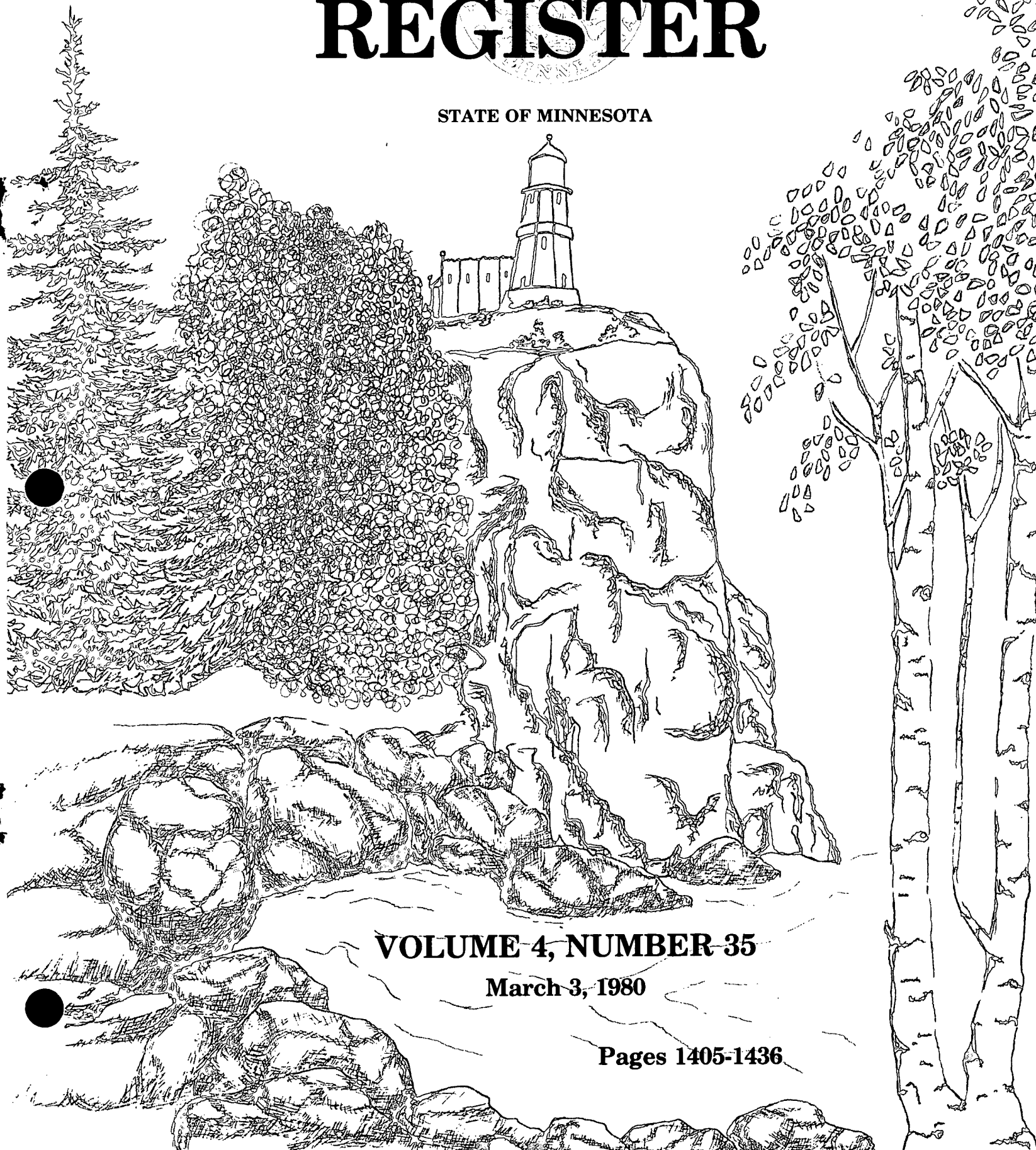


STATE REGISTER

STATE OF MINNESOTA



VOLUME 4, NUMBER 35

March 3, 1980

Pages 1405-1436



Volume 4 Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 4			
36	Monday Feb 25	Monday Mar 3	Monday Mar 10
37	Monday Mar 3	Monday Mar 10	Monday Mar 17
38	Monday Mar 10	Monday Mar 17	Monday Mar 24
39	Monday Mar 17	Monday Mar 24	Monday Mar 31

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

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

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

The *State Register* is published by the State of Minnesota, Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in August. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$118 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota, Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$2.25 per copy.

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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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NOTICE

How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Proposed new rules (including Notice of Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

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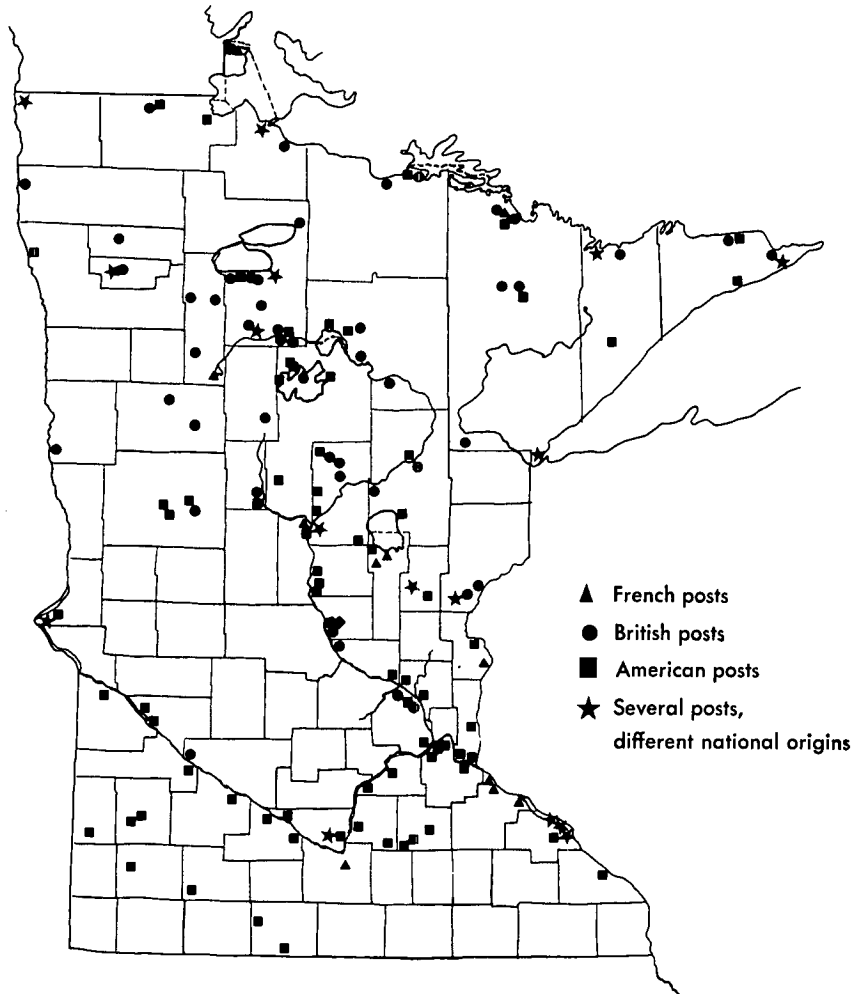
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THE FUR TRADE



NEARLY ONE HUNDRED AND FIFTY fur trade posts are thought to have existed in the area that became Minnesota. They were concentrated mainly along the waterways that constituted the trade routes. Although the existence of the posts is documented by letters, diaries, and other records, their exact locations are often difficult to determine because at many of the sites little physical evidence remains. (Courtesy of Minnesota Historical Society)

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 rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

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

Department of Commerce Insurance Division

Proposed Rules Relating to Self-Insurance for Workers' Compensation (pursuant to Minn. Stat. § 176.181, subd. 2)

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the hearing room at 500 Metro Square Building, Seventh and Robert Streets, Saint Paul, Minnesota, on April 8, 1980, at 9:30 a.m. and continuing until all representatives of associations or interested groups or persons have had an opportunity to be heard concerning the adoption of the proposed rules captioned above, by submitting either oral or written statements. In addition, written materials may be submitted by mail to George Beck, 1745 University Avenue, Room 300, St. Paul, Minnesota 55104, (612) 296-8108, the hearing examiner appointed to hear this matter, either before the hearing or within five (5) working days after the close of the hearing. The hearing examiner may at the hearing order a longer period of time for comments which may not exceed twenty (20) days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112. If you have any questions about the procedure, call or write the hearing examiner.

The proposed rules, if adopted, would establish the terms, conditions and requirements governing self-insurance for workers' compensation. The Workers' Compensation Act (Minn. Stat. ch. 176) requires all employers in this state to insure payment of workers' compensation benefits to its employees with some insurance carrier or obtain a written order from the Commissioner of Insurance (hereinafter "commissioner") excepting the employer from insuring its liability and authorizing the employer to self-insure. The proposed rules set forth the standards under which the commissioner will grant such authority to an employer and what standards the employer must maintain in order to retain the authority to self-insure. These standards include specific financial standards which an employer must maintain, along with specific requirements for servicing its self-insurance program and annual filings which must be made. Further, the employer must place on deposit either securities or surety bonds to assure the payment of benefits.

The proposed rules further set forth the terms, conditions and requirements for group self-insurers. Minn. Stat. § 176.181,

Public Hearings on Agency Rules March 10-17, 1980

Date	Agency and Rule Matter	Time & Place
March 12	Livestock Sanitary Board Quarantine of Domestic Animals Imported Without Health Certificate; Cattle Mange or Scabies; Establishment and Operation of Public Stockyards; Cleaning and Disinfection of Autos, Trucks, and other Vehicles; Isolation and Quarantine of Domestic Animals for Infectious and Dangerous Communicable Diseases Hearing Examiner: Natalie Gaul	9:30 a.m., Conference Rm., 500 Rice St., St. Paul, MN

subd. 2 permits two or more employers in the same industry to pool their workers' compensation liabilities. The proposed rules provide standards both financial and procedural which group self-insurers must follow. The proposed rules further require each group self-insurer to create a fund from which benefits will be paid. The proposed rules set forth the manner in which these funds shall be controlled and operated, including the amount to be paid by its members and any possible disbursement of surplus from the fund.

Finally, the proposed rules set forth standards under which entities servicing self-insurance programs for individual employers or for group self-insurers will be licensed. The proposed rules require that any entity that services a self-insurance program must be licensed and specifies the requirements to obtain and to maintain such a license.

These rules are proposed pursuant to the authority vested in the commissioner by the provisions of Minn. Stat. § 176.181, subd. 2.

Temporary rules relating to the subject matter of these proposed rules were promulgated and published at *State Register*, Volume 4, Number 32, and were effective January 24, 1980.

One free copy of the proposed rules in their entirety may be obtained by writing to Dale L. McDonnell, Insurance Division, 500 Metro Square Building, St. Paul, Minnesota 55101. Additional copies of the rules will be available at the hearing.

Notice is hereby given that adoption of these rules will not result in the expenditure of any public monies by local public bodies.

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

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

Minn. Stat. §§ 10A.01-10A.34 (1979 Supp.) requires each lobbyist to register with the Ethical Practices Board within five (5) days after commencing lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

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

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

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

February 18, 1980

Michael D. Markman
Commissioner of Insurance

Rules as Proposed

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§ 1.9286	Purpose and scope.
§ 1.9287	Definitions.
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§ 1.9290	Revocation of self-insurance authority.
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4 MCAR § 1.9285 Authority. 4 MCAR §§ 1.9285-1.9294 are promulgated under the authority of Minn. Stat. § 176.181, subd. 2 (Laws of 1979, spec. ses., ch. 3, § 50).

4 MCAR § 1.9286 Purpose and scope. These rules are designed to assure that the self-insurance plans are financially solvent, administered in a fair and capable fashion, and able to process claims and pay benefits in a prompt, fair and equitable manner; and to allow the commissioner to authorize qualified entities to engage in such business in a manner which is fair, equitable and consistent with the Workers' Compensation Act.

4 MCAR § 1.9287 Definitions.

A. "Certified audit" or "Certified financial statement" means an audit or financial statement upon which an independent Certified Public Accountant expresses his professional opinion that the accompanying statements present fairly the financial position of the self-insurer or fund in conformity with generally accepted accounting principles and generally accepted auditing standards consistently applied.

B. "Commissioner" means the Commissioner of Insurance.

C. "Current ratio" means the ratio of current assets to current liabilities in the most recent financial statement.

D. "Fund" means Self-Insurers Fund.

E. "Affiliated company" means any company that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the applicant company.

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

F. "Modified premium" shall mean the total manual premium as defined in the Workers' Compensation Insurers Rating Association's manual of rules, classifications, and rates approved for use in Minnesota, modified by an experience rating plan approved by the commissioner.

G. "Self-insurers fund" means any monetary fund or account created by a group self-insurer to pay workers' compensation claims due under the Workers' Compensation Act.

H. "Self-insurer" means both individual and group self-insurers unless the context clearly indicates a more restrictive definition.

I. "Service company" shall mean an entity which has obtained a license from the commissioner pursuant to 4 MCAR § 1.9294 to contract with self-insurers for the purpose of providing services necessary to plan and maintain an approved self-insurance program. An employer that has been granted the authority to self-insure pursuant to 4 MCAR § 1.9291 and administers its own self-insurance program shall be deemed a duly licensed service company for the purposes of servicing a self-insurance program of any affiliated company.

J. "Workers' Compensation Reinsurance Association" shall mean that association created by Laws of 1979, Spec. Ses., ch. 3, §§ 17 through 25 (hereinafter referred to as the "WCRA").

K. "Workers' Compensation Act" shall mean Minn. Stat. ch. 176.

L. "Fund year" for group self-insurers shall mean that period of time which the group self-insurer shall designate for the purposes of collecting premiums from its members and for determining any deficit or surplus; such period of time shall correspond with the fiscal year of the group.

M. "Control," including the terms "controlling," "controlled by" and "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person.

N. "Surplus" as regards the group self-insurer's fund shall mean the excess of all fund monies over the amount necessary to fulfill all obligations under the Workers' Compensation Act for all fund years that the group has been in operation.

O. "Deficit" as regards the group self-insurer's fund shall mean the excess of the amount necessary to fulfill all obligations under the Workers' Compensation Act for all fund years that the group has been in operation over all fund monies.

4 MCAR § 1.9288 Acceptable securities and surety bonds.

A. Acceptable securities and surety bonds for the purposes of 4 MCAR § 1.9291 G. and 1.9292 H. shall be:

1. U.S. Government bonds;
2. Any bonds or securities which are issued by the State of Minnesota and which are secured by the full faith and credit of this state;
3. Certificates of deposit issued by a bank in the State of Minnesota, which has deposits insured by the Federal Deposit Insurance Corporation;
4. Savings certificates issued by any savings and loan association in the State of Minnesota which has deposits insured by the Federal Savings and Loan Insurance Corporation;
5. Surety bonds issued by a corporate surety authorized by the commissioner to transact such business in the State of Minnesota;
6. Any guarantee from the United States government whereby the payment of the workers' compensation liability of a self-insurer is guaranteed.

B. All securities shall be deposited with the State Treasurer and surety bonds shall be filed with the commissioner. The commissioner and the State Treasurer shall be authorized to sell and/or collect, in the case of default of the employer or fund, such amount thereof as shall yield sufficient funds to pay compensation due arising pursuant to the Workers' Compensation Act.

C. Securities must bear the following assignment which shall be signed by an officer, partner, or owner: Assigned to the State of Minnesota for the benefit of injured employees of the self-insured employer under the Minnesota Workers' Compensation Act.

D. Interest accruing on any negotiable securities so deposited shall be collected and transmitted to the depositor, provided that the depositor is not in default in payment of compensation, premiums due the WCRA, or any assessments levied by the Department of Labor and Industry under Minn. Stat. § 176.131.

E. All surety bonds shall conform to the bond form set forth in Appendix I.

F. All deposits and surety bonds shall remain in the custody of the State Treasurer or the commissioner for a period of time as the applicable Statute of Limitations provided in the Workers' Compensation Act dictates.

G. No securities on deposit with the State Treasurer shall be released without an order from the commissioner.

H. Any securities deposited with the State Treasurer or surety bonds held by the commissioner may be exchanged or replaced by the depositor with other acceptable securities or surety bonds of like amount so long as the market value of the securities or amount of the surety bond exceeds the amount of deposit required.

4 MCAR § 1.9289 Filing of reports.

A. Incurred losses, paid and unpaid, specifying both indemnity and medical losses by classification, and payroll by classification, and current estimated outstanding liability for workers' compensation shall be reported to the commissioner by each self-insurer on forms available from the commissioner. Such information shall be reported on a calendar year basis and must be filed by April 1 of the following year, beginning April 1, 1981.

B. Each self-insurer shall, under oath, attest to the accuracy of each report submitted pursuant to A. above. Upon sufficient cause, the commissioner may require the self-insurer to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner. The basis for sufficient cause shall include, but is not limited to, the following factors: where the losses reported appear significantly different from similar type businesses or where major changes in the reports exist from year to year which are not solely attributable to economic factors. If any discrepancy is found, the commissioner may require changes in the self-insurer's or service company's record keeping practices. Failure to make the necessary changes shall subject the self-insurer or service company to a fine of up to \$50,000 or revocation of the self-insurer's authority to self-insure, and the service company's license to act as a service company.

C. Each self-insurer shall report to the commissioner any workers' compensation claim estimated to exceed \$50,000 within ten days of obtaining knowledge that the claim may exceed \$50,000.

D. Each individual self-insurer shall, within four months after the end of its fiscal year, annually file with the commissioner its latest 10K Report required by the Securities and Exchange Commission. If an individual self-insurer does not prepare a 10K Report, it shall file an annual certified financial statement, together with such other financial information as the commissioner may require to substantiate data in the financial statement.

E. Each group self-insurer shall, within four months after the end of the fiscal year for that group, annually file a statement showing the combined net worth of its members based upon each individual member's annual certified financial statement, together with such other financial information the commissioner may require to substantiate data in the group's summary statement.

F. In addition to the financial statements required by D. and E. above, interim financial statements, or 10Q Reports required by the Securities and Exchange Commission may be required by the commissioner upon an indication that there has been deterioration in the self-insurer's financial condition, including but not

limited to a worsening of current ratio, lessening of net worth, net loss of income, the down grading of the company's bond rating, or any other significant change that may adversely affect the self-insurer's ability to pay expected losses. Any self-insurer which files an 8K Report with the Securities and Exchange Commission shall also file a copy of the report with the commissioner within thirty (30) days of the filing with the Securities and Exchange Commission.

G. Any self-insurer that fails to file any report required by these rules within the time prescribed shall be subject to the same penalty as insurance companies for failure to file required reports pursuant to Minn. Stat. § 72A.061.

4 MCAR § 1.9290 Revocation of self-insurance authority.

The following shall constitute grounds for revocation of the authority to self-insure:

A. Failure to comply with 4 MCAR §§ 1.9285-1.9293:

B. Failure to comply with any order of the commissioner:

C. Failure to comply with any provision of the Workers' Compensation Act.

D. A deterioration of financial condition adversely affecting the self-insurer's ability to pay expected losses, including, but not limited to, a worsening of the current ratio, a lessening of net worth, a net loss of income, or the failure of the self-insurer to meet the net worth standards of 4 MCAR § 1.9291 C. or 1.9292 C.

E. Committing an unfair or deceptive act or practice as defined in Minn. Stat. § 72A.20.

F. Failure to abide by the Plan of Operation of the WCRA.

4 MCAR § 1.9291 Requirements for individual self-insurers.

A. Each employer desiring to self-insure individually shall apply to the commissioner on forms available from the commissioner. The commissioner shall grant or deny the application within thirty (30) days after a complete application is filed. Such time limit may be extended for another thirty (30) days upon fifteen (15) days prior notice to the applicant. Any grant of authority to self-insure shall continue in effect until revoked by order of the commissioner or until such time as the employer becomes insured.

B. Each application for self-insurance shall be accompanied by a certified financial statement. Certified financial statements for a period ending more than six (6) months prior to the date of the application must be accompanied by an affidavit signed by a company officer under oath stating that there has been no material lessening of the net worth nor other adverse changes in its financial condition since the end of the period.

C. Each individual self-insurer shall have and maintain a net

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PROPOSED RULES

worth at least equal to the greater of ten (10) times the retention limit selected with the WCRA or one third (1/3) the amount of the self-insurer's current annual modified premium. The requirements shall be modified if the self-insurer can demonstrate through a reinsurance program, other than coverage provided by the WCRA, that it can pay expected losses without endangering the financial stability of the company.

D. Each individual self-insurer shall have and maintain sufficient assets, net worth and liquidity to promptly and completely meet all of its obligations that may arise under the Workers' Compensation Act. In determining whether a self-insurer meets this requirement the commissioner shall consider: the self-insurer's current ratio; its long-term and short-term debt to equity ratios; its net worth, financial characteristics of the particular industry in which the self-insurer is involved; any recent changes in the management and ownership of the company; any excess insurance purchased by the self-insurer from a licensed company or an authorized surplus line carrier, other than excess insurance from the WCRA; any other financial data submitted to the commissioner by the company; and the company workers' compensation experience for the last four (4) years.

E. Where an employer seeking to self-insure fails to meet the financial requirements set forth in C. and D. above, the commissioner shall grant authority to self-insure provided that an affiliated company, whose financial statement is filed with the commissioner and meets the requirements set forth in C. and D. above, provides a written guarantee adopted by resolution of its board of directors that it will pay all workers' compensation claims incurred by its affiliate, and that it will not terminate the guarantee under any circumstances without first giving the commissioner and its affiliate thirty (30) days written notice. If said guarantee is withdrawn or if the guarantor ceases being an affiliate, the affiliate shall give written notice to the commissioner and the self-insured and the self-insured's authority to self-insure shall automatically terminate upon expiration of the thirty (30) day notice period.

F. Each individual self-insurer shall agree to fully discharge by cash payment, or other form of benefit approved by the Department of Labor and Industry, all amounts required to be paid by the provisions of the Workers' Compensation Act.

G. Each individual self-insurer shall be required to deposit acceptable securities of surety bonds in an amount equal in value to:

1. For an employer who has been self-insured for at least two (2) years and specifically identifies in its financial statement its outstanding workers' compensation liability the greater of:

a. \$100,000 of

b. total outstanding workers' compensation liability not to exceed \$500,000.

2. For an employer who has been self-insured for at least two (2) years and does not specify in its financial statement its outstanding workers' compensation liability either:

a. \$100,000,000, or

b. total outstanding workers' compensation liability if certified by an actuary who is an associate member of the Casualty Actuarial Society, provided that the deposit shall be at least \$100,000.

3. For an employer who has been self-insured less than two (2) years and has specifically identified in its financial statement its outstanding workers' compensation liability the greater of:

a. \$100,000 or

b. 70% of the employers' estimated current modified premium, or

c. outstanding workers' compensation liability, not to exceed \$500,000.

4. For an employer who has been self-insured for less than two (2) years and do not specify in its financial statement its outstanding workers' compensation liability the greater of:

a. \$100,000

b. 70% of the employers' estimated current modified premium, or

c. outstanding workers' compensation liability, not to exceed \$1,000,000.

H. No deposit shall be required of a self-insurer that has had its workers' compensation liability guaranteed pursuant to E. above, provided that the affiliated company is required to make a deposit and the self-insurer's outstanding workers' compensation liability are included in the determination of the affiliate's deposit.

I. Each individual self-insurer shall administer insurance claims in a fair and equitable manner.

J. Each individual self-insurer shall designate those employees who will administer its self-insurance program, and shall specify their qualifications to engage in the administration of the self-insurance program. If a self-insurer contracts with another entity for the administration of its program, including adjustment of claims, or administration of loss control or safety engineering programs, the self-insurer shall only contract with a service company duly licensed for those specific areas of program administration.

K. When a self-insurer is sold to, or merged with, another entity, the self-insurer shall give notice to the commissioner within 30 days of the sale or merger. At that time the new owner shall file a consolidated financial statement, and the commissioner shall have the discretion to revoke the employer's authority to self-insure if the consolidated financial statement does not meet the requirements of C. and D. above. The burden shall be on the new owner to qualify pursuant to this rule.

4 MCAR § 1.9292 Requirements for group self-insurers.

A. Two or more employers in the same industry may apply to the commissioner for the authority to self-insure as a group on forms available from the commissioner. This initial application

shall be accompanied by a copy of the bylaws or plan of operation adopted by the group. Such bylaws or plan of operation shall conform to the conditions prescribed by 4 MCAR §§ 1.9292 and 1.9293. The commissioner shall approve or disapprove the bylaws within thirty (30) days unless a question as to the legality of a specific bylaw or plan provision has been referred to the Attorney General's office. The commissioner shall make a determination as to the application within fifteen (15) days after receipt of the requested response from the Attorney General's office.

B. After the initial application, along with the bylaws or plan of operation that have been approved by the commissioner, or at the time of the initial application, the group shall then submit: the names of employers who will be members of the group; an indemnity agreement as set forth in Appendix II signed by an officer of each member; and a certified financial statement of each member.

C. A group proposing to self-insure shall have and maintain:

1. A combined net worth of all of the members that is at least equal to the greater of ten (10) times the retention selected with the WCRA or one-third (1/3) of the current annual modified premium of the members. The requirements of this subdivision shall be modified if the self-insurer can demonstrate that through excess insurance, other than coverage provided by the WCRA, that it can pay expected losses.

2. Sufficient assets, net worth, and liquidity to promptly and completely meet all obligations of its members under the Workers' Compensation Act. In determining whether a group is in sound financial condition, consideration shall be given to: the combined net worth of the member companies; the combined net worth of the member companies; the consolidated long-term and short-term debt to equity ratios of the member companies; the particular industry that the member companies are engaged in; any excess insurance other than reinsurance with the WCRA, purchased by the group from an insurer licensed in Minnesota or from an authorized surplus line carrier; other financial data requested by the commissioner or submitted by the group; and the combined workers' compensation experience of the group for the last four (4) years.

D. Two or more employers shall be deemed to be engaged in the same industry under Minn. Stat. § 176.181, subd. 2(1) if the commissioner finds that all of the employers have the same group classification as defined in the Classification Codes Manual for Workers' Compensation and Employers' Liability Insurance published by the National Council of Compensation Insurance.

E. The commissioner shall grant or deny the group's application to self-insure within thirty (30) days after a complete application has been filed, provided that such time may be extended

for an additional thirty (30) days upon fifteen (15) days prior notice to the applicant. Upon a determination that: the financial ability of the self-insurers group is sufficient to fulfill all joint and several obligations of the member companies which may arise under the Workers' Compensation Act; the gross annual premium of the group members is at least three hundred thousand dollars (\$300,000.00); the group has established a fund pursuant to 4 MCAR § 1.9293; the group has contracted with a licensed service company to administer its program; the required securities or surety bond shall be on deposit prior to the effective date of coverage for any member; and all of the member companies are engaged in the same industry; the commissioner shall grant approval for self-insurance. Such approval shall be effective until revoked by order of the commissioner or until the employer members of the group become insured.

F. Each group self-insurer shall contract with a service company licensed pursuant to 4 MCAR § 1.9294 to administer its program or employ such personnel that will qualify the group as a licensed service company. The service company shall have the sole authority to make claim determinations regarding injured workers of the member employers.

G. Each group self-insurer shall establish a group self-insurers fund pursuant to 4 MCAR § 1.9293, which shall be administered by the board of directors of the group.

H. Prior to the providing of coverage to any member company, a group self-insurer shall deposit acceptable securities or surety bonds in an amount equal to 70% of the members current modified premium plus the amount payable to the service company under the service contract; provided that the deposit required shall not be greater than five hundred thousand dollars (\$500,000.00). After the group self-insurer has been in existence for two (2) years the deposit shall be an amount equal to the outstanding workers' compensation liability of the group subject to a maximum of five hundred thousand dollars (\$500,000.00).

I. An employer must belong to the group for at least one year. If a member voluntarily terminates its membership in a group during the second or third year of membership, the group self-insurer shall assess the terminating member at least the following penalties: 25% of the premium due from that member for that year if termination occurs within the second year of membership and 15% of the premium due from that member for that year if termination occurs within the third year. No penalty shall be required if an employer's withdrawal is due to merger, dissolution, sale of the company or change in the type of business so that it is no longer engaged in the same industry as the rest of the employers of the group. Following completion of three consecutive years of membership in the group, withdrawal from the group may be allowed without penalty provided ninety (90) days advance written notice is given to the board of direc-

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tors of the group. Any penalty assessed pursuant to this subdivision shall be paid to the group's self-insurers' fund.

J. Upon the receipt of any notice of a member to withdraw or a decision by the board of directors to expel a member, the group self-insurer shall give immediate notice to the commissioner and then as soon as practicable re-evaluate its net worth and financial condition. If the consolidated net worth or financial condition of the group, excluding the terminating or expelled member, fails to meet the requirements specified in C. above, the group shall so notify the commissioner within fifteen (15) days and advise the commissioner of its plan for bringing the group into compliance with C. above.

K. The group self-insurer shall file with the commissioner the name of all employer members accepted into the group. The group shall not accept any liability for a new member until a signed indemnity agreement in the form set forth in Appendix II has been completed by that new member and filed with the commissioner.

L. Each group self-insurer shall be prohibited from accepting as a member any employer that owes an outstanding debt to a previous group self-insurer. A judgment obtained under the laws of Minnesota shall be required as proof of such debt. If a group has such an employer member, upon receipt of the required proof, the fund administrator shall issue thirty (30) days notice of cancellation to the member.

M. The directors of each group self-insurer shall cause to be adopted a set of bylaws or plan of operation which shall govern the operation of the group. All bylaws or plans of operation, or amendments thereto, shall be subject to prior approval by the commissioner.

1. These bylaws or plans of operation shall contain, but not be limited to, the following subjects:
 - a. Qualifications for group self-insurer membership, including underwriting considerations.
 - b. The method for selecting the board of directors, including the directors terms of office.
 - c. The procedure for amending the bylaws or plan of operation.
 - d. Investment of all assets of the fund.
 - e. Frequency and extent of loss control or safety engineering services provided to members.
 - f. A schedule for payment and collection of premiums.
 - g. Expulsion procedures, including expulsion for non-payment of premiums and expulsion for excessive losses.
 - h. Delineation of authority granted to the administrator.
 - i. Delineation of authority granted to the service company.
 - j. Basis for determining premium contributions by members including any experience rating program.

- k. Procedures for resolving disputes between members of the group, which shall not include submitting them to the commissioner.

1. Basis for determining distribution of any surplus to the members, or assessing the membership to make up any deficit.

2. The directors shall review at least annually the following items for the purpose of determining whether these areas of concern are being adequately provided for:

- a. Service company performance.
- b. Loss control and safety engineering.
- c. Investment policies.
- d. Collection of delinquent debts.
- e. Expulsion procedures.
- f. Initial member review.
- g. Administrator performance.
- h. Claims handling and claims reporting.

3. All group self-insurers shall file copies of its current bylaws or plan of operation with the commissioner. Any changes in the bylaws or plan of operation shall be filed with the commissioner no later than thirty (30) days prior to their taking effect. The commissioner reserves the right to order the group self-insurers to rescind or revoke any bylaw or plan of operation if it is in violation of 4 MCAR §§ 1.9285 to 1.9294 or any law.

N. All group self-insurers shall maintain at a location within the State of Minnesota such records as are necessary to verify the accuracy and completeness of all reports submitted to the commissioner pursuant to 4 MCAR §§ 1.9285 to 1.9294. However, the group self-insurers shall be authorized to transfer its financial records to the offices of the certified public accountant for the group self-insurers upon the written permission of the commissioner. In addition, if the group self-insurer has contracted with a service company for claims handling, then the claims files and related records may be located at the offices of the service company. The location of these records shall be designated with the application for self-insurance authority and thereafter shall be provided to the commissioner through written notice of any change in its location within thirty (30) days of any such change.

O. Failure of any employer to maintain membership in any group while not otherwise procuring insurance for its workers' compensation liability may subject the employer to the penalties provided in Minn. Stat. §§ 176.181 and 176.183.

P. The group self-insurer shall be considered a single entity for the purposes of membership in the WCRA and for the purposes of any assessment levied upon self-insurers pursuant to the Workers' Compensation Act.

Q. The group self-insurer shall not incorporate or form a business trust pursuant to Minn. Stat. ch. 318.

4 MCAR § 1.9293 Group self-insurers' fund.

A. Each group self-insurer shall, not less than ten (10) days prior to the proposed effective date of the group, submit evidence that cash premiums equal to not less than twenty percent (20%) of the current year's modified workers' compensation insurance premium for each employer, has been paid into a common claims fund, maintained by the group in a designated depository. The remaining balance of the members' premium, which shall be at least the current year's modified workers' compensation insurance premium less the initial cash premium, shall be paid to the group in a reasonable manner over the remainder of the year. Payments in subsequent years shall be made according to the schedule in the manual of rules, classifications and rates approved for use in Minnesota provided that a reduction in the manual premium shall be allowed if based on bonafide savings in the expenses of the group, or an actuary who is a member of the casualty actuarial society certifies that a reduction should be permitted based on the losses of the group and that a deficit has not occurred in any of the last three years.

Each group self-insurer shall initiate proceedings against a member when that member becomes more than fifteen (15) days delinquent in any payment of premium to the fund.

B. There shall be no commingling of any assets of the group self-insurers' fund with the assets of any individual member employer, or with any other account of the group unrelated to payment of workers' compensation liability incurred by the group.

C. The group self-insurer shall designate a fiscal agent and/or administrator to administer the financial affairs of the fund. Such fiscal agent or administrator shall furnish a fidelity bond with the self-insurer as obligee, in an amount sufficient to protect the fund against the misappropriation or misuse of any monies or securities. Such fiscal agent or administrator shall not be an owner, officer, or employee of the service company or any affiliate of the service company.

D. All funds shall remain in the control of the group self-insurer or its authorized administrator. One or more revolving funds for payment of compensation benefits due may be established for the use of the authorized service company. The service company shall furnish a fidelity bond covering its employees, with the self-insurer as obligee, in an amount sufficient to protect all monies placed in such revolving fund. Should the fidelity bond of the fiscal agent and/or administrator also cover the monies in the revolving fund, the service company shall not be required to furnish a fidelity bond.

E. The accounts and records of the group self-insurers' fund shall be audited annually. Audits shall be made by Certified Public Accountants with the commissioner reserving the right to prescribe a uniform accounting system based on generally ac-

cepted accounting principles and generally accepted auditing standards to be used by the group self-insurers or service companies, and the type of audits to be made, in order to determine the solvency of the self-insurers fund. All audits required by this rule shall be filed with the commissioner ninety (90) days after the close of the fiscal year for the group self-insurer. The commissioner may require a special audit to be made at other times if the financial stability of the fund or the adequacy of its monetary reserves is in question.

F. No director, fiscal agent or administrator of a group self-insurer shall utilize any of the monies collected as premiums for any purpose unrelated to workers' compensation insurance. No director, fiscal agent or administrator shall borrow any money from the self-insurers fund or in the name of the self-insurers fund.

G. Cash assets of the self-insurers fund may be invested as provided in Minn. Stat. § 60A.11 for a casualty insurance company provided that investment in common stock, real estate, or indebtedness from any member company is prohibited. In addition, investment in the following is allowed:

1. Savings accounts or certificates of deposit in a duly chartered commercial bank located within the State of Minnesota and insured through the Federal Deposit Insurance Corporation.

2. Share accounts or savings certificates in a duly chartered savings and loan association located within the State of Minnesota and insured through the Federal Savings and Loan Insurance Corporation.

3. Direct obligations of the United States Treasury, such as notes, bonds, or bills.

4. Any bond or security issued by the State of Minnesota and backed by the full faith and credit of the State.

5. Any credit union where the employees of the self-insurer are members, provided that such credit union is located in Minnesota, licensed by the State of Minnesota, and insured through the Federal Deposit Insurance Corporation.

H. Any securities purchased by the group self-insurers' fund shall be in such denominations, and with dates of maturity to insure that securities may be redeemable at sufficient time and in sufficient amounts to meet the fund's current and long-term liabilities.

I. The self-insurer shall report annually, as part of its financial statement, a schedule showing the disposition of all investment income earned during the immediately preceding year.

J. Fifty percent (50%) of any surplus monies for a fund year in excess of 125 percent (125%) of the amount necessary to fulfill all obligations under the Workers' Compensation Act for that fund year may be declared refundable to a member at any

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time. If the amount calculated to be refundable is less than \$500, then 100 percent (100%) of any surplus monies in excess of 125 percent (125%) may be declared refundable. Date of payment shall be no earlier than eighteen (18) months following the end of such fund year, provided that no more than one (1) refund may be made in any twelve (12) month period. When all claims arising out of any one fund year have been fully paid, all surplus monies from that year may be declared refundable.

K. The group self-insurer shall give notice to the commissioner of any refund. Said notice shall be accompanied by a statement from the self-insurer's certified public accountant certifying that the proposed refund is in compliance with J. above.

L. In the event of a deficit in any fund year, such deficit shall be paid up immediately, either from surplus from a fund year other than the current fund year, or by assessment of the membership. The commissioner shall be notified within ten days of any transfer of surplus funds.

M. If the commissioner finds that any deficit has not been paid up, he may order an assessment to be levied against the members of a group self-insurer sufficient to make up any deficit.

4 MCAR § 1.9294 Qualification for service companies.

A. Any person or entity desiring to be licensed as a service company shall apply to the commissioner on forms available from the commissioner. The license shall designate areas of administrative services which the service company shall be authorized to perform. Any license granted shall be effective for a period of two (2) years unless revoked by order of the commissioner.

B. In support of the application, a service company shall submit:

1. Summary information concerning its organization and staff.

2. Detailed resumes of all employees, or employees of any subcontractor, with administrative or professional capacity. Such resumes shall indicate the areas of administration in which each employee shall work and the qualifications and experience of the employee relating to that area.

3. A description of the administrative services intended to be provided.

4. The identity of the owners of the service company, including but not limited to, all members of a partnership and all officers of a corporation.

C. The application shall be accompanied by a certification that the applicant has employed or has contracted with competent individuals to provide those services intended to be provided to self-insurers.

D. If the service company intends to provide claims adjusting, the service company or its subcontractor shall have supervisory personnel who possess at least three (3) years experience adjusting workers' compensation claims. Further, the service

company or subcontractor shall have at least one adjuster who holds a license under Minn. Stat. ch. 72B and shall be situated within the State of Minnesota.

E. The service company shall have within the State of Minnesota an employee who is able to act as a resident agent, authorized to act in all matters concerning the service company.

F. The service company shall have employed or retained experienced accountants when necessary to the providing of the administrative services to a self-insurer, when the prospective self-insurer does not provide such expertise.

G. The commissioner shall grant or deny the license within 30 days after a complete application has been filed showing compliance with A. through F. above. However, any entity who the commissioner has reason to believe has committed an act or practice which is defined as unfair or deceptive in Minn. Stat. § 72A.20 shall be denied a license under this rule. Any applicant who is denied a license pursuant to this subdivision may within 30 days after denial by the commissioner demand a hearing pursuant to Minn. Stat. ch. 15. The commissioner shall have the burden of proof at any such hearing to prove that the applicant has committed such a practice.

H. Any records of a service company relating to any of the services offered or provided to any self-insurer shall be open to inspection by the commissioner during normal business hours.

I. Each service company may be investigated by the commissioner upon reasonable belief that the service company is not in compliance with 4 MCAR §§ 1.9285 to 1.9294 or is improperly administering workers' compensation claims pursuant to the Workers' Compensation Act. If the commissioner determines that the service company is not in compliance with 4 MCAR § 1.9285 to 1.9294 or the Workers' Compensation Act, the service company shall be liable for the cost of the investigation.

J. Revocation of any service company license shall be pursuant to the contested case procedure in Minn. Stat. ch. 15.

K. Good cause for revocation of the license of the service company shall be, but not limited to, the following factors:

1. Improper claims handling techniques.

2. Material violation of any of the foregoing rules.

3. Material violation of any provision of the Workers' Compensation Act.

4. Committing an unfair or deceptive act or practice as defined in Minn. Stat. § 72A.20.

L. Each service company shall be expected to file, or attempt to ensure that the self-insurers it services file, all required reports relating to those services which they provide by the dates established by statute or by these rules. Such reports shall include, but are not limited to, the following: loss information reports required by 4 MCAR § 1.9289, reports required by the WCRA, and any report required by the Minnesota Department of Labor and Industry.

M. Each service company shall report to the commissioner the termination of any service contract entered into with a self-insurer within ten (10) days of such termination.

4 MCAR §§ 1.9295-1.9299 Reserved for future use.

Appendix I

Bonding Company Name

Bond No.

Surety Bond

KNOW ALL MEN BY THESE PRESENTS: That we, (entity to be bonded), of (location), (hereinafter called the "Principals"), as Principals, and (bonding company name), a (name of state) corporation, of (location) (hereinafter called the "Surety"), as Surety, are held and firmly bound unto the Commissioner of Insurance of the STATE OF MINNESOTA for the use and benefit of the employees of the Principals and to pay workers' compensation obligations of the Principals in the sum of (dollar amount), for the payment of which well and truly to be made, the Principals bind themselves, their successors and assigns, and the Surety binds itself and its successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, in accordance with the provisions of § 176.181 of the Minnesota Statutes, the Principals have by written order of the Commissioner of Insurance of the State of Minnesota been exempted from insuring its liability for compensation according to the provisions of the Minnesota Workers' Compensation Act and have been permitted by said order to self-insure all liability hereafter arising under the Workers' Compensation Act, including their liability for medical expenses.

NOW, THEREFORE, the condition of this obligation is such that if the said Principals shall, according to the terms, provisions and limitations of the Minnesota Workers' Compensation Act, pay all of their liabilities and obligations under said act, including all benefits as provided by said act, then this obligation shall be null and void, otherwise to remain in full force and effect, subject, however, to the following terms and conditions:

1. The liability of the Surety is limited to the payment of all legal liabilities and obligations, including payment of compensation and medical benefits, provided by the Workers' Compensation Act of Minnesota which are payable by said Principals for or on account of personal injuries or occupational diseases sustained during or attributable to the entire period that the Principals are authorized to self-insure in the State of Minnesota, subject to cancellation, as hereinafter provided. In no event shall the total liability of the Surety exceed the amount herein stated, to-wit, the sum of (dollar amount).

2. In the event of any default on the part of the Principals to abide by any award, order or decision of the Workers' Compensation Division of Minnesota directing and awarding payment of such legal liabilities, obligations, or benefits to or on behalf of any employee or the dependents of any deceased employee, the Commissioner of Insurance may, upon ten days notice to the Surety and opportunity to be heard, require the

Surety to pay the amount of the same, to be enforced in like manner as an award may be enforced against said Principals.

3. Service on the Surety shall be deemed to be service on the Principals.

4. This bond shall continue in force from year to year unless cancelled as herein provided, but regardless of the number of years this bond remains in force or the number of annual premiums paid or payable the total liability of the Surety hereunder shall not exceed the sum of (dollar amount).

5. This bond may be cancelled at any time by the Surety by giving sixty (60) days notice in writing to the Commissioner of Insurance of the State of Minnesota at its offices in the City of St. Paul, Minnesota, and upon expiration of said sixty (60) days the liability of the Surety hereunder shall cease, except as to liability incurred hereunder prior to the expiration of said sixty (60) days, as set out in paragraph 1.

6. This bond shall become effective at (time of day) (month, day, year).

IN TESTIMONY WHEREOF, said Principals and said Surety have caused this instrument to be signed by their respective duly authorized officers and their corporate seals to be hereunto affixed this (day, month, year).

Signed, sealed and delivered in the presence of: Corporation Name
By: _____
Bonding Company Name
By: _____

**Appendix II
INDEMNITY AGREEMENT**

1. Whereas, (name of company) has agreed to be and has been accepted as a member of (name of Group Self-Insurer).

2. Whereas, (name of company) has agreed to be bound by all of the provisions of the Minnesota Workers' Compensation Act and all Rules and Regulations promulgated thereunder.

3. Whereas, that (name of company) has agreed to be bound by the bylaws or plan of operation and all amendments thereto of (name of Group Self-Insurer).

4. Whereas, that (name of company) has agreed to be jointly and severally liable for all claims and expenses of all the members of (name of Group Self-Insurer) arising in any fund year in which (name of company) is a member of the group. Provided that if (name of company) is not a member for the full year it shall be only liable for a pro rata share of that liability.

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IN WITNESS WHEREOF, the (name of company) and (name of group self-insurer) have caused this indemnity agreement to be executed by its authorized officers:

GROUP SELF-INSURERS NAME COMPANY NAME
By: _____ By: _____
DATE: _____ DATE: _____

Department of Education Vocational-Technical Division

Proposed Temporary Rules for the Distribution of Vocational Aids

Request for Public Comment

The State Board of Education has proposed the following temporary rules in response to Minn. Stat. chs. 121 and 124 (1978) as amended by Laws of 1979, ch. 334, Art. V, §§ 1, 7 and 13-16. Authority to adopt such temporary rules is provided by Minn. Stat. § 121.21, subd. 6 as amended by Laws of 1979, ch. 334, Art. V, § 1 and by Minn. Stat. § 15.0412, subd. 5. Additionally, state agencies are directed by Minn. Stat. § 15.0412, subd. 5, to repeal rules which are not in compliance.

All interested parties are hereby afforded the opportunity for 20 days after publication of this material in the *State Register* to submit data and views on the proposed by writing to Charles Coskran, Acting Assistant Commissioner for Vocational-Technical Education, 564 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101. Such publication is hereby ordered.

Any written materials received by the agency shall become part of the hearing record in the final adoption of the temporary rule.

February 11, 1980

Howard B. Casmey
Commissioner of Education

Temporary Rules as Proposed

Chapter Six: Post-Secondary Vocational-Technical Education (all new material)

5 MCAR § 1.01041 Definition. The term allocation or preliminary allocation means the level of funding recommended to the State Board for Vocational Education by the Vocational Division.

5 MCAR § 1.01042 Instructional aid. Instructional aid shall be allocated to the area vocational-technical institutes in accordance with the formula prescribed in Minn. Stat. § 124.5621.

5 MCAR § 1.01043 Post-secondary vocational supply aid.

A. Post-secondary vocational supply aid shall be allocated to each AVTI for those items of expenditure enumerated in Minn. Stat. § 124.5622, subd. 4.

B. Supply aid allocation.

1. The Vocational Division shall review each instructional and support services program budget submitted by the AVTI. The budget shall be reviewed and approved, modified or reduced giving consideration to such factors as:

- a. The historical average of per student supply costs for the program.
- b. The average per student cost of supplies for all similar programs in all AVTIs offering such programs.
- c. Continued operation of the physical plant.

2. The Vocational Division shall annually establish inflationary factors which will govern increases in the various categories of supplies. These inflationary factors will be a two-year forecast from the base year which is the fiscal year immediately preceding the deadline for the submission of budgets to the Vocational Division by the AVTIs. The Vocational Division shall obtain estimates of cost for the types of items most commonly purchased by the AVTIs over the two year span of time in determining the inflationary factors from the State Economist, Department of Finance.

a. Separate factors shall be established to determine allowable increases for petroleum related supplies and non-petroleum related supplies.

(1) For petroleum related supplies, the following indexes shall be utilized:

- (a) Wholesale price index—refined petroleum products.
- (b) Wholesale price index—rubber and plastic products.

(2) For non-petroleum related supplies, the following indexes shall be utilized:

- (a) Wholesale price index—lumber and wood products.
- (b) Wholesale price index—chemicals and allied products.
- (c) Wholesale price index—metals and metal products.

b. These inflationary factors shall be transmitted to the AVTIs not less than 60 days prior to the deadline by which the AVTIs must submit budget requests to the Vocational Division.

3. Each school board which has established an AVTI shall implement policies to recover the cost of supplies purchased for resale to students and the public.

a. For instructional programs in the food service area, such rates of recovery shall be established in consultation with the Vocational Division. Each food service instructional

program will be compared to similar programs offered in other AVTIs to annually adjust the rate of recovery by considering the following factors:

(1) To provide maximum instructional benefits to students.

(2) To minimize the net cost to the program.

b. For all other instructional programs, the rate of cost recovery shall ensure that the total revenue from the resale of supplies shall not be less than the cost of acquisition of supplies purchased for resale.

4. Each AVTI that submits a program budget wherein the increased cost of supplies exceeds the two year forecast of inflationary factors established in B.2. above shall justify such increases in writing. This justification shall be submitted to the Vocational Division with the budget requests to receive consideration.

5. In the event that the total request for supply aid for an individual AVTI does not exceed the base year expenditure plus the inflation factors established in B.2. above, the Vocational Division shall give preliminary approval to the request subject to the later necessity of pro-rated reductions applied to all AVTIs subject to the following:

a. When the total requests for supply aid are equal to or less than 105 percent of the funds appropriated for this purpose, each AVTI shall have their request reduced by an equal percentage so that the allocations make maximum use of but do not exceed the funds appropriated for this purpose.

b. When the total requests by all AVTIs for supply aid exceed 105 percent of the funds appropriated for this purpose, an AVTI which requests supply aid in excess of its base year expenditures as adjusted by the inflationary factors established in B.2. above may have its request reduced to an amount equal to the base year amount. This reduction shall be accomplished on a program by program basis by the Vocational Division in consultation with the AVTI Director. In effecting such reductions, consideration shall be given to the factors enumerated in B.1.a.-c. above.

5 MCAR § 1.01044 Post-secondary vocational capital expenditure aid.

A. Post-secondary vocational capital expenditure aid shall be allocated to each AVTI for those items of expenditure enumerated in Minn. Stat. § 124.5624, subd. 3.

B. Capital equipment aid allocation.

1. Each AVTI shall establish an order of priority for its capital aid requests. In establishing the order of priority, the AVTI shall give consideration to the enhancement of the safety of the students and staff and the replacement of technological obsolescent and/or worn out equipment.

2. All requests for the purchase of equipment which have a unit cost of \$1,000 or more shall be justified in writing as a part of the documentation supporting the program budget request. The Vocational Division shall review such requests giving consideration to:

a. The needs of the program as compared to similar programs offered in other AVTIs; and

b. the recommendation of the AVTI program advisory committee established in accordance with 5 MCAR § 1.0075.

3. All projected capital expenditures which have a unit cost of \$4,000 or more are subject to approval by the Commissioner of Education prior to purchase. This includes remodeling and site improvement projects with a cost of \$4,000 to \$50,000. These items shall be included in the appropriate program budget. Such approval shall be sought and given separately from the budget review in accordance with Minn. Stat. § 124.5264, subd. 5 (Supp. 1979).

a. These requests shall have the specific authorization of the school board which governs the AVTI.

b. The AVTI program advisory committee shall concur with the request stating the basis for its recommendation.

c. The Vocational Division shall review and approve, modify or reduce the request giving consideration to the following factors:

(1) The historical pattern of capital and/or equipment expenditures for that AVTI.

(2) A comparison with similar programs offered in other AVTIs.

(3) Current practices for facilities or types of equipment utilized in industry.

C. Preliminary allocations of post-secondary vocational capital expenditure aid for items not exceeding a unit cost of \$50,000.

1. When the total requests for capital expenditure aid are equal to or less than 105 percent of the funds appropriated for this purpose, each AVTI's request shall be reduced by an equal percentage so that the allocations make maximum use of but do not exceed the funds appropriated for this purpose.

2. If the total request for capital expenditure aid exceeds 105 percent of the funds appropriated for this purpose, each AVTI's budgets shall be reviewed by the Vocational Division. The Vocational Division shall contact the Director of the AVTI for the purpose of effecting reductions in the request giving consideration to the factors set forth in B.1.-3. above prior to the scheduled budget review with the Vocational Division. The AVTI Director shall be notified in writing as to the amount of the reduction.

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

D. Remodeling and construction requests. Requests for remodeling or construction with an estimated cost in excess of \$50,000 but not exceeding \$150,000 are subject to prior approval by the State Board for Vocational Education in accordance with Minn. Stat. § 121.912 (Supp. 1979).

1. The State Board for Vocational Education shall review such requests giving consideration to the following factors:

a. The specific authorization of the request by the school board which governs the AVTI.

b. The recommendation of the AVTI General Advisory Committees established in accordance with 5 MCAR § 1.0075 A.4., that this project is required to:

(1) Remodel or construct facilities which will provide adequate space for existing programs presently housed within district buildings; or

(2) Construct a facility to provide adequate space for existing programs as a replacement for unsuitable rented space.

c. Construction requests for facilities recommended in b. above shall be reviewed giving consideration to:

(1) A comparison with the facilities for similar programs offered in other AVTIs on a per student basis.

(2) Requirement to meet Occupational Safety and Health Act standards.

2. The State Board for Vocational Education shall review and approve, modify or reduce any requests for remodeling or construction and shall allocate available funds to meet the most critical needs as determined through the review of the factors set forth in D.1.a.-c. above.

5 MCAR § 1.01045 Post-secondary vocational support service aid.

A. Post-secondary vocational support service aid shall be allocated to each AVTI for those items of expenditure enumerated in Minn. Stat. § 124.5623, subd. 4.

B. Support service aid allocation.

1. The Vocational Division shall review and approve, modify or reduce the support services budgets submitted by the AVTIs. This review shall include such factors as:

a. The historical expenditures for such items by the individual AVTI.

b. A comparison of support services expenditures on a per student basis for other AVTIs of an essentially similar enrollment for similar areas of expenditures.

c. Expenditures necessary to meet minimum requirements set forth in 5 MCAR § 1.0103.

d. The composition of the student body which would indicate an above average number of students or unique groups

of students who meet one or more of the criteria set forth in 5 MCAR § 1.0070 GG. Such students require special needs services to upgrade their basic skills to that level necessary to successfully complete their vocational objectives.

2. Each AVTI shall justify in writing, as a part of the budget request, the addition of any new support services or the creation of new staff positions based upon the criteria set forth in B.1.a.-d. above.

C. Preliminary allocations of post-secondary vocational support aid.

1. In the event that the aggregated requests for support services aid from the AVTIs exceed the funds appropriated for this purpose, continued operation of the physical plant shall be given first priority for funds. Then the AVTIs shall be allocated support service aid in the following manner:

a. When the total requests for support service aid are equal to or less than 105 percent of the funds appropriated for this purpose, each AVTI's request shall be reduced by an equal percentage so that the allocations make maximum use of but do not exceed the funds appropriated for this purpose.

b. If the total requests for support service aid exceed 105 percent of the funds appropriated for this purpose, each AVTI's budget shall be reviewed by the Vocational Division. The Vocational Division shall contact the Director of the AVTI for the purpose of effecting reductions in the request giving consideration to the factors set forth in B.1. & 2. above prior to the scheduled budget review with the Vocational Division.

2. The AVTI Director shall be notified in writing as to the amount of the reduction.

5 MCAR § 1.01046 Final allocations shall be made by the State Board for Vocational Education pursuant to Minn. Stat. § 124.561, subd. 3a (Supp. 1979).

5 MCAR § 1.01047 Local responsibility and authority for fund expenditures. Following the final approval of all budget categories, the school board governing an AVTI has the responsibility and authority for expenditure of these categorized aids within the legal constraints of the appropriate statutes.

5 MCAR § 1.0104 Foundation aid.

1. This rule shall be in effect until the close of the day, June 30, 1980.

5 MCAR § 1.0105 Capital expenditure aid.

E. This rule shall be in effect until the close of the day, June 30, 1980.

5 MCAR § 1.0107 Categorical aid.

I. This rule shall be in effect until the close of the day, June 30, 1980.

ADOPTED 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 and a citation to its previous *State Register* publication will be printed.

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

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

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

Board of Psychology Adopted Amendments Relating to Examinations for Licensure as Psychologists and Consulting Psychologists

The amendments to the rule captioned above (Psych 6), proposed and published at *State Register*, Volume 4, Number 1, pp. 23-24, July 9, 1979 (4 S.R. 23) are adopted as proposed, and the rule is renumbered as 7 MCAR § 10.006.

SUPREME COURT

Decisions Filed Friday, February 22, 1980

Compiled by John McCarthy, Clerk

49599/60 State of Minnesota vs. Harold James Benford, Appellant. Hennepin County.

Evidence was sufficient to sustain guilty verdicts on charges of assault with a dangerous weapon, Minn. Stat. § 609.225, subd. 2 (1978), and criminal sexual conduct in the second degree, Minn. Stat. § 609.343(a, c, d) (1978), where the evidence consisted of the testimony of the complainant and that testimony was strongly corroborated by other evidence.

We do not reach defendant's contention that his conviction of assault with a dangerous weapon is barred because it is an included offense of Minn. Stat. § 609.343(d) (1978), where the record does not mandate the conclusion that defendant's conviction for criminal sexual conduct was under subsection (d) rather than (a) or (c).

Affirmed. Rogosheske, J.

49917/65 State of Minnesota vs. George Richard Edward Salazar, Jr., a.k.a. Edward Charles Carreon, Appellant. Ramsey County.

Evidence of defendant's guilt of aggravated assault was not, as defendant contends, legally insufficient.

Trial court did not abuse its discretion under R. 701 and 704, R. Evid., in permitting lay witness to testify that when defendant stabbed victim he was not defending himself against any attack.

Defendant was not prejudiced because of state's failure to locate and call victim as witness.

Affirmed. Scott, J.

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."

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 Agriculture Agronomy Services Division

Notice of Special Local Need Registration for Tolban Herbicide

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on February 21, 1980 issued a Special Local Need Registration for Tolban Herbicide, manufactured by Ciba-Geigy Corporation of Greensboro, North Carolina.

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

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide for weed control in Adzuki beans.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN #80-0004) is on file for inspection at:

Minnesota Department of Agriculture
Pesticide Control Section
90 West Plato Blvd.
Saint Paul, Minnesota 55107
(612) 296-8379

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

February 22, 1980

Mark W. Seetin, Commissioner
Department of Agriculture

THE MINNEAPOLIS JOURNAL



Captain John S. Cody of the Minnesota Volunteers, who was killed near Lake Kandiyohi in the Sioux uprising of 1863.

(Photograph courtesy of the Star and Tribune Co. Reproduced from a 1936 issue of Minneapolis Journal.)

Notice of Special Local Need Registration for Fargo Herbicide

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on February 21, 1980 issued a Special Local Need Registration for Fargo Herbicide, manufactured by Monsanto Company of St. Louis, Missouri.

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

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide to be tank mixed with Treflan Herbicide for weed control in spring wheat.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN #MN 80-0003) is on file for inspection at:

Minnesota Department of Agriculture
Pesticide Control Section
90 West Plato Blvd.
Saint Paul, Minnesota 55107
(612) 296-8379

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

February 22, 1980

Mark W. Seetin, Commissioner
Department of Agriculture

Department of Agriculture Plant Industry Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Seed Potato Certification

Notice is hereby given that the Minnesota Department of Agriculture has begun consideration of proposed amending rules governing the Seed Potato Certification program. Rules Agr 121-135 presently govern this matter.

In order to adequately determine the nature and utility of such rules, the Department of Agriculture hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed amendments to the rules.

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

Written statements of information and comment may be addressed to:

Robert Flaskerd, Director
Plant Industry Division
Minnesota Department of Agriculture
90 West Plato Boulevard
Saint Paul, Minnesota 55107

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-3347, and in person at the above address.

All statements of information and comment must be received by March 30, 1980. Any written material received by the department shall become part of the hearing record.

The proposed amendments, if adopted, would include a Red Tag grade on Foundation Seed classification; delete language no longer applicable; and clarify language for easier interpretation.

February 25, 1980

Mark W. Seetin
Commissioner

Department of Commerce Banking Division

Bulletin No. 2182: Maximum Lawful Rate of Interest for Mortgages for the month of March 1980

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to House File No. 564, Chapter 279, 1979 Session Laws, as it amended Minn. Stat. § 47.20, subd. 4, effective May 31, 1979, hereby determines that the maximum lawful rate of interest for home mortgages for the month of March 1980 is fourteen and three quarters (14.75) percent.

February 21, 1980

Michael J. Pint
Commissioner of Banks

Department of Commerce Insurance Division

Notice of Intent to Solicit Outside Information on Proposed Rules Governing Life Insurance Solicitation

Notice is hereby given that the Department of Commerce, Insurance Division, is considering the promulgation of proposed rules governing the solicitation of life insurance policies in the State of Minnesota. In order to determine the nature and utility of such rules, the Insurance Division of the Department of Commerce hereby requests information and comments from all interested individuals on groups concerning the subject matter of the proposed rules.

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

Mr. John T. Ingrassia
Supervisor, Life and Health Section
Insurance Division
Department of Commerce
Fifth Floor, 500 Metro Square Building
St. Paul, MN 55101

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-2202, or in person at the above-referenced address.

Therefore, pursuant to Minn. Stat. § 15.0412, subd. 6, the Insurance Division is publishing notice of its intent to solicit outside information and comment prior to promulgation of these rules. These rules will specify certain disclosure requirements that must be made when soliciting life insurance in the State of Minnesota.

Department of Commerce Securities Division

Notice of Intent to Solicit Outside Opinion Concerning the Adoption of Uniform Conveyancing Blanks

Notice is hereby given that the Securities Division is soliciting opinions and comments pertaining to the adoption of Uniform Conveyancing Blanks to replace Uniform Conveyancing Blanks 1-M through 12-M (Warranty Deeds) and 27-M through 32-M (Quit Claim Deeds), originals of which are filed with the Secretary of State, and copies of which are set out

following M.S.A. § 507. The division is also soliciting opinions and comments pertaining to the adoption of four new affidavit blanks pertaining to: 1) Purchaser(s) (Individual); 2) Seller(s) (Individual); 3) Corporation; 4) Partnership.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing and must be received by March 17, 1980. Written statements of information and comments may be addressed to:

Mr. Daniel W. Hardy
Assistant to the Commissioner
Securities Division
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-5689 and in person at the above address. Any written material received by the above date will become part of any rules hearing which might be held.

February 21, 1980

Daniel W. Hardy
Securities Division

Ethical Practices Board

Request for Advisory Opinion Re: Potential Conflict of Interest

The Minnesota State Ethical Practices Board solicits opinions and comments to the following request for an advisory opinion which will be discussed at its March 7, 1980 Board meeting. Written comments concerning the opinion request should be forwarded to arrive at the Board's office prior to March 7, 1980.

February 12, 1980

Ethical Practices Board
41 State Office Building
St. Paul, Minnesota 55155

Dear Sirs:

I am concerned regarding a potential conflict of interest regarding my activities as state representative.

The item that causes me concern is as follows: My wife and I own a commercial building in Montevideo, Minnesota, located at 129 West Nichols Street. This building, or parts of this building, have been rented by the State of Minnesota for a number of years. The space rented by the State of Minnesota houses the CETA offices. The state was the renter of this building prior to my being elected to this office, so it is not a change since my election. I can tell you that it is the intention of the State of Minnesota to not renew the lease, and therefore they will be no longer renting from me after February, 1980.

I have read the Minnesota Statutes regarding conflict of interest, and it seems to me that this probably does not apply in this case. My interpretation would be that if there were a vote either in committee or on the floor of the House that concerned my lease or my building, and its being rented by the State of Minnesota, that this would be a potential conflict of interest.

I've tried to lay out the facts showing my concern, and would appreciate your advising me whether in your opinion I should fill out a potential conflict of interest notice.

Thank you for your help and advice in this matter.

Sincerely yours,

Ray Welker

State Representative, District 20A

Request for Advisory Opinion Re: Campaign Financing— Newspaper Column

The Minnesota State Ethical Practices Board solicits opinions and comments to the following request for an advisory opinion which will be discussed at its March 7, 1980 Board meeting. Written comments concerning the opinion request should be forwarded to arrive at the Board's office prior to March 7, 1980.

February 11, 1980

State Ethical Practices Board
41 State Office Building
St. Paul, Minnesota 55155

Re: Advisory Opinions

Gentlemen:

I have taken the initial steps to become a candidate for the office of Minnesota State Senator.

I have discussed a situation with your secretary regarding my writing a weekly column entitled "MAYOR'S MINUTES" in our local newspaper, the Moose Lake Star-Gazette. She doubted that my continuing the writing of this column would be a violation of state ethical practices during my upcoming campaign, but suggested that I ask your body for an advisory opinion.

I, therefore, would request your advisory opinion at this time.

In order that you may understand this situation better, I am enclosing with this letter, copies of the Star-Gazette for the entire month of December 1979 for your perusal. I have written this column each week since January 1, 1979, the date I took office. It is written to fulfil a campaign promise to keep the citizenry better informed about the Moose Lake City Government, the City of Moose Lake and the surrounding area in general and the Mayor. I intend with your favorable opinion to continue to write this column each week until the end of my term, December 31, 1980.

I would ask you also for an advisory opinion on another

matter. During my campaign for Mayor of Moose Lake, I handed out stamped, self-addressed postcards such as the two enclosed. The purpose of this handout was so that the citizen could quickly and easily voice an opinion, make a request or simply contact the mayor for any reason they desired. To date about sixty-five have been returned.

May I please have an advisory opinion as to whether this practice is allowed.

Thank you for your kind attention.

Sincerely,

Bruce Kasden, Mayor

Notice of Regular Meeting

The next regular meeting of the Ethical Practices Board will be held Friday, March 7, 1980, at 1:00 p.m., Room 51, State Office Building, St. Paul, MN.

Agenda

1. Minutes (February 15, 1980)
2. Chairperson's Report
3. Legal Counsel Report
4. Advisory Opinion #61—Bruce Kasden
5. Advisory Opinion #62—Rep. Ray Welker
6. Executive Director's Report
7. Other Business
8. Executive Session pursuant to Minn. Stat. § 10A.02, subd. 11

Department of Public Service Public Service Commission

Notice of Intent to Solicit Outside Opinion Concerning Establishment of a State-wide Plan for Incremental Pricing of Natural Gas

Notice is hereby given that the Minnesota Public Service Commission is seeking information or opinions from sources outside the Commission on whether, and how, to establish a State-wide Plan for Incremental Pricing of Natural Gas. The purpose of such a plan is to capture for the benefit of Minnesota ratepayers incremental pricing surcharges which Federal law requires to be assessed on certain industrial natural gas customers, and which, in the absence of a State-wide Plan, would primarily benefit ratepayers in nearby states. State actions in those nearby states have prevented the surcharges collected in those states from providing similar benefits to ratepayers in Minnesota.

Background

The Federal Energy Regulatory Commission (FERC) is required by Title II of the Natural Gas Policy Act of 1978 (Pub. L. 95-621) to establish a program of Incremental Pricing to pass

certain natural gas acquisition costs directly through to certain industrial customers. Under FERC regulations adopted September 28, 1979, rates of those customers are increased through surcharges until the rates they pay for natural gas are equal to the Btu equivalent price of substitute fuel oil as determined by federal rule. The surcharge revenues are to be passed back to the pipeline supplier and subtracted from the total gas acquisition cost; the result is "reduced" gas acquisition costs which are recovered through normal operation of the interstate pipeline's Purchased Gas Adjustment (PGA) clause.

Several states, including Illinois, Iowa, Michigan, and Wisconsin, all of which, with Minnesota, rely on interstate gas deliveries from Northern Natural Gas Company, have recently raised the price of natural gas to these industrial customers to the alternate fuel price ceiling. The effect is to capture the surcharges levied within those states. Therefore, the surcharges do not flow back to the pipeline, and they are not available to reduce the PGA.

If Minnesota does not act, surcharges collected in Minnesota will go to the pipeline and will reduce the PGA. This reduced PGA will go to all customers exempt from incremental pricing in other states. Thus there will be double benefits in those states which have acted, and a dilution of benefits to Minnesota customers.

Information Requested

The commission seeks comments on the establishment of a state plan. Comments on the extent to which the Minnesota Plan should parallel the FERC Plan in terms of customers affected, the calculation of incremental surcharges, and mechanisms for crediting exempt customers with surcharge revenues, and technical information on how to implement the suggestions are especially invited.

Future changes in FERC rules may affect the actions taken by the commission.

All interested or affected persons or groups are invited to submit written statements or comments by March 31, 1980, addressed to:

Mary L. Harty, Secretary
Minnesota Public Service Commission
7th Floor, American Center Building
Kellogg and Robert Street
St. Paul, Minnesota 55101

Written material received by March 31, 1980 will become part of the record of any rules hearing held on this subject.

February 25, 1980

Mary L. Harty
Executive Secretary

Public Service Commission

Investigation Into Practices Surrounding the Sale of Terminal Equipment by Telephone Companies Operating in Minnesota (MPSC Docket Nos. P-421, P-407, P-430, P-405, P-414/M-80-121)

Notice and Order to Appear at Investigatory Hearing before the Public Service Commission

The Federal Communication Commission's decision in F.C.C. Docket No. 19528, reported at 56 F.C.C. 2d 593 (1975), 57 F.C.C. 2d 1216 (1976), 58 F.C.C. 2d 716 (1976), 59 F.C.C. 2d 83 (1976), 58 F.C.C. 2d 736 (1976), 61 F.C.C. 2d 396 (1976), and 64 F.C.C. 2d 1058 (1977), permitted non-carrier-owned terminal equipment to be attached to the telephone network, provided that the equipment complied with an F.C.C. registration program. The F.C.C. registration program is in effect and the Commission has reason to believe that non-carrier owned equipment is being attached to the telephone network.

The commission further has reason to believe that since the decision in F.C.C. Docket No. 19528, a significant market for the retail sale of terminal equipment has developed, and that telephone companies as well as non-telephone companies have entered the market as sellers of terminal equipment. For telephone companies retail sales of terminal equipment are a new line of business. Previously, telephone companies had leased all terminal equipment as part of the telephone service regulated by the Commission. The commission desires to learn more of the practices of regulated telephone companies in response to F.C.C. Docket 19528 and of the impact upon regulated telephone companies from the sale of terminal equipment.

Minnesota telephone companies have recently proposed tariffs that separate the charge for the terminal equipment, including the standard telephone set, from the charge for access to the telephone network. This demonstrates that access to the telephone network can be separately identified. Access requires a distinct investment and expense by the telephone company, and the telephone company must be properly compensated for these expenditures, even when customer owned equipment is attached to the line. The commission is concerned that the costs and investment of the access line will be correctly identified.

The commission finds that a hearing is necessary and convenient to obtain information about telephone utility practices and positions with regard to these matters. To accomplish this, the commission will order telephone companies to appear at the hearing.

Telephone companies appearing at this hearing should submit statements and should be prepared to answer questions on the following issues: (1) sale of terminal equipment and (2) access to the telephone network. The telephone companies should address how the accounting is or will be done, how the pricing is or will be done, how these matters are or should be treated for ratemaking purposes, and the impact of changes from the existing situation on the ratepayer.

The commission recognizes that it would be difficult, if not impossible, for every telephone company operating in the State of Minnesota to appear at this hearing and respond to the commission's order. However, the commission desires to examine the practices of those companies that are selling or have plans to sell terminal equipment. Because the commission desires to consider the impact on rates and ratepayers, it finds that the practices of the largest telephone companies operating in Minnesota should be looked at because these companies affect the most ratepayers. Therefore, the commission will order the five largest telephone companies operating in Minnesota, Northwestern Bell Telephone Company, Continental Telephone Company, United Telephone Company, Central Telephone Company and Mankato Citizens Telephone Company, to submit statements and to appear and answer questions; and will further order that any telephone company selling or planning to sell terminal equipment appear or submit a letter indicating that it is selling or is planning to sell terminal equipment. The commission requests that an agent of the collective companies or a representative member of companies submit statements, appear at the hearing and answer questions. The telephone companies shall select the agent or the representative companies.

The commission will conduct this hearing as part of a summary investigation into these issues. The summary investigation is for the purpose of fact finding to determine whether formal hearings shall be held. This is not a contested case because the legal rights, duties, or privileges of specific parties will not be determined. The commission may use the information obtained at this hearing to initiate a rulemaking or, where specific parties are involved, to initiate contested cases. Affected persons will be afforded the opportunity of a formal hearing under either circumstance as provided by law.

The commission's authority to conduct the hearing as a summary investigation is found in Minn. Stat. §§ 216A.05 and 237.081 (1978). Minn. Stat. § 216A.05, subd. 1 (1978) authorizes the commission to make investigations into the conduct of the businesses coming within its jurisdiction as the legislature itself might make. Minn. Stat. § 216A.05, subd. 2 (1978) authorizes the commission to investigate the manner in which the businesses of telephone companies are conducted; to review the reasonableness of tariffs, of rates, fares and charges; and to prescribed uniform systems of accounts. Minn. Stat. § 216A.05, subd. 3 (1978) authorizes the commission to examine under oath, any officer, agent or employee of a telephone company in relation to the company's business and affairs. Minn. Stat. § 237.081, subd. 1 (1978) authorizes the commission to investigate any matter relating to any telephone service for any reason.

The most expeditious means of conducting this investigation is to fix a time and place at which officers, agents, or employees of Minnesota telephone companies shall appear and testify and respond to questions of the commission, its staff or counsel on these matters. As ordered below, the commission will meet in its Large Hearing Room on the 7th Floor, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, at 9:30 a.m. on April 10, 1980 for this purpose. The commission will designate a commissioner who shall preside at the hearing. The hearing may proceed so long as a presiding commissioner is present, and a quorum of the commission will not be necessary.

Testimony, and any accompanying exhibits, shall be submitted to Mary L. Harty, Executive Secretary, Minnesota Public Service Commission, American Center Building, 7th Floor, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, in written form at least ten (10) days prior to the hearing. This will permit the commission and its staff to read the testimony and become familiar with its contents before the hearing.

The written testimony will be received at the hearing without being read by the witness. The witness may summarize the contents of its testimony for those present at the hearing. This procedure will make the most productive and efficient use of all participants' time and will allow the commission a greater amount of time to ask questions.

The commission recognizes that other persons may be interested in these matters and may wish to comment on them. The commission will accept written comments that are submitted five (5) days before the hearing. If the commission finds that such comments raise issues that should be further examined, the commission may allow those persons to address the commission in the same manner described in the preceding paragraph. Any comments received will be considered as part of the record made at this investigatory hearing.

Wherefore, the Commission hereby orders that:

Order

A hearing will be conducted by the Public Service Commission in the commission's Large Hearing Room, 7th Floor, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, at 9:30 a.m. on April 10, 1980.

Northwestern Bell Telephone Company, Continental Telephone Company, United Telephone Company, Central Telephone Company, and Mankato Citizens Telephone Company, shall appear and present testimony and answer questions on the matters discussed above.

Any telephone company selling or planning to sell terminal equipment shall so indicate to the commission by letter. These telephone companies shall appear at the above hearing by an agent authorized to represent them collectively or by representative telephone companies.

Telephone companies shall file written testimony at least ten (10) days before the hearing date. The hearing shall be conducted in the manner described above.

OFFICIAL NOTICES

Other interested persons may submit written statements five (5) days before the hearing and appear at the hearing as permitted by the commission.

A copy of this order shall be served on all telephone companies operating in the State of Minnesota and shall be published in the *State Register*.

This order shall be effective immediately.

By Order of the Commission

Mary L. Harty
Executive Secretary

State Planning Agency Health Planning Division

Notice of Application to Renew Designation As the State Health Planning and Development Agency

Notice is hereby given that the State Planning Agency is applying to renew full designation as the State Health Planning and Development Agency pursuant to P.L. 96-79, the National Health Planning and Resources Development Act. The State Planning Agency has available March 12, for public examination and copying, its proposed State Administration Program which will be submitted under Title 42, Code of Federal Regulations, Part 123, published for the designation and funding of state agencies.

Under provision of this act, the agency proposes to administer the required state health planning and development functions according to its State Administrative Program.

Oral and written comments on the proposed State Administrative Program will be received at the March 26 meeting of the Minnesota Statewide Health Coordinating Council scheduled for 9:30 a.m. at the Holiday Inn, State Capitol, 161 St. Anthony Avenue, St. Paul, Minnesota. Written statements may also be submitted to the State Planning Agency, Room 101 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. Comments must be submitted by March 26, 1980. For additional information, call the State Planning Agency at (612) 296-2407.

Department of Transportation Public Transportation Division

Petition of Chicago and North Western Transportation Company for Authority to Retire and Remove Track No. (Unknown) Located at Minneapolis, Minnesota

Notice of Application and of Opportunity for Hearing

Notice is hereby given that the 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 track No. (Unknown) located at Minneapolis, Minnesota.

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 March 24, 1980. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

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 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 Crown Mill Corporation, . . . (with offices at Suite 1100, 512 Nicollet Mall, Minneapolis, Minnesota 55402)."

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.

Richard P. Braun
Commissioner

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.

Department of Agriculture Office of the Commissioner

Notice of Request for Proposals for Consultant Services to Develop a Feasibility Study for an Agricultural-Business International Exposition

The Minnesota Department of Agriculture is seeking a qualified consultant to study the feasibility of holding an International Agricultural-Business Exposition in Minnesota in 1981.

The feasibility study should include but not be limited to proposed recommendations regarding the following:

- A. Name of the Agricultural-Business International Exposition
- B. Site location
- C. Timing
- D. Duration or Length
- E. Types and numbers of exhibitors and attendees
- F. Cost Estimates
 - Direct and indirect costs
 - Direct and indirect revenues
- G. Type and structure of an organization to manage and administer the project including but not limited to publicity, hotel accommodations, sale of booths, handling money, etc.
- H. Statement of feasibility

The formal Request for Proposal may be requested through 4:30 p.m., March 24, 1980. Inquiries should be directed to:

Darryl L. Anderson
Assistant Commissioner
Minnesota Department of Agriculture
90 West Plato Boulevard
Saint Paul, Minnesota 55107
Telephone: (612) 296-9310

It is anticipated that the cost will not exceed \$50,000. Proposals must be submitted to the above no later than 3:00 p.m., March 31, 1980. If awarded, the contract must be completed within 60 days of the date of the award.

State Planning Agency Environmental Quality Board

Notice of Request for Proposal for Professional Service Contract

The Environmental Quality Board requires the service of a qualified consultant to conduct a study and present a documented report on:

1. Characterization of regional sulfate pollution and its relationship to air mass history; and
2. Characterization of local pollution from large point sources using snow, soil and plant data on pollutant deposition and accumulation.

Estimated fee range: about \$75,000.00

Time: April 4, 1980

STATE CONTRACTS

Firms/individuals desiring consideration should send their response and resumé of their training and work experience to David Lang, Project Manager, Environmental Quality Board, 15B Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. Phone 612/296-2399.

RFP is available on request.

All responses should be sent in no later than 5:00 p.m., March 17, 1980. Late responses will not be accepted.

Pollution Control Agency Water Quality Division

Notice of Request for Proposals to Conduct a Study of Manure Storage Ponds and the Potential for Ground Water Pollution in Southeastern Minnesota

The Minnesota Pollution Control Agency seeks proposals to conduct a study of two (2) existing earthen manure storage ponds and their potential for ground water pollution. The study should include: examination of the design and construction, characterization of soils and geology, examination of leachate and contaminate movement, determination of ground water quality, and a final report presenting methodologies, data, discussion of results, conclusions, and references.

Estimated Cost: \$30,000.00

The deadline for the proposals is March 31, 1980.

Questions regarding this proposal may be directed to:

Mr. Gordon W. Meyer
Minnesota Pollution Control Agency
Division of Water Quality
1935 West County Road B-2
Roseville, MN 55113
(612) 296-7218

Pollution Control Agency Water Quality Division

Notice of Request for Proposals to Conduct a Study of the Relationship of Odors to Feedlots

The Minnesota Pollution Control Agency seeks proposals to conduct a study of the relationship of odors to feedlots and the effects of manure management on that relationship. The study should consist of a literature search and compilation of a report of approximately 15 to 20 pages. The report should, at a

minimum, cover legal aspects, case studies, sources and causes of odor, and recommendations for design and management of feedlots and associated manure storage systems. A section of the report should deal with health aspects of animal feedlots. The report should be suitable for distribution to feedlot owners and operators, as well as the public and should contain suitable graphic illustrations. The final product should be one (1) copy of the report suitable for typesetting and printing.

Estimated Cost: \$5,000.00

The deadline date for the proposals is March 31, 1980.

Questions regarding this proposal may be directed to:

Mr. Wayne P. Anderson
Minnesota Pollution Control Agency
Division of Water Quality
1935 West County Road B-2
Roseville, Minnesota 55113
(612) 296-7326

Department of Public Service Utilities Division

Notice of Extension of Deadline for Submission of Proposals

On January 14, 1980 the Department of Public Service issued a Notice of Request for Proposals (RFP) for Consultant Services. This RFP solicited proposals from qualified consultants with experience in public utility ratemaking to assist the department in meeting its obligations to consider and make determinations concerning the six Ratemaking Standards of the Public Utility Regulatory Policies Act (PURPA). The deadline for responses to this RFP has been extended from February 11, 1980 to March 24, 1980. For more information concerning this RFP see the January 14, 1980 issue of the *State Register*.

**Department of
Transportation
Office of State Aid in
Cooperation with the
City of Minneapolis Park
and Recreation Board**

**Notice of Availability of Contract
for Preliminary Engineering for
Project Development and Design
Services**

The City of Minneapolis Park and Recreation Board requires the services of a qualified consultant to perform preliminary engineering services for the development of two park sites on the Mississippi River.

The work will consist of conducting project development studies in accordance with the Minnesota Department of Transportation's Great River Road Plan. The work will include data collection and analysis, location study report, design study reports, public hearings, any auxiliary reports as may be necessary, and the preparation of construction documents.

The estimated fee range for these services is \$35,000 to \$40,000.

Firms desiring consideration shall express their interest and submit their current Federal Forms 254 and 255 to the Minneapolis Park and Recreation Board by March 14, 1980.

This is not a request for proposals. Send your response to:

Albert D. Wittman
Assistant Superintendent for Planning
Minneapolis Park and Recreation Board
310 Fourth Avenue South
Minneapolis, Minnesota 55415
(612) 348-2222

**Notice of Availability of Contract
for Preliminary Engineering for
Project Development and Design
Services**

The City of Minneapolis Park and Recreation Board requires the services of a qualified consultant to perform preliminary engineering services for the redevelopment of all or portion of West River Parkway from Franklin Avenue to Minnehaha Park.

The work will consist of conducting project development studies in accordance with the Minnesota Department of Transportation's Great River Road Plan. The work will include data

collection and analysis, location study report, design study reports, public hearings, draft and final 4(f) reports, any auxiliary reports as may be necessary, and the preparation of construction documents.

The estimated fee range for these services is \$75,000 to \$85,000.

Firms desiring consideration shall express their interest and submit their current Federal Forms 254 and 255 to the Minneapolis Park and Recreation Board by March 14, 1980.

This is not a request for proposals. Send your response to:

Albert D. Wittman
Assistant Superintendent for Planning
Minneapolis Park and Recreation Board
310 Fourth Avenue South
Minneapolis, Minnesota 55415
(612) 348-2222

**Department of
Transportation
Technical Services Division**

**Notice of Availability of Contract
for Archeological Survey in
Wisconsin**

The Minnesota Department of Transportation (Mn/DOT) requires the services of a qualified archaeologist(s) to conduct an archaeological survey of areas in Douglas County, Wisconsin which are to be graded for the construction of railroad facilities. These railroad facilities are to be constructed in replacement for railroad facilities in Minnesota which must be acquired by Mn/DOT to provide for the construction of Interstate Highway 35.

The areas to be surveyed include:

(a) 1 area of approximately 100 acres adjacent to D.M. & I.R. Ry. tracks south of Superior, Wisconsin where a new rail yard is proposed (Pokegama),

(b) 1 area of approximately 22 acres adjacent to D.M. & I.R. Ry. and CNW Transportation Co. tracks south of Superior, Wisconsin where expansion of the CNW Itasca rail yard is proposed,

(c) 1 area of approximately 40 acres in Superior, Wisconsin where expansion of the BN Inc. N. 28th St. rail yard is proposed,

(d) 1 area of approximately 8 acres in Superior, Wisconsin where expansion of the Soo Line Stinson rail yard is proposed,

(e) additional areas along the D.M. & I.R. Ry. tracks south of Superior, Wisconsin where areas will be graded to provide railroad embankment stabilization, culvert replacement, ditching and slope modifications, and addition of access roads. The

STATE CONTRACTS

limits of such areas are to be determined and furnished on or about June 1, 1980.

The work program will include:

(1) Literature research to determine the existence of known historical, archeological, architectural, or cultural properties within the area of the project's effect,

(2) Field survey of the areas sufficient to establish the existence, significance, or lack of existence of any properties of historical, archeological, architectural or cultural significance.

(3) Submittal of 3 copies of a written report summarizing the work done and the findings. This report is to be in sufficient detail to allow a determination of significance and effect by the Wisconsin State Historic Preservation Officer in accordance with the rules and regulations of the Advisory Council on Historic Preservation for compliance with Sec. 106 of the National Historic Preservation Act of 1966 as amended. This report is to be submitted in a form readily reproducible by standard Xerox or similar photocopy equipment.

All work is to be of a quality normally acceptable to the Wisconsin State Historic Preservation Officer and is to be completed by August 1, 1980.

To be considered for contract, the archaeologist(s) or archaeology firm(s) must be considered as qualified by the State Historical Society of Wisconsin. Since a small portion of the area to be surveyed is under public ownership the archaeologist(s) awarded the contract must obtain a permit for the survey from the State Archaeologist of Wisconsin.

Archaeologists or archaeology firms desiring consideration should submit a proposal for the work to be done on areas a, b, c, and d as described above. The proposal should include a suggested date for commencement of the field survey and an estimate of the time to complete the survey and time to compile the report. It should also state the names and qualifications of archaeologists who may be assigned to the project. It should contain a proposed reimbursement schedule based on cost plus a net fee for profit. For analysis, a breakdown of the basis for costs should be given, including salaries (by classification), fringe benefits, direct expenses, indirect costs, net fee for profit and method of calculating profit.

Payment and timing for work to be done on areas described under (e) will be mutually determined prior to the commencement of any work on these areas.

It is estimated that the costs for this entire contract, including the work to be done under area (e) will range from \$5,000.00 to \$35,000.00

To be considered, the proposal must be submitted to:

Clement P. Kachelmyer
Preliminary Design Engineer
Minnesota Department of Transportation
Room 604 Transportation Building
St. Paul, Minnesota 55155

and must be received no later than March 24, 1980.

Prospective contractors may write or call Mr. Kachelmyer, telephone (612) 296-3276 for a map of the work areas or for additional information.

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

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

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Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

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