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STATE REGISTER

STATE OF MINNESOTA

EXECUTIVE ORDERS

RULES

PROPOSED RULES

STATE CONTRACTS

OFFICIAL NOTICES

SUPREME COURT

VOLUME 3, NUMBER 50

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Pages 2205-2260



STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUMES 3 AND 4			
51	Monday June 11	Monday June 18	Monday June 25
52	Monday June 18	Monday June 25	Monday July 2
1 (Volume 4)	Monday June 25	Monday July 2	Monday July 9
2	Monday July 2	Monday July 9	Monday July 16

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

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

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

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

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MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in Volume 3, Numbers 40-50 of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here al-

though they are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules in Volume 3 of the *State Register* is published each quarter and at the end of the volume year.

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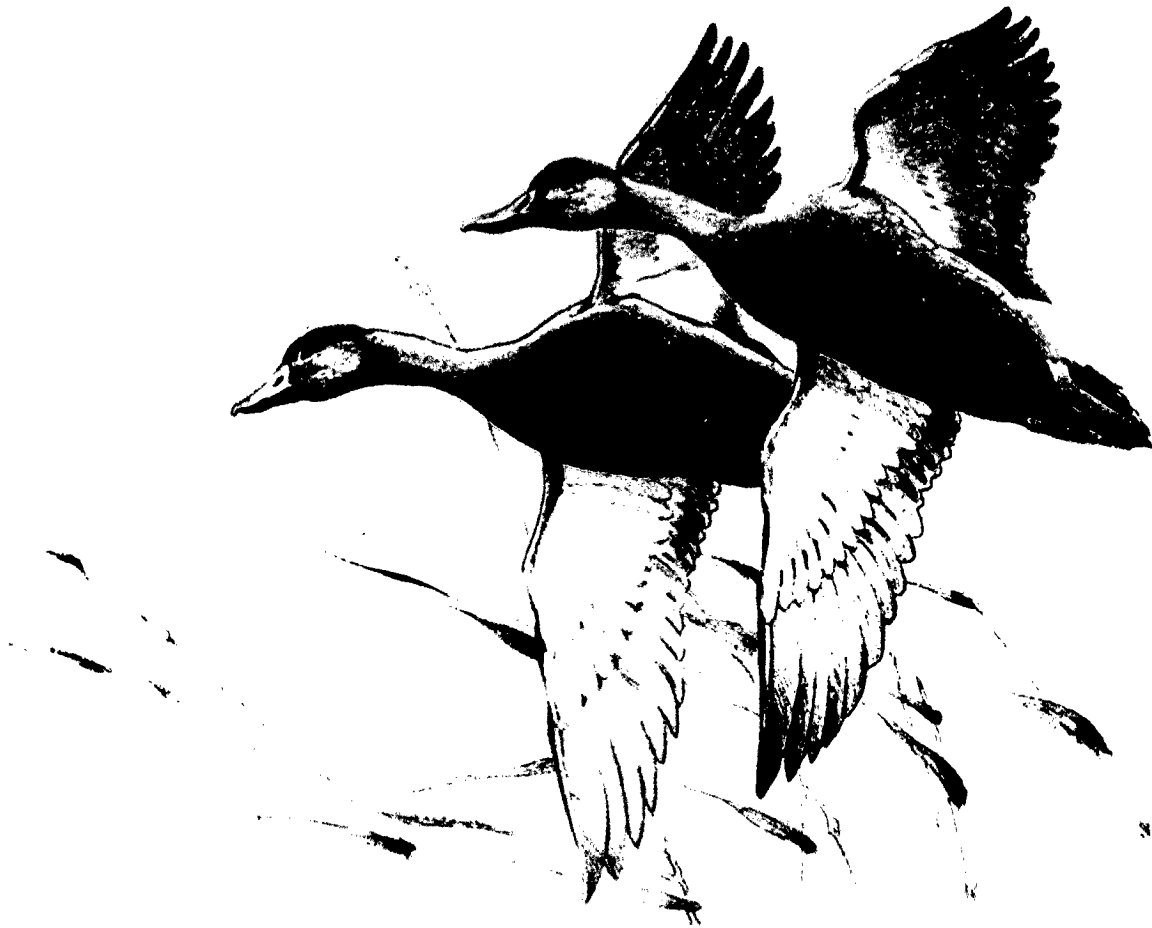
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Black Ducks, 1940 Duck Stamp, 12 × 9 engraving by F. Lee Jaques. (Courtesy of John Ford Bell Museum of Natural History, University of Minnesota)

EXECUTIVE ORDERS

Executive Order No. 79-26

Providing for the Delegation of Health Planning and Development Authority to the Minnesota State Planning Agency and for the Creation of a Statewide Health Coordinating Council

I, Albert H. Quie, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable Statutes, hereby issue this Executive Order:

WHEREAS, health planning and development is of concern and importance to the state; and,

WHEREAS, federal law directs state participation in health planning and development activities and in the allocation of health resources; and,

WHEREAS, no state agency has been designated by law to apply for, to receive, and to accept federal funds for such purposes; and,

WHEREAS, Minn. Stat. § 4.07 permits the Governor, or any agency designated by him, to comply with any and all requirements to enable the application for, the receipt of, and the acceptance of such federal funds;

NOW, THEREFORE, I order:

1. That pursuant to P.L. 93-641, as amended, the National Health Planning and Development Act, Section 1524, there be established a Statewide Health Coordinating Council whose members are appointed by the Governor and whose responsibility it will be to perform those functions provided for in Section 1524. The composition and terms of membership shall be as dictated by federal law.

2. That pursuant to P.L. 93-641, as amended, the State Planning Agency be designated as the State Health Planning and Development Agency and be assigned the authority and responsibility to execute the provisions of Sections 1521, 1522, and 1523 of that Act, and to coordinate and supervise the administration of any of those functions which may be assigned to another state agency as required for the implementation of the Act and to coordinate the network of the seven health systems agencies in the state referenced in Minn. Stat. § 145.74. As the State Health Planning and Development Agency, it shall perform these activities in conjunction with the Statewide Health Coordinating Council.

3. That further, pursuant to 42 U.S.C. Section 1320a-1, as amended, the Agency be designated as the state agency whose responsibility and authority will be to prepare and submit to the Secretary of Health, Education, and Welfare, findings and recommendations on capital expenditures for health care facilities in the state.

4. That further, pursuant to P.L. 94-484, the Health Professions Educational Assistance Act of 1976, the Agency be responsible for performing the Governor's review of health manpower shortage area designations.

Pursuant to Minn. Stat. § 4.035, this order shall be effective 15 days after publication in the *State*

EXECUTIVE ORDERS

Register and shall be in force until superseded or rescinded by proper authority or it expires in accordance with Section 4.035.

In testimony thereof, I hereunto set my hand on this 31st day of May, 1979.

Albert H. Jure

RULES

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 Health Rules Relating to Tests of Infants for Inborn Metabolic Errors Causing Mental Retardation

The rules proposed and published at *State Register*, Volume 3, Number 13, pp. 679-682 October 2, 1978 (3 S.R. 679) are adopted with the following amendments:

PROPOSED RULES

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

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

Rules as Adopted

Chapter 11: 7 MCAR § 1.172

B.4. "Responsible party" means the administrative officer or other person in charge of each hospital where the child is born, and the ~~person required to register the birth of a child (Minn. Stat. § 144.159, 1976*)~~ physician or other person operating under the supervision of a physician in attendance at the birth, or if not so attended, one of the parents.

C.1.(b) Collect or have collected a specimen for screening no later than the fifth day after the infant's birth, unless the parents lawfully object to such screening. If this specimen is taken prior to the third day of life or prior to 24 hours after beginning breast or milk formula feeding, the responsible party shall notify the parents or legal guardian verbally and in writing of the necessity of having the PKU test repeated on their newborn not later than the 14th day of life. If taking a blood sample at the times specified above is medically contraindicated, the sample shall be taken as soon as the infant's condition permits.

C.2.(c) Notify the attending physician within 24 hours, verbally and in writing by deposition in first class mail, of positive screening results and provide consultation on diagnostic and treatment sources available.

C.3.(b) If he refers a patient with positive screening results to a medical specialist for diagnosis and/or treatment, he may delegate the responsibility for reporting a confirmed diagnosis to the medical specialist.

Department of Administration Building Code Division

Notice of Withdrawal of Proposed Rules and Cancellation of Hearing Regarding Training and Certification of Evaluators for Energy Disclosure Program

Notice is hereby given that the Department of Administration is withdrawing proposed rules and Notice of Hearing

PROPOSED RULES

relating to the above subject as published at *State Register*, Volume 3, Number 43, April 30, 1979, pp. 1972-1974.

The scheduled hearing has been postponed due to legislative changes to Minn. Stat. § 116H.129, subd. 1, in Special Session Senate File No. 2 of the 71st legislature. The effective date of the evaluation program has been changed from October 1, 1979 to October 1, 1980.

The hearing will be rescheduled later, after required amendments to the rules.

Department of Corrections

Proposed Rules Establishing Minimum Standards for Adult Halfway Houses and Group Foster Homes

Notice of Hearing

Notice is hereby given that a public hearing will be held in the above entitled matter in room 116A of the State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155 on July 19, 1979, commencing at 9:00 a.m. and continuing until all interested or affected persons have had an opportunity to participate.

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

Written material may be submitted and recorded in the hearing record for five working days after the public hearing

ends, or for a longer period not to exceed 20 calendar days if ordered by the Hearing Examiner.

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

Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778, to be effective September 1, 1979, provides that the Commissioner of Corrections shall promulgate rules establishing minimum standards for all correctional facilities throughout the State whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to the law except to the extent that they are inspected or licensed by other State regulating agencies. The rules which follow are intended to fulfill that requirement for all correctional group foster homes and correctional adult halfway houses. The purpose of these standards is to facilitate the implementation of rules in accordance with Minn. Stat. § 241.021, and to provide a framework for inspection and licensing of group foster homes, and adult halfway houses.

The proposed rules are divided into two chapters: Adult Halfway Houses and Group Foster Homes.

Chapter 1: Adult Halfway Houses

The rules listed below would establish standards for the licensing, the administration and the delivery of the following services.

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

PROPOSED RULES

- Rule 402 Definitions.
- Rule 403 Procedures for licensing.
- Rule 404 Organization and administration of Adult Halfway Houses.
- Rule 408 Execution of policy — the facility administrator.
- Rule 412 Fiscal management.
- Rule 416 Personnel.
- Rule 418 Admission and placement policies.
- Rule 420 Program.
- Rule 424 Nutrition and food.
- Rule 428 Special procedures.
- Rule 432 Physical facility.
- Rule 436 Health services.
- Rule 440 Records and evaluation.

Chapter 2: Group Foster Homes

The rules listed below would establish standards for the licensing, the administration and the delivery of the following services:

- Rule 445 Definitions.
- Rule 446 Procedures for licensing.
- Rule 456 Group Foster Parent qualifications.
- Rule 460 Health of persons living in the Group Foster Homes.
- Rule 464 Training for Group Foster Parents.
- Rule 470 Program.
- Rule 474 Special procedures.
- Rule 478 Physical facility.
- Rule 482 Health care and medical services.
- Rule 486 Nutrition and food.
- Rule 490 Records.

One free copy of the proposed rule will be available upon request by writing to: Department of Corrections, Standards Development Unit, Suite 430, Metro Square Building, St. Paul, Minnesota 55101, c/o John Stewart, or by calling (612) 296-0142.

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

“Lobbyist” means any individual:

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

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

“Lobbyist” does not include any:

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

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

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

May 31, 1979

Jack Young
Commissioner

Rules as Proposed

Chapter 1: Adult Halfway Houses

11 MCAR § 2.401 Introduction.

A. Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778, to be effective September 1, 1979, provides that the Commissioner of Corrections promulgate rules establishing minimum standards for all correctional facilities throughout the state whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to law except to the extent that they are inspected and licensed by other

PROPOSED RULES

State regulating agencies. The rules which follow are intended to fulfill that requirement for all adult halfway houses.

B. The purpose of these standards is to facilitate the implementation of rules in accordance with Minn. Stat. § 241.021, and to provide a framework for inspection and licensing of adult halfway houses.

11 MCAR § 2.402 Definitions. Definitions, for the purpose of these rules are as follows:

- A. "Youth" are persons under 18 years of age.
- B. "Adults" are persons 18 years of age or over.
- C. "Department of Corrections", "Department" or "DOC" shall mean Minnesota State Department of Corrections.
- D. "Commissioner" shall mean the Commissioner of the Minnesota State Department of Corrections or his designee.
- E. "Applicant" is any person(s), agency or organization applying for a license or renewal of license under this rule.
- F. "License" is a certificate issued by the Commissioner authorizing the operator to provide specified services for a period of a year in accordance with the terms of the license, Minn. Stat. § 241.021, and the rules of the Commissioner.
1. "Provisional license" is: 1) a certificate that will be issued for a maximum six (6) month period prior to granting a license; and 2) may be issued for another six (6) month period if the applicant is temporarily unable to substantially comply with the requirements of these rules.
2. "Renewal license" is a license issued for a period subsequent to the period for which the license was issued and where there has been no intervening period during which a license has been revoked.
3. "Revocation of license" means that the operator of a facility shall no longer be authorized to provide services.
4. "Suspension of license" means that the operator is not authorized to provide services for a specified period of time, or until the facility is found to be in substantial compliance with licensing requirements.
- G. "Community Correctional Facility" or "CCF" is

any community based facility, public or private, including group foster homes, juvenile halfway houses, adult halfway houses and shelter facilities, having a residential component, the primary purpose of which is to serve persons placed therein by a court, court services department, parole authority, or other correctional agency having dispositional power over persons convicted of a crime or adjudicated to be delinquent.

H. "Adult Halfway House" means any community-based residential facility, the primary function of which is to provide, through its own program or community resources, services to adults accused of, charged with, or convicted of a criminal offense.

I. "Waiver" is written permission from the Commissioner to disregard a particular section of a licensing rule.

J. "Residential facility" means any Community Correctional Facility which regularly provides 24 hour a day care including food and lodging.

K. "Governing board/Sponsoring agency" is the body which formulates the policies and procedures governing a Community Correctional Facility, this body being composed at a minimum of the offices of president, secretary, treasurer, and the administrator of the program. In addition there may be an advisory board where appropriate including membership from the specific target group and the immediate neighborhood population, and additional membership according to the size and function of the individual program.

L. Facility administrator refers to the administrator of the program, employed or appointed by the board or sponsoring agency, to implement its policies, programs and treatment plans.

M. "Supervising agent" is the parole/probation agent working with an individual resident or set of residents living in a single CCF.

N. "Program" is a plan, procedure or activity for dealing with residents in a community correctional facility.

O. "Treatment plan" is a design for helping the resident reach the goal of rehabilitation.

P. "Contraband" are those items designated by the CCF as prohibited on the physical premises of the facility.

Q. "Significant others" are persons who are important in the life of the resident.

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

PROPOSED RULES

R. "Private corporation" includes any company, association, or body endowed by law with any corporate power or function, except such as are formed solely for public and governmental purposes, which shall be deemed public corporation.

S. "Non-profit corporation" means a corporation formed for a purpose not involving pecuniary remuneration, directly or indirectly, to its shareholders or members as such.

T. "Community Corrections Advisory Board" is the governing body that is responsible for a comprehensive plan under the Community Corrections Act in a county or group of counties.

U. "Target group" means a class of residents with a need for similar services arising primarily out of a particular type of disability, including but not limited to social disabilities resulting in contact with the correctional system.

11 MCAR § 2.403 Procedures for licensing.

A. Legal basis. Licensing authority — The Minnesota Department of Corrections (the Commissioner) is authorized to establish procedures for licensing CCF Adult Halfway Houses through the authority of Minn. Stat. § 241.021, subd. 1 (1976).

B. Procedures. Original application for license.

1. New applicants shall file application to the Commissioner of Corrections at least 30 days prior to the date the facility expects to operate. The Commissioner shall determine the suitability of such applicants by the following rules in this and subsequent sections.

2. Materials to be filed with Adult Halfway House license applications.

a. A statement regarding the philosophy, purpose and function of the program.

b. A statement regarding the administration and organization of the CCF (i.e., information on the governing body and administrator who are responsible for policy making, and administering and operating the facility). See Organization and Administration, § 2.404.

c. A copy of the Articles of Incorporation and bylaws, if incorporation is required.

d. A copy of the constitution and bylaws if not incorporated.

e. A list of the board members and committees, including names, addresses and telephone numbers.

f. An outline of the CCF's program.

g. A list of other facilities which the operator or governing board has operated or is currently operating (either in or out of state).

h. The financial arrangements for the residents.

i. The arrangements for the provision of social services.

j. The arrangements for the provision of medical and dental services.

k. At least three letters of reference.

l. A record of the satisfactory medical examination of each staff member (refer to Personnel, § 2.416).

m. A copy of personnel policies.

n. A copy of intake policies and procedures.

o. A floor plan of the facility with designated room dimensions.

p. Evidence of approval by the fire, safety and health departments.

C. Renewal license.

1. Application for relicensure shall be submitted to the Commissioner at least thirty (30) days prior to the expiration date. Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the community correctional facility, qualifications of the staff, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of renewal license application.

2. Material to be filed with Adult Halfway House license renewal application.

a. A current list of board members and committees.

b. A record of satisfactory medical examinations for each staff member. (A staff information sheet will be provided by the Commissioner.)

c. A report of major changes in the program or facility during the year or contemplated for the coming year.

d. Building plans for any contemplated construction giving room dimensions, specifications and use.

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e. Evidence of approval by the fire, safety, and health departments.

D. Provisional license.

1. A provisional license will be: 1) issued for a maximum six (6) month period prior to issuance of a license; and 2) may be issued for another maximum six (6) month period if the facility is not yet in substantial compliance with these rules, and if evidence of progress is demonstrated. Applications for renewed provisional licenses shall be filed thirty (30) days prior to expiration date. The provisional license shall not be renewed so as to exceed one (1) year.

2. Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the community corrections facility, qualifications of the staff, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of the renewal or change of license application. The following materials are to be submitted with renewal or change of provisional license application:

a. A statement showing which initial requirements listed as conditions of the provisional license have been met; and/or

b. A statement of the plan for meeting the initial requirements listed as conditions of the provisional license which have not been met; and

c. A record of satisfactory medical examinations for each staff member. (A staff information sheet will be provided by the Commissioner.)

3. If, at the end of the six (6) month provisional period, the facility is in substantial compliance with these rules a full license will be issued.

E. Conditions of license.

1. A license shall not be transferable. It shall apply only to the organization or person(s) to whom it is issued and to the building approved. The license shall expire automatically if there is a change in location, organization, procedure or policies, etc., which would affect either the terms of the license or the continuing eligibility for a license. In such cases, an original application for a license must again be filed. To avoid delay, the Commissioner shall be advised

at once of any change so that he/she may determine if the change may be approved and the license modified accordingly.

2. Every license shall be restricted to a specified maximum capacity.

3. An Adult Halfway House must be licensed by the Commissioner in order to operate.

4. No persons shall be placed in an Adult Halfway House prior to its being licensed.

5. Granting of license under these rules is a privilege and not a right.

6. There is no fee for a state license.

F. Revocation, suspension, provision and denial of license. A license may be revoked, suspended, denied or made provisional by the Commissioner if the facility does not maintain compliance with minimum standards, or the facility may be denied a license on the basis of a poor operating history in this or any state. The operator shall be given written notice of the action and shall be given thirty (30) days to comply with minimum standards before action is taken. Failure, inability or refusal to comply with licensing procedures shall be cause for denial, non-renewal, revocation, or suspension of the license.

G. Waiver of specific rule. If in the licensing procedure or enforcement of the standards, the Commissioner finds that:

1. To require a particular community correctional facility to comply strictly with one or more of the provisions will result in undue hardship;

2. The community correctional facility is in substantial compliance with said standards and their general purpose and intent;

3. The community correctional facility complies with such specific condition(s) as the Commissioner may deem necessary for the protection of the health, safety, and welfare of the residents; then the Commissioner may grant a waiver of specific rule. The granting of a waiver shall not constitute a precedent for any other CCF.

H. Study of application. Following the receipt of the application and materials requested, the Commissioner shall cause a study of the proposed services and facilities of the

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applicants to be made. This study shall include, but not be limited to, an on-site inspection of the facilities and investigation of references. Following the study, the representative who conducted the study shall make a recommendation to the Commissioner.

I. Notice to the applicant of Commissioner's action. After the application for license is approved by the Commissioner, the applicant shall receive by mail a license which, as provided by Minn. Stat. § 241.021, shall set forth the conditions under which the CCF may operate. The terms of the license shall include the operating name of the CCF, the maximum number, age range and sex of the residents to be served, and the period of time for which the license is effective, and may include other limitations which the Commissioner may prescribe. An accompanying letter shall contain, in addition to the limitations on the license, any recommendation regarding activities, services, and facilities to be employed. A letter shall accompany a provisional license and state the reason(s) for its being provisional.

J. Appeal procedure. Any applicant who feels aggrieved by the Commissioner's action may appeal the Commissioner's decision in the following manner:

1. The facility administrator shall be given written notice of the action and shall be informed of the right to appeal the decision of the Commissioner in writing within ten (10) days from his or her receipt of notice of the action. Upon receiving a timely written appeal, the Commissioner shall give the facility administrator reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner, appointed by the State Board of Hearing Examiners. The hearing examiner shall recommend to the Commissioner whether the license shall be granted, suspended, revoked or denied. The Commissioner shall not be bound by the decision of the hearing examiner. The decision of the Commissioner shall be served on the operator by certified mail.

2. At any hearing, the facility administrator may be represented by counsel and shall have the right to call, examine and cross-examine witnesses. The hearing examiner is empowered to require the presence of witnesses and subpoena on the behalf of any party. Each decision by the hearing examiner shall be in writing, shall contain findings of fact and conclusion, and shall be mailed to the parties by certified or registered mail. Unless the situation has been found by the Commissioner to be hazardous to the health of residents, a facility may continue to operate, but may not initiate operations, pending a decision of the hearing examiner.

K. When a CCF license has been revoked or not renewed because of non-compliance with applicable laws or rules, it shall not be granted a new license for a period of not less than one (1) or up to five (5) years following the revocation,

denial or non-renewal. The specific length of time shall be determined at the discretion of the Commissioner.

L. Failure of the Commissioner to approve or deny an application within thirty (30) days of receipt of a completed application shall be deemed to be an approval of provisional license.

11 MCAR § 2.404 Organization and administration of Adult Halfway Houses.

A. The public or private agency operating an established Adult Halfway House shall be a legal entity or part of a legal entity.

1. If an Adult Halfway House is to operate as a non-profit corporation, it shall be constituted in accordance with the laws of the State of Minnesota as outlined and prescribed in Minn. Stat. § 317.65, particularly as it relates to governing boards and annual audits.

2. If an Adult Halfway House is to operate as a private profit making corporation it shall be constituted in accordance with the laws of the State of Minnesota as outlined and prescribed in Minn. Stat. ch. 300.

B. Policy-making — the governing board. The board shall have a written policy clearly stating its purposes, the program and services offered. This will be done in a form suitable for distribution to staff, clients, referral sources, funding agencies and the general public.

C. The governing board of the Community Correctional Facility shall hold meetings at least annually with the administrator in order to facilitate communications, establish policy, explore problems, ensure conformity to legal and fiscal requirements, and implement the program.

D. The CCF shall maintain records of its activities, including the minutes of board meetings, financial data and statistical information. All records are subject to review by the Commissioner.

E. The policy manual shall be reviewed annually by the governing board, and updated when necessary.

F. No member of the governing board of an Adult Halfway House shall have any direct financial interest arising from agency business or programs, which would conflict with the performance of his/her duties as a member of the board.

G. The CCF shall identify, document and publicize its tax status with the Internal Revenue Service.

H. The CCF shall have a constitution or articles of incor-

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poration which meet all of the legal requirements of the governmental jurisdiction in which the agency is located.

11 MCAR § 2.408 Execution of policy: The facility administrator.

A. The program shall be managed by a single administrative officer who shall implement the policies of the board.

B. The CCF shall have a system to monitor the program through inspections and reviews by the administrator or designated staff.

C. The CCF shall have an operations manual which summarizes in one document approved methods of implementing agency policies and provides details for daily operations of the program.

D. Bylaws shall meet all the legal requirements of the governmental jurisdiction in which the CCF is located, and shall include provisions for regular and special meetings, and for recording of minutes.

E. Each facility must substantially comply with all applicable licensing requirements of the jurisdiction in which it is located, including requirements of the department of health and all relevant fire and safety codes.

11 MCAR § 2.412 Fiscal management of Adult Halfway Houses.

A. The facility administrator or designated employee shall prepare an annual written budget of anticipated revenues and expenditures which is approved by the funding authority.

B. The CCF shall have written policies which govern revisions in the budget.

C. The CCF fiscal process shall include a financial audit (preferably certified) of the CCF, at least annually, or at time periods stipulated by applicable statutes.

D. The CCF shall prepare and distribute to its governing board, and affected agencies and individuals, at a minimum the following: income and expenditure statements, funding source, financial reports, and independent audit reports.

E. The CCF shall have a written fiscal system which accounts for all income and expenditures on an ongoing basis and which shall include: internal controls, petty cash, bond-

ing, signature control on checks, resident funds and employee expense reimbursement.

F. The CCF shall use a method which documents and authorizes wage payment to employees and consultants.

G. Insurance coverage. The CCF shall have a procedure to provide insurance coverage for itself, which shall include coverage for the physical plant, equipment, and personal and property injury to employees, residents and third parties.

11 MCAR § 2.416 Personnel.

A. Personnel policies.

1. There shall be written personnel policies for personnel employed by the CCF, which specify salaries, increments, hours of work, work schedule, vacations, holidays, sick leave, periodic performance evaluation (at least annually), and other conditions of employment.

2. Personnel policies shall be available to each employee upon employment. The program shall inform each employee of the duties assigned to him/her, a position and organizational chart indicating the person to whom he/she is directly responsible, and general conditions which constitute grounds for dismissal and suspension, and a grievance procedure. The grievance procedures shall allow the aggrieved party to bring the grievance to at least one level above his/her supervisor.

3. The personnel policies shall be available to the Commissioner.

B. The policies shall include provisions for time off, vacation, sick leave, disability, and other employee benefits.

C. During the absence of regular staff for time off, vacation, and sick leave, arrangements shall be provided to ensure consistent care of the residents.

D. The CCF shall have staff available or on call 24 hours a day, and seven days a week.

E. The ratio of staff to licensed capacity shall be: not less than one (1) direct service staff person for every six (6) residents.

F. The CCF shall make provisions for, and allow time for, a confidential personnel record to be kept for each staff

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member which should include date of beginning and end of employment, hours, salary or wages, qualifications, evaluations, resume, references, and training sessions.

G. Training program.

1. The CCF shall provide an orientation session for new employees and new volunteers.

2. The CCF shall provide a minimum of 18 hours per year of ongoing in-service training programs to help staff and volunteers meet the individual and group needs of residents.

3. The CCF shall provide ongoing cultural awareness training sessions for staff and volunteers working with minority residents.

4. It is mandatory that at least one employee on each shift, who is providing direct service to residents, has First Aid Training. Training shall be provided by a Red Cross instructor or a licensed health professional.

5. First aid training shall be current. Certificates or statements of training shall document that first aid training is updated at least every three (3) years.

6. Time shall be available for staff and volunteers to participate in job related training.

7. When residents need special services, staff shall be able to refer them to other resources in the community.

H. Each staff member shall have a mantoux test or chest x-ray annually.

I. Qualifications of staff.

1. For all education requirements, experience in the human services fields may be substituted for education. The CCF shall have a written policy which outlines experience and educational substitutes if the program permits such substitutes.

2. The facility administrator shall have at least a Bachelor of Arts degree in any of the human services fields (or a substitute as provided in 1. above); and two years of work experience in corrections, social service and/or administration.

3. The staff shall have work or volunteer experience in caring for residents in corrections or related experience and shall be selected on the basis of their ability to manage the program and work with other members of the staff.

4. Persons providing professional services shall have achieved recognition to practice in their respective profes-

sions, including but not limited to license, certification, or registration required under state laws (psychiatrists, psychologists, social workers, probation and parole officers, etc.).

J. Volunteers with training and supervision may be used to assist staff of the CCF. If volunteers are used:

1. The Community Correctional Facility shall establish requirements for the selection of volunteers.

2. The Community Correctional Facility and the individual volunteer shall agree on the latter's job assignment. The volunteer's responsibility shall be clearly differentiated from other staff members.

3. If a volunteer is to be used in a capacity normally filled by a paid staff member he/she must meet the same qualifications as a paid staff member.

4. Responsibility for the volunteer program shall be assigned to a specific staff member.

K. All employees, including volunteers, providing direct service to residents shall be at least 18 years of age.

11 MCAR § 2.418 Admissions and placement policies.

A. Admissions policies. The CCF shall establish clearly defined and written admissions policies and procedures, which will state the age range, sex and characteristics of acceptable clients. Admission policies shall be available to be disseminated to all referral sources and the Commissioner.

B. Admission form. The CCF and/or agent making the referral shall complete an initial admission information form on each client to be admitted into residency which, unless prohibited by local ordinance, includes at a minimum:

1. Name;

2. Address;

3. Date and place of birth;

4. Sex;

5. Reason for referral;

6. Whom to notify in case of emergency;

7. Date information gathered;

8. Signature of both interviewee and interviewer gathering information;

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9. Name of referring agency of committing authority;

10. Special medical problems or needs;

11. Legal status, including jurisdiction, length and conditions of placement;

12. Financial arrangements for medical care;

13. Financial arrangements for care.

C. Medical examination. A CCF shall not keep residents in care unless they have had a medical examination 90 days prior to or 30 days after admission to ascertain the existence of any physical disability or communicable disease.

D. Orientation. At the time of intake, the staff shall discuss program goals, services available, rules governing conduct, program rules, and possible disciplinary actions with the participants; this shall be documented.

E. Progress reports. Each resident's progress shall be continuously reviewed in relation to his/her service plan and a written record of review shall be maintained.

F. Completion of or termination from program. The prospective resident shall be informed at the time of intake what expectations there are for completion of and/or successful termination from the program of the CCF.

11 MCAR § 2.420 Program.

A. Project staff and resident shall develop and agree upon a written treatment plan that specifies:

1. The identified needs of the resident;

2. The expected goals and objectives of the individualized plan to be used;

3. The participation of the resident, staff, support services and community resources in the attainment of these goals and objectives;

4. Counseling shall be offered to help the resident with problems that affect his/her ability to have satisfying personal relationships, to realize the capacity for growth, to help the person cope with the crisis of living in a restrictive environment, and to help persons to return to normal living in the community.

B. The agency shall have written policy and procedures

which provide increasing opportunities and privileges for resident involvement with family and in community affairs prior to final release.

C. Involvement in the community.

1. To ensure that resident accessibility to community resources is maximized and existing services are not duplicated the facility director shall develop, and if appropriate, maintain participation or support services consistent with project's mission statement and service delivery plan.

2. The CCF shall use community resources where appropriate to provide residents with the following services, including, but not limited to:

a. Assisting residents in learning to use leisure time constructively;

b. Assisting residents in finding suitable employment;

c. Assisting residents in locating financial assistance through community resources;

d. Assisting residents in education and vocational training programs;

e. Assisting residents with services to become self-sufficient, including, but not limited to, assistance in obtaining housing, transportation, medical, dental services or money management.

D. Work assignments and work program.

1. Required work assignments should be appropriate to residents' ages and ability and they shall not be required to perform work which is inappropriate for them for physical reasons. Reasonable criteria for safety measures should be established when work could be deemed hazardous.

2. Residents shall not be required to perform duties such as: personal duties for staff or replacing employed staff without pay.

3. Staff members shall check and inform residents of applicable minimum wage law, health and safety laws, social security, labor union fees and requirements, etc.

4. Program shall have a written policy with respect to periodic checks of residents at their place of employment.

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E. House rules.

1. There shall be clearly defined policies and procedures allowing the resident input into:

- a. The development of house rules;
- b. The decision making process.

2. The program shall establish a method whereby residents and staff:

- a. Review group, resident or community problems;
- b. Review old rules, new rules, or changes in rules, plans and procedures in the CCF.

3. There shall be a written grievance procedure made available to each resident which outlines rules of the facility, residents' rights, and order of the grievance procedure.

F. Religion. Each resident has the right to freedom of religious affiliation and voluntary religious worship, providing that the exercise of these rights does not directly interfere with the reasonable security and discipline of the facility.

11 MCAR § 2.424 Nutrition and food.

A. When the CCF provides or contracts for food service, it shall ensure that the service meets or exceeds nutritional standards as recommended by the dietary allowance of the Food and Nutrition Board of the National Research Council.

B. When the CCF provides or contracts for food service, the service shall comply with and meet all sanitation and health codes as promulgated by State or local authorities.

C. A minimum of three (3) meals a day shall be available for residents unless an agreement states otherwise.

11 MCAR § 2.428. Special procedures.

A. Discipline and disciplinary action. Discipline should be considered as training to assist residents in the development of self-control, character, and orderly conduct. Informal resolution of conflicts should be considered prior to taking formal disciplinary action. Should disciplinary action be necessary the following rules shall be observed:

1. The CCF shall have written policies which shall be available to the residents, and to staff regarding methods used for control and discipline.

2. All disciplinary action shall be the responsibility of staff members and shall not be delegated to other resi-

dents or persons outside of the program unless special skills are needed to handle the situation.

3. Residents shall not be denied food, mail, or sleep as punishment.

4. Corporal punishment shall not be used.

5. Physical force shall be used only in instances of justifiable self-protection, protection of others, and prevention of property damage, and only to the degree necessary and in accordance with appropriate statutory authority; such action shall be documented and placed on file.

B. Room restriction, facility restriction and privilege suspension.

1. Written policy and procedures shall ensure that room restriction does not exceed eight (8) hours and is used only under the following conditions: the resident is dangerous to himself/herself or others; and/or there is strong evidence to indicate he/she is about to abscond.

2. Written policy and procedures shall ensure that prior to room restriction the resident has the reasons for the restriction explained to him/her, and has an opportunity to explain the behavior leading to the restriction.

3. During room restriction staff contact shall be made with the resident at least hourly to ensure the well being of the resident; the resident shall assist in the determination of the end of the restriction period.

4. Written policy and procedures shall ensure that prior to privilege suspension the resident has the reasons for the suspension explained to him/her, and has an opportunity to explain the behavior leading to the suspension.

5. Written policy and procedures shall ensure that prior to facility restriction (grounding) for up to 48 hours, the resident has the reasons for the restriction explained to him/her, and has an opportunity to explain the behavior leading to the restriction.

6. Written policy and procedures shall ensure that prior to facility restriction for more than 48 hours there is an administrative hearing by a person or panel of staff who are not directly involved in the incident leading to the restriction.

7. All instances of room restriction, privilege suspension and facility restriction shall be logged, dated and signed by staff implementing the discipline procedure; the log shall be reviewed by supervisory staff at least daily.

8. Where extended confinement is necessary, a deten-

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tion facility (with which previous arrangements have been made) should be used.

C. Security procedures. Written policies regarding security measures are necessary and shall include:

1. A written plan shall allow staff to monitor movement into and out of the facility, under circumstances specified in the plan.

2. The staff shall maintain a system of accounting for the whereabouts of its residents at all times.

3. The CCF shall have written procedures for the detection and reporting of absconders.

4. The CCF shall notify appropriate probation officers, parole officers and/or other relevant officials as soon as it has been determined that a resident has run away or is missing.

5. Any general security restrictions must allow for individual protection, as well as protection for others, and must be part of the written program policy.

6. Written policy and procedures prohibit weapons of any kind from being brought into or kept on the program grounds.

D. Personal possessions.

1. Each resident shall be allowed to bring appropriate personal possessions to the CCF and shall be allowed to acquire possessions of his/her own to the extent the facility is able to accommodate secure storage of them.

2. A key inventory system shall be enforced that helps provide staff and resident safety and privacy needs, and assists in protecting and preserving personal property.

3. The CCF shall have written definitions of what will be considered contraband.

4. Information shall be made available to the residents, family members and friends concerning what personal possessions and kinds of gifts are prohibited.

E. Relative to public reports, statements, or appearances.

1. Residents shall not be required to make public statements acknowledging their gratitude to the program

and shall not be required to perform or appear at public gatherings.

2. The CCF shall not use reports or pictures from which residents can be identified without consent from the resident.

a. The signed consent form shall be on file at the CCF before any reports or pictures from which residents can be identified are used.

b. The signed consent form shall indicate on how many occasions the information shall be used.

F. Searches. In compliance with applicable laws, the CCF shall maintain and make public written policies and procedures for conducting searches of residents, their belongings, and all areas of the facility to control contraband and locate missing or stolen property.

11 MCAR § 2.432 Physical facility.

A. The facility shall comply with all applicable codes, ordinances and licensing regulations of the state and/or local jurisdiction in which the facility is located. These shall include, but not be limited to: zoning codes; building codes; housing codes; health and fire codes.

1. It is the responsibility of the facility administrator to request necessary inspections and to comply with any resulting recommendations noted in the inspection reports.

2. Written documentation that all building and zoning codes, fire, health and safety rules are met shall be on file at the CCF and/or conspicuously posted in the facility.

B. Written policy and procedures shall specify the facility's fire prevention regulations and practices to ensure the safety of staff, residents and visitors. These shall include, but not be limited to:

1. Provision for an adequate fire protection service;

2. A system of fire inspection and testing of equipment determined by the local fire official;

3. Smoke detectors;

4. Fire drills and extinguishers.

C. There shall be written plans and procedures for meet-

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ing potential disasters and emergencies, such as fire, severe weather or other emergencies. All staff shall be familiar with the procedures for meeting potential disaster.

D. Building. Building and grounds shall be maintained, repaired and cleaned so that they are not hazardous to the health and safety of residents and staff.

1. New or renovated buildings. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be suitably aligned with the purpose of the adult halfway house and shall be submitted to the following authorities for approval:

- a. Office of the State Fire Marshal;
- b. Local zoning and/or building departments;
- c. Local health department;
- d. The Commissioner.

2. Heating equipment shall be in good condition, vented, and shall be capable of maintaining consistent uniform temperatures as well as eliminating drafts. A comfortable temperature range shall be maintained in all rooms occupied by residents.

3. Bedrooms.

a. Single-bed rooms shall provide at least 70 square feet of useable floor space with a side dimension of not less than seven (7) feet for ambulatory residents. For non-ambulatory residents, the requirements are 100 square feet of useable floor area with a side dimension of not less than nine (9) feet.

b. Multi-bed rooms shall provide at least 60 square feet per person of useable floor space with at least three (3) feet between beds placed side by side, and at least one (1) foot between beds placed end to end for ambulatory residents. For non-ambulatory/non-mobile residents, the multi-bed rooms shall provide at least 80 square feet of useable floor area. Multi-bed rooms for active, non-ambulatory, mobile residents shall be at least 100 square feet per resident. Mobility space at the end and one side of each bed shall be not less than four (4) feet.

c. Bedrooms for non-ambulatory mobile residents shall have adequate accessible space for storage of wheel chairs and other prosthetic or adaptive equipment for daily out of bed activity or acceptable similar storage space shall be provided outside the bedroom readily and handily accessible to the resident.

d. In new or remodeled buildings, sleeping rooms shall accommodate no more than four (4) residents.

4. Each resident shall be provided, at a minimum: bed; mattress; supply of bed linen and towels; chair; adequate lighting; and closet/locker space.

5. Separate bedrooms.

a. Male and female residents shall not occupy the same bedrooms.

b. Youths and adults shall not share bedrooms except in approved circumstances by the facility administrator.

c. Each living unit shall have at least one (1) room with beds and private bath reserved for use of staff when on duty and sleeping in. If fulltime staff reside in the CCF, they shall be provided with a living room, bedroom and bath.

6. Counseling space and visiting room.

a. Private counseling space shall be provided in the facility.

b. Space shall be provided to accommodate group meetings.

c. A visiting area shall be provided where residents may receive and talk with visitors privately.

7. Every facility shall be equipped with adequate and conveniently located toilet rooms for its employees and residents. Washbasins and toilets shall be provided in the ratio of at least one (1) toilet to every ten (10) residents and at least one washbasin for every six (6) residents. At least one bath or shower shall be available for every eight (8) residents.

8. Laundry facility. The facility shall have one (1) washer and one (1) dryer for every 20 residents, or equivalent laundry capacity available in the immediate vicinity of the facility.

E. Transportation.

1. Written policy and procedures shall govern the use and maintenance of facility and resident motor vehicles.

2. Transportation shall be available for use in emergencies.

F. Environment. The governing body shall designate who is permitted to live in the facility.

1. An Adult Halfway House shall not concurrently hold a license for family day care, or group day care, without prior approval of the Commissioner.

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2. An Adult Halfway House shall not have roomers or boarders in the facility without special permission from the facility administrator.

3. The Adult Halfway House shall keep the Commissioner notified as to the presence of all persons living in a CCF other than staff and residents.

4. Staff may live in the CCF as appropriate and with approval of the facility administrator.

11 MCAR § 2.436 Health care and medical services.

A. The facility administrator shall ensure written policies and procedures for use by staff in all medical, dental, and psychological difficulties.

B. Medical coverage shall be arranged for each resident upon admission to the program.

C. Written policies and procedures shall clarify for the staff what medical care may be given by them without specific orders from a licensed medical doctor. The staff shall be instructed as to how to obtain further medical care and how to handle emergency cases.

D. The program health care plan shall adhere to State and Federal laws regarding distribution of medications. The plan shall stipulate that medications be administered only as instructed by a licensed physician.

E. The facility administrator shall establish policies and procedures for reviewing the use, as well as the storage and disbursement of prescription drugs.

F. Written policy shall prohibit participation in medical or pharmaceutical testing for experimental or research purposes.

G. One staff member on each shift of the residential program shall be trained in emergency first aid procedures.

H. The CCF shall maintain working relations with community health care agencies in order to assist residents in meeting their health needs.

I. The CCF shall have first aid equipment which meets American Red Cross standards available at all times for medical emergencies.

J. The CCF shall maintain an inventory control list of

first aid equipment and supplies to ensure sufficient availability of equipment and supplies at all times.

11 MCAR § 2.440 Records and evaluation.

A. Residents.

1. The CCF shall maintain accurate and complete case records, reports and statistics necessary for the conduct of its program. Appropriate safeguards shall be established to protect the confidentiality of the records, and minimize the possibility of theft, loss or destruction.

2. Form and content of case records.

a. In addition to the data required in the intake study, the resident's record shall include consent for necessary dental, medical and surgical treatment, and hospitalization.

b. The CCF shall keep records or have access to ongoing medical information, when available, which shall include:

(1) Dental examinations;

(2) Reports of any illness or injury and treatment given;

(3) Psychological examinations and treatment given, if any;

(4) Use of drugs;

(5) Routine physical examinations and other medical contacts.

c. The record shall include a summary of the resident's progress. These reports shall be recorded regularly and shall include the following:

(1) Reports of significant incidents, both positive and negative, and changes in family situation;

(2) Future planning;

(3) Summary of resident's development;

(4) Grievance and disciplinary actions, if any.

D. All correspondence relevant to the resident shall be kept in the record.

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e. Each record shall have a face sheet bearing factual data and identifying information. The face sheet shall include the following:

- (1) Name;
- (2) Date and place of birth;
- (3) Sex;
- (4) Religion;
- (5) Race;
- (6) Names and addresses of person(s) to be contacted in event of emergency;
- (7) Date of admission;
- (8) Insurance policy numbers, medical number (if any);
- (9) Name of probation officer, parole officer, or welfare worker;
- (10) Date of termination;
- (11) Special medical problems or needs;
- (12) Financial arrangements for medical care;
- (13) Legal status, including jurisdiction, length and conditions of placement;
- (14) Financial arrangements for care.

3. Resident data collected by the CCF shall be shared with individuals or agencies directly involved in the resident's treatment plan. When such information is provided, residents shall be informed. All dissemination of residents' records and information shall be subject to Minn. Stat. § 15.162, subs. 3., 5., and 5.a.

4. The CCF shall provide that a Release of Information Consent Form shall be signed by the resident immediately before each release of information concerning the resident is completed, and a copy of the consent form shall be maintained in the resident's record.

5. The CCF shall have a written policy which conforms at a minimum to applicable Federal law, that relates to the Release of Information Consent Form, which includes:

a. Name of person, agency or organization requesting information;

b. Name of person, agency or organization releasing information;

c. The specific information to be disclosed;

d. The purpose or need for the information;

e. Date consent form is signed;

f. Signature of the resident;

g. Signature of an individual witnessing resident signature.

6. The CCF shall have a written policy which specifies the length of time a case record must be maintained.

7. Residents shall have access to their files upon request at a time convenient to staff.

B. Personnel records.

1. The CCF shall maintain an accurate personnel record on each employee which shall include, at minimum:

a. Initial application;

b. Reference letters;

c. Appropriate results of employment investigation;

d. Training and experience verification;

e. Wage and salary information;

f. Job performance evaluation completed at least annually;

g. Training programs which the employee participated in after employment began;

h. Documentation of sick leave, leave of absence and vacation;

i. Grievance and disciplinary actions, if any;

j. Health and medical reports;

k. Dates of employment and termination with reason for termination.

2. Employees shall have access to their personnel files.

C. Facility records. The board shall maintain records of its activities, including the minutes of board meetings, financial data and statistical information.

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D. Evaluation.

1. The CCF shall have an organized system of information collection, retrieval and review to document their program.

2. Written policy and procedures shall govern voluntary participation in non-medical and non-pharmaceutical research programs.

Chapter 2: Group Foster Homes

11 MCAR § 2.444 Introduction.

A. Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778, to be effective September 1, 1979, provides that the Commissioner of Corrections promulgate rules establishing minimum standards for all correctional facilities throughout the state whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to the law except to the extent that they are inspected or licensed by other state regulating agencies. The rules which follow are intended to fulfill that requirement for all Correctional Group Foster Homes.

B. The purpose of these standards is to facilitate the implementation of rules in accordance with Minn. Stat. § 241.021, and to provide a framework for inspection and licensing of Group Foster Homes.

C. Compliance with the requirements stated herein is the responsibility of the Group Foster Parents. In addition to these rules, the Department of Corrections has Operating Guidelines For Sponsoring Agencies Establishing Group Foster Homes. These Operating Guidelines describe the responsibilities of the Supervising Agent, Coordinator and Sponsoring Agency of a Group Foster Home. The rules and the Operating Guidelines should be read in conjunction with one another in order to get a complete understanding of the administration of Group Foster Homes.

11 MCAR § 2.445 Definitions. Definitions for the purpose of these rules are as follows:

A. "Youth" are persons who are under 18 years of age.

B. "Department of Corrections," "Department", or "DOC" shall mean Minnesota State Department of Corrections.

C. "Commissioner" shall mean Commissioner of the Minnesota State Department of Corrections or his designee.

D. "Applicant" shall mean any person(s), agency or organization applying for a license or renewal of license under this rule.

E. "License" shall mean a certificate issued by the Commissioner authorizing the operator to provide specified services for a period of a year in accordance with the terms of the license, Minn. Stat. § 241.021, and the rules of the Commissioner.

1. "Provisional license" is: 1) a certificate that will be issued for a maximum six month period prior to granting a license; and 2) may be issued for another six month period if the applicant is temporarily unable to substantially comply with the requirements of these rules.

2. "Renewal license" is a license issued for a period subsequent to the period for which the license was issued and where there has been no intervening period during which a license has been revoked.

3. "Revocation of license" means that the operator of a facility shall no longer be authorized to provide services.

4. "Suspension of license" means that the operator is not authorized to provide services for a specified period of time, or until the facility is found to be in substantial compliance with licensing requirements.

F. "Waiver" means a written permission from the Commissioner to disregard a particular section of a licensing rule.

G. "Group Homes," "Group Foster Homes" or GFH shall mean a residential facility where not more than eight (8) delinquent youths are cared for by Group Foster Parents on a 24 hour a day basis.

H. "Operating Guidelines" is the State of Minnesota Department of Corrections' policies and procedures for sponsoring agencies and governing boards for the operation of GFHs.

I. "Sponsoring Agency" is the body which formulates the policies and procedures governing a Group Foster Home. The bodies include but are not limited to: Community Corrections Board, County Court Services, State of Minnesota Department of Corrections, Community Corrections Departments, and non-profit corporations.

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J. "Governing Board" (only applies in the case of privately operated Group Foster Home programs) is the body which formulates the policies and procedures governing a Group Foster Home, this body being composed of, at a minimum, the offices of president, secretary, treasurer and the administrator of the program, a local representative from the community, and additional membership according to the size and function of the individual program.

K. "Coordinator" is an individual who coordinates the operations of all of the Group Foster Homes within a single county.

L. "Group Foster Parents" means the person(s) who carry(ies) out the continuing daily living program in a Group Foster Home and provide(s) care to the youths. The Group Foster Parents may be a married couple or a single adult who is 21 years of age or older.

M. "Resident" is a youth participating in a Group Foster Home program.

N. "Program" is a plan, procedure or activity for dealing with youth in a Group Foster Home.

O. "Service Plan" is a design for helping the youth reach the goal of placement.

P. "Supervising Agent" is the probation officer or parole agent working with an individual youth or with a set of youths living in a single Group Foster Home, or the equivalent of a supervising agent in privately operated homes.

Q. "Courtesy supervision" is supervision, on a regular basis, of an individual youth (or a set of youths living in a single Group Foster Home) by a probation officer or parole agent assigned to the youth's (or youths') case(s) in lieu of or in addition to supervision by a regular supervising agent who does not work within the county in which the Group Foster Home is located.

R. "Significant others" are persons who are important in the life of the resident.

S. "Leave of absence" is a period of up to twelve (12) months during which a set of Group Foster Parents do not provide foster care for any youths.

T. "Contraband" are those items designated by the GFH as unauthorized or unapproved on the physical premises of the facility.

11 MCAR § 2.446 Procedures for licensing.

A. Legal basis. The Minnesota State Department of Corrections (the Commissioner) is authorized to establish pro-

cedures for licensing Group Foster Homes which are maintained and operated in conformity with the rules authorized by Minn. Stat. § 241.021, subd. 1 (1976).

B. Original application for license.

1. New applicants shall file application with the Commissioner of Corrections 30 days prior to the date the facility expects to operate. The Commissioner shall determine the suitability of such applicants by the following rules in this and subsequent sections.

2. Materials to be filed with Group Foster Home license application:

a. A completed application for license on the form issued by the Commissioner;

b. At least three (3) letters of reference for the Group Foster Parent(s) and for any employee involved in child care. References must not be from Department employees nor relatives of the persons referred.

c. An outline of the Group Foster Home's program (ex: philosophy, purpose and function of the program). If a single governing body or sponsoring agency operates more than one (1) Group Foster Home, the manual of the governing body or sponsoring agency will suffice;

d. The intake policy and procedures (including sex, age and interview policies);

e. Evidence that sometime during the twelve months prior to initial licensure, and annually thereafter, each person living in or working in the home has had a mantoux test or chest x-ray;

f. A floor plan of the Group Foster Home with designated room dimensions;

g. A list of other facilities which the operator has operated or is currently operating (either in or out-of-state).

h. Evidence of approval by fire, safety and health departments.

3. As part of the application, the Group Foster Parents shall assist the Sponsoring Agency in making a preliminary home study. This study shall include an inspection of the facility and an investigation into the family's background and references. The Sponsoring Agency shall then make a recommendation to the Commissioner as to whether a license shall be granted or denied.

C. Renewal license.

1. Application for relicensure shall be submitted to the

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Commissioner at least thirty (30) days prior to the expiration date (or date of recontenance of a GFH after a leave of absence). Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the Group Foster Home, qualifications of the Group Foster Parents, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of renewal license application.

2. Material to be filed with Group Foster Home license renewal application.

a. Evidence that sometime during the twelve months prior, each group foster parent and each member of their family and additional staff living in or working in the home has had a mantoux test or chest x-ray;

b. A record of major changes in the program or facility during the year or contemplated for the coming year;

c. Building plans for any contemplated construction giving room dimensions and specifications and use.

d. Evidence of approval by fire, safety and health departments.

D. Provisional license.

1. A provisional license will be 1) issued for a maximum six (6) month period prior to issuance of a license; and 2) may be issued for another maximum six (6) month period if the facility is not yet in substantial compliance with these rules, and if evidence of progress is demonstrated. Applications for renewed provisional licenses shall be filed thirty (30) days prior to expiration date. The provisional licenses shall not be renewed so as to exceed one (1) year.

2. Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the Group Foster Home, qualifications of the Group Foster Parents, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of the renewal or change of license application. The following materials are to be submitted with renewal or change of provisional license application:

a. A statement showing which initial requirements listed as conditions of the provisional license have been met; and/or

b. A statement of the plan for meeting the initial requirements listed as conditions of the provisional license which have not been met; and

c. Evidence that sometime during the twelve months prior each Group Foster Home parent and each member of their family and additional staff living in or working in the home has had a mantoux test or chest x-ray.

E. Conditions of license.

1. A license shall apply only to the organization or person(s) to whom it is issued and to the buildings approved. The license shall expire automatically if there is a change in location, organization, procedure and policies, or a structural modification or addition to the physical facility, which would affect either the terms of the license or the continuing eligibility for a license. In such cases, an application for a transfer of license must be filed. To avoid delay, the Commissioner shall be advised at once of any change so that he/she may determine if the change may be approved and the license modified accordingly. An application for a transfer of license shall include:

a. An outline of any proposed changes in the Group Foster Home's program (ex: philosophy, purpose and function of the program);

b. Any changes in the intake policy;

c. A new floor plan of the Group Foster Home with designated room dimensions.

2. Before any structural modifications or additions to the physical facility are made, the plans shall be approved by the Commissioner.

3. Every license shall be restricted to a specified maximum capacity. No regular GFH shall be licensed with a maximum capacity so high as to allow more than ten (10) youths (including both foster youths and the youths in the Group Foster Parents' natural family) to live in the GFH.

4. There is no fee for a state license.

5. No persons shall be placed in a Group Foster Home prior to its being licensed.

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F. Jurisdictional licensing requirements. Each GFH must substantially comply with all applicable licensing requirements of the jurisdiction in which it is located, including requirements of the local board of health and all relevant fire and safety codes.

1. It is the responsibility of the Group Foster Parents to request the necessary inspections and to comply with any resulting recommendations noted in the inspection reports.

2. Written documentation that all fire, health and safety rules are met shall be on file with the Commissioner. In those jurisdictions where a Fire Marshall report is not required, the applicants shall complete and submit a Fire Safety Checklist supplied by the Commissioner.

3. All Group Foster Parents shall be familiar with the plans and procedures such as fire, severe weather or other emergencies.

G. Waiver of specific regulation. If in the licensing procedure or enforcement of the standards, the Commissioner finds:

1. That to require a particular Group Foster Home to comply strictly with one or more of the provisions will result in undue hardship; and

2. The Group Foster Home is in substantial compliance with said standards and their general purpose and intent; and

3. The Group Foster Home complies with such specific condition(s) as the Commissioner may deem necessary for the protection of the health, safety, and welfare of the residents;

the Commissioner may grant a waiver of specific rules. The granting of a waiver shall not constitute a precedent for any other Group Foster Home.

H. Study of the application. Following the receipt of the application and materials requested, the Commissioner shall cause a study of the proposed services and facilities of the applicants to be made. This study shall include an on-site inspection of the facilities and an investigation of references. Following the study, the representative of the Commissioner who conducted the study shall make a recommendation to the Commissioner.

I. Notice to the applicant of Commissioner's action. After the application for license is approved by the Commissioner, the applicant shall receive by mail a license which, as provided by Minn. Stat. § 241.021, shall set forth the conditions under which the GFH may operate. The terms of the license shall include the operating name of the GFH, the maximum number, sex and age range of the

residents to be served, and the period of time for which the license is effective, and may include other limitations which the Commissioner may prescribe. An accompanying letter shall contain, in addition to the license, any recommendation regarding activities, services, and facilities to be employed. A letter shall accompany a provisional license and shall state the reason(s) for its being provisional.

J. Provision, revocation, suspension and denial of license. A provisional license may be granted if the facility does not substantially comply with licensing requirements. The facility will be given a specified period of time in which to do so, pending revocation or suspension of license if the requirements are not met. A license may be revoked and suspended by the Commissioner if the facility does not maintain compliance with the minimum standards; or if an applicant has violated any federal or state law; or if the applicant has a poor operating history in this state or any other state.

K. Restriction of the use of a GFH. State law provides that the Commissioner may, by written order, restrict the use of any Group Foster Home which does not substantially conform to these minimum standards to prohibit the detention of any person therein for more than seventy-two (72) hours at one time.

L. Appeal procedure for denial, suspension and revocation of license. Any applicant who feels aggrieved by the Commissioner's action may appeal the Commissioner's decision in the following manner:

1. The operator shall be given written notice of action and shall be informed of the right to appeal the decision of the Commissioner. The operator must appeal the decision in writing to the Commissioner within ten (10) days from the operator's receipt of the notice of action. Upon receiving a timely written appeal, the Commissioner shall give the operator reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner appointed by the State Board of Hearing Examiners. The hearing examiner shall recommend to the Commissioner as to whether the license shall be granted, denied, suspended, or revoked. The Commissioner shall not be bound by the decision of the hearing examiner. The decision of the Commissioner shall be served on the operator by certified mail with a return receipt.

2. At any hearing, the operator may be represented by counsel and shall have the right to call, examine and cross-examine witnesses. The hearing examiner is empowered to require the presence of witnesses and evidence by subpoena on the behalf of any party. Each decision by the hearing examiner shall be in writing, shall contain findings of fact and conclusion, and shall be mailed to the parties by certified or registered mail with a return receipt. Unless the situation has been found by the Commissioner to be hazard-

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ous to the health of residents, a facility may continue to operate, but may not initiate operations, pending a decision of the hearing examiner.

M. When a GFH license has been revoked or not renewed because of non-compliance with applicable laws, it shall not be granted a new license for not less than one year and up to five years, at the discretion of the Commissioner.

N. Failure of the Commissioner to approve or deny an application within thirty (30) days of receipt of a completed application shall be deemed to be an approval of provisional license.

11 MCAR § 2.456 Group Foster Parent qualifications.

A. Group Foster Parents shall be mature and responsible, and have the ability to deal openly with the emotions and problems of youth. The Group Foster Parents must also command the respect of youths and be able to firmly discipline them in a constructive way. The Group Foster Parents must also be willing to cooperate with the Commissioner, the Supervising Agent, the Court and all other agencies that are involved in the youths' welfare.

1. A GFH license shall not be issued or renewed where any person (except foster youth) living in the household has any of the following characteristics:

a. A conviction for, or admission of, or substantial evidence of an act of child battering, or child abuse, or child molesting, or child neglect, or incest within the previous five (5) years, and at the discretion of the Commissioner within ten (10) years. Reasonable methods of discipline shall not constitute child battering, child abuse, child molesting, child neglect or incest.

b. Chemical dependency, unless the individual is identified as chemically free for at least twenty-four (24) consecutive months.

c. Residence of the family's own children in foster care, correctional facility, or residential treatment for emotional disturbance within the previous twelve (12) months if, in the judgement of the sponsoring agency, the functioning of the family has been impaired.

d. Felony conviction within the previous three (3) years, or release from incarceration for a felony conviction within the previous three (3) years.

e. Misdemeanor conviction within the previous twelve (12) months, or release from incarceration for a misdemeanor conviction within the previous twelve (12) months.

B. All Group Foster Parents shall be at least 21 years of age at the time of licensure.

C. Physical handicap of Group Foster Parents shall be a consideration only as it affects their ability to provide adequate care to foster youths or may affect an individual youth's adjustment to the family.

D. When all adults in the GFH are employed or otherwise occupied for substantial amounts of time away from home, the plans for care and supervision of the foster youths shall be approved in advance by the Commissioner. At least one Group Foster Parent shall be available at all times in case of emergency.

11 MCAR § 2.460 Health of persons living in the Group Foster Homes.

A. Evidence that sometime during the twelve (12) months prior to initial licensure, and annually thereafter, each person living in the home has had a mantoux test or chest x-ray.

B. When, in the judgement of the licensing authority, any person in the home who exhibits a health problem, an evaluation may be requested of the person as a requirement for licensing.

11 MCAR § 2.464 Training for Group Foster Parents.

A. Every set of Group Foster Parents shall participate in a minimum of 18 hours annually of training related to foster care. The 18 hours may be shared between the Group Foster Parents in the home. When the Group Foster Parents have not completed the required annual training at the time of relicensure, no further placements may be made in the GFH until the Group Foster Parents have complied with the training requirements.

1. The following areas of training are recommended, but are not limited to:

a. Child and adolescent development;

b. Communication skills;

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- c. Roles and relationships in foster care;
- d. Methods of discipline;
- e. Constructive problem solving;
- f. The meaning of family life;
- g. Home safety;
- h. Human sexuality;

2. First aid training.

a. First aid training is mandatory for all Group Foster Parents. Training shall be provided by a Red Cross instructor or a licensed health professional.

b. First aid training shall be current. Certificates or statements of training shall document that first aid training is updated at least every three (3) years.

B. Group Foster Parents who wish to take a leave of absence from foster care for up to twelve (12) months, may have all or part of the requirements waived in proportion to the length of the leave of absence. If the leave of absence exceeds twelve (12) months, the parents shall reapply for a new license.

C. The Group Foster Parents shall make suitable arrangements for the care of foster youths for any periods of vacation, illness, disability or emergency; and the Supervising Agent or Coordinator shall approve the arrangements. Substitute Group Foster Parents shall have the same qualifications as the regular Group Foster Parents (see Group Foster Parent Qualifications, § 2.456), and shall have access to Group Foster Parents' training opportunities (see Training and Group Foster Parents, § 2.464).

11 MCAR § 2.470 Program.

A. Orientation. At the time of intake, group foster parents shall discuss program goals, service(s) available, rules governing conduct, program rules, and possible disciplinary actions with the residents; this shall be documented.

B. Service plan. A service plan shall be developed and shall be implemented based on the special needs of each resident.

C. The Group Foster Parents shall continuously review each resident's progress in relation to his/her service plan, and a record of the review shall be maintained.

D. The GFH's plan shall make some provisions for the following considerations:

- 1. Contact with resident's family and significant others;
- 2. Visitation policies;
- 3. Involvement in the community.

11 MCAR § 2.474 Special procedures.

A. House rules.

1. There may be regular group meetings to help:

a. Review with common problems of the group, or the group's problem with a resident, or a community problem;

b. Develop positive approaches to community participation;

c. Consider formulation of rules, plans and procedures in the GFH.

2. The Group Foster Parents shall be responsible for ensuring that a copy of the written grievance procedure written by the governing body of sponsoring agency shall be available to each resident. The procedure shall outline rules of the facility, residents' rights and the actual grievance procedure.

B. Written emergency (fire, medical, accident, etc.) plans shall be conspicuously posted in the facility.

C. Discipline should be considered as training to assist residents in the development of self-control, character and orderly conduct. Informal resolution of conflicts should be considered prior to taking formal disciplinary action.

1. Residents shall not be subjected to denial of food, medication, mail or sleep as punishment.

2. Physical force shall be used only in instances of justifiable self-protection, prevention of property damage and protection of others, and only to the degree necessary and in accordance with appropriate statutory authority; such action shall be documented and placed on file in the Group Foster Home.

3. Violation of statutory authority with respect to physical abuse shall be grounds for restriction of the GFH's license.

D. Security procedures. Group foster parents shall be accountable for the whereabouts and conduct of residents who have been referred by a court or the Department of Corrections.

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1. Group Foster Parents shall monitor movement into and out of the GFH and account for the whereabouts of its residents outside of the GFH.

2. The Group Foster Parents shall notify appropriate probation officers, parole officers and/or relevant officials as soon as it has been determined that a resident is missing or has run away.

3. Any weapons in the GFH shall be securely stored and shall be the responsibility of the Group Foster Parents.

E. Personal communication. To encourage residents to maintain or develop close relationships with members of their family, friends, relatives, communication channels shall be as open as is possible.

1. Mail policy. Resident's mail, both incoming and outgoing shall not be intercepted except where there is reasonable ground to justify such action. If mail is to be read, such action shall be documented.

2. Use of telephone. Written policy shall provide that residents have access to a telephone to make and receive private calls, and shall state any rules that prohibit access.

F. Personal possessions.

1. Each resident shall be allowed to bring appropriate personal possessions to the GFH and shall be allowed to acquire possessions of his/her own to the extent the GFH is able to accommodate secure storage of them.

2. Group Foster Parents may inspect residents' possessions for contraband if there are reasonable grounds to believe that contraband is present.

G. Relative to public reports, statements or appearances.

1. Residents shall not be required to make public statements acknowledging their gratitude to the program and shall not be required to perform or appear at public gatherings.

2. The Group Foster Parents, Supervising Agent or Coordinator shall not use reports or pictures from which a resident can be identified without written consent from the resident and his/her parents or legal guardians.

a. The signed consent forms shall be on file before

any reports or pictures from which residents can be identified are used.

b. The resident shall be informed that he/she has the right to withdraw his/her consent at any time.

11 MCAR § 2.478 Physical facility.

A. Building.

1. Location. In metro areas, the GFH shall be located so that it is accessible to schools, transportation, hospitals, clinics, mental health resources, churches, libraries, and recreational-cultural facilities. In rural areas, a transportation plan to provide accessibility is sufficient.

2. Bedrooms.

a. Single bedrooms shall provide at least 70 square feet of useable floor space with a side dimension of not less than seven (7) feet for ambulatory residents. For non-ambulatory residents, the requirements are 100 square feet of useable floor area with a side dimension of not less than nine (9) feet.

b. Multi-bedrooms shall provide at least 60 square feet per person of useable floor space with at least three (3) feet between beds placed side by side, and at least one foot between beds placed end to end for ambulatory residents. For non-ambulatory/non-mobile residents, the multi-bedrooms shall provide at least 80 square feet of useable floor area. Multi-bedrooms for active, non-ambulatory, mobile residents shall be at least 100 square feet per resident. Mobility space at the end and one side of each bed shall be not less than four (4) feet.

c. Bedrooms for non-ambulatory mobile residents shall have adequate accessible space for storage of wheel chairs and other prosthetic or adaptive equipment for daily out of bed activity or acceptable similar storage spaces shall be provided outside the bedroom readily and handily accessible to the resident.

d. In new or remodeled buildings, bedrooms shall accommodate no more than four (4) residents.

3. Each resident shall be provided, at a minimum, with bed; mattress; supply of bed linen and towels; chair; adequate lighting; and closet/locker space.

4. Separate bedrooms.

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a. Male and female residents shall not occupy the same bedrooms.

b. Youth and adults shall not share bedrooms except in circumstances approved by the Supervising Agent.

5. Counseling space and visiting room.

a. Space shall be provided to accommodate group meetings.

b. A visiting area shall be provided where resident may receive and talk with visitors privately.

6. Bathroom facilities.

a. Every facility shall be equipped with adequate and conveniently located toilet rooms for its residents. Washbasins and toilets shall be provided in the ratio of at least one toilet and at least one washbasin for every eight (8) residents.

b. At least one bath or shower shall be available for every eight (8) residents.

7. Laundry facility. The facility shall have one washer and one dryer for every 16 residents, or equivalent laundry capacity available in the immediate vicinity of the facility.

8. Dining room. The dining area shall comfortably accommodate, at one time, all of the foster youths plus the natural family living in the GFH.

B. Environment.

1. A GFH may not currently hold a license for family day care, or group day care without prior approval by the Commissioner.

2. All persons living in the GFH shall first be approved by the Coordinator or the sponsoring agency.

3. The Group Foster Parents shall not admit nor dismiss any youth without the authority of the Commissioner, the Juvenile Court, or the youth's Supervising Agent.

4. The Commissioner, the Supervising Agent and any Courtesy Supervising Agent shall have access to the GFH for evaluation at any time during normal working hours and at other times by mutual agreement. For the purpose of investigating complaints concerning the health and safety of the youths, the Commissioner, the Supervising Agent and any Courtesy Supervising Agent shall have access to the GFH at any time during the 24 hour day.

11 MCAR § 2.482 Health care and medical services.

A. Although the policies and procedures of the Department of Corrections' Operating Guidelines instruct sponsoring agencies and governing boards to arrange medical and dental coverage for each resident, group foster parents shall be responsible for implementing the arrangements.

B. If a resident is suspected of having a communicable disease, the group foster parents shall see that he/she is given a physical examination by a qualified physician and any necessary treatment.

C. Medications shall be administered only as instructed by a licensed physician.

D. All medical records shall be maintained including office visits, medications given, dosage, time period and the signature of the person administering the medication. (See Records, § 2.490.)

E. The GFH shall have first aid equipment, which meets American Red Cross standards available at all times for medical emergencies.

F. The Group Foster Parents shall maintain an inventory control list of first aid equipment and supplies to ensure sufficient availability of equipment and supplies at all times.

G. At least one Group Foster Parent shall be trained in emergency first aid procedures.

11 MCAR § 2.486 Nutrition and food.

A. When the group foster parents provide food, they shall ensure that the food meets or exceeds nutritional standards as recommended by the dietary allowance of the Food and Nutrition Board of the National Research Council.

B. A minimum of three (3) meals a day shall be available for residents unless contract states otherwise. The Group Foster Parents shall ensure that the youths receive adequate meals during the day while they are in community activities. This shall include participation in a school lunch program.

11 MCAR § 2.490 Records.

A. Residents' records maintained by Group Foster Home.

1. A record shall be kept of ongoing medical information (when available), including:

a. Immunization;

PROPOSED RULES

- b. Dental examination;
- c. Reports of any illness or injury and treatment given;
- d. Psychological examinations and treatment;
- e. Use of drugs;
- f. Routine physical examinations and other medical contacts;
- g. Consent for necessary dental, medical and surgical treatment, and hospitalization.

2. The record shall include a summary of the resident's progress. These reports shall be recorded regularly and shall include the following:

- a. Reports of significant incidents, both positive and negative, and changes in the family situation;
- b. Plans which involve the resident;
- c. Grievance and disciplinary actions.

3. Each record shall have a face sheet bearing factual data and identifying information. The face sheet shall include the following:

- a. Name;
- b. Date and place of birth;
- c. Sex;
- d. Religion;
- e. Race;
- f. Name of person(s) to contact in emergencies;
- g. Guardianship and custody;
- h. Date of admission;
- i. Insurance policy numbers, medical number, if any;
- j. Name of probation officer, parole officer, or welfare worker;
- k. Date of termination;

- l. Special medical problems or needs;
- m. Financial arrangements for medical care;
- n. Legal status, including jurisdiction, length and conditions of placement;
- o. Financial arrangements for care.

4. Group Foster Parents shall refer any individuals or agencies requesting resident data to the Supervising Agent of the Youth.

5. Unless applicable law provides otherwise, all case records must be turned over to the Supervising Agent after discharge of the resident.

B. Personnel. Group Foster Parents shall have access to their personnel files which are maintained by the Supervising Agent or Coordinator.

Pollution Control Agency Proposed Amendment to SW 11 Granting An Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

Notice of Hearing

Notice is hereby given that rule hearings in the above-entitled matter will be held at the following locations:

July 19, 1979, Thursday, Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota, convening at 10:00 a.m.

July 23, 1979, Monday, Room 135 of Mesabi State Community College, 9th Avenue and West Chestnut, Virginia, Minnesota, convening at 1:00 p.m. and reconvening at 7:00 p.m.

July 24, 1979, Tuesday, Bemidji State University, Lower

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Student Union, Crying Wolf Room, 14th and Birchmont Drive, Bemidji, Minnesota, convening at 1:00 p.m. and reconvening at 7:00 p.m.

July 25, 1979, Wednesday, Crow Wing County Social Service Building, Meeting Room No. 2, East Laurel and 4th Streets, Brainerd, Minnesota, convening at 1:00 p.m. and reconvening at 7:00 p.m.

July 27, 1979, Friday, Mankato State University, Upper Campus, Centennial Student Union, Room 253-254, Ellis and South Road, Mankato, Minnesota, convening at 1:00 p.m.

The hearings will continue until all persons have had an opportunity to be heard. The Agency will present its witnesses and evidence in support of the adoption of the above-entitled matter at the hearing in Roseville, Minnesota.

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

Notice: The proposed amendment to Rule SW 11 is subject to change as a result of the rule hearing process. Specifically, the Agency is considering travel distance requirements in 6 MCAR § 4.5011 A. 1. ranging from 15 to 40 miles among other changes. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed amendment to participate in the rule hearing process.

The proposed amendment, if adopted, will exempt certain small communities from the Agency's standards for the operation of sanitary landfills (contained in Rule SW 6) by the establishment of separate standards for these communities. Currently, the Agency is in the process of revising all of the rules governing the collection, transportation and disposal of solid waste and this amendment is intended to provide an interim exemption for sparsely populated areas pending these total revisions.

The Agency's authority to promulgate the proposed amendment is contained in Minn. Stat. § 116.07 subd. 4 (1978).

Copies of the proposed amendment to rule SW 11 are now available and one free copy may be obtained by writing to Mr. Michael Kanner, Division of Solid Waste, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

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

Notice is hereby given that 25 days prior to the hearings, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the Hearing justifying both the need for and the reasonableness of the proposed amendment to rule SW 11. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minn. Stat. ch. 10A (1978) requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

June 1, 1979

Terry Hoffman
Executive Director

Rules as Proposed

SW 11 Exemptions and County Solid Waste Management System

The Agency will consider permitting annual exemptions,

PROPOSED RULES

during a transition and planning period ending July 1, 1972, for the operation of existing intermediate solid waste disposal sites, but only under the following circumstances:

(1) When a disposal operation serves a resident population of less than 1,000 people, open dumps may be operated under the following conditions:

(a) The permit is reviewed annually with particular regard to all aspects of potential hazard to public health and safety.

(b) At the site entrance is a permanent sign identifying the operation and showing the permit number of the site, and indicating the hours and days the site is open for public use; the penalty for non-conforming dumping; that toxic and hazardous wastes may not be dumped therein; and other pertinent information.

(c) No toxic or hazardous wastes, no domestic sewage, and no industrial wastes are dumped at the site.

(d) The dump is at least 1/4 mile from any residence or place of public gathering.

(e) The dump is compacted and covered with earth at least 12 inches in depth at least four times per year, or more often when directed by the Agency.

(f) Animal carcasses and garbage are buried at least weekly.

(g) Adequate measures are taken to protect the surrounding area from wind blown debris, and from the spread of accidental fires from the disposal site.

(h) Open burning of solid waste is prohibited except as otherwise provided by Agency Regulation APC 8.

(i) Arrangements have been made with a local fire-fighting department to provide for immediate fire-fighting service in case of an emergency.

(j) That the dumping and disposal at such dump complies with Regulation SW 6 Section (2)(b) and (2)(g).

(2) When the disposal operation serves a resident population of 1,000 to 2,500 people, modified sanitary landfills may be operated under the following conditions:

(a) The permit is reviewed annually with regard to potential hazard to the public health and safety.

(b) The disposal operation is located at least 1/4 mile from the nearest residence or place of public gathering.

(c) Animal carcasses and garbage are buried daily.

(d) The fill area is compacted and covered with six inches of earth weekly, on a regular schedule, or more frequently as may be required by the Agency.

(e) Adequate measures are taken to protect the surrounding area from wind-blown debris, and such materials are cleaned up promptly.

(f) Adequate measures are taken to protect the surrounding area from the spread of accidental fires from the disposal area, and arrangements have been made with a local fire-fighting department to provide for immediate fire-fighting service in case of emergency.

(g) An insect and rodent control program is followed for protection of the public health and safety.

(h) Open burning of solid waste is prohibited except as otherwise provided by Agency Regulation APC 8.

(i) At the site entrance is a permanent sign identifying the operation and showing the permit number of the site, and indicating the hours and days the site is open for public use; the penalty for non-conforming dumping; and other pertinent information.

(j) The disposal operation has a gate at the entrance.

(k) The road leading to the disposal site is all-weather construction.

(l) That the disposal of waste at such disposal site complies with Regulation SW 6 Section (2)(b).

(3) On or before July 1, 1971 each county shall submit to the Agency a workable preliminary plan for a solid waste management system within such county. On or before July 1, 1972 each county shall submit for the approval of the Agency a workable final plan for a solid waste management system within such county. The plan shall be amended from time to time as changing conditions occur, by filing revisions for the approval of the Agency. Such plans and revisions shall be adopted by the Board of Commissioners of the county prior to filing with the Agency.

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PROPOSED RULES

Each county shall provide for a solid waste management system plan to serve all persons within the county. Two or more counties may elect to submit a joint plan.

SW 11 Exemptions for solid waste disposal facilities located in sparsely populated areas and county solid waste management plans.

A. The Agency shall issue permits for the operation of land disposal sites located in sparsely populated areas. These permits shall be entitled "Modified Landfill Permits" and shall be issued to proposed land disposal sites provided:

1. The proposed land disposal site is not located within a travel distance of 30 miles from an existing permitted sanitary landfill, modified landfill or transfer system;

2. The proposed land disposal site serves a resident population of less than 2,500.

3. The issuance of a permit for a land disposal site under this rule shall not cause pollution, impairment or destruction of the environment as defined in Minn. Stat. ch. 116B (1978).

B. Locational and operational requirements for modified sanitary landfills shall comply with rules SW 6(1) and (2) with the following exceptions:

1. Rule SW 6(2)(a) shall not apply, rather, open burning of certain materials shall be allowed in accordance with Rule APC 8 provided the burning is done in a separate, controlled access area at least 200 feet from any fill area and a permit is obtained.

2. Rule SW 6(2)(c) shall not apply, rather, dumping of solid waste shall be confined to as small an area as practicable and with appropriate facilities to confine windblown material within the area. All windblown material resulting from the operation shall be collected and returned to the site by the owner or operator as necessary to prevent nuisance conditions.

3. Rule SW 6(2)(d)(i) shall not apply, rather, covering and compaction of waste material shall take place on a weekly basis from May 1 to November 30 of each year and on a monthly basis from December 1 to April 30 of each year or in accordance with a winter cover and compaction plan approved by the Agency.

4. Rule SW 6(2)(k) shall not apply, rather, equipment

shall be available for adequate operation and fire protection of the site but does not have to be maintained at the site.

5. Rule SW 6(2)(m), (t), (u), and (w) shall not apply to the operation of modified sanitary landfills permitted in accordance with this rule.

6. Rule SW 6(2)(z) shall not apply, rather, the permittee shall properly complete the Agency's operational report forms and submit them quarterly.

C. Permit applications for the operation of modified landfills shall comply with Rule SW 6(3) with the following exceptions:

1. The permit application requirements in Rule SW 6(3)(b)(ii) shall not be required, however, a site analysis shall be submitted with the permit application and shall include surface features, underground formations, soil boring data, water table profile, direction of underground water flow, need and availability of cover material, and existing refuse deposits.

2. The permit application requirements in Rule SW 6(3)(c)(ii) relating to contour intervals of two feet or less and hazardous waste storage areas shall not be required, rather, contour intervals sufficient to show drainage shall be provided by the applicant.

3. The permit application requirements in Rule SW 6(3)(c)(iv) relating to an ultimate land-use plan shall not be required.

D. A modified landfill shall not be placed in operation until the provisions of Rule SW 6(4) have been complied with.

E. Each county shall have an Agency approved plan for solid waste management within such county. The plan shall be amended from time to time as changing conditions occur by filing revisions for the approval of the Agency. Prior to filing such amendments and revisions, the county shall consider the economic and environmental consequences of feasible alternatives. Such plans and revisions shall be adopted by the Board of Commissioners of the county prior to filing with the Agency. Each county shall provide for a solid waste management system plan to serve all persons within the county. Two or more counties may elect to submit a joint plan.

PROPOSED RULES

Pollution Control Agency

Proposed Amendments to APC 4 Relating to Power Plants and APC 21 Relating to Opacity and Proposed Adoption of 6 MCAR § 4.0020 Relating to Malfunctions and Breakdowns of Control Equipment and Process Equipment

Notice of Hearing

Notice is hereby given that a rule hearing in the above-entitled matter will be held in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota, on Monday, July 23, 1979, commencing at 9:30 a.m., and continuing on subsequent days if necessary until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Myron Greenberg, Hearing Examiner, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8109, either before or after the hearings until the record is closed. The record will remain open for five working days after the hearing ends, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner.

The proposed amendments to APC 4 would clarify that derating of boilers is a permissible means of achieving compliance with emission standards but that the actual heat input must be used in conducting performance tests. The proposed amendments to APC 21 would clarify how to calculate opacity and require annual reports from persons who emit more than 5 tons per year of lead. New rule 6 MCAR § 4.0020 requires owners or operators of certain facilities to prepare and implement abatement plans to avoid malfunctions and breakdowns of control equipment and process equipment and to follow certain procedures to reduce excess emission to the lowest practicable amount during malfunctions and breakdowns. Because malfunctions and breakdowns will be covered in 6 MCAR § 4.0020, the provisions

in APC 21 relating to malfunctions and breakdowns are proposed to be deleted.

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

The Agency's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 116.07, subs. 2 and 4; 116.091, subd. 1; and 116.11 (1978).

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

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the 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).

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more than \$250.00 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 \$250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

June 1, 1979

Joseph F. Grinnell, Chairman
Terry Hoffman, Executive Director

Amendments as Proposed

APC 4 Standards of performance for fossil fuel burning indirect heating equipment.

A. Definitions. As used in this regulation, the following words shall have the meanings defined herein:

11. "Derating" means limitation of heat input and corresponding steam output capacity.

B. Determination of applicable standards of performance.

3. When different fossil fuels are burned simultaneously in any combination, the applicable sulfur dioxide standard shall be determined by proration using the following formula:

$$w = \frac{y(a) + z(b)}{x + y + z}$$

where:

w is the maximum allowable emissions of sulfur dioxide gases in lbs. per million BTU (~~g/million cal~~) (nanograms/joule), and

x is the percentage of total heat input derived from gaseous fossil fuel, and

y is the percentage of total heat input derived from liquid fossil fuel,

z is the percentage of total heat input derived from solid fossil fuel, and

a is the allowable SO₂ standard for liquid fossil fuels expressed in lbs per million BTU (~~g/million cal~~) (nanograms/joule), and

b is the allowable SO₂ standard for solid fossil fuels ex-

pressed in lbs per million BTU (~~g/million cal~~) (nanograms/joule).

4. When different fossil fuels are burned simultaneously in any combination, the ~~application~~ applicable nitrogen oxides standard shall be determined by proration using the following formula:

$$w = \frac{x(c) + y(a) + z(b)}{x + y + z}$$

where:

w, x, y and z mean the same as in the formula in paragraph 3. for determining the applicable sulfur dioxide standard; and

a is the allowable NO_x standard for liquid fossil fuels expressed in lbs per million BTU (~~g/million cal~~) (nanograms/joule); and

b is the allowable NO_x standard for solid fossil fuels expressed in lbs per million BTU (~~g/million cal~~) (nanograms/joule); and

c is the allowable NO_x standard for gaseous fossil fuels expressed in lbs per million BTU (~~g/million cal~~) (nanograms/joule).

H. Performance test procedures.

6. For each performance test, the emissions expressed in ~~g/million cal~~ nanograms/joule (lb/million BTU) shall be determined by the following procedure: ~~if the actual heat input is used:~~

$$E = CF \left(\frac{20.90}{20.9 - \%O_2} \right)$$

where:

a. E = pollutant emission, g/million cal nanograms/joule (~~lb/million cal~~) (lb/million BTU).

b. C = pollutant concentration, g/dscm (lb/dscf), determined by Methods 5, 6, or 7.

c. %O₂ = oxygen content by volume (expressed as percent), dry basis. Percent oxygen shall be determined by using the integrated sampling procedures of Method 3 and by analyzing the sample with a continuous monitoring system, or with the Orsat analyzer. The sample shall be obtained as follows:

(1) For determination of sulfur dioxide and nitrogen oxides emissions, the oxygen sample shall be obtained at approximately the same point in the duct as used to

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obtain the samples for Methods 6 and 7 determinations, respectively.

(2) For determination of particulate emissions, the oxygen sample shall be obtained simultaneously by traversing the duct at the same sampling location used for each run of Method 5, in accordance with Method 1, except that 12 sample points shall be used in all cases.

d. F = factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted. Values of F are given as follows:

(1) For anthracitic coal according to A.S.T.M. D388-66, F = ~~0.01139 dscm/10⁶ cal~~ 2.723 × 10⁻⁷ dscm/j (~~101.4 dscf/10⁶ BTU~~)(10140 dscf/10⁶ BTU).

(2) For subbituminous and bituminous coal according to A.S.T.M. D388-66, F = ~~0.01103 dscm/10⁶ cal~~ 2.637 × 10⁻⁷ dscm/j (~~98.2 dscf/10⁶ BTU~~)(9820 dscf/10⁶ BTU).

(3) For liquid fossil fuels including crude, residual, and distillate oils, F = ~~0.01036 dscm/10⁶ cal~~ 2.476 × 10⁻⁷ dscm/j (~~92.2 dscf/10⁶ BTU~~)(9220 dscf/10⁶ BTU).

(4) For gaseous fossil fuels including natural gas, propane, and butane, F = ~~0.00982 dscm/10⁶ cal~~ 2.347 × 10⁻⁷ dscm/j (~~87.4 dscf/10⁶ BTU~~)(8740 dscf/10⁶ BTU).

e. An owner or operator may use the following equation to determine an F factor (dscf/10⁶ BTU) in lieu of the F factors specified by paragraph 6.d. of this section:

$$F = \frac{10^6 [3.64(\%H) + 1.53(\%C) + 0.57(\%S) + 0.14(\%N) - 0.46(\%O)]}{GHV}$$

where:

(1) H, C, S, N and O are content by weight of hydrogen, carbon, sulfur, nitrogen, and oxygen (expressed as percent), respectively, as determined by ultimate analysis of the fuel fired, dry basis, using A.S.T.M. methods D3168-74 or D3176 (solid fuels) or D240-64(73) (liquid fuels) or computed from results using A.S.T.M. method D1137-53(70), D1945-64(73) or D1946-67(72) (gaseous fuels) as applicable.

(2) GHV is the gross heating value (BTU/lb dry basis).

f. When combinations of fuels are fired, the F factors determined by paragraph 6.d. or e. of this section shall be prorated in accordance with the following formula:

$$F = \frac{x F_1 + y F_2 + z F_3}{100}$$

where:

x = the percentage of total heat input derived from gaseous fossil fuel.

y = the percentage of total heat input derived from liquid fossil fuel.

z = the percentage of total heat input derived from solid fossil fuel.

F₁ = the value of F for gaseous fossil fuels according to subsection 6.d. or e. of this regulation.

F₂ = the value of F for liquid fossil fuels according to subsection 6.d. or e. of this regulation.

F₃ = the value of F for solid fossil fuels according to subsection 6.d. or e. of this regulation.

g. When combinations of fossil fuels are fired, the actual heat input, expressed in cal/hr (BTU/hr), shall be determined during each testing period. The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the indirect heating system.

7. For each performance test, the emissions expressed in g/million cal (lb/million BTU) shall be determined by the following procedure if the rated heat input is used:

$$E = \frac{E_r}{Z}$$

where:

E = pollutant emissions, g/million cal (lb/million BTU).

E_r = pollutant emission rate, g/hr (lb/hr), determined by Method 5.

Z = applicable heat input, million cal/hr (million BTU/hr).

7. When the emission factor cannot be calculated by means of the method outlined in section H.6., the actual heat input shall be used in calculating emission factors for

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all pollutants for new and existing indirect heating equipment.

8. The rated heat input shall be used only in determining the amount of particulate matter emitted from existing indirect heating equipment. The actual heat input shall be used in determining the amount of sulfur dioxide emitted from existing indirect heating equipment. The actual heat input shall be used in conducting performance tests for all pollutants for new indirect heating equipment.

8. The indirect heating equipment shall be operated during the performance test at ninety (90) percent or more of the rated heat input, or at 100 percent of peak operating load if an owner or operator intends to achieve compliance by derating.

1. Derate. The owner or operator of indirect heating equipment who elects to achieve compliance with an applicable standard of performance by derating shall:

1. Advise the Director of the Agency in writing of the intent to achieve compliance by derating and the capacity level at which the owner or operator intends to operate this equipment; and

2. Agree to a permit condition in the required operating permit that prohibits operation of the equipment in excess of the derate level; and

3. Install a boiler steam flow meter to continuously record, indicate, and integrate boiler steam flow, and shall:

(a) Submit a written report to the Director of the Agency within ten (10) days of any excess steam flow occurrence above the specified derate load.

(b) Use a six (6) minute averaging period in determining an excess above derate with corrections for deviations in steam pressure or temperature if required.

(c) Submit written yearly reports to the Director of the Agency confirming that no excesses have occurred during normal operations.

(d) Retain and make available for inspection by the Agency or its authorized employees or agents steam flow charts for a minimum period of two (2) years following the date of measurement.

4. An effective method of physical limitation of boiler load shall be submitted for approval by the Director of the Agency prior to authorization of a boiler derate. Such limitation may include but is not limited to, a tie-back signal

from the steam flow meter to the combustion control system cutting back fuel input at the derate load, a maximum limit stop on the fuel input control drive or valve, or such other equivalent physical means.

APC 21 Emission sources monitoring, performance tests, reports shutdowns and breakdowns.

(a) Continuous monitoring.

(9) Monitoring data. Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to ~~one~~ six (6) minute averages ~~and for systems other than opacity to one hour averages respectively~~ except that other averaging periods may be used as specified in other regulations or limitations. ~~One minute~~ Opacity averages shall be calculated from all equally spaced consecutive fifteen second (or shorter) data points in the applicable averaging ~~four (4) or more equally spaced data points for each one minute period.~~ For systems other than opacity, the data shall be reduced to one hour averages, which shall be computed from four or more data points equally spaced over each one hour period.

Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this paragraph. An arithmetic or integrated average of all data may be used. The data output of all continuous monitoring systems may be recorded in reduced or non-reduced form (e.g. ppm pollutant and percent O₂ or lb of pollutant/million BTU). All excess emissions shall be converted into units of the standard using the conversion procedures specified in the applicable regulation. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in the regulation to specify the applicable standard (e.g. rounded to the nearest one percent opacity).

(b) Performance tests.

(7) Opacity.

(aa) ~~Compliance with opacity standards in this part shall be determined by conducting observations in accordance with Reference Method 9. Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the owner or operator shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1, has been properly maintained~~

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and (at the time of the alleged violation) calibrated, and that the resulting data have not been tampered with in any way.

(bb) The opacity standards set forth in a regulation shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.

(bb) Paragraph 2.5 of Method 9 (Data Reduction) is amended to read as follows, and this language shall be used whenever Method 9 is referenced in the Rules:

2.5 Data Reduction. Opacity shall be determined as an average of 24 consecutive observations recorded at 15 second intervals. Divide the observations recorded on the record sheet into sets of 24 consecutive observations. A set is composed of any 24 consecutive observations. Sets need not be consecutive in time and in no case shall sets overlap. For each set of 24 observations, calculate the average by summing the opacity of the 24 observations and dividing this sum by 24. Record the average opacities on a record sheet. In the event that an applicable standard of performance for opacity allows an excursion above the standard for a specified number of minutes in a one-hour period, determine the opacity as an average of 4 consecutive observations recorded at 15 second intervals. Determine the number of minutes in any one-hour period that the opacity exceeds a given opacity and record this information.

(c) Reports.

(1) ~~Excess Emissions. Monitoring reports.~~ Any owner or operator of an affected facility who is required to install a continuous monitoring system shall submit a written report of excess emissions to the Director for every calendar quarter in accordance with the following requirements:

(aa) The report shall be submitted to the Director of the Division of Air Quality of the Agency.

(bb) The report shall be submitted in accordance with the following requirements:

(aa) (i) The report shall be postmarked by the 30th day following the end of each calendar quarter; and

(bb) (ii) The report shall contain the following information:

1. The magnitude of excess emissions; any conversion

factor(s) used; and the date and time of commencement and completion of each time period of excess emissions.

2. Specific identification of each period of excess emissions that occurred during startups, shutdowns, and malfunctions of the affected facility; the nature and cause of any malfunction (if known); and the corrective action taken or preventative measures adopted.

3. (i) The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments.

4. (ii) When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be stated in the report.

(3) ~~Breakdowns.~~ The owner or operator of an affected facility shall maintain records of the occurrence and duration of any startup, shutdown, breakdown, or malfunction in operation of the facility or any air pollution control equipment. The owner or operator shall maintain records of any periods of time in which a continuous monitoring system or monitoring device is inoperative. These records shall be retained for at least two years following the date of such shutdown, startup, breakdown, malfunction, or inoperation. These records shall be submitted to the Agency at such times as the Director may require.

(3) (4) Emission inventory. All owners or operators of emission facilities which emit more than 25 tons per year of particulate matter, sulfur oxides, nitrogen oxides, carbon monoxide, hydrocarbons, or 5 tons or more per year of lead in any form and calculated as metallic lead, shall submit on or before April 1st of each year an emission inventory report covering the previous calendar year.

(d) Shutdowns and Breakdowns

(1) ~~Shutdown.~~ The owner or operator of an emission facility shall notify the Director at least 24 hours in advance of shutdown of any control equipment and, if the shutdown would cause an increase in the emission of air contaminants, of any process equipment. At the time of notification, the owner or operator shall also notify the Director of the cause of the shutdown and the estimated duration. The owner or operator shall notify the Director when the shutdown is over.

(2) ~~Breakdown.~~ The owner or operator of an emis-

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PROPOSED RULES

sion facility shall notify the Director immediately of a breakdown of more than one hour duration of any control equipment and, if the breakdown causes an increase in the emission of air contaminants; of a breakdown of any process equipment. At the time of notification or as soon thereafter as possible; the owner or operator shall also notify the Director of the cause of the breakdown and the estimated duration. The owner or operator shall notify the Director when the breakdown is over.

(3) **Operation Changes.** In any shutdown or breakdown covered by subparagraph (1) or (2) above; the owner or operator shall immediately take all practical steps to modify operations to reduce the emission of air contaminants. The Director may require feasible and practical modifications in the operation to reduce emissions of air contaminants. No affected facility which has an unreasonable breakdown frequency of control equipment shall be permitted to operate. Nothing in this regulation shall permit the operation of an affected facility which may cause an immediate public health hazard.

(4) **Monitoring Equipment.** The owner or operator of a continuous monitoring system or monitoring device shall notify the Director of any breakdown or malfunction of such system or device.

6 MCAR § 4.0020 Malfunctions and breakdowns.

A. **Definitions.** As used in this rule the following words shall have the meanings defined herein.

1. "Breakdown" means any sudden and unavoidable failure of air pollution control equipment or process equipment to operate in a normal and usual manner.

2. "Excess emissions" means an emission rate which exceeds any applicable standard of performance prescribed by Minnesota Pollution Control Agency Rules, or which violates any condition in a permit.

3. "Malfunction" means any failure of air pollution control equipment or process equipment to operate in a normal and usual manner which is caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable process equipment failure.

4. "Potential to emit" means the capability at maximum capacity to emit an air pollutant in the absence of air pollution control equipment. Air pollution control equipment includes control equipment which is not, aside from air pollution control laws and rules, vital to production of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the hours of operation. Enforceable

permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

5. "Process equipment" means any equipment which is a part of an emission facility which may upon malfunction or breakdown cause excess emissions to occur.

B. **Startup and shutdown.** Excess emissions during periods of routine startup or shutdown of an emission facility shall not be considered to be the result of a malfunction.

C. **Standard for control equipment availability.** No person shall operate an emission facility unless the air pollution control equipment is also in proper operation and is not bypassed, unless the control equipment is bypassed only to prevent damage to the control equipment or unless a bypass is specifically allowed in a permit. No person shall operate an emission facility unless the applicable control measures or process equipment for abatement of the emissions therefrom as specified in the permit application, permit, or applicable rule are being followed, or are in operation.

D. **Enforcement.** Excess emissions during malfunction or breakdown are a violation of the applicable limitation, and the owner or operator of the emission facility that is causing the excess emissions is subject to appropriate enforcement action.

E. **Maintenance and abatement plan.**

1. **Plan.** An owner or operator of an emission facility with potential to emit more than 500 tons per year from the emission facility shall prepare, implement, and submit a maintenance and abatement plan to prevent, detect, and correct malfunctions and breakdowns of control equipment and process equipment. The owner or operator of an emission facility with potential to emit less than or equal to 500 tons per year shall prepare, have available, and implement a maintenance and abatement plan, and may be required to submit the plan to the Agency upon request by the Director. Criteria upon which the Director will rely in determination of the need to submit a maintenance and abatement plan are (1) Excessive malfunctions and breakdowns resulting in excess emissions, (2) Failure to prepare maintenance and abatement plan, (3) Failure to do adequate maintenance and abatement, (4) Failure to report malfunctions and breakdowns, (5) Ambient air violations in the vicinity of and to which the source is contributing.

2. **Contents of plan.** The maintenance and abatement plan shall be in writing and shall as a minimum specify the following:

a. A complete preventive maintenance program for avoidance of excess emissions including identification of the individual(s) responsible for inspecting, maintaining, and repairing the process equipment and control equipment,

PROPOSED RULES

a description of the equipment that will be inspected, the frequency of these inspections or repairs, and an identification and quantities of the replacement parts which will be maintained in inventory for quick replacement.

b. An identification of operating conditions and outlet variables (such as opacity, grain loading, pollutant concentration, and pressure drop across collector) for the process equipment and control equipment that will be monitored in order to detect a malfunction or breakdown, and the normal operating range of these variables, and a description of the method of detecting and of informing operating personnel of any malfunction or breakdown, including alarm systems, lights, and other indicators.

c. A description of the corrective procedures that will be taken in the event of a malfunction or breakdown in order to achieve compliance with the applicable emission limitations and permit conditions as expeditiously as possible, including but not limited to reducing production.

d. A description of the procedures that will be taken in the event of a malfunction or breakdown in order to limit excess emissions as much as possible, including but not limited to reducing production.

e. A statement(s) of the time period(s) that would be required to safely shut down the emission facility or portion thereof causing excess emissions.

f. A description of the records that will be kept to show that the plan is implemented.

g. Any other reasonable and pertinent information that may be required by the Director.

3. Records. The owner or operator of an emission facility who is required to prepare a maintenance and abatement plan shall maintain records to show that the plan is implemented. The records shall include at least, the times and dates of inspections, the inspection results, any recommendations, and any action taken as response to recommendations. The records shall be subject to inspection by the Agency and shall be maintained for two years following the date of such recording.

4. Submission of plan. The owner or operator of an emission facility who is required to submit a maintenance and abatement plan shall submit the plan as part of the permit application for the emission facility. The owner or operator of an emission facility who has an operating permit for the emission facility on the effective date of this rule

shall submit the maintenance and abatement plan when a request for reissuance of the permit is submitted or upon request of the Director, whichever comes first.

5. Permit. No permit shall be issued or reissued unless the owner or operator who is required by this rule to do so, has submitted a maintenance and abatement plan that meets the requirements of this rule.

F. Breakdown or malfunction of control equipment or process equipment. The owner or operator of an emission facility where excess emissions occur as a direct result of a malfunction or breakdown of process equipment or control equipment shall:

1. Promptly begin an investigation to determine the cause(s) of the excess emissions;

2. Immediately initiate corrective procedures to achieve compliance with the applicable emission limitations and permit conditions as expeditiously as possible;

3. Notify the Agency immediately of the malfunction or breakdown;

4. Submit to the Agency in writing, within ten days after the beginning of the excess emissions, a report containing the following information:

a. Identification of the process equipment, stacks, instrumentation, and control equipment involved in the malfunction or breakdown;

b. Time and duration of the excess emissions;

c. Estimate of the amount of excess emissions;

d. Nature and causes of the malfunction or breakdown;

e. All remedial action taken to bring the emission facility into compliance with the applicable emission limitations, and measures taken to limit excess emission as much as possible.

5. The owner or operator of an emission facility who used remedial measures outlined in E.4.e. shall incorporate such remedial measures into the maintenance and abatement plan required in this rule.

G. Cessation of operation during malfunction or break-

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PROPOSED RULES

down. The Director may order cessation of operation of all or part of the entire emission facility if necessary to preserve public health and welfare. The Director shall consider quantity and quality of emission, what portion of the emission facility would have to be shut down, cause of breakdown or malfunction, length of time needed to correct, and other factors affecting the public and the owner or operator of the emission facility.

H. Revocation of operating permit. No person shall op-

erate an emission facility which has an unreasonable malfunction or breakdown frequency of control equipment or process equipment. In addition to any other reason provided by law, the Director may modify or revoke the operating permit of the owner or operator of an emission facility upon, (1) failure to submit an acceptable maintenance and abatement plan, (2) failure to abide by the maintenance and abatement plan, (3) failure to notify the Agency of malfunctions or breakdowns, (4) excessive periods of excess emissions due to breakdowns or malfunctions.

STATE CONTRACTS

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.



The American Fur Company became the most influential and the last large fur concern to operate in what was to become the Minnesota Territory. The company's warehouse at Mendota, shown in this 1860s photograph, was used to collect furs and store trade goods. Smaller posts were maintained at Big Stone, Cass, Gull, Leech, Mille Lacs, Red, and Sandy lakes and on the Crow Wing and Red rivers. (Courtesy of Minnesota Historical Society)

Department of Corrections Minnesota State Training School — Red Wing, MN

Notice of Availability of Contract for Psychological Evaluation Services

The program at the Minnesota State Training School requires the services of a licensed psychologist. This person will provide the written psychological evaluation — through testing, interviews, etc. — on up to a twice weekly basis for all new admissions to the institution, to retest selected youths based upon specific staff referral, plus limited staff training in the area of his/her expertise. Payment is \$170.00 per 8 hour day. Annual cost is limited to \$16,300.00.

Notice of Availability of Contract for Volunteer Services Coordinator

The program at the Minnesota State Training School requires the services of a volunteer coordinator. Position requires up to 50 hours per week for 10 months (September-June), and up to 15 hours per week for the two months of July and August. Responsibilities include the providing of professional volunteer services for both juvenile and adult clients at the institution through the recruiting and training of volunteers, plus the development of a coordinated scheduling of the volunteers to augment on-going programs.

STATE CONTRACTS

Payment is \$1130.00 per month from September-June, and \$250.00 per month in July and August. Annual cost is limited to \$11,800.00.

For further information on either contract, contact:

Thomas P. Kernan, Assistant Superintendent
Minnesota State Training School
Box 45
Red Wing, Minnesota 55066
Telephone: (612) 388-7154, ext. 227

The final submission date for either contract is June 29, 1979.

Department of Corrections Victim Services Division Funds Available for Sexual Assault Services

The Minnesota Department of Corrections will be awarding approximately \$250,000 this year for the provision of sexual assault services.

Funds appropriated by the State Legislature are available for implementing programs designed to provide one or more of the following services: direct crisis intervention and support services to victims of sexual assault; training programs; the coordination of services of existing agencies; community education; and development of services to meet the needs of special populations, for example, the child, racial minorities, the mentally or physically disabled, and the elderly.

Proposals for funds will be reviewed. Two deadlines for proposals have been established. Approximately 75 percent of the monies available during fiscal year 1980 will be allocated to applicants who submit proposals by Monday, July 9, 1979. The deadline for proposals for the remaining 25 percent of the monies is Thursday, September 6, 1979. No more than 15 percent of this appropriation may be awarded within any one county.

Organizations interested in applying for these funds should contact the Minnesota Program for Victims of Sexual Assault, 430 Metro Square Building, St. Paul, Minnesota 55101, (612) 296-7084.

Department of Natural Resources Bureau of Land

Contract Real Property Appraiser (Fee Appraisers)

The State of Minnesota is establishing a list of qualified real estate appraisers to do contract appraisals for the Departments of Administration, Natural Resources, and Transportation for the period ending June 30, 1980. In developing the list of qualified appraisers, the state invites submittal of resumes from all persons meeting one or more of the following qualifications no later than June 30, 1979.

I. Appraisal Designations: The following designations are seen as evidence of substantial training in the field of Real Estate Appraising. Candidates, Associate members, and Non-designated appraisers must show further evidence of experience and proficiency as noted in paragraph II below.

- a. Member of the American Institute (MAI)
- b. Senior Residential Appraiser (SRA), Senior Real Property Appraiser (SRPA), or Senior Real Estate Analyst (SREA).
- c. Accredited Rural Appraiser (ARA)
- d. American Society of Appraisers (ASA)
- e. Other designations with satisfactory evidence of a substantial coursework curriculum in Real Estate Appraising.

II. Non-designated Appraisers:

A. Experience

Non-designated appraisers with at least two years experience in Real Estate Appraising. Resume should relate the type of appraisal experience along with a listing of clientele.

B. Training

Non-designated appraisers should have successfully completed one or more of the following courses.

- a. AIREA — Course I, Course IA
- b. SRA — Course 101, Course 201
- c. American Farm Managers and Rural Appraisers — Rural Appraisal

C. Sample appraisal

STATE CONTRACTS

Any appraiser who has not submitted any appraisals to any Minnesota agencies within the past two years will be required to submit a sample appraisal done for a client. The sample appraisal is to be examined for compliance with generally recognized appraisal procedures.

III. Certification to a state list of qualified appraisers is not a guarantee of subsequent assignments. The State of Minnesota reserves the right to assign appraisers at the discretion of the assigning agency, dependent on the qualifications of the appraisers, geographic location, and fee requirements. Note: Appraisers will be entitled to reject any assignment offered.

The Department of Natural Resources, Bureau of Land,

has been designated as the coordinating agency for developing the certified list which will be used by all agencies. A list of the basic standards may be obtained upon written request to the address below.

All resumes and other material or requests should be directed to:

Department of Natural Resources
Bureau of Land
Acquisition and Exchange Section
670 Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Telephone: (612) 296-7945

OFFICIAL NOTICES

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

either orally or in writing.

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

Department of Education Vocational-Technical Education Division

Notice of Public Hearing

This is to announce that a public hearing will be held on Monday, June 25, at 1:00 p.m. in Room 716 of the Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, on the recommended area vocational-technical institute aid distribution levels.

sources outside the Agency in preparing rules governing the operation of the Accessibility Grant Program established pursuant to Laws of 1979, ch. 327, subd. 3.

The Agency invites interested persons or groups to submit written data, information or comments on the subject. All written materials should be directed to:

Ms. Mary Tingerthal
Minnesota Housing Finance Agency
Suite 200 — Nalpak Building
333 Sibley Street
St. Paul, Minnesota 55101
(612) 296-8844

Housing Finance Agency

Notice of Intent to Solicit Outside Opinion Regarding the Adoption of Rules Governing the Accessibility Grant Program

Notice is hereby given that the Minnesota Housing Finance Agency is seeking information or opinions from

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

**Notice of Intent to Solicit Outside
Opinion Regarding Agency
Review and Approval of Housing
Programs Pursuant to Laws of
1979, ch. 306**

Notice is hereby given that the Minnesota Housing Finance Agency is seeking information or opinions from sources outside the Agency regarding the procedures for review and approval of housing programs submitted to it pursuant to Laws of 1979, ch. 306.

The Agency invites interested persons or groups to submit written data, information or comments on the subject. All written materials should be directed to:

Mr. Don Wyszynski
Minnesota Housing Finance Agency
Suite 200 — Nalpak Building
333 Sibley Street
St. Paul, Minnesota 55101
(612) 296-2293

Pollution Control Agency

**Application of the Potlatch
Corporation for Solid Waste
Disposal Permit and Variance
from Rule SW 6(1)(b) and (e) for
Operation of a Solid Waste
Disposal Site Located in Carlton
County, Minnesota**

Notice of and Order for Hearing

It is hereby ordered and notice is hereby given that a public hearing concerning the above-entitled matter will be held by the Minnesota Pollution Control Agency (MPCA) on July 23, 1979, at the Council Chambers, Cloquet City Hall, 508 Cloquet Avenue, Cloquet, Minnesota, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

A prehearing conference will be held by telephone conference call on the above-entitled matter on July 17, 1979, at 9:00 a.m. The prehearing conference will concern the witnesses to be presented, the issues to be discussed and may result in a settlement of this matter prior to the hearing. Any person wishing to participate in this prehearing confer-

ence should intervene as a party to the hearing by following the procedures outlined below.

The purpose of the hearing will be to consider testimony and evidence bearing upon the application of the Potlatch Corporation for a solid waste disposal permit and a variance from Rule SW 6(1)(b), which requires the site to be located greater than 300 feet from a stream, and from Rule SW 6(1)(e), which requires the site to be located greater than 1,000 feet from a state highway or an occupied dwelling. The site is presently located within 300 feet of the St. Louis River and within 1,000 feet of State Highway 45 and an occupied dwelling. The site has been operating since 1956, and is for the disposal of pulp and paper mill sludge, wood wastes, and fly ash, all generated at the Potlatch Corporation's Cloquet Plant. Potlatch Corporation is applying for a permit and a variance in order to bring the site into compliance with Agency rules governing solid waste disposal.

The Minnesota Pollution Control Agency is authorized to hold such hearing and grant such a variance by Minn. Stat. § 116.07, subd. 5 (1978) and pursuant to Rules MPCA 6 and MPCA 9.

Interested persons are invited to submit written comments to the MPCA in regard to the proposed permit. Comments should be submitted in person at the hearing or by mail by July 13, 1979. These comments should be delivered or mailed to:

Mr. John Menter
Division of Solid Waste
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
(612) 296-7296

The number PCA-79-010-HK should appear next to the above address on the envelope and on each page of any submitted comments. Any written comments received will be offered to the Hearing Examiner as part of the hearing record.

The application for the variance, fact sheet, comments received and other documents may be inspected and copied, at the address noted above, any time between 9:30 a.m. and 3:30 p.m., Monday through Friday. A copy of the fact sheet will be mailed to any interested person upon written request.

The hearing will be held before Mr. Howard Kaibel, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8107, a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented throughout the proceeding by legal counsel, by themselves, or by a person of their choice (if such representation is not otherwise prohibited as the unauthorized practice of law). The hearing will be con-

OFFICIAL NOTICES

ducted pursuant to the contested case procedures set out in Minn. Stat. §§ 15.0411 through 15.042, 9 MCAR §§ 2.201-2.299 and Rules MPCA 1-13, to the extent that the latter rules do not conflict with 9 MCAR § 2.201-2.299.

The above-cited procedural rules are available for inspection at the office of Hearing Examiners and the Minnesota Pollution Control Agency or may be purchased from the Documents Section of the Department of Administration, 140 Centennial Building, St. Paul, Minnesota 55155, (612) 296-2874. The rules provide generally for the procedural rights of the parties. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Robert C. Moilanen, Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota 55113, (612) 296-7702.

Any person desiring to intervene as a party must submit to the Hearing Examiner and serve upon all existing parties a Petition to Intervene, pursuant to 9 MCAR § 2.210, by July 13, 1979. The Petition must show how that person's legal rights, duties, and privileges may be affected by the decision in this case. The Petition must also set forth the grounds and purpose for which intervention is sought and indicate the petitioner's statutory right to intervene if one should exist. A party to a case has the right to present evidence, rebuttal testimony, and argument with respect to the issues and to cross-examine witnesses. Further, parties may be entitled, pursuant to 9 MCAR § 2.216, to issuance of subpoenas requiring the attendance of witnesses and the production of documents relevant to any matter involved in the hearing. Interested persons may present oral or written statements at the hearing without becoming parties at the discretion of the Hearing Examiner in accordance with 9 MCAR § 2.210(e), but may not cross-examine witnesses. At the present time the representatives of parties to this proceeding who should be served with such Petition to Intervene are:

Mr. Robert C. Moilanen
Attorney for MPCA Staff
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
(612) 296-7702

Mr. Pat Norah
Public Affairs Manager
Potlatch Corporation
Northwest Paper Division
Box 510
Cloquet, Minnesota 55720

All persons are advised that, if they intend to appear as parties at the hearing scheduled for July 23, 1979, at 9:00 a.m., the Notice of Appearance form enclosed with this

Order must be completed and returned to the Hearing Examiner within 20 days of the date of service of the Notice of and Order for Hearing. SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THIS ORDER MAY BE TAKEN AS TRUE, OR THE ISSUES SET OUT MAY BE DEEMED PROVED, with the consequence that the proposed permit may be issued in its present form. Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

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

Terry Hoffman
Executive Director

Notice of Appearance

Date of Hearing: July 23, 1979
Name and Telephone Number of Hearing Examiner:
Howard Kaibel
(612) 296-8107

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the above-entitled hearing.

Name of Party: Minnesota Pollution Control Agency
Address: 1935 West County Road B2, Roseville, Minnesota 55113
Telephone Number: (612) 296-7702
Party's Attorney or Other Representative: Mr. Gerald Cran
Office Address: Potlatch Corporation, Northwest Paper Division, Box 510, Cloquet, Minnesota 55720
Telephone Number: (218) 879-2300
Signature of Party or Attorney:
Date: May 29, 1979

NOTE: This Notice of Appearance should only be submitted by persons who have been admitted as parties after filing a Petition to Intervene. Interested persons who wish to make statements without becoming parties need not submit this Notice.

Public Service Commission Commission Support Staff

Notice of Public Participation Meetings to Discuss Proposed Telephone Rules Dealing with Inter-Exchange Access (Alternatives to Present Long Distance Calling)

Notice is hereby given that public participation meetings, on the following proposed rules, will be conducted at the following locations:

Site	Date	Time
North Branch, MN Cafeteria Commons North Branch Sr. High School	Mon., July 16, 1979	8:00 p.m.
Worthington, MN Farmers Room Nobles County Administration Bldg.	Tues., July 17, 1979	8:00 p.m.
Glencoe, MN Auditorium, Glencoe High School 16th St. & Pryor Avenue	Wed., July 18, 1979	8:00 p.m.
Two Harbors, MN City Hall, 2nd Floor 610 2nd Avenue	Thur., July 19, 1979	8:00 p.m.

These hearings are a continuation of an effort to solicit outside opinion prior to drafting a final inter-exchange access rule. See *State Register*, Monday, March 5, 1979, (3 S.R. 1630).

The following is a preliminary rule and serves only as a guide for discussion at these hearings. After these hearings a final proposed rule will be drafted and submitted to the public for comment and hearing.

All oral and written comments received at these hearings shall become part of the official record for the formal hearing on the final draft of an inter-exchange access rule. See Minn. Stat. § 15.0412, subd. 4.

Extended Area Service

I. Initiation of Extended Area Service (EAS) to the St. Paul-Minneapolis metropolitan calling area is prohibited.

II. The following subsections apply to EAS for exchanges outside the St. Paul-Minneapolis metropolitan calling area.

III. There will be no one-way EAS.

IV. Procedures to initiate telephone traffic study between two exchanges:

A. An exchange wishing to initiate EAS must petition the Public Service Commission to direct the local telephone company to conduct a telephone traffic study between the exchanges in question, unless other acceptable traffic study data is available. This petition is only for initiating a telephone traffic study. This does not serve as a ballot, petition or proxy for the establishment of EAS.

B. In order for the petition to be acted upon, 10 percent or 250 exchange customers, whichever is less, must complete the petition form.

C. Only the person to whom the monthly bill is addressed may sign the petition. In the case of a business customer, only a duly authorized agent or representative may sign.

D. Signing petitioner must include address and phone number.

V. Establishment of EAS between two exchanges:

A. The traffic study must confirm:

1. An average of three (3) toll calls per customer per month from the petitioning exchange to the proposed non-petitioning exchange; and

2. At least one toll call per month to the non-petitioning exchange from 50 percent of the subscribers in the petitioning exchange.

B. If subsections (A)(1) and (2) are satisfied and,

1. The non-petitioning exchange has 10,000 or fewer customers:

a. The Department of Public Service will conduct a mail ballot within a reasonable time thereafter.

b. The ballots must be returned within 30 days of mailing by the Department.

c. Only the person to whom the monthly bill is addressed may sign the ballot. In the case of a business customer, a duly authorized agent or representative must sign.

d. EAS will be approved upon an affirmative vote of 60% of the customers in each of the petitioning and non-petitioning exchanges.

2. The non-petitioning exchange has more than 10,000 customers:

OFFICIAL NOTICES

a. A public hearing shall be conducted to determine if the non-petitioning exchange desires the EAS and whether or not it should pay the determined rate.

3. The hearing or balloting in the non-petitioning exchange shall be conducted prior to the hearing or balloting in the petitioning exchange.

4. The proceedings dealing with the non-petitioning exchange, as set out in Subd. (B)(1) or (2), shall be followed by the petitioning exchange except that if the non-petitioning exchange determines through ballot or hearing not to pay the indicated EAS rate, the petitioning exchange has the option of paying the total cost of providing EAS.

VI. Cost of EAS

A. Embedded book costs will be determined by applying the appropriate embedded to current ratio(s) to the current engineering cost of furnishing EAS over the specified route.

B. Unless one exchange refuses and the other agrees to pay the total cost, the cost of providing EAS shall be divided equally between the exchanges.

C. The cost to each exchange shall be equally divided among all customers of the exchange, except the Commission may set different rates for varying classes of customers.

VII. Removal of EAS

A. Exchanges of 10,000 or fewer customers:

1. An exchange with 10,000 or fewer customers wishing to terminate EAS must petition the department to conduct a mail ballot vote.

2. Ten percent, or 250 of the exchange customers, whichever is less, is required to petition the department for EAS removal.

3. After receiving the petition, the department shall conduct a mail ballot vote of the petitioning exchange in accordance with Subd. V (B)(1)(a)(b) and (c).

4. A simple majority (50%+ 1) of the customers of the petitioning exchange must affirmatively vote to remove EAS.

B. Exchanges of more than 10,000 customers:

1. Ten percent of an exchange with more than 10,000 customers wishing to terminate EAS must petition the commission to conduct a hearing to determine if EAS should be removed because a community of interest no longer exists.

C. If the petitioning exchange, through balloting or hearing, approves removal of EAS, the commission may determine, through ballot or hearing, whether 60% of the subscribers in the other exchange desire to pay the total cost of retaining EAS.

VIII. Time Limitations

A. A petition for a traffic study, or a hearing or ballot for initiation of EAS between the same exchanges, may be conducted only once every two years.

B. A petition for removal of EAS, between the same exchanges may be conducted only once every five years.

IX. Forms

A. Petitioning forms for telephone traffic study and removal of EAS service are available at:

Department of Public Service, Utilities Division
Seventh Floor, American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

B. Ballots and petitions shall provide all material information necessary for the customers to make an informed decision.

X. Definition

A. For the purposes of the rule the following definition applies: "Customer": Each account, except:

1. Public pay stations,

2. Telephone company official stations,

3. Telephone company employees receiving any concession service shall not be considered a customer for ballot and petition purposes.

Community Calling Service

I. General

Community Calling Service is a plan whereby customers may place certain intrastate long distance calls over routes of 15 or 30 miles or less in length during certain specified hours at a bulk rate in lieu of the filed Long Distance Message Telecommunications rates for those calls.

II. Regulations

The following regulations are in addition to the applicable regulations as set forth in other portions of these rules.

OFFICIAL NOTICES

A. The service applies only to intrastate dial station-to-station service to exchanges whose toll rate points, from the calling exchange, are within the rate mileage bands provided under III(B)(1) following, which the customer dials from his telephone line and completes without operator assistance.

B. The service applies only to those calls established within the hours as provided in III(B)(2) following.

C. The initial period for the service is 30 minutes. Additional usage in excess of the initial period shall be charged in increments of five minutes or major portion thereof. Minimum timing per message is one minute. Timing of additional minutes and fractions thereof will be rounded to the next higher minute.

D. For a customer with more than one line or trunk the service will apply to all lines and trunks billed to the same billing number. One monthly charge would apply for each billing number included in the service.

E. The minimum initial service period is one month.

F. Billing period under the service will be determined by the billing date. The customer has the option of enrolling in or withdrawing from the service at either the beginning or ending of the billing period. There will be no billing of fractional amounts.

G. Customers subscribing to Community Calling Service may not subscribe to other alternatives to EAS unless expressly allowed.

III. Rates

A. Service charges, unless specifically waived by the PSC, shall apply for enrolling in the service, for changes from one to another time period and from one to another rate mileage band within the same time period or for changing from other alternatives to EAS or vice versa. No charge applies for withdrawing from the service.

B. Monthly rates shall be based on the following factors:

1) Rate Mileage Band

- a. 1-15 miles
- b. 1-30 miles

2) Time Period

- a. Full Time (24 hours everyday)
- b. Off-Peak (excludes 9-11 a.m. and 8-10 p.m. Mon.-Fri.)

IV. Exceptions

The service shall not apply to calls placed on Christmas Day (December 25) and on New Year's Day (January 1), Independence Day (July 4), Thanksgiving Day and Labor Day and on resulting legal holidays when Christmas, New Year's or Independence Day legal holidays fall on dates other than December 25, January 1 or July 4.

Send Inquiries to:

Stephen A. Finn, Acting Secretary
Minnesota Public Service Commission
Seventh Floor, American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Department of Revenue Property Equalization Division

Notice of Intent to Solicit Outside Opinion Regarding the Method of Valuation of Railroad Operating Property

The Department of Revenue, pursuant to Laws of 1979, ch. 303, Article VII, § 2, subd. 5, is seeking information and opinions from sources outside the Department in preparing to propose rules governing the valuation of railroad operating property and the apportionment of the value to the affected taxing districts in Minnesota. The Department of Revenue is charged under law to make a determination of the fair market value of the operating property of every railroad company doing business in this state using a unit value method.

Any interested persons may submit data or comments on this subject by writing to:

Gerald Garski, Manager
State Assessed Properties
Property Equalization Division
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145

Any materials received by the Department shall become a part of the hearing record at the time that rules are promul-

OFFICIAL NOTICES

gated. Any comments, views, or data must be received by July 16 to be considered before the initial rules are drafted.

June 8, 1979

Clyde E. Allen, Jr.
Commissioner

Office of the Secretary of State Election and Legislative Manual Division

Notice of Vacancy in Multi-Member Agency — Application and Appointment Procedures

Notice is hereby given to the public that a vacancy has occurred in a multi-member agency, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Bldg., St. Paul, MN 55155, (612) 296-2805. Application deadline is Tuesday, July 3, 1979.

Intergovernmental Information Systems Advisory Council (IISAC): One (1) vacancy open immediately for a member of an outstate Regional Development Commission. The council has 25 members appointed by the governor to four year terms. IISAC functions include awarding supportive grants for development, implementation and growth of automated information systems within local governments which promote concepts of sharing and standardization to improve intergovernmental data flow and save tax dollars. At times the council provides personnel to work with governmental administrators to assist with developing plans and methods for computer related intergovernmental cooperation. Term expires in January, 1981. Meetings are held on the first Thursday of the month in the afternoons. Expenses are allowed according to Minn. Stat. § 15.059. Specific information about the council is available from Roger Sell, 300 Hanover Bldg., St. Paul 55101; (612) 297-2172.

Board of Architecture, Engineering, Land Surveying and Landscape Architecture: One (1) additional land surveyor member to the board is authorized by Chapter 209, Laws 1979, to be appointed by the Governor for a term ending January 4, 1982.

Members are required to be residents of the state and a licensed land surveyor, engaged in the practice of that profession for at least 10 years and to have been in responsible

charge of work at least five years. Filing with the Ethical Practices Board is required of members. Meetings of the board are in September and February with others scheduled throughout the year as needed. Members receive \$35 per diem; members located outside the metropolitan area receive expenses. Specific information is available from the Board of Architecture, Engineering, Land Surveying and Landscape Architecture, 500 Metro Square, St. Paul, MN 55101; (612) 296-2388.

Board of Optometry: One (1) vacancy open immediately for a public member. The board receives applications for licensing and has authority to revoke or suspend licenses. Meetings are held four to six times a year at the call of the Board president. Members receive \$35 per day plus expenses. Specific information may be obtained from the Board of Optometry, Rm. 342, 717 Delaware St., Mpls., MN 55440; (612) 296-5544.

Medical Policy Directional Committee on Mental Health: One (1) vacancy is open immediately in the category of pediatrician for a term expiring June 30, 1981. Two (2) vacancies are open July 1, 1979 in the categories of specialist in medical care of retarded and specialist in research, particularly genetics, for terms ending June 30, 1982. The committee advises the Commissioner of Public Welfare about all phases of professional standards including patient care, training of personnel, establishment of treatment programs, staffing, and records establishment to meet professional requirements in mental institutions of the state. Members meet at least six times each year, usually the first Friday of each month, 7:30 to 10:00 a.m. and receive \$50 per day plus expenses. Appointments are made by the Commissioner of Public Welfare. Additional information may be obtained from Dr. Ronald C. Young, M.D., Department of Public Welfare, Centennial Bldg., St. Paul, MN 55155. (612) 296-3058.

Health Facilities Advisory Council: One (1) vacancy is open immediately in the public member category. Meetings are held two afternoons a month. Members receive no compensation. The council makes recommendations to the Commissioner of Health about rules for hospitals and other acute-care health facilities. The governor is the appointing authority. For additional information about the council, contact Daniel J. McInerney, Jr., 717 Delaware S.E., Mpls., 55440 (612) 296-5511.

OFFICIAL NOTICES

Department of Transportation

Notice of Application and Opportunity for Hearing Regarding Petition of Chicago and North Western Transportation Company for Authority to Retire and Remove Track No. 253 Located at Utica, MN

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. § 219.741 and § 218.041, subd. 3 (10) to retire and remove the easterly 800 feet of ICC Track No. 253 located at Utica, Minnesota.

The petition recites among other matters that: "The subject track is no longer needed for rail transportation service, constitutes a continuing and burdensome maintenance expense, and is an unnecessary safety hazard. The track is not used at the present time, and there is no present prospect that the subject track will be needed in the future. 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 is the Hulshizer Grain Co., Inc."

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 July 9, 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 9 MCAR § 2.210, 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.

June 5, 1979

Richard P. Braun
Commissioner

SUPREME COURT

Decisions Filed Friday, June 8, 1979

Compiled by John McCarthy, Clerk

47591/216 State of Minnesota vs. Larry Lee Stofflet,
Appellant. Benton County.

Even though a prosecutor does not offer extrinsic evidence of a prior inconsistent statement he still may cross-examine a defense witness about the statement, provided he is *able* to produce extrinsic evidence of the statement; of

course, if the witness denies the statement and the extrinsic evidence is not offered and admitted, the prosecutor may not in closing argument refer to the statement. In this case the prosecutor's reference to such a statement in his closing argument was improper because no evidence was offered or admitted to show that such a statement had been made, but the error was not prejudicial.

While a Schwartz hearing should be liberally granted if a defendant relies upon one of the exceptions to the general rule against allowing juror testimony to impeach verdicts, the trial court has broad discretion in deciding whether to grant such a hearing. On these facts the trial court did not

SUPREME COURT

abuse that discretion in denying the motion for such a hearing.

Affirmed. Rogosheske, J.

49722/Sp. Charles A. Rogers, Relator, vs. Cedar Van Lines, Inc., et al. Workers' Compensation Court of Appeals.

The phrase "other industry where the hours of work are affected by seasonal conditions" contained in Minn. St. 176.011, subd. 3, relating to the computation of the weekly wage of employees sustaining injuries in the construction or mining industries was intended to include industries which similarly do not customarily operate throughout the year because of their inherent nature or because of climatic conditions.

The finding, that the employee who worked irregular days and hours part time for an employer primarily engaged in household moving and secondarily in transporting and packing cargo for overseas shipment was not working in an industry "where the hours of work are affected by seasonal conditions," is sustained by the evidence.

Affirmed. Rogosheske, J.

49113, Robert E. Schaefer vs. Dunwoody Industrial Institute and American Mutual Liability Insurance Company, Relators, 49124/97 General Industrial Supply Company and Employers Mutual Liability Insurance Company of Wisconsin, Relators. Workers' Compensation Court of Appeals.

Compensation awarded to employee disabled both by a nonwork-related cardiac condition and by work-related back injuries was affirmed where there was sufficient evidentiary support for the finding that such injuries were a substantial contributing cause of his disability.

Affirmed. Todd, J.

47950-1-2/ State of Minnesota vs. Leonard Charles DeFoe, Jr., Michael Joseph DeFoe, Steven Paul DeFoe, Appellants. Carlton County. 105

Evidence of defendants' guilt was legally sufficient.

Trial court did not err in granting state's request for a joint trial, where defendants agreed to the request.

Trial court's instructions were adequate and, in any event, defense counsel did not object to them.

Trial court did not err in refusing to sentence defendants to treatment program.

Sentences of defendant Michael DeFoe did not violate the double jeopardy clause of the constitution or Minn. St. 609.04 and 609.035.

Affirmed. Todd, J.

49017/129 Luella Hendrickson, widow of Theodore A. Hendrickson, deceased, vs. George Madsen Construction Co., et al, Relators. Workers' Compensation Court of Appeals.

A heart attack sustained by an employee during a compensation hearing and caused by the stress of the hearing is not a compensable event under the Workers' Compensation Act.

Reversed. Todd, J.

49109/138 Herman Klapperich vs. Agape Halfway House, Inc., et al, Relators. Workers' Compensation Court of Appeals.

Workers' compensation benefits were improperly awarded under the facts of this case because the record does not support the finding that work-related mental stress was sufficiently severe to cause the employee's heart attack.

Proof that a heart attack was work related requires sufficient legal causation as well as medical causation.

Reversed. Todd, J.

48780/130 Susan Howells, Appellant, vs. Roger McKibben. Ramsey County.

The alleged tort involved in this paternity case was committed in Minnesota and, accordingly, Minn. St. 543.19, subd. 1(c), authorizes a Minnesota court to exercise personal jurisdiction over the alleged putative father, who is a resident of Wisconsin.

The dictates of due process are satisfied in this case where a Wisconsin resident defendant has certain "minimum contacts" with Minnesota so that maintenance of this suit does not offend traditional notions of fair play and substantial justice.

Reversed. Scott, J. Took no part, Todd, J.

49201/136 John Robert Kochevar, petitioner, Appellant, vs. State of Minnesota. St. Louis County.

Before a guilty plea may be accepted it must be established that a factual basis exists for concluding that the defendant actually committed an offense at least as serious

SUPREME COURT

as the degree of the crime to which he pled guilty. Under the circumstances surrounding this plea a factual basis was established by both the state's proposed evidence and the defendant's testimony at the time he pled.

It is well settled that an unqualified promise which is part of a plea arrangement must be honored or else the plea may be withdrawn. The record in this case adequately supports the postconviction court's finding that no unqualified promise was made.

The record clearly shows that the sentencing court's intentions have not been frustrated by the implementation of the matrix procedure.

Affirmed. Scott, J.

49227/234 Janice Kragness vs. State of Minnesota, Fergus Falls State Hospital, (self-insured), Relator. Workers' Compensation Court of Appeals.

The record adequately shows that employee's injury was caused in substantial part by a work-related activity and thus the decision of the Workers' Compensation Court of Appeals must be affirmed.

Affirmed. Scott, J.

49405/241 In the Matter of the Downtown Development Project, Marshall City Council Resolution No. 57 Levied Against Real Estate Owned by Rose Thorburn, Appellant, vs. City of Marshall, Lyon County.

Minn. St. 429.081 clearly and unambiguously allows "any person aggrieved" to appeal the adoption of a special assessment, whether or not such appellant interposed objections at hearings held preliminary to the actual levying of the assessment.

Reversed. Scott, J. Took no part, Otis, J.

48756/78 Northwestern Bank of Commerce vs. Employers' Life Insurance Company of America. St. Louis County.

A life insurer promised to notify a bank, assignee of a policy as collateral for loans, in the event of premium default in ample time for assignee to protect its collateral. Insurer failed to notify assignee of premium default and the policy lapsed. Insurer's promise was enforceable under the doctrine of promissory estoppel.

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

48497/81 American Federation of State, County and Municipal Employees Local 66 and Council 96, for themselves and on behalf of Ann Maki and Lois McConnell and certain other nursing employees of Nopeming Sanatorium, Appellants, vs. St. Louis County Board of Commissioners, et al. St. Louis County.

A dispute between a public employer and employees and employee organizations, concerning the identity of the exclusive representative of the employees, could not be resolved by the contractual grievance procedure; and therefore the dispute was for determination by the district court in this action alleging an unfair labor practice for refusing to meet and negotiate a work schedule change with the employees' exclusive representative.

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

49282/201 Ronald T. Rascop vs. Nationwide Carriers, et al, Relators. Workers' Compensation Court of Appeals.

A settlement recovery by the employee's wife for loss of consortium resulting from the negligence of third-party tortfeasors cannot be credited against future compensation payments to be made by the workers' compensation insurer to the employee.

Affirmed. Maxwell, J. Took no part, Sheran, C. J.

48317/44 Octavia Blanks, Relator, vs. Oak Ridge Nursing Home, et al. Workers' Compensation Court of Appeals.

Injury sustained in fall on a public boulevard in front of place of employment, where hazard was no greater than that to which all others not so employed would be exposed, did not arise out of and in course of employment.

Affirmed. Per Curiam.

48683/51 Edward J. Hough, Relator, vs. Drevdahl & Son Co., Inc., et al. Workers' Compensation Court of Appeals.

Where testimony of medical experts was in conflict as to causal relationship because truck driver's work and the stress and disability he suffered, the court of appeals was required to resolve the conflict. Its findings that he had not contracted an occupational disease or suffered a personal injury arising out of his employment are based on credible testimony and not manifestly contrary to the evidence, and will not be disturbed.

Affirmed. Per Curiam.

SUPREME COURT

**49285/219 Douglas Kallio, petitioner, Appellant, vs.
State of Minnesota. Itasca County.**

We are convinced by our examination of the record that there is no merit to any of defendant's claims.

Affirmed. Per Curiam.

**49380/227 Stanley W. Young, petitioner, Appellant,
vs. State of Minnesota. Blue Earth
County.**

The district court properly denied the petition for posttrial relief from a conviction for various sex offenses.

Affirmed. Per Curiam. Took no part, Sheran, C. J.

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