies.

April 12, 1979

James J. Hiniker, Jr.  
Commissioner

### Rules as Proposed (all new material)

**2 MCAR § 1.16220 Authorization.** These rules are promulgated pursuant to Minn. Stat. § 116H.129, subds. 5, 6 and 7 (1978).

**2 MCAR § 1.16221 Purpose and scope.** The purpose of these rules is to establish procedures for a residential energy disclosure program and for training and certification of evaluators.

**2 MCAR § 1.16222 Disclosure program.** Effective October 1, 1979. Prior to time of sale, an evaluation and report disclosing the extent of compliance with Energy Conservation Standards for Existing Residences (2 MCAR § 1.16205 A.1. through 8.) shall be made for all residences constructed prior to January 1, 1976.

Evaluators shall use the disclosure report form prepared by the Building Code Division and the Minnesota Energy Agency or copy thereof which is appended to these rules. Evaluators calculations shall be made on forms prepared by the Building Code Division and the Minnesota Energy Agency. Evaluators shall maintain copies of completed disclosure reports which shall be available for review by the Building Code Division or the Minnesota Energy Agency. Evaluators shall submit an annual summary of evaluations to the Building Code Division. Copies of completed disclosure reports shall be retained by evaluators for a period of not less than 5 years.

Prior to time of sale the potential buyer of any residence constructed prior to January 1, 1976, shall be furnished with a disclosure report signed by a certified evaluator, which shall indicate the extent of compliance with the Energy Conservation Standards for Existing Residences in 2 MCAR § 1.16205. If the buyer chooses to waive the disclosure report he may do so by signing the waiver provision of the disclosure report form. Completed disclosure reports and evaluators calculations must be submitted to the owners by evaluators within 30 days of request for evaluation.

**2 MCAR § 1.16223 Training.** The Building Code Division shall establish training courses for evaluators which may be conducted by Minnesota Building Code Division personnel or by contract with other agencies such as:

- A. Minnesota Department of Education.
- B. Private consultants engaged in education for energy conservation programs.
- C. Other established statewide educational programs.

Persons desiring to obtain training shall enroll in the established program and pay the certification fee as required in 2 MCAR § 1.16226. The training course shall include a certification examination at the conclusion of program.

**2 MCAR § 1.16224 Certification.** Certification Examinations shall thereafter be conducted not more than twice annually at locations determined by the Building Code Division. Notice of time and place of training programs shall be

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## PROPOSED RULES

provided by the Building Code Division by publication in the *State Register* and notification to governing bodies of municipalities. Architects and mechanical engineers registered in the State of Minnesota and building officials certified by examination by the Building Code Division may apply for examination and certification without attending training courses upon the submission of their resume of training and experience. Such persons shall be required to attend an orientation program prior to certification. All applications for certification must be received by the Building Code Division 30 days prior to the examination date.

The Building Code Division shall certify persons who successfully complete the certification examination and submit a copy of the bond required under 2 MCAR § 1.16225 of these rules. Certification shall expire two (2) years from date of issue. Cancellation or expiration of bond required pursuant to 2 MCAR § 1.16225 renders certification void. Reexamination and recertification shall be required at intervals not to exceed two (2) years.

**2 MCAR § 1.16225 Bond required.** Evaluators must provide a bond to the State in the sum of \$5,000.00 conditioned upon the faithful and lawful performance of all work done pursuant to these rules within the State of Minnesota and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. The bond shall be filed with the Building Code Division and must be applicable for the period of the certificate. Such bond shall be written by a corporate surety licensed to do business in the State of Minnesota.

**2 MCAR § 1.16226 Certification fees.** Application for evaluator certification must be accompanied by a fee of \$25.00 remitted to the Building Code Division; payable to the State of Minnesota.

Applications for recertification must be accompanied by a fee of \$20.00, remitted to the Building Code Division payable to the State of Minnesota.

**2 MCAR § 1.16227 Continuing education.** To maintain certification persons must attend continuing education seminars provided by the Building Code Division each two years and pay the recertification fee required in 2 MCAR § 1.16226.

**2 MCAR § 1.16228 Conflict of interest.** Evaluators shall not be engaged in nor have an interest in the sale of products referenced in the standards (i.e. doors, windows, weatherstripping, caulking, insulation, fireplace shutoffs).

Evaluators shall not own nor have an interest in properties that they evaluate. Holding of a listing for sale by a person, or person's employing firm, constitutes an interest in property.

Public Utilities evaluation programs shall not be considered a conflict of interest.

**2 MCAR § 1.16229 Non-endorsement.** The evaluator shall not endorse the use of specific materials, brand names of a material or product, or methods which may be used to meet any specific standard, nor shall any statement relating to the standards be interpreted as an endorsement of any specific material or product.

**2 MCAR § 1.16230 Revocation.** Certification may be revoked upon notice and hearing when competent evidence discloses a conflict of interest or unethical practices. Such notice shall be provided and hearing conducted in accordance with the provisions of Minn. Stat. ch. 15 governing contested case proceeding.

**2 MCAR § 1.16231 Disclaimer.** The evaluator shall not be held liable for problems that may arise from improper installation of energy conserving products which are installed to comply with the standards.

## Livestock Sanitary Board

### Proposed Promulgation of Rules

**3 MCAR § 2.024 Control of Pseudorabies and 3 MCAR § 2.025 Aleutian Disease Free Herds of Mink and Repeal of 3 MCAR § 2.013 Control of Glanders-Farcy, 3 MCAR § 2.014 Control of Hog Cholera, 3 MCAR § 2.019 Horse Mange or Scabies, 3 MCAR § 2.051 Cleaning and Disinfection of Railroad Cars, and 3 MCAR § 2.060 Condemnation Slaughter of Animals Affected with Tuberculosis, Paratuberculosis, and Bang's Disease, and the Payment of Indemnity**

### Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), in Conference Room D, Veterans Service Building, 20 West 12th Street or Columbus Avenue, St. Paul, Minnesota, commencing at 9:30 a.m., or as soon thereafter as possible, Thursday, May 31, 1979, and

## PROPOSED RULES

continuing until all interested or affected persons have had an opportunity to be heard.

The Livestock Sanitary Board proposes to promulgate rule: 3 MCAR § 2.024 Control of Pseudorabies, proposed to fill a need brought to our attention by the swine industry of Minnesota and other states. The rule will provide a means of establishing and maintaining Qualified Pseudorabies Negative Swine Herds. Swine from these herds will be able to move inter- and intrastate without further testing for pseudorabies. To control the spread of the disease within Minnesota, the rule provides that swine herds and other livestock which are found to be infected will be quarantined until the disease has been controlled.

And rule: 3 MCAR § 2.025 Aleutian Disease Free Herds of Mink, proposed to enable mink ranchers to establish certified Aleutian disease free herds of mink under supervision of the Livestock Sanitary Board. This would result in greater productivity, improved saleability of breeding stock and control of the disease.

The Livestock Sanitary Board proposes to repeal 3 MCAR § 2.013 Control of Glanders-Farcy, 3 MCAR § 2.014 Control of Hog Cholera, 3 MCAR § 2.019 Horse Mange or Scabies, 3 MCAR § 2.051 Cleaning and Disinfection of Railroad Cars, and 3 MCAR § 2.060 Condemnation and Slaughter of Animals Affected with Tuberculosis, Para-tuberculosis, and Bang's Disease, and the Payment of Indemnity. These rules are no longer needed since the diseases they were concerned with have been eradicated from Minnesota, railroad cars are not a factor in transport of animals within Minnesota and the condemnation and indemnity payments for tuberculosis, para-tuberculosis and brucellosis are provided for in other rules.

Free copies of the proposed rules are available and can be obtained from the Minnesota Livestock Sanitary Board, LL 70 Metro Square, St. Paul, Minnesota, 55101. Additional copies will be available at the hearing.

Statutory authority to promulgate the proposed rules is vested in the Livestock Sanitary Board by Minn. Stat. § 35.03 (1978).

Relevant statements or written material may be submitted for the record at the hearing or to Harry S. Crump, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104, phone 612-296-8111 before the hearing or written material may be submitted to Harry S. Crump and recorded in the hearing record for five working days after the public hearing ends, or for a longer period not to exceed 20 calendar days if ordered by the Hearing Examiner.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within 5 days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. "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 in the course of selling goods or services to be paid for by public funds; (d) News media or their employees or agents acting in the ordinary course of business of publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action; (e) Paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, 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 travel expenses, in any year in communicating with public officials. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, phone 612-296-5615.

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

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules.

**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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Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

April 30, 1979

J. G. Flint, D.V.M.  
Secretary and Executive Officer

## Rules as Proposed (all new material)

This rule was previously published at 3 S.R. 970-980, was considered at a public hearing December 7, 1978, and was determined to need further amendment so is being presented for public hearing in a revised form.

### 3 MCAR § 2.024 Control of pseudorabies.

#### A. Definitions.

1. Official pseudorabies test — a test for the diagnosis of pseudorabies approved by the Board and conducted in a USDA approved laboratory on samples collected and submitted by an accredited veterinarian or a Board approved field test conducted by an accredited veterinarian.

2. Official pseudorabies vaccinates are swine which have been:

a. Vaccinated with a USDA licensed pseudorabies vaccine by an accredited veterinarian.

b. Individually identified with a numbered pink ear-tag.

c. Reported as official vaccinates to the Board at the time of vaccination.

#### B. General requirements.

1. Veterinarians shall report all cases of pseudorabies they diagnose and all cases suspected of being pseudorabies.

2. All pseudorabies tests will be at owner's expense except tests conducted to release quarantines which may be made by veterinarians of the Board or USDA if personnel and funds are available.

3. All swine tested shall be individually identified by eartag, tattoo, registration number or other identification acceptable to the Board and the identification entered on the test chart.

4. Quarantines will be established by the Board as authorized in Minn. Stat. ch. 35.05 (1978), on all swine herds in which a clinical diagnosis or a laboratory diagnosis, other than a diagnosis based only on serological tests, of

pseudorabies is made. The quarantine will be served on the owner.

5. Quarantines will be established by the Board on individual swine positive on serological tests in herds which do not show clinical signs or have laboratory confirmation of pseudorabies. The quarantine will be served on the owner.

6. Quarantined swine and swine from quarantined herds may be moved only to slaughter accompanied by a shipping permit issued by an accredited veterinarian or the Board. When it can be established that the quarantined herd only produces pigs for sale as feeders, that no breeding stock has been sold and there are no clinical signs of pseudorabies in the herd, the individually identified feeder pigs may be sold for movement for finishing under quarantine on premises where there are no breeding swine. These quarantined feeders can be sold only for slaughter.

7. Quarantines on swine herds will be released when all quarantined swine have been sold for slaughter or:

a. Reactor swine have been removed from the premises for slaughter with a shipping permit and

b. The premises have been cleaned and disinfected and

c. All swine six months of age and over have passed a negative official pseudorabies test at least 30 days after the reactors were shipped. Following a depopulation, no swine should be allowed on the premises for 30 days.

8. Quarantines on individual test positive swine will be released when the swine have been sold for slaughter or have been retested and found to be negative for pseudorabies.

9. Livestock, other than swine, determined to have pseudorabies and livestock, other than swine, exposed to pseudorabies infected animals will be quarantined. The quarantine will be released 21 days after the diagnosis or exposure if there are no signs of pseudorabies in the quarantined livestock.

#### C. Establishment and maintenance of Qualified Pseudorabies Negative Herds.

1. An agreement to comply with these rules shall be signed and filed with the Board.

2. A negative official pseudorabies test of all swine in the herd six months of age and over will qualify the herd as a Qualified Pseudorabies Negative Herd provided:

a. The herd has been free of pseudorabies for the previous 12 months.

## PROPOSED RULES

b. At least 90% of the swine tested have been in the herd at least 90 days.

A numbered Qualified Pseudorabies Negative Herd certificate will be issued the herd owner. The initial certificate will be valid for 90 days.

3. Pseudorabies Negative Herd status will be maintained when a negative official pseudorabies test of not less than 25% of the swine in the herd six months of age and over is conducted within 10 days of 90, 180 and 270 days from and on the anniversary date of initial qualification provided:

a. No swine over six months of age are to be tested twice in one calendar year unless C.3.d. applies.

b. All swine in the herd, six months of age and over, are to be tested at least once in each calendar year.

c. If swine of the herd are maintained on several premises or as several groups, 25% in each should be tested for each requalification.

d. If there are 10 or fewer swine, six months of age or over, in the herd at any quarterly requalification test, all swine six months of age and over are to be tested.

The certificate will then be valid for another 90 days and for the last quarter of the test year to the anniversary date.

4. Additions to Qualified Pseudorabies Negative Herds shall be either:

a. From a Qualified Pseudorabies Negative Herd.

b. From a herd not known to be pseudorabies infected and with a negative official pseudorabies test within 30 days of entry on all swine added regardless of age. Swine added to be isolated and retested and negative 30-60 days after entry and before being commingled with the qualified herd.

5. Feeder swine on the premises of the Qualified Pseudorabies Negative Herd must be farrowed on the premises or have a negative official pseudorabies test within 30 days prior to entry to the premises or be kept separate from the Qualified Pseudorabies Negative Herd.

6. Qualified Pseudorabies Negative Herd status will be canceled if any swine in the herd react when tested or are

diagnosed as having pseudorabies or if additions are made contrary to this rule.

7. Qualified Pseudorabies Negative Herds which have lost status because of test reactors or a diagnosis of pseudorabies in the herd will regain their status when:

a. Reactor swine have been removed for slaughter with a shipping permit and

b. Premises have been cleaned and disinfected and

c. The herd has had two negative pseudorabies tests of all swine in the herd six months of age and over the first at least 30 days after removal of the reactors and the second at least 30 days after the first test.

The infected herd quarantine would be released after the first negative test.

8. Qualified Pseudorabies Negative Herds which have lost status because of additions made contrary to this rule will regain that status when all swine in the herd six months of age and over have had a negative official pseudorabies test.

9. Swine returned to Qualified Pseudorabies Negative Herds from exhibitions or that are otherwise commingled with swine from herds not qualified should be kept in isolation upon return for 30 days and have a negative official pseudorabies test before rejoining the herd.

D. Establishing pseudorabies controlled vaccinated herds.

1. The Board should be notified of the producers desire to establish a pseudorabies controlled vaccinated herd.

2. All swine six months of age and over must be tested for pseudorabies and found to be negative.

3. The negative swine must be officially vaccinated for pseudorabies within 15 days after the date tested.

4. All swine regardless of age or origin added to the pseudorabies controlled vaccinated swine herd as breeding swine must be tested for pseudorabies and found to be negative and then officially vaccinated for pseudorabies within 15 days after the date tested.

E. Swine from a Qualified Pseudorabies Negative Herd will be eligible for entry into Minnesota exhibitions without an official pseudorabies test.

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## 3 MCAR § 2.025 Aleutian disease free herds of mink.

### A. Definitions.

1. Official test — counterelectrophoresis (CEP) plate test conducted in a state laboratory on samples submitted by an authorized testing agent or other test approved by the Board.

### B. Establishing an Aleutian Disease Free Herd.

1. The herd owner shall notify the Board of his intent to qualify his herd by having his breeding mink tested at his own expense.

2. A mink herd will qualify when the owner has filed with the Board proof that all mink in the breeding herd have been negative on two successive official tests for Aleutian disease conducted not less than 45 days or more than 365 days apart.

3. An Aleutian disease free herd certificate valid for one year from the date of the last qualifying test will be issued to the owner of the qualified herd.

4. Certificates will be revoked if a laboratory or clinical diagnosis of Aleutian disease is made in the herd or if the provisions of this rule are not complied with.

### C. Additions to Certified Herds or Those Being Qualified.

1. Mink from Certified Aleutian Disease Free Herds may be added without a test.

2. Mink from other herds must be tested for Aleutian disease and negative within 30 days prior to entry, be isolated from all other mink until retested and negative not less than 30 days or more than 60 days after entry.

D. 1. The Board may recertify a Certified Aleutian Disease Free Herd for one year from the anniversary date upon receipt of proof of a negative official test of the breeding herd conducted within 30 days of the expiration of the certificate. Herds which have been certified for two years may be recertified upon receipt of a negative official test on 50 per cent of the breeding mink in each color phase including all males in each color phase.

### E. Supervision.

1. Agents of the Board may be present and supervise the collection of samples for any Aleutian disease test.

2. The Board may request collection under their supervision of not to exceed 200 blood samples for testing at a time mutually agreed upon to check the disease status of the herd.

## ~~LSB 13 Control of glanders-farey.~~

(a) In all ordinary cases of suspected glanders-farey, first quarantine suspected animals, then call a competent veterinarian, who shall make such examination and tests as he may deem necessary. The further action of the Board shall be largely determined by diagnosis and advice of the veterinarian.

(b) All horses, mules or donkeys that are discharging from the nose, or have had recent sores upon the body, and all animals that have worked as mates with such infected animals must be included in this preliminary quarantine.

(c) All horses, mules or donkeys which show positive symptoms of glanders, with or without mallein reaction, must be destroyed without delay.

(d) All exposed animals must be tested with mallein.

(e) All exposed animals which give one clear reaction to the mallein test, and which show any of the recognized external symptoms of glanders, must be destroyed.

(f) All reacting horses, mules or donkeys not showing clinical symptoms of glanders, which are not appraised and killed, must be placed in quarantine until retested and found free from glanders, or killed.

General use of such animals may be permitted, but they must not be sold, traded or given away during the quarantine period. The quarantined animal or animals must not be fed or watered at any public feeding or watering place, and shall be tested with mallein by a competent veterinarian at the end of the quarantine period.

Provided, however, that if at any time the owner presents to the State Livestock Sanitary Board, a certificate of a veterinarian showing that an animal so quarantined has been subjected to the mallein test by a veterinarian, approved by the State Livestock Sanitary Board, and that such a veterinarian has failed to detect the presence of such disease, then said Board may remove the quarantine.

Quarantines must not be released in any case until the owner has disinfected the premises as directed by health officers.

In all cases where retests are made, the second dose of mallein must be one-half larger than the first.

Carcasses must be destroyed by burning, if practical, otherwise buried under four feet of earth.

(g) No person shall knowingly remove, au-

## PROPOSED RULES

authorize or cause to be removed; any animal quarantined on account of glanders-farcy from the premises whereon it is quarantined; except as provided in Section (f).

(h) No person shall knowingly cause, authorize or permit to be placed any horses, mules or donkeys, except those hereby quarantined, in any stable enclosure that is under quarantine on account of glanders-farcy.

(i) All non-reactors shall be retested within 60 days.

(j) Compensation will be withheld until the premises have been cleaned and disinfected in the manner prescribed by the Board.

### ~~LSB 14 Control of Hog Cholera.~~

(a) Reporting hog cholera. When any veterinarian determines or suspects the presence of swine affected with hog cholera on any premises in Minnesota; he shall immediately report to the Board

(1) The name and address of the owner or caretaker of such swine.

(2) Locality by township and county of the premises where hog cholera exists or is suspected to exist.

(3) Number of swine on such premises; the number affected with hog cholera and the number which have died, if any.

(b) Quarantine of infected or suspected herds.

(1) Every veterinarian who determines or suspects the presence of swine affected with hog cholera on any premises; shall establish a quarantine on such premises by posting a hog cholera quarantine placard furnished by the Board in such a manner that it shall be plainly visible from each and every entrance to such premises.

(2) During the period of quarantine, the following provisions shall be observed:

(aa) No swine shall be removed from the premises; nor shall the owner or caretaker permit such removal unless a permit is first received from the Board as provided in section (d).

(bb) No person shall enter any enclosure where swine are maintained on quarantined premises; ex-

cepting the owner or caretaker, veterinarians; agents of the Board including local health officers; and employees of rendering plants operating under permit from the Board; who may enter such enclosures for the sole purpose of loading swine for euthanasia or carcasses of swine which have died or which have been killed because of disease.

(cc) Every person who has entered enclosures where swine are maintained on quarantine premises; shall before leaving the premises; clean and disinfect his footwear; or any other material or thing which may have been contaminated while in such enclosures. The wheels and tires of all rendering plant trucks shall be immediately and thoroughly cleaned and disinfected after leaving such enclosures; and before leaving the premises. During fly season; the interiors of the cab and truck body of all rendering plant trucks shall be sprayed with an insecticide before leaving the premises.

(c) Disposal of carcasses. The carcasses of all swine which have died or which have been killed because of disease on premises under quarantine because of hog cholera; shall be disposed of as follows:

(1) By burial at least three feet underground; or

(2) By burning in such a manner that the entire carcass is consumed by fire; or

(3) Be transported to a rendering plant which holds a permit for a truck operated by such plant; under the rules and regulations of the Board.

(aa) Every rendering plant truck removing carcasses from premises quarantined for hog cholera; shall transport such carcasses directly to the rendering plant. Such trucks shall not enter any other premises until after delivery of such carcasses to the rendering plant; nor shall the truck body be opened excepting at the unloading area of the rendering plant.

(d) Release of quarantine of infected or suspect herds. Quarantines on premises where hog cholera has existed; may be released under the following conditions:

(1) When the attending veterinarian or agents of the Board reports to the Board in writing that:

(aa) The premises and all swine thereon; have been inspected and that no evidence of hog cholera exists.

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(bb) At least 21 days has elapsed following the last evidence of hog cholera on such premises.

(cc) The premises are in a reasonably sanitary condition.

(2) When necessary as a disease control measure, the Board may require the cleaning and disinfection of premises before releasing the quarantine.

(3) When premises have been quarantined because of suspicion of hog cholera, and it is later determined that hog cholera does not exist thereon, the premises may be immediately released from quarantine.

(e) Hog Cholera biologics.

(1) Manufacture, sale and distribution.

(aa) All persons and companies engaged in the manufacture, sale and distribution of hog cholera serum, antibody concentrate, and modified live hog cholera virus vaccine for use upon swine in Minnesota shall comply with the laws, rules, and regulations of the United States Department of Agriculture pertaining to such manufacture, sale and distribution.

(bb) Modified live hog cholera virus vaccine, hog cholera serum and antibody concentrate, which may be injuriously affected by exposure to light or high temperature, shall be stored in a dark cold chamber or refrigerator at a temperature not to exceed 55° Fahrenheit. All dealers in Minnesota shall keep such products protected from light and under refrigeration until sold or otherwise disposed of.

(cc) All modified live hog cholera virus vaccine, hog cholera serum and antibody concentrate shall be prepared, handled, stored, marked, treated and tested by establishments licensed by the United States Department of Agriculture.

(2) Reporting sales and distribution.

All persons and companies engaged in the manufacture, sale and distribution of hog cholera serum, antibody concentrate, and modified live hog cholera virus vaccine for use upon swine in Minnesota, shall make available upon request to the Livestock Sanitary Board, on forms furnished by the Board, the name and address of the purchaser or consignee, the permit number of purchaser or consignee, the amount and serial number of modified live hog cholera virus vaccine, hog cholera serum and/or antibody concentrate, and the date on which the potency of each product expires; the name and address of the distributing agency; and the date of sale.

(3) Purchase and administration.

All veterinarians holding permits issued by the State Livestock Sanitary Board to administer modified live hog cholera virus vaccine shall administer such vaccine, hog cholera serum and antibody concentrate manufactured and distributed only by companies who have received permits from the Livestock Sanitary Board, as required by the state law, to sell and distribute these products in the State of Minnesota.

(f) Shipment of swine from public stockyards.

(1) No intrastate movement of swine from public stockyards in Minnesota shall be made for feeding or breeding purposes except under permit and as hereinafter provided.

(2) Swine may be shipped, transported, or otherwise removed from public stockyards for purposes other than immediate slaughter to points within the state, provided such shipments are segregated and quarantined on consignee's premises for a period of not less than 21 days after arrival thereon.

(3) The swine shall be inspected by an inspector of the Animal Health Division, United States Department of Agriculture, and found free from symptoms of cholera and other contagious, infectious, or communicable diseases.

(4) Shipments shall be made within 72 hours after inspection, and shall be accompanied by a health certificate showing individual identification. The swine shall be transported in clean and disinfected cars or other vehicles.

(g) Shipment of swine from state federal approved markets and livestock auction markets.

(1) Apparently healthy swine entering market on health certificate or certification by a veterinarian may be sold.

(2) Apparently healthy swine shall be inspected.

(3) All swine inspected at the market shall be removed within 24 hours to the premises of the purchaser and shall be held in quarantine separate and apart from all other swine on premises for a period of not less than 21 days. The official veterinarian shall furnish the purchaser an order of quarantine.

### ERADICATION OF HOG CHOLERA

(h) Phase III. Elimination of outbreaks.

When the State of Minnesota enters Phase III of the national hog cholera eradication program the following additional rules and regulations shall be in effect.



## PROPOSED RULES

(1) When a premises is quarantined because of hog cholera the premises shall be depopulated of swine. Non-salvageable swine shall be destroyed. No swine shall be sent to slaughter or destroyed until all swine on premises have been appraised. Following salvage and/or destruction of swine, the premises to which swine had access shall be cleaned and disinfected.

### (2) Appraisal.

When the presence of swine affected with hog cholera is suspected, a preliminary appraisal of all living swine on premises shall be made. When the diagnosis is confirmed an appraisal of all swine on premises at that time shall be made by an appraisal board consisting of a representative of the Board, a representative of the Animal Health Division of the United States Department of Agriculture, and the owner of the animals or his authorized agent. The preliminary appraisal shall be the basis of appraisal of the value of any swine that died between the time of the preliminary appraisal and the confirmation. Appraisals submitted for payment of indemnity shall be in writing, shall be made at true market value of all of the swine and shall be signed by the appraisers.

### (3) Salvage.

Apparently healthy swine of salvageable weight may, following appraisal, be shipped for immediate slaughter to a public stockyards or slaughtering establishment within the state where the state or federal government maintains inspection. Shipment is to be made as soon as possible after appraisal. Shipment shall be made in accord with this regulation.

### (4) Indemnity.

(aa) In determining indemnity payments the value of the net salvage for each animal slaughtered shall be deducted from the appraised value of the animal.

(bb) Indemnity shall not exceed \$50 for registered swine; \$40 for grade swine. Proof of registration shall be required.

(cc) The owner of the swine shall be entitled to indemnity therefor as herein provided, except when the owner is:

(i) The United States.

(ii) An institution maintained by the state, any of its agencies or subdivisions.

(iii) An owner that has not complied with the rules and regulations of the Board with respect to animals condemned.

### (5) Destruction and disposal.

All non-salvageable swine shall be destroyed as soon as possible after appraisal. Destruction to be a humane manner.

### (6) Cleaning and disinfection.

Following depopulation of swine from premises, such premises to which swine had access shall be thoroughly cleaned and disinfected. An approved disinfectant shall be used. Disinfection shall be conducted under supervision of an agent of the Board. The cleaning and disinfection shall be at owner's expense.

### (7) Re-population of an infected premises.

Premises shall not be restocked with swine within at least 30 days following completion of cleaning and disinfection.

### (i) Phase IV: Protection against Reinfection.

When the State of Minnesota enters Phase IV of the National Hog Cholera Eradication Program the following additional rules and regulations shall be in effect:

### (1) Biologicals:

(aa) On or after effective date of LSB 14(i), no hog cholera vaccine shall be administered to swine in Minnesota.

(bb) On or after effective date of LSB 14 (i), and until further notice, all swine moving through livestock auction markets, public stockyards, state federal approved markets for swine, and public exhibition, except swine consigned for immediate slaughter, shall be identified by an ear tag, tattoo, registration certificate or other identification which establishes the identity of the individual swine.

(2) When a premises is quarantined because of hog cholera the premises shall be depopulated of swine. All swine located on premises, including apparently healthy swine, shall be destroyed as herein provided. No swine shall be destroyed until all swine on premises have been appraised.

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## PROPOSED RULES

(3) Appraisal: When the presence of swine affected with hog cholera is suspected, a preliminary appraisal of all living swine on premises shall be made. When the diagnosis is confirmed an appraisal of all swine on premises at that time shall be made by an appraisal board consisting of a representative of the Board, and/or a representative of the Animal Health Division of the United States Department of Agriculture, and the owner of the animals or his authorized agent. The preliminary appraisal shall be the basis for indemnity for any swine that have died between the time of the preliminary appraisal and the confirmation of hog cholera. Appraisals submitted for payment shall be in writing, shall be made at true market value of the swine and shall be signed by the appraisers.

(4) Indemnity:

(aa) Indemnity shall be based on the appraisal value of each animal.

(bb) Indemnity payments are to be shared by state and federal funds. The State's share of indemnity shall not exceed \$40 per head for grade animals; \$50 per head for registered animals. Proof of registration is required.

(cc) The owner of the swine shall be entitled to indemnity except when the owner is:

(i) The United States.

(ii) An institution maintained by the state, any of its agencies or subdivisions.

(iii) An owner who has not complied with the rules and regulations under LSB 14(i).

(5) Destruction and disposal: All swine on premises shall be destroyed in a humane manner as soon as possible after appraisal. The carcasses of all animals that have died or been destroyed because of hog cholera shall be disposed of as follows:

(aa) By burial at least three feet underground. Prior to being covered by earth, the carcasses shall be slashed open and covered with quick lime; or

(bb) By burning in such a manner that the entire carcass is consumed by fire; or

(cc) Be transported by a rendering plant truck to a plant operating under the rules and regulations of the Board.

(i) Every rendering plant truck removing carcasses from premises quarantined because of hog cholera shall transport such carcasses directly to the rendering plant. Such trucks shall not enter any other premises until after the

delivery of such carcasses to the rendering plant; nor shall the truck body be opened excepting at the unloading area of the rendering plant. After the rendering truck is unloaded it shall be thoroughly cleaned and disinfected under supervision of an agent of the Board.

(6) Cleaning and disinfection of infected premises: Following depopulation of swine from premises, such premises to which swine had access shall be thoroughly cleaned and disinfected. The cleaning of the premises shall be at owner's expense. An approved disinfectant shall be used. Disinfection shall be conducted under supervision of the Board.

(7) Restocking of infected premises: The depopulated premises may not be restocked with swine until 30 days after completion of disinfection of premises.

(8) Release of quarantine: Quarantine shall be released 30 days after completion of disinfection; provided owner has complied with rules and regulations under LSB 14 (i).

(9) All prior inconsistent rules and regulations relating to the control and eradication of hog cholera, adopted by the Board, shall be of no force and effect.

### ~~LSB-19 Horse mange or scabies.~~

(a) Horses affected with mange or scabies are hereby held to be affected with a contagious disease. All persons and corporations are hereby forbidden to transport such diseased horses from any point outside the State to any point within the State, or from place to place within the State, except upon permission in writing from the State Livestock Sanitary Board, and then only under the conditions prescribed by such written permit.

(b) Horses affected with any general skin disease shall not be allowed to enter any stockyard or other public place where they may come in contact with healthy horses or where healthy horses are liable to be placed.

(c) All outbreaks of suspicious skin disease among horses must be quarantined and at once reported to the State Livestock Sanitary Board.

(d) All horses affected with mange or scabies or which show any inflamed condition of the skin, and all horses that have associated in the same herd with such animals must be included in the preliminary quarantine.

(e) Quarantine must be continued until satisfactory evidence is presented to the State Livestock Sanitary Board that the quarantined animals are not affected with mange or scabies; or until the entire herd has been thoroughly dipped; sprayed or satisfactorily treated two or

## PROPOSED RULES

more times with intervals of ten days; using a dip made in proportion of 24 pounds of sulphur, 10 pounds of unslacked lime to 100 gallons of water; and satisfactory evidence presented to this Board that such horses are no longer infectious.

(f) Enclosures wherein horses affected with mange or scabies have been confined must be continued in quarantine for a period of at least 30 days after such diseased animals have been removed or until such enclosures shall have been thoroughly whitewashed with a lime and water solution.

(g) No person shall knowingly remove, authorize or cause to be removed any horse that has been quarantined on account of any contagious or infectious disease from any farm or enclosure where it has been quarantined, except as provided in Section (e).

(h) No person shall knowingly cause, authorize, or permit any horse to be placed in any stable or enclosure that is under quarantine on account of mange or scabies, except those horses already quarantined therein.

### ~~LSB 51 Cleaning and disinfection of railroad cars.~~

(a) Whenever it shall be found that railroad cars have contained animals or poultry which are affected with or which are suspected of being affected with a contagious or infectious disease, or carcasses of animals that have died from such disease, such cars shall be cleaned and disinfected before they are again used for any purpose and within sixty hours after the removal of animals or carcasses from said cars in the manner hereinafter set forth.

(b) All railroad cars used for transportation of animals which are affected with or which are suspected of being affected with a contagious disease, or carcasses of animals that have died from such disease, to the public stockyards at South St. Paul, Minnesota, and to abattoirs or slaughtering plants at points within the State of Minnesota, where such plants are maintained under federal supervision, shall be cleaned and disinfected before they are again used for any purpose and within sixty hours after the removal of animals and carcasses from said cars under the supervision of the inspector of the Federal Bureau of Animal Industry or a representative of the State Livestock Sanitary Board.

(c) All cars used for the transportation of livestock from the Public Stockyards at South St. Paul to points in Minnesota, excepting for cattle shipped for feeding purposes or for livestock shipped for immediate slaughter, must first be cleaned and then disinfected.

(d) Stock cars shall be thoroughly cleaned by the removal of all litter, manure and refuse.

(e) Suitable provisions shall be made for the proper disposition of all scrapings, litter, manure and refuse removed from stock cars, and must be disposed of in accordance with the regulation of local health boards, and livestock shall not be allowed to come in contact with the same.

(f) The floor and interior walls of the car shall then be disinfected with a solution made with four ounces of Cresol Compound U. S. P. to each gallon of water or with a disinfectant approved by the Federal Bureau of Animal Industry. This can best be accomplished by using a spray pump.

(g) It shall be, and hereby is made the duty of the transportation company to place on each ear a card, on which shall be marked the date when said ear was last cleaned and disinfected.

### ~~LSB 60 Condemnation and slaughter of animals affected with tuberculosis, para-tuberculosis, and Bang's disease, and the payment of indemnity.~~

Filed with Secretary of State and Commissioner of Administration December, 1945

#### (a) Permits

(1) The authorized agent of the Livestock Sanitary Board appraising any animal condemned because it is affected with tuberculosis, para-tuberculosis, or Bang's disease, shall issue a shipping permit in duplicate on forms prescribed by the Board allowing the shipment of such animal or animals to an abattoir where the United States Bureau of Animal Industry maintains inspection, or to a point where the Board will establish field post-mortem inspection. One copy of the permit shall be furnished the owner to accompany the cattle, and one copy shall be mailed to the office of the Livestock Sanitary Board.

(2) All animals condemned because they are affected with tuberculosis, para-tuberculosis, or Bang's disease, consigned to a public stockyards or slaughtering establishment under the supervision of the United States Bureau of Animal Industry shall be accompanied by a proper shipping permit issued by an agent of the Livestock Sanitary Board and such permit shall be presented to the person accepting delivery of such cattle. The receipt of the cattle shall be indicated on the shipping permit and signed by an agent of the commission company or slaughtering establishment to

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## PROPOSED RULES

which the cattle are delivered and the shipping permit immediately mailed to the office of the Livestock Sanitary Board.

(b) Post mortem reports: After the effective date of these rules and regulations, no claim for the payment of indemnity shall be approved by the Board unless there is available to the Secretary and Executive Officer of said Board at his office:

(1) An official post-mortem report properly executed by an official of the United States Department of Agriculture indicating that the animal or animals involved have been slaughtered within the time prescribed by the state law; together with a report of proceeds of sale of such animals; signed by an officer of the commission company or slaughtering establishment to which the animal or animals were consigned; including the net salvage value of the carcass received by the owner; or

(2) A post-mortem report signed by a veterinarian employed by the United States Bureau of Animal Industry or the Minnesota Livestock Sanitary Board or a qualified veterinarian authorized by the Board to conduct a field post-mortem inspection together with an estimate of such inspector of the value of the carcass after slaughter or satisfactory evidence of such value as indicated by a sales account from a butcher, meat dealer or other person who has purchased such animal or carcass thereof; or

(3) Other satisfactory evidence of compliance with the law submitted to the Board in support of such claim for indemnity.

## Department of Revenue

### Proposed Rules Governing the Ad Valorem (Property) Taxes Imposed on Utility Companies

#### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room #51, Ground Floor, State Office Building, Wabasha Street and Park Avenue, Saint Paul, Minnesota 55155, on Wednesday June 6, 1979 commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Steve M.

Mihalchick, Office of Hearing Examiners, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, (612) 296-8112, either before the hearing or within five days after the close of the hearing, or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner.

The proposed rules if adopted will effectively amend the present rules and regulations of the Department of Revenue relating to ad valorem (property) taxes. The present rules deal generally with the valuation, allocation, and apportionment of electric, gas distribution, pipeline, and cooperative electric companies. The proposed rules would: 1) modify the cost approach to the valuation process for electric companies by allowing an additional 1% depreciation on the original cost of the companies' assets, and increasing the study period to be used when computing the "average cost per kilowatt of installed capacity"; 2) revise the income approach to valuation for electric, gas, and pipeline companies by weighting the income to be capitalized and increasing the capitalization rate; 3) change the procedure used to apportion the market value of electric, gas, and pipeline companies to the various taxing districts in Minnesota.

Copies of the proposed rules are now available, and one free copy may be obtained by writing to G. D. Garski, Manager of State Assessed Property, Property Equalization Division, Second Floor, Centennial Office Building, Saint Paul, Minnesota 55101, (612) 296-5131. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 270.06; 270.11, subds. 1 and 6; 273.37, subds. 2; and 273.38.

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

Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after commencing lobbying. "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

# PROPOSED RULES

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 while 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 § 500.24, subd. 1, who does not spend over \$250, excluding his own travel expenses in any year in communicating with public officials.

Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, phone number (612) 296-5615.

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

April 11, 1979

Clyde E. Allen, Jr.  
Commissioner

## Rules as Proposed

### Chapter One: Valuation and Assessment of Electric, Gas Distribution, and Pipeline Companies (Utility Companies)

**13 MCAR §1.0001 TaxAdVal-1 Introduction.** On October 19, 1973, the Minnesota Supreme Court in Independent School District No. 99, et al. v. Commissioner of Taxation, 297 Minn. 378, ruled that in estimating the market value of utility properties for ad valorem tax purposes, the assessing authorities must consider every element and factor affecting market value. The assessment formula used to value operating utility property since 1962, based solely on the original cost less limited depreciation and commonly known as the “Hatfield Formula,” was thus invalidated as a rule of general application.

These regulations are promulgated to fill that void and reflect the manner in which the value of utility property will be estimated by utilizing data relating to the cost of the property and the earnings of the company owning or utilizing the property.

Since the Commissioner of Revenue is by statute the assessor of some of the utility property in the State of Minnesota and has supervisory powers of all assessments of property, and may raise or lower values pursuant to Minn. Stat. § 270.11, he will estimate the valuation of the entire system of a utility company operating within the state. The entire system will be valued as a unit instead of valuing the component parts and the resulting valuation will be “allocated” or assigned to each state in which the utility company operates. Finally, by the process of apportionment, the portion allocated to Minnesota will be distributed to the various taxing districts within the state. All data used in the valuation, allocation, and apportionment process will be drawn from reports submitted to the Department of Revenue by the utility companies. These reports will include Minnesota Department of Revenue Annual Utility Reports (UTL Forms), Annual Reports to the Federal Power Energy Regulatory Commission and Annual Reports to the Interstate Commerce Commission. Periodic examinations of the supporting data for these reports will be made by the Department of Revenue.

The methods, procedures, indicators of value, capitalization rates, weighting percents, and allocation factors will be used as described in ~~TaxAdVal 3 through 7~~ 13 MCAR §§ 1.0003-1.0007 for ~~1975~~ 1979 and subsequent years, or until, in the opinion of the Commissioner of Revenue, different conditions justify a change.

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## PROPOSED RULES

As in all property valuations the Commissioner of Revenue reserves the right to exercise his judgment whenever the circumstances of a valuation estimate dictate the need for it.

**13 MCAR § 1.0002 TaxAdVal-2 Definitions.** As used in this chapter, the following words, terms and phrases shall have the meanings given to them by this regulation, except where the context clearly indicates a different meaning.

A. Allocation — the process of dividing the unit value of a utility company among the states in which the utility operates.

B. Apportionment — the process of distributing that portion of the utility company's unit value which has been allocated to Minnesota to the various taxing districts in which the utility company operates.

C. Book depreciation — the depreciation shown by a utility company on its corporate books, and allowed the company by various regulatory agencies.

D. Capitalization rate — the relationship of income to capital investment or value, expressed as a percentage.

E. Electric company — any company engaged in the generation, transmission or distribution of electric power, excluding cooperatives and municipal corporations.

F. Gas distribution company — any company engaged in the distribution of natural or synthetic gas excluding cooperatives and municipal corporations.

G. Installed capacity — the number of kilowatts a power plant is capable of producing as shown by the nameplates affixed to the generators by the manufacturer.

H. Integrated company — any company engaged in two or more utility operations within Minnesota, such as electric distribution and gas distribution, within the framework of one corporate structure.

I. Major generating plant — any steam electric power plant capable of generating 25,000 KW (kilowatts) or more; or any hydroelectric, internal combustion, or gas turbine power plant capable of generating 10,000 KW or more.

J. Net operating earnings — earnings from system plant of the utility after the deduction of operating expenses, depreciation, and taxes but before any deduction for interest.

K. Non-formula assessed property — property of a utility which is valued by the local or county assessor rather than by the Commissioner of Revenue.

L. Operating property — any property, owned or leased, except land that is directly associated with the generation,

transmission, or distribution of electricity, natural gas, gasoline, petroleum products, or crude oil. Examples of operating property include but are not limited to substations, transmission and distribution lines, generating plants, and pipelines. Land, garages, warehouses, office buildings, pole yards, radio communication towers, and parking lots are examples of non-operating property.

M. Pipeline company — any company engaged in the transmission of natural gas, gasoline, petroleum products or crude oil via a fixed line of pipes.

N. System plant — the total tangible property, real and personal, of a company which is used in its utility operations in all states in which it operates.

O. Unit value — the value of the system plant of a utility company taken as a whole without any regard to the value of its component parts.

P. Weighted pipe line miles — the product obtained by multiplying the number of miles of each size of a pipeline by the diameter in inches of each size. Example: a 6 mile pipeline having 3 miles with a 10 inch diameter and 3 miles with a 30 inch diameter would have a weighted miles product of 120.

### **13 MCAR § 1.0003 TaxAdVal-3 Valuation.**

A. (a) General. Because of the unique character of public utility companies, such as being subject to stringent government regulations over operations and earnings, the traditional approaches to valuation estimates of property (cost, capitalized income and market) must be modified when utility property is valued. Consequently, for the ~~1975~~ 1979 and subsequent assessment years, until economic and technological factors dictate a change, the value of utility company property will be estimated in the manner provided in this chapter.

B. (b) Market approach. Market value implies a price for which an entire public utility enterprise might reasonably change hands between willing and informed buyers and sellers. The term presupposes a market of normal activity, no urgency to buy or sell on the part of either buyer or seller, and continued operation of the utility as a single entity. Public utility property is seldom transferred as a whole unit under these circumstances. Consequently, after consideration of this approach, it has been decided that valuation of utility properties by this approach is speculative and unreliable and will not be employed as a method of valuation for utility property at this time.

C. (c) Cost approach. The cost factor that will be considered in the utility valuation formula is the original cost less depreciation of the system plant, and improvements, plus the original cost of construction work in progress on the

# PROPOSED RULES

assessment date. Depreciation will not be allowed on construction work in progress. Depreciation will be allowed as a deduction from cost in the amount allowed on the accounting records of the utility company, as such records are required to be maintained by the appropriate regulatory agency. Depreciation, however, shall not exceed the prescribed percentage of cost: for electric companies, 17 18 percent; for gas distribution companies, 45 percent; pipeline companies, 45 percent.

When valuing electric company property the "average cost per kilowatt of installed capacity" will also be considered. Any excess of average cost per kilowatt of installed capacity over the actual cost of production plant (except land) multiplied by the kilowatts of installed capacity will be added to the original cost of the plant, and reduced by the same rate of depreciation applicable to the original cost. The average cost per kilowatt of installed capacity is computed by averaging the construction costs of production plant (except land) for major generating plants in the Continental U.S. by type of plant, as shown in the latest issues of the Federal Power Commission United States Department of Energy publications, Hydro-Electric Plant Construction Cost and Annual Production Expenses and Steam-Electric Plant Construction Cost and Annual Production Expenses and Gas Turbine Electric Plant Construction Cost and Annual Production Expenses. Average cost per kilowatt of installed capacity will be determined after excluding federally constructed, multi-purpose projects, and nuclear electric generating plants. The period periods to be used for computing the hydroelectric plant average will be 15 years. The period to be used for computing the steam electric and gas turbine electric plant average will be six years average will be as follows: hydroelectric plants, 15 years; steam electric plants, 10 years; gas turbine plants, 10 years.

The following examples illustrate this procedure. In both examples assume that the study of the most recent construction data available from Federal Power Commission publications indicates that the average cost per kilowatt of installed capacity in a fossil fuel steam plant is \$150 per kilowatt. Each of the two plants is of this type.

1. Plant .....	#1	#2
2. Installed capacity .....	100,000 KW	50,000 KW
3. Year in Service .....	1960	1940
4. Cost of Plant .....	\$15,200,000	\$3,500,000
5. Cost per KW .....	\$152	\$70
6. Average cost per KW ...	\$150	\$150
7. Excess (line 6 - 5) .....	---	\$80
8. Additional value (line 7 × 2) .....	---	\$4,000,000

The cost indicator of value computed in accordance with this regulation will be weighted for each class of utility company as follows: electric companies, 85 percent; gas distribution companies, 75 percent; pipeline companies, 75 percent.

D. (d) Income approach to valuation. The income indicator of value will be estimated by averaging weighting the net operating earnings of the utility company for the most recent three years as follows: most recent year, 40 percent; previous year, 35 percent; final year, 25 percent. After considering, as far as possible, all conditions that may exist in the future that may affect the present annual return, including risk, life expectancy of the property, and cost of money, the capitalization rates used to compute value for the 1975 assessment will be: electric companies, 7.75 8.00 percent; gas distribution companies, 8.00 8.25 percent; pipeline companies 8.25 8.50 percent. The income indicator of value computed in accordance with this regulation will be weighted for each class of utility company as follows: electric companies, 15 percent; gas distribution companies, 25 percent; pipeline companies, 25 percent.

E. (e) Unit value computation. The unit value of the utility company will be the total of the weighted indicator of value.

The following is an example of the computation of the unit value:

Cost indicator of value .....	\$5,000,000 × 75% =	\$3,750,000
Income indicator of value .....	\$4,800,000 × 25% =	\$1,200,000
Unit Value of Pipeline Company ...	100%	\$4,950,000

F. (f) Valuation of utility property of cooperatives. Cooperative associations shall have their utility property valued on the basis of historical cost only since they do not operate on the traditional profit making basis. Depreciation will be allowed as a deduction from cost at increments of 2.5 percent per year but the maximum shall not exceed 25 percent of property used in the generation, transmission or distribution of electric power.

(Cite 1 S.R. 718)  
November 8, 1976

## 13 MCAR § 1.0004 ~~Tax Ad Val~~ Allocation.

A. (a) General. After the unit value of the utility property has been estimated, the portion of value which is attributable to Minnesota must be determined. This process of dividing the unit value of a utility company among the states in which the utility operates is called allocation. Each of the

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# PROPOSED RULES

factors in the allocation formula is assigned a weighted percentage to denote the relative importance assigned to that factor. The resulting sum of the weighted factors multiplied by the unit value yields the valuation of the utility property which will, after the adjustments described in TaxAdVal 5 13 MCAR § 1.0005, be subject to ad valorem tax in the State of Minnesota.

The factors to be considered in making allocations of unit value to Minnesota for the utility companies and the weight assigned to each factor for each class are specified in this regulation.

**B. (b) Electric companies.** The original cost of the utility property located in Minnesota divided by the total original cost of the property in all states of operation is weighted at 90 percent. Gross revenue derived from operations in Minnesota divided by gross operations revenue from all states is weighted at ten percent.

The following example illustrates this formula, assuming a unit value of \$20,000,000.

Minnesota plant cost	.....	$\frac{(\$115,000,000)}{(\$205,000,000)} \times .90 = 50.49\%$
System plant cost	.....	
Minnesota gross revenue	.....	$\frac{(\$ 40,000,000)}{(\$105,000,000)} \times .10 = 3.8 \%$
System gross revenue	.....	
Total percentage allocable to Minnesota	.....	54.29%
Unit value of system plant	.....	\$20,000,000
Amount of value allocable to Minnesota	.....	\$10,858,000

**C. (c) Gas distribution companies.** The allocation of value of gas distribution companies shall be made considering the same factors as are used to determine the allocation of value of electric companies. The weight given to the original cost factor will be 75 percent, and gross revenue shall be weighted 25 percent.

**D. (d) Pipeline companies.** In addition to the cost factor and the gross revenue factor, the factor of weighted pipeline miles shall be considered in allocating the value of pipeline companies. Weighted pipeline miles means the number of miles of pipeline multiplied by the diameter of the pipe, measured in inches. To illustrate, a pipeline 6 miles long has 3 miles of pipe with a diameter of 10 inches and 3 miles of pipe with a diameter of 30 inches. The weighted pipeline miles is 120.

$$\begin{aligned} 3 \text{ miles} \times 10'' \text{ diameter} &= 30 \\ 3 \text{ miles} \times 30'' \text{ diameter} &= 90 \\ \text{Weighted pipeline miles} &= 120 \end{aligned}$$

The following examples illustrate the allocation of value of property of a pipeline company and the weights given to each factor.

Minnesota plant cost	.....	$\frac{(\$13,500,000)}{(\$39,300,000)} \times .75 = 25.76\%$
System plant cost	.....	
Minnesota gross revenue	.....	$\frac{(\$ 2,980,000)}{(\$ 9,300,000)} \times .05 = 1.60\%$
System gross revenue	.....	
Minnesota weighted pipeline miles	.....	$\frac{( 9,500)}{( 27,100)} \times .20 = 7.01\%$
System weighted pipeline miles	.....	
Total percentage allocable to Minnesota	.....	34.37%

## 13 MCAR § 1.0005 TaxAdVal 5 Adjustments for non-formula assessed or exempt property.

**A.** After the Minnesota portion of the unit value of the utility company is determined, any property which is non-formula assessed, or which is exempt from ad valorem tax, will be deducted from the Minnesota portion of the unit value. Only that qualifying property located within the State of Minnesota may be excluded.

**B.** The following properties will be valued by the local or county assessor and, therefore, the formula provided herein for the valuation of utility property will not be applicable for such property.

1. Land
2. Non-operating property
3. Rights of way

**C.** The Minnesota portion of the unit value will be reduced by the original cost of these items except that in the case of non-operating property, the deduction shall be original cost, less the rate of depreciation applicable in the valuation process pursuant to TaxAdVal 3 13 MCAR § 1.0003.

**D.** A deduction from the Minnesota portion of the unit value shall also be made for property, real or personal, which is exempt from ad valorem tax. For instance, pollution control equipment for which an exemption has been granted is exempt. A deduction from the Minnesota portion of the unit value shall be made at original cost, less the applicable rate of depreciation used in the valuation process pursuant to TaxAdVal 3 13 MCAR § 1.0003. The value of personal property, such as office machinery and vehicles, which is not taxed, shall also be excluded from the Minnesota portion of the unit value. The deduction shall be at original cost less the applicable rate of depreciation utilized in the valuation process.

**E.** The utility company shall have the burden of proof to establish that the value of any property should be excluded from the Minnesota portion of the unit value. Accordingly, the utility company shall have the responsibility to submit in the form required by the Commissioner of Revenue, such schedules of exempt or non-formula assessed property as he may require.



## PROPOSED RULES

### 13 MCAR § 1.0006 TaxAdVal-6 Apportionment.

A. After the unit valuation of the utility company has been allocated to the State of Minnesota and has been adjusted pursuant to ~~TaxAdVal §~~ 13 MCAR § 1.0005, the determined amount shall be apportioned or distributed to the taxing districts in Minnesota in which the company operates. This apportionment will be made by the Commissioner of Revenue on the basis of information submitted by the utility companies in annual reports filed with the Commissioner.

B. The following information must be submitted for each taxing district:

1. The market value of the company's operating property by classification, as reflected in the last assessment, including the cost of leased taxable property.

2. ~~The original cost of any new additions since the last assessment, including work in progress on the assessment date.~~ The original cost of the company's operating property by classification, including the cost of leased taxable property.

3. The original cost of any new additions since the last assessment, including work in progress on the assessment date.

4. The market value of any retirements made after the last assessment, as reflected in that assessment.

5. The original cost of any retirements made after the last assessment.

C. ~~The last market value of each company's operating utility property in each taxing district, plus original cost of new~~

~~construction, reduced by the last market value of property retired since the last assessment shall be divided by its total market value in Minnesota. The total market value of each company's operating utility property in Minnesota shall be divided by the larger of:~~

1. ~~a-~~ The last market value of each company's operating utility property in each taxing district, plus original cost of new construction, reduced by the last market value of property retired since the last assessment.

2. ~~b-~~ The original cost × 75 percent of each company's operating utility property in each taxing district plus original cost of new construction reduced by the original cost of property retired since the last assessment.

D. For this purpose, the last market value and the last assessment shall mean the latest assessment immediately prior to the current assessment. The portion of unit value to be assigned to each taxing district will be the resulting percentage multiplied by the Minnesota portion of the unit value, as adjusted pursuant to ~~TaxAdVal §~~ 13 MCAR § 1.0005.

E. If the market value of any parcel of property assessed pursuant to this chapter is increased, the increase entered on the assessment books shall be subject to the limitation provided in Minn. Stat. § 273.11, subd. 2. The amount of decrease in market value of such property, exclusive of property retired or destroyed since the last assessment, shall not exceed ten percent of the value in the preceding assessment.

13 MCAR § 1.0007 TaxAdVal-7 Comprehensive example. An illustration of the methods and procedures described in ~~TaxAdVal 3, 4, 5 and 6~~ 13 MCAR §§ 1.0003-1.0006 is as follows:

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Minnesota was the first state to offer troops for the Union army at the outbreak of the Civil War. Under the command of Colonel William Colvill, a Red Wing newspaper editor, the First Minnesota Infantry Volunteers played a crucial role in the Union victory at the Battle of Gettysburg, July 2, 1863. (Oil painting by Rufus H. Zogbaum; photograph courtesy of the Minnesota Historical Society)

## STATE CONTRACTS

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Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, 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.

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### Department of Health Health Systems Division

#### Notice of Request for Proposals for Consultant Physicians

The Minnesota Department of Health (MDH) is requesting applications from qualified physicians for consultation to several agency programs. All positions would be held by contract, and interested physicians will be required to submit formal proposals according to the procedures required by the Minnesota Department of Administration. Information about these procedures is available from the MDH staff members listed in the position notices that follow. Maximum contract amounts and hourly rates will be discussed in the "request for proposals" (RFPs) issued by MDH for each of the described positions.

**Emergency Medical Services (EMS):** The EMS section is seeking a Medical Director for duties beginning no later than September 1, 1979, to provide continuous advice for its efforts to develop EMS systems in eight regions of Minnesota; to plan improvements in statewide services; and to provide general advice and assistance in efforts to improve educational opportunities for EMS personnel.

Applicants should be actively practicing emergency medicine or a related specialty, be licensed or capable of licensure in Minnesota, have a demonstrated ability for spoken and written communications, and be willing to provide a minimum of the equivalent of one day a week in performing the duties of medical director. Some out-of-state travel and considerable travel in Minnesota will be required. Interested physicians may inquire by telephone or letter to:

Jim Parker  
Assistant Chief  
EMS Section  
Minnesota Department of Health  
717 Delaware Street, S.E.  
Minneapolis, Minnesota 55440  
(612) 296-5281

A copy of the request for proposal for this contract will be forwarded to potential applicants. The deadline for applications is 4:00 p.m., June 30, 1979.

**Long-term Care Medical Consultant:** The Quality Assurance and Review Program is seeking a physician to provide continuous medical guidance on assessment of the quality of care provided to Medicaid patients in long-term care facilities. The physician must have experience in the area of long-term care quality assurance. Consulting services are needed an average of 18 hours per week throughout the year in the Minneapolis office of MDH. The deadline for submission of applications is 4:00 p.m., May 31, 1979. To obtain a copy of the Request For Proposal for Professional Services, contact:

Kent E. Peterson, Chief  
Planning and Resources Control Section  
Minnesota Department of Health  
717 Delaware Street, S.E.  
Minneapolis, Minnesota 55440

**Long-term Care Review:** Consulting services by at least nine physicians are sought for medical review conducted by the Quality Assurance and Review Program. The Program assesses the quality, quantity and appropriate level of care of Medicaid patients in long-term care facilities in Minnesota. Physician's services are needed in long-term care facilities between 2 to 4 days per month and are scheduled throughout the year. Medical review teams operate in eight regions of the State. Travel by each review physician is generally limited to the multi-county region surrounding MDH District offices. The deadline for submission of applications is 4:00 p.m., May 31, 1979. To obtain a copy of the Request for Professional Services, contact Kent E. Peterson at the address given above.

## Department of Economic Development Industrial Development and International Trade Divisions

### Notice of Request for Proposals for Advertising Services

Applications and proposals are being accepted for advertising services for the Industrial Development and International Trade Divisions of the Department of Economic Development.

The Department is accepting applications and proposals for its 1980 fiscal year advertising program. The Industrial Development Division anticipates a \$50,000 budget for media advertising and International Trade anticipates a media advertising budget of \$12,500. These budgets will include production costs and agency fees.

The contract will run from July 1, 1979, to June 30, 1980. Those agencies interested in submitting a proposal should contact James Dahmen, Director of Industrial Development, Minnesota Department of Economic Development, 480 Cedar Street, St. Paul, MN 55101, (612) 296-4039 for an application. Proposals and applications will be accepted until May 14, 1979, until 4:30 p.m.

The Minnesota Department of Economic Development is an equal opportunity employer.

## Department of Natural Resources Minerals Division

### Notice of Request for Proposals to Complete a Computer Model for Estimating Ore Reserves, Resources and Waste Materials of the Mesabi Iron Range

The Department of Natural Resources, Division of Minerals, is requesting contract proposals to develop a computer model for estimating ore reserves, resources and waste volumes using public information drilling data. The program should be designed to calculate ore estimates for the entire

## STATE CONTRACTS

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Mesabi Range or any part of it. The region between Buhl and Gilbert, approximately six townships, has been selected as a test area.

This Request for Proposals does not obligate the State to complete the project. The State reserves the right to cancel the solicitation if it is considered to be in its best interest.

### I. Objectives:

1) To research available computerized ore estimation techniques, and to adopt or modify existing software to satisfy the needs of the Department.

2) To compile public drill hole information in a data base suitable for interaction with the Environmental Planning and Programming Language, Version 5 (EPPL 5), developed by the Minnesota State Planning Agency.

3) To include in the Iron Range Information System the capability of making ore reserve, resource and waste material estimates for the Mesabi Iron Range to aid in making planning decisions.

4) To research the availability of computer methods for both up-dating and/or reproducing conventional maps used in ore estimation.

5) To develop a minerals data base that will recall extensive information such as location (description), type, value, grade, mined tonnage, fee holder, and quantity of all unmined mineral resources of Minnesota.

### II. Program Capabilities:

1) Program must accomplish the following through interactive and/or batch processing.

A) Compile weighted averages of ore grades for each drill hole over varying lengths of footage.

B) Design areas of influence, accurate to within one hundred meters, for each drill hole based on a cross-section technique.

C) Make estimates of tonnages and volumes of different types of ores, waste rock and glacial drift for each area of influence.

D) Calculate the effect of present or projected, new or proposed tax rates pertaining to mineral reserves or changes in production quantities and values.

E) Be able to perform statistical evaluations of the certainty of the calculations.

F) Store data and analyses in a spatial format.

2) Output must be available in the following forms:

#### A) Tabular Format

a) Data listed by drill hole (data base).

b) Results of analyses with accompanying statistics for each 40 acre parcel identified by the State Planning Agency's geocode.

#### B) Map format

a) Planar view by designated horizons.

b) Vertical cross-sections with 360 degree capability.

C) Data stored with spatial orientation must be able to be output in row-column format suitable for direct entry into EPPL 5.

3) A magnetic tape or card deck of the program must be submitted with the following written material:

A) Detailed description of the computerized ore estimation technique adopted or developed for the project.

B) A discussion of the various other techniques reviewed with a complete bibliography.

C) Complete documentation of the software developed with a detailed users guide.

The estimated amount of the contract is \$15,000.00.

The deadline for proposals is May 21, 1979. Parties desiring consideration should submit a technical proposal outlining their plans to:

William C. Brice  
Manager, Environmental Services  
Division of Minerals  
Department of Natural Resources  
Box 45, Centennial Office Building  
St. Paul, MN 55155  
Telephone: (612) 296-4807

**Department of  
Public Welfare  
Moose Lake State Hospital**

**Notice of Request for Proposals  
for Services to be Performed  
on a Contractual Basis**

Notice is hereby given that the Moose Lake State Hospital, Department of Public Welfare, is seeking the following services for the period July 1, 1979, through June 30, 1980. These services are to be performed as requested by the Administration of the Moose Lake State Hospital.

1) Services of a Radiologist to interpret and dictate X-ray films taken by the hospital's X-ray Technician. The estimated amount of the contract will not exceed \$18,000.00

2) Services of a Psychiatrist to perform consultation services in psychiatry one day each week at the Moose Lake State Hospital. Other consultations will occur via phone or mail as needed and as deemed appropriate. The estimated amount of the contract will not exceed \$20,800.00.

3) Services of a Pathologist to perform consultation services in pathology and to perform autopsies as requested by the Chief Executive Officer. Consultation will be performed at the Moose Lake State Hospital. The estimated amount of the contract will not exceed \$4,200.00.

4) Services of a specialist in physical and internal medicine to perform consultation services at the Moose Lake State Hospital. The estimated amount of the contract will not exceed \$18,200.00.

Responses for the above services must be received by May 21, 1979. Direct inquiries to:

Frank R. Milczark  
Chief Executive Officer  
Moose Lake State Hospital  
1000 Lakeshore Drive  
Moose Lake, MN 55767  
(218) 485-4411, ext 242

**Department of  
Public Welfare  
Rochester  
State Hospital**

**Notice of Request for Proposals  
for Laboratory Services**

Notice is hereby given that the Rochester State Hospital, Mental Health Division, Department of Public Welfare, issues a Request for Proposals for various diagnostic laboratory procedures not available in our laboratory.

The estimated amount of the contract in each of these areas will not exceed \$50,000.00. Responses must be received by May 21, 1979.

Direct inquiries to: Steven L. Greene, Accounting Officer, 2110 E. Center Street, Rochester State Hospital, Rochester, Mn 55901.

**Notice of Request for Proposals  
for Pathology Services**

Notice is hereby given that the Rochester State Hospital, Mental Health Division, Department of Public Welfare, issues a Request for Proposals for a pathologist on an approximate half-time basis to oversee our laboratory operation and advise on technical problems.

The estimated amount of the contract in each of these areas will not exceed \$30,000.00. Responses must be received by May 21, 1979.

Direct inquiries to: Steven L. Greene, Accounting Officer, 2110 E. Center Street, Rochester State Hospital, Rochester, Mn 55901.

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## STATE CONTRACTS

### Department of Transportation Surveying and Mapping

#### Notice of Availability of Contract for Photogrammetric Services, Fiscal Year 1980 (July 1, 1979 to June 30, 1980)

The Minnesota Department of Transportation (Mn/DOT) desires an aerial surveys firm to provide the following photogrammetric services conforming to Mn/DOT specifications:

##### 1. Aerial Vertical Photography

Provide negatives taken by the contractor using a precision type aerial camera. The negatives shall be suitable for printing photographs, transparencies, and for use in the State's photogrammetric instruments for map compilation and analytical aerial triangulation.

##### 2. Aerial Oblique Photography

Provide negatives taken by the contractor suitable for printing photography for illustrative purposes.

##### 3. Photographic Laboratory Services

The contractor should have the capabilities to provide from aerial negatives rectified, ratioed and controlled enlargements and mosaics; diapositives 9½" × 9½" by the automatic dodging process on glass or film; screened positives from mosaic negatives; film positive continuous roll from 36" wide scribed roll.

##### 4. Map Compilation

Provide map compilation by Wild A-10 Autograph or equivalent type of instrument for the compilation of topographic maps or photogrammetric cross sections.

Firms interested in submitting a proposal for this contract should write for additional information. Requests for additional information will not be considered if delivered after 4:30 p.m., May 22, 1979.

Send your response to:

E. R. Larson, Director  
Surveying & Mapping Section  
Room 711 Transportation Building  
St. Paul, Minnesota 551155

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## OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject,

either orally or in writing.

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

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### Department of Agriculture Agronomy Services Division

#### Notice of Special Local Need Registration for Lorsban 4E

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B. the Minnesota Department of Agriculture on April 19,

1979 issued a Special Local Need Registration for Lorsban 4E EPA # 464-448 manufactured by The Dow Chemical Company, Agriculture Products Department, PO Box 1706, Midland, MI 48640.

Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label,

## OFFICIAL NOTICES

this Special Local Need Registration permits the use of this pesticide on sunflowers to control cutworms in sunflowers grown only for planting seed.

The application and other data required under Minn. Stat. 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 79-0004) is on file for inspection at:

Minnesota Department of Agriculture  
Pesticide Control Section  
656 State Office Building  
Saint Paul, Minnesota 55155  
(612) 296-8379

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have until May 30, 1979 to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

April 19, 1979

Mark W. Seetin  
Commissioner

### Notice of Special Local Need Registration for Lorsban 15G

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on April 19, 1979 issued a Special Local Need Registration for Lorsban 15G EPA # 464-523 manufactured by the Dow Chemical Company, Agriculture Products Department, PO Box 1706, Midland, MI 48640.

Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide on sugar beets to control cutworms and sugar beet maggots.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 79-0003) is on file for inspection at:

Minnesota Department of Agriculture  
Pesticide Control Section  
656 State Office Building  
Saint Paul, Minnesota 55155  
(612) 296-8379

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have until May 30, 1979 to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

April 19, 1979

Mark W. Seetin  
Commissioner

### Notice of Special Local Need Registration for Amiben

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B, the Minnesota Department of Agriculture on April 19, 1979 issued a Special Local Need Registration for Amiben EPA # 264-138 manufactured by Amchem Products, Inc. Brookside Avenue, Ambler, PA 19002.

Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide on sunflowers as a tank mix with treflan for weed control.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 79-0002) is on file for inspection at:

Minnesota Department of Agriculture  
Pesticide Control Section  
656 State Office Building  
Saint Paul, Minnesota 55155  
(612) 296-8379

## OFFICIAL NOTICES

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have until May 30, 1979 to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

April 19, 1979

Mark W. Seetin  
Commissioner

### Notice of Special Local Need Registration for Vitavax 200 Flowable Fungicide

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on April 19, 1979 issued a Special Local Need Registration for Vitavax 200 Flowable Fungicide EPA # 400-112 manufactured by Uniroyal Chemical, Division of Uniroyal Inc., 74 Amity Road, Bethany, CT 06525.

Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide on soybean seed to control seed diseases.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 79-005) is on file for inspection at:

Minnesota Department of Agriculture  
Pesticide Control Section  
656 State Office Building  
Saint Paul, Minnesota 55155  
(612) 296-8379

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have until May 30, 1979 to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections

and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

April 19, 1979

Mark W. Seetin  
Commissioner

### Notice of Special Local Need Registration for Weedone 170

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on April 19, 1979 issued a Special Local Need Registration for Weedone 170 EPA # 264-222 manufactured by Amchem Products, Inc. Brookside Avenue, Ambler, PA 19002.

Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide on forest plantation area as a conifer release.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 79-0001) is on file for inspection at:

Minnesota Department of Agriculture  
Pesticide Control Section  
656 State Office Building  
Saint Paul, Minnesota 55155  
(612) 296-8379

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have until May 30, 1979 to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

April 19, 1979

Mark W. Seetin  
Commissioner



## Department of Corrections

### Notice of Intent to Solicit Outside Opinion Regarding Non-secure Correctional Residential Facilities for Adults and Juveniles

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.042, subd. 6, (1978), that the Minnesota Department of Corrections is considering proposed new rules for the operation and management for non-secure correctional facilities for adults and juveniles, such as correctional group homes, halfway houses, etc. The Department of Corrections is seeking information and comments from all interested persons or groups concerning the project matter of the proposed rules.

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

John Stewart  
Minnesota Department of Corrections  
Suite 430, Metro Square Building  
St. Paul, Minnesota 55101

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-0142, and in person at the above address.

All statements of information and comments must be received by June 30, 1979. Any materials submitted shall be reviewed and considered by the Department of Corrections during the preparation of the proposed rules. Any written material received by the agency shall become a part of the hearing record in the event rules governing this subject are promulgated.

April 13, 1979

Orville Pung  
Executive Assistant Commissioner

## Energy Agency

### Application of MAPCO Inc. for a Certificate of Need for a Large Liquefied Petroleum Gas Pipeline Order for Hearing and Notice Thereof

It is hereby ordered and notice is hereby given that a contested case hearing concerning the above-entitled matter

will commence at 10:00 a.m. on June 4, 1979, in the Blue Earth County Library Auditorium, 100 East Main Street, Mankato, Minnesota. Public testimony will be taken on June 4 at the same place from 7:00 to 9:00 p.m. The hearing will continue at times and places to be specified by the Hearing Examiner.

This matter is being heard upon the Application for Certificate of Need for a Large Liquefied Petroleum Gas Pipeline Facility filed by MAPCO Inc. on February 22, 1979. The Application was submitted, and the Agency is convening the hearing, on the authority of Minn. Stat. § 116H.13 and 6 MCAR §§ 2.1001-1.1091.

The hearing will be held before Myron Greenberg, Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8109, an independent hearing examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to represent themselves or to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. §§ 15.0411 through 15.052 and procedural rules 9 MCAR §§ 2.201-2.222 and Minn. Rules EA 500-520. Where the procedural rules conflict, the Hearing Examiner's Rules, 9 MCAR §§ 2.201-2.222, supersede the Agency's rules, EA 500-520. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Dwight S. Wagenius, 720 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101, telephone (612) 296-8278.

The purpose of the hearing is to determine whether MAPCO Inc. (hereinafter the "applicant") has justified the need for the facility proposed in its application. The application is for the construction of approximately 65 miles of an 8-5/8 inch liquefied petroleum gas pipeline from a point in Jackson County approximately 5 miles west of Little Spirit Lake on the Minnesota-Iowa border, to Mankato, Minnesota, together with the necessary pumping and piping facilities. The Minnesota segment is the northerly portion of a proposed 94.6-mile pipeline connecting the company's facilities at Sanborn, Iowa, with its facilities at Mankato. The proposed pipeline parallels an existing pipeline of the applicant.

The hearing will address, among other things, the accuracy of the applicant's forecast of demand for the type of energy that will be supplied by the proposed facility, and alternative ways of meeting the demand. Determination must be made whether the consequences of granting the certificate of need outweigh the consequences of denying it, considering socioeconomic and environmental factors. In addition, a certificate of need cannot be granted if it has been demonstrated on the record that the proposed facility

## OFFICIAL NOTICES

will fail to comply with relevant policies, rules and regulations of other state agencies, federal agencies, and local governments which have been considered during the hearing process.

Any person wishing to become a party to the proceeding must file a Notice of Intervention or a Petition to Intervene with the Hearing Examiner pursuant to Minn. Rule EA 506 and 9 MCAR § 2.210 A. The Notice or Petition must be received by the Hearing Examiner on or before May 14, 1979, and a copy must be served on the Energy Agency (at 980 American Center Building, 160 East Kellogg Boulevard, Saint Paul, Minnesota 55101), on the applicant (at 403 Northwestern Bank Building, 161 North Concord Street, South St. Paul, Minnesota 55075, c/o David L. Grannis III), and on known parties at time of intervention. Early intervention is strongly encouraged. Parties must file a Notice of Appearance at least ten (10) days prior to the hearing. (The Notice of Appearance is not a substitute for a Petition to Intervene.)

A prehearing conference will be held pursuant to rule 9 MCAR § 2.213 A. at 1:00 p.m. on May 15, 1979, at the Office of Hearing Examiners, Room 300, 1745 University Avenue, Saint Paul, Minnesota. The applicant shall have its prefiled testimony available for distribution at the prehearing conference. Intervenors must attend the prehearing conference and be prepared to present a complete list of witnesses with prepared testimony or a summary of testimony to be presented. All parties must also present at the prehearing conference the exhibits to be sponsored and relied upon by their witnesses, clearly indicating the witness who will sponsor each exhibit.

Any person who wishes to give testimony, present other evidence or exhibits, or note his appearance at the hearing may do so, pursuant to 9 MCAR § 2.210 E., without having attained party status by intervention. Registration forms for such appearances will be available at the hearing. The time specified for receipt of testimony from persons not parties to the proceeding, as noted in the first paragraph above, is Monday, June 4, 1979, 7-9 p.m.

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

The procedural rules cited above are available for review at the Office of Hearing Examiners (9 MCAR §§ 2.201-.22) and at the offices of the Energy Agency (Minn. Rules EA 500-520). The applicant's application for a certificate of need and the substantive rules applicable to this matter, 6 MCAR §§ 2.1001-.1091, are also available for review at the offices of the Energy Agency and at libraries designated

as Minnesota Environmental Quality Board distribution points. The latter are: the Minnesota Valley Regional Library, Mankato; the Rochester Public Library; the Legislative Reference Library, State Capitol, Saint Paul; and the Environmental Conservation Library, Minneapolis. All rules may be purchased from the Documents Section, Department of Administration, 140 Centennial Building, Saint Paul, Minnesota, 55155, telephone (612) 296-2874. The cited procedural rules provide generally for the procedural rights and obligations of the parties including the right to advance notice of witnesses and evidence, the right to present evidence and cross-examine witnesses, the right to purchase a record or transcript, the right to object to petitions for intervention, the obligation to meet certain time limits, the obligation to file proposed findings and conclusions, and the right to file comments on and exceptions to the findings and recommendation of the Hearing Examiner.

Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence. Requests for subpoenas must be made of the Hearing Examiner in writing, pursuant to rule 9 MCAR § 2.216.

If persons have good reason for requesting a delay in the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the Agency and any other parties.

April 20, 1979

Algernon H. Johnson  
Director

## Department of Health Environmental Health Division

### Notice of Intent to Solicit Outside Opinion Regarding Proposed Revision of Rules Relating to Clean Indoor Air

Notice is hereby given pursuant to the provisions of Minn. Stat. § 15.0412 subd. 6 (1978) that the Commissioner of Health will propose to revise MHD 441-445 (7 MCAR §§ 1.441-1.445). The proposed revision would clarify certain definitions, require that smoking be permitted in no more than 70% of a public place, permit use of the international smoking and no-smoking symbols, prescribe minimum sign sizes, prohibit the use of portable ashtrays in no-smoking areas, and make several other minor changes and clarifications.

# OFFICIAL NOTICES

All interested parties desiring to submit data or views relating to the proposed revision of MHD 441-445 should address their comments (either written or oral) to Ms. Pauline M. Bouchard, Minnesota Department of Health, Division of Environmental Health, 717 S.E. Delaware Street, Minneapolis, Minnesota 55440, or call (612) 296-5525. Evidence submitted for consideration should be pertinent to the matter at hand. Any material received by the Department of Health will become part of the hearing record.

Any materials submitted shall be reviewed and considered by the Department of Health during the preparation of proposed revision. Notice of the public hearing on the proposed revision shall be published in the *State Register* and given to all interested parties who have registered with the Secretary of State's Office in accordance with the provisions of the Administrative Procedures Act.

## Minnesota State Retirement System

### Regular Meeting, Board of Directors

Regular quarterly meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, May 18, 1979, at 9:00 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

### Special Meeting, Board of Directors

Notice is given that the Chairman of the Board of Directors, Minnesota State Retirement System, has called a special meeting of the Board to be held at 9:00 a.m., on May

11, 1979, in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

The purpose of the meeting is to receive and take appropriate action regarding the report of the consulting firm of Towers, Perrin, Forster & Crosby regarding the Data Base — Participant Account System and any other matter which may properly come before the Board.

## Pollution Control Agency

### Behind-Schedule and Substandard Project List

Minn. Stat. § 115.83 (1978) requires the Minnesota Pollution Control Agency ("Agency") to issue an order incorporating a list of principal consulting engineers, contracting engineers, and principal contractors who are responsible for behind-schedule or substandard municipal wastewater treatment projects. The statute also requires the List to be published in the *State Register*. A behind-schedule project is one which, due to failures of design or workmanship or other factors within the reasonable control of the contractor or engineer, the Agency determines is more than 90 days behind schedule. A substandard project is one which, due to failures of design or workmanship, or other factors within the reasonable control of the contractor or engineer, the Agency determines does not accomplish the purpose for which it was designed or constructed.

In accordance with the statute, the Agency has issued an order incorporating the following list.

Terry Hoffman  
Executive Director

### BEHIND SCHEDULE AND SUBSTANDARD PROJECT LIST

#### Behind Schedule Projects

Firm	Municipality or Sanitary District	Nature of Deficiency (Number of Days Behind Schedule)	Project Description
Bolton & Menk (Principal Consulting Engineer)	Waterville, MN 56096	274 Days (As of Dec. 31, 1978)	Facilities Plan (Step 1)
Koehnlein, Lightowler, Johnson, Inc. (Principal Consulting Engineer)	Canby, MN 56220	306 Days (As of Dec. 31, 1978)	Facilities Plan (Step 1)
	Morris, MN 56267	214 Days (As of Dec. 31, 1978)	Plans and Specifications (Step 2)

#### Substandard Projects

Firm	Municipality or Sanitary District	Nature of Deficiency	Project Description	Nature of Correction
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Entries withheld pending outcome of hearings

## OFFICIAL NOTICES

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### Department of Transportation

#### Notice of Application and Opportunity for Hearing Regarding Petition to Retire and Remove Two Unnumbered Stub Tracks Located at Rochester, Minnesota

Notice is hereby given that Chicago and North Western Transportation Company with attorneys at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.47 and § 218.041, subd. 3 (10) to retire and remove two unnumbered stub tracks located at Rochester, Minnesota.

The petition recites among other matters that: "The subject tracks are no longer needed for rail transportation service, and constitute a continuing and burdensome maintenance expense. The tracks are not used at the present time and there is no present prospect that the subject tracks will be needed in the future. The only shippers, patrons or members of the public who might have any interest in the retention of the tracks or facilities, or who have used the same to any substantial degree within the past several years are:

Mobile Oil Corp., Don W. Fisher Co., Inc., Sound World, Greenway Coop and Midland Coop."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before May 21, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

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

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

April 17, 1979

Richard P. Braun  
Commissioner

## SUPREME COURT

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### Decisions Filed Friday, April 20, 1979

Compiled by John McCarthy, Clerk

46571  
48229/295

Lorna Lee Hefpel, by Her Guardian Ad Litem, Richard Hefpel, vs. Steven J. Bashaw, Petitioner and Marjorie Caroline Erickson, Appellant, vs. Mark Anthony Stassi and County of St. Louis, Appellant. Houston County and St. Louis County.

Pending a legislative resolution, and in recognition of not only the mother's and putative father's interests but also of the developing and significant interest of an illegitimate child in an accurate determination of paternity, in the exercise of our supervisory authority to ensure the fair administration of our adversary system of justice, we hold that counsel should be provided an indigent defendant who meets the eligibility standards prescribed by Rule 5.02, Rules of Criminal Procedure, as implemented by the guidelines set forth in the commentary to that rule.

We, therefore, affirm our initial decision in Hefpel v. Bashaw and reverse the order appointing counsel in Erickson v. Stassi. Rogosheske, J.

## SUPREME COURT

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**48646/400 Village of New Brighton, Petitioner, vs. Duane B. Jamison, et al, Richard Miller, Appellant, James P. Miley, applicant. Ramsey County.**

Defendant in a summary proceeding for the enforcement of an attorney's lien pursuant to Minn. St. 1976, § 481.13(3), who made a general appearance in response to an attorney's notice of motion, has waived his objection that the attorney did not proceed with an order to show cause.

The lien asserted by the attorney, as amended, was a charging lien; therefore the summary proceeding provided by § 481.13(3) to establish and determine the amount of the lien was appropriate. Defendant is not entitled to a jury trial on this issue.

Under clause (1) of § 481.13 or clause (2) of § 481.13, the attorney has a lien on defendant's cause of action or on the condemnation judgment.

Affirmed. Peterson, J. Took no part, Todd, J.

**48525/412 Allan C. Bock vs. Randall Lindquist, et al, Appellants. Hennepin County.**

A parent has no cause of action for alienation of a child's affections. Reversed. Peterson, J.

**48093/353 Mary Ellen Harrington, Appellant, vs. County of Ramsey, et al, State of Minnesota, et al, Dr. Thomas Comfort, M.D., Richard Edwards, M.D., et al. Ramsey County.**

An appeal from an order for summary judgment rather than the entry of summary judgment will not be dismissed, although technically improper, where the procedural infirmity was due to inadvertence and the respondent is not prejudiced by such infirmity.

Short, temporary occasions of mental illness are insufficient to toll the statute of limitations on the basis of "insanity" unless such short occasions substantially impair the general ability of the plaintiff to understand her rights, manage her affairs, and prosecute the claim. There is sufficient factual dispute in this record concerning plaintiff's insanity to preclude summary judgment.

Because the cause of action arose prior to the abolition of sovereign immunity, the state is immune from liability for medical treatment at Hastings and Anoka State Hospitals as such treatment is provided in a governmental capacity rather than proprietary capacity.

Reversed and remanded. Todd, J. Took no part, Otis, J.

**48995/64 Ronald Brakke vs. Mark A. Beardsley, Clay County Codes Administrator and the State of Minnesota, Henry Corneliusen, Jr., et al, intervenors, Appellants. Clay County.**

Intervention in a zoning dispute after trial and for the sole purpose of perfecting an appeal was untimely and inappropriate when sought by certain homeowners 10 months after an order in favor of the plaintiff and 9 months after denial of the defendants' petition for a writ of prohibition.

Appeal dismissed. Todd, J.

**48791/120 Debra Bautch vs. Red Owl Stores, Inc., Appellant. St. Louis County.**

The right of arbitration is waived when trial court proceedings are not expeditiously challenged on the grounds of failure to arbitrate.

An employer may not discharge an employee on the basis of an alleged violation of a company policy when the management itself violates the policy and condones employee violation of the policy.

Affirmed. Todd, J.

**48309/262 John Syrovatka, petitioner, Appellant, vs. State of Minnesota. McLeod County.**

When, as here, the defendant in a criminal case makes a minimal showing that the testimony of an informer is necessary to a fair determination of the issue of guilt or innocence and the state invokes its privilege to refuse to disclose the informer's identity, then the trial court should hold an *in camera* hearing to determine whether there is a reasonable probability that the informer's testimony is necessary to a fair trial; and if the court determines that there is a reasonable probability that the informer's testimony is material but the state elects not to disclose his identity, then the court should dismiss the charges to which the testimony would relate.

Where the state admits that the other-crime evidence was improperly admitted on the theory that defendant had put his character "in issue" but seeks to justify the admission of the evidence on other grounds, we need not decide the issue where, as here, it appears that in any event the evidence was nonprejudicial.

Error was not committed in the admission of other evidence.

Remanded with directions. Wahl, J.

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